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COUNCIL OF THE CITY OF PHILADELPHIA

3

PUBLIC HEARING

4

COMMITTEE ON LAW AND GOVERNMENT

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Room 696, City Hall
Philadelphia, Pennsylvania
Wednesday, February 19, 2003
1:15 p.m.

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BILL 020728 - An Ordinance amending Title 21 of The
Philadelphia Code, entitled "Miscellaneous," by
adding provisions...

BILL 020810 - An Ordinance providing for the
submission to the qualified electors of the City of
Philadelphia of an amendment to Section 6-400(c) of
the Philadelphia Home Rule Charter...

RESOLUTION 020817 - Resolution proposing an
amendment to Section 6-400 of the Philadelphia Home
Rule Charter...

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PRESENT:

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COUNCILMAN DAVID COHEN, Chairman

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COUNCILMAN W. WILSON GOODE

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COUNCILMAN JAMES KENNEY

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COUNCILMAN MICHAEL NUTTER

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COUNCILMAN ANGEL ORTIZ

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COUNCILMAN FRANK RIZZO

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I N D E X

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2 COUNCILMAN COHEN: The Committee of Law
3 and Government notes the existence of the present of
4 a quorum with Councilman Rizzo to my extreme right,
5 that seems to be accurate; and Councilman Kenney to
6 my ordinary right, and I'm not sure whether that's
7 accurate, Councilman Kenney has been appointed by
8 the President as a member of the Committee for the
9 pure of this hearing; myself David Cohen. I'm
10 usually not considered a centralist, but I sit here
11 as Chairman in the center today; and Councilman
12 Wilson Goode, Jr., to my left; and Councilman Ortiz
13 to my extreme left, so I think that's pretty
14 accurate.

15 The Committee has before it the
16 consideration of two bills, one of which consists of
17 two parts since it relates to a proposed amendment
18 to the Home Rule Charter, therefore, it requires an
19 addition to an ordinance, it requires a resolution.

20 The first matter to come before the
21 committee will be 020728, which is a bill, and I
22 will ask the Director of the Committee to read the
23 title of the bill.

24 THE CLERK: An Ordinance amending Title
25 21 of the Philadelphia Code, entitled

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2 "Miscellaneous," by adding provisions requiring
3 members of Boards and Commissions of the City of
4 Philadelphia to conduct certain of their
5 deliberations, including deliberations with respect
6 to adjudications pending before the Board or
7 Commission, only at meetings open to the public,
8 with certain exceptions, and under certain terms and
9 conditions.

10 COUNCILMAN COHEN: I'm told that this is
11 aimed at situations in which particularly members of
12 the public come and testify at a proceeding before a
13 board or a commission; it can be the Art Commission,
14 it could be the Zoning Board, it could be the L&I
15 Board of Inspections and Review, any board which
16 listens to testimony then months later issues a
17 decision which everyone is told is based upon
18 deliberations that occurred to which the public was
19 not party and knew nothing about.

20 Over the years, there have been frequent
21 criticism by many community groups and organizations
22 and people who don't understand why those
23 deliberations are not made public so that the public
24 could participate, not only giving testimony, but in
25 participating in making the final decision.

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2 That, in summary, is the purpose of this
3 particular bill.

4 I'd like to ask Joyce Wilkerson who is
5 the Chief of Staff of the City Administration to
6 express whatever opinions she wishes to present on
7 behalf of the City with respect to this issue. And
8 thereafter, there will be a series of other
9 witnesses from the community.

10 MS. WILKERSON: Good afternoon. I'm
11 Chief of Staff to Mayor John Street.

12 COUNCILMAN COHEN: Joyce, I'll make the
13 statement for you, but it applies to all witnesses.
14 Please, when you begin to testify, pronounce your
15 name and spell your last name. That's for the
16 purpose of the court reporter getting it accurately
17 in the testimony and our not having to set up a
18 special committee at a later time to seek to
19 identify who was testifying. So Ms. Wilkerson, why
20 don't we begin with you.

21 MS. WILKERSON: My name is Joyce
22 Wilkerson, W-I-L-K-E-R-S-O-N, and I'm Chief of Staff
23 to the Mayor.

24 The Administration has not reached a
25 final position on this legislation. I'm here today

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2 to offer our perspective on the legislation as
3 drafted. It would require members of boards and
4 commissions to conduct certain deliberations,
5 including deliberations with respect to
6 adjudications pending before the board or commission
7 at meetings open to the public.

8 The boards and commissions play an
9 important and necessary role in the effective
10 operation of our government. Members of the boards
11 or commissions help in the review and administration
12 of a wide variety of issues before the government,
13 everything from applying the rules and regulations
14 regarding Civil Service employees to the review of
15 tax assessments to preparing and reviewing the
16 comprehensive City Plan. Some of the issues
17 addressed by the boards and commissions involve
18 sensitive personnel information that requires
19 discretion and sound judgment on behalf of members.
20 For example, the Civil Service Commission addresses
21 and adjudicates sensitive personnel issues, and the
22 Commission on Human Relations addresses potentially
23 inflammatory issues such as enforcing civil rights
24 laws and matters of inter-group conflict within the
25 City.

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2 Board and commission members appointed
3 to the Charter have the duty to carry out their
4 responsibility effectively and efficiently and in a
5 professional manner. Part of that duty, especially
6 those boards or commissions that have adjudicative
7 powers is to deliberate upon such matters discussed
8 or presented to the board members and offer
9 decisions on such matters. This is vital, in fact,
10 indispensable part of the process for each
11 commission. Much like members of a jury, the
12 ability for members of a board or commission to
13 consult amongst themselves regarding a matter that
14 has been brought before the group for their
15 consideration is essential to their purpose and
16 their mission. Such deliberations presently
17 conducted solely among the members of the
18 commissions would lose significant value in certain
19 situations if members were forced to discuss such
20 discussions in public meetings. Determinations of
21 credibility and discussions of what really is going
22 on are best performed when all can speak freely and
23 candidly without fear of embarrassment and political
24 ridicule. Private deliberations allow for sharp and
25 critical assessment of testimony without having to

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2 publicly suggest that a witness may not be
3 completely truthful.

4 I note with particular concern the
5 potential impact on the operations of the Civil
6 Service Commission. Under the Charter, the
7 commission addresses myriad personnel matters.
8 Currently, an employee appearing before the
9 commission has the right to have his or her case
10 heard privately. This would be lost under the
11 proposed legislation.

12 Our adjudicative boards perform
13 functions of both judge and jury, they find facts,
14 determine credibility, determine the law, and apply
15 to the law to the facts. To perform either, not to
16 mention, both of these functions in public would
17 radically change the way adjudications are performed
18 and would severely compromise the effectiveness of
19 such boards and commissions. While the hope for
20 this legislation may have been to bring light to
21 certain processes, I fear that it will have the
22 opposite effect.

23 Boards and commissions must presently
24 adhere to notice and public hearing requirements
25 pursuant to State law, more commonly referred to as

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2 the Sunshine Laws. The Administration strongly
3 supports the public being fully informed regarding
4 public actions of any government agency, including
5 actions of any board or commission responsible for
6 adjudications. However, the legislation being
7 considered today goes far beyond those requirements.

8 Because the bill in certain instances
9 would fatally compromise the ability of any member
10 of a board or commission to effectively conduct
11 their duties, I respectfully urge the committee to
12 proceed cautiously in its consideration of the
13 legislation.

14 COUNCILMAN COHEN: Thank you. Just one
15 question of you, Ms. Wilkerson. Is there any
16 difference between the requirements of this bill and
17 what controls City Council's actions today or in
18 general?

19 MS. WILKERSON: I think that there are.
20 This is going to adjudications, and I don't believe
21 that City Council engages in adjudications. I think
22 that's one distinction in the law. I also think
23 that this does not refer to any kind of quorum
24 requirement. Normally, the actions by City Council
25 that are subject to public scrutiny are those that

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2 could be construed as public meetings, and so there
3 normally has to be at least a quorum present before
4 you have the obligation to conduct business in
5 public.

6 As drafted, I think that this
7 legislation would also apply to any conversation
8 where any members conducting any kind of
9 deliberation or something that might result in a
10 deliberation. So I think this goes well beyond
11 anything contemplated in the Sunshine Law or
12 anything that City Council is exposed to.

13 COUNCILMAN COHEN: All right. Well,
14 that's interesting. I would probably have a
15 different point of view. Seems to me that while
16 Council may not engage in what Courts would call an
17 adjudication or adjudicatory process, the results
18 are the same. We have to arrive at a conclusion.
19 The points you make, I don't intend to belittle in
20 any way, but sometimes they seem to be important,
21 sometimes not. For example, executive has the
22 luxury of acting almost totally in private. There's
23 nothing that stops an executive officer, be it a
24 Mayor, Governor, or President, from reaching
25 deliberations privately with no consultation or with

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2 whatever consultation the executive chooses to have
3 and then issuing a decree. In different
4 circumstance, different systems seem to have
5 developed in this country and each seems to have a
6 pretty justification for it.

7 I just wanted to raise the issue
8 generally for consideration.

9 This seems to make more public certain
10 activities that are currently a bit less public, and
11 I think that that's the reason this bill is being
12 presented to see whether there's room in the current
13 system for more publicity rather than for less in
14 certain functions.

15 And the public is invited to invited to
16 give its testimony and we'll hear from them.

17 MS. WILKERSON: That's why the
18 Administration didn't take a final position because
19 I think that we're inclined to agree that there
20 probably is room for more exploration of issues and
21 the public to be engaged. There are, however --
22 there are reasons why juries don't deliberate in
23 public. There's a kind of robust discussion that
24 will happen and can happen in private that isn't
25 going to happen in public. But we have particular

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2 concern for those issues where things like the Civil
3 Service where you have privacy issues of individuals
4 at stake or where you may have people at risk, and
5 there may be other reasons for having the
6 proceedings private.

7 The legislation talks about having
8 certain exceptions, but the language of the
9 exceptions is fairly narrow in that it has to be a
10 confidentiality that is mandated by law. And that
11 would not be the case in a lot of situations that
12 might be sensitive but not mandated by law to be
13 confidential.

14 COUNCILMAN COHEN: Well, I think we'd
15 want to protect many of the confidential and privacy
16 aspects of the Home Rule Charter currently protects,
17 and we may want to even large them.

18 Thank you very much for your testimony.

19 Before you leave, are there any
20 questions of Ms. Wilkerson on behalf of members of
21 the committee?

22 (No response.)

23 COUNCILMAN COHEN: Seeing none, thank
24 you very much for your attendance. You're invited
25 to remain, Ms. Wilkerson, for as long as you can and

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2 hear the other views. And if you wish to respond in
3 any way, feel free to do so.

4 We're honored by the man in the center
5 of the storm today, David Glancey, Chairman of the
6 Board of Revision of Taxes. We're very pleased
7 you've come. Please come forward and express your
8 views with respect to the merits or demerits of this
9 bill.

10 MR. GLANCEY: Thank you, Councilman
11 Cohen. And thank you all Councilmembers for giving
12 me this little audience today.

13 First of all, my name his David Glancey
14 and I am Chairman of the Philadelphia Board of
15 Revision of Taxes.

16 COUNCILMAN COHEN: Would you spell
17 Glancey? Everybody knows how to spell it, but for
18 the sake of the record --

19 MR. GLANCEY: G-L-A-N-C-E-Y.

20 COUNCILMAN COHEN: Thank you.

21 MR. GLANCEY: First of all, let me
22 congratulate the sponsors of the bill and Council
23 generally for attempting to do something that, in
24 fact, will shed some light, open the door, make
25 sunshine come down on all these processes; I think

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2 that's a very good attempt. But there is a
3 "however." And the however comes now in that -- and
4 I've submitted testimony and I'm not going to read
5 the testimony. There has to be a balance, I think,
6 as Ms. Wilkerson was saying between sunshine between
7 the deliberative process and some of the things that
8 probably should be protected in the deliberative
9 process.

10 If you don't mind, I would just give you
11 a very quick analysis of our process and then read
12 two quick things from a recent Supreme Court of
13 Pennsylvania case which I think, even though they're
14 right-to-know cases, I think it sheds some light on
15 this issue as well.

16 We meet in public hearing three times a
17 week. Today is a typical example. My colleagues,
18 as we speak, are back at the Board of Revision in
19 hearing room making decisions on the cases that we
20 heard today. Of course, they don't have my wisdom,
21 but maybe that might be better for the appellants
22 who are there this morning. But nonetheless, they
23 are there in confidence in the deliberative process
24 making decisions on all the factual issues that were
25 brought to their attention today. And basically

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2 with the BRT, it is a fact-finding board. I think
3 the analogy is perfectly drawn with a jury or a
4 judge sitting as a trier of fact. We sit, we listen
5 to the evidence, and mostly that evidence is factual
6 evidence. Every once in a while there's a legal
7 issue, but very rarely. It's primarily factual
8 evidence. And it is best for us to make those
9 decisions immediately because if you put them off a
10 day or two, you're going to get a whole lot of
11 issues confused; you're going to confuse one
12 neighborhood with another. So we attempt after we
13 -- we sat today for three hours. It was about 1:00
14 when we broke this afternoon; we heard our last
15 case. And a 10-minute and then the Board goes back
16 into this very same room deliberates one at a time
17 on each of those cases that was before the board
18 today as a trier of fact basically. And from having
19 my experience of about 19 years of having done that,
20 there are some very -- some days when we arm wrestle
21 a great deal and there are issues of somebody's
22 credibility, a witness's credibility, a document's
23 credibility, the credibility of the appellant that
24 have to be spoken about fully and frankly. And I
25 think, my impression is that if there was an

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2 audience or if that was open to the public, some of
3 that frankness, some of that push and pull, some of
4 those arguments that take place may not in fact take
5 place and there might be somewhat of a chilling
6 factor in that. And I think, again, for the very
7 same reason that we don't open the doors of a jury
8 room who are the fact-finders in any civil trial, we
9 basically sit as fact-finders in a civil
10 administrative proceeding that, in fact, can lead to
11 a trial. So that's basically what our process is.

12 And if you don't mind, I'll just take a
13 couple seconds to point out -- this was a 1999
14 Pennsylvania Supreme Court case. It's called
15 Commonwealth versus Vartan, V-A-R-T-A-N, and it
16 discusses again, as I said, a right-to-know matter
17 in the deliberative process. And I don't know who
18 the writer of the opinion was, but the Justice says,
19 "The deliberative process privilege benefits the
20 public and not the officials who assert it. It's
21 not to us that the benefit goes it's to the public.
22 The purpose of the privilege is to allow the free
23 exchange of ideas and information within government
24 agencies. The privilege recognizes that if
25 governmental agencies were forced to operate in a

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2 fishbowl the frank exchange of ideas and opinions
3 would cease and the quality of administrative
4 decisions would consequently suffer."

5 I'm not so sure I would say it as
6 strongly as the Court, but I do think that the
7 essence of what the Court is saying is, in fact,
8 truism. And again, I can only speak for my board.
9 If there are analogies to others, that's fine. But
10 my experience has been somewhat similar to what the
11 Court just stated.

12 And finally, the Court goes on to state
13 that the privilege furthers three policy bases. And
14 one, it promotes broad consideration of alternatives
15 and improves the quality of decisions. I can tell
16 you that takes place in our board. We can run from
17 -- I could at one point firmly believe in one thing
18 and be convinced by my colleagues, sometimes by
19 twisting my arm and sometimes by logic to get to the
20 other side of that particular issue.

21 Secondly, it prevents the premature
22 disclosure of ongoing discussions that might confuse
23 the public.

24 And third, it protects the integrity of
25 the decision-making process -- and I think this is

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2 important -- by making sure officials are judges on
3 what they decide and not on what they consider.

4 So with that, I would be happy to answer
5 any questions you might have. And I do thank you
6 for allowing me to testify today.

7 COUNCILMAN COHEN: Thank you. Any
8 members of the committee have any questions of Mr.
9 Glancey?

10 (No response.)

11 COUNCILMAN COHEN: You probably answered
12 any. I know I've made that argument against the
13 Sunshine Law to the same Court that issued those
14 fine words, only to have the Court say, "Well, it
15 doesn't apply in the case of the Sunshine Law."

16 So there's much to be said both ways.
17 It's true that the more publicity there is, maybe
18 there's a bit less frankness on the part of the
19 participants of the debate, but that's the question
20 we have to evaluate whether the pros or the cons
21 have the merit.

22 Councilman Ortiz.

23 COUNCILMAN ORTIZ: In a city government
24 today that has really given up some of the its
25 public policy powers to boards, commissions,

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2 authorities, and these authorities really are
3 non-elected, appointed, the citizens really don't
4 know who the people who are making these decisions
5 respond to. And since so many of our decisions
6 today that impact on public policy and the quality
7 of life of our citizens are made by these boards, by
8 PIDC, by the BRT, it leads to -- well, you saw
9 happened when you made your decisions in terms --
10 there was a whole conflagration out there of people
11 just not knowing how you arrive at these numbers
12 and who all of you were. So obviously then, the
13 charge came on us to respond, in essence, for the
14 decisions that you guys were making.

15 Isn't there a place in which citizens
16 need to be informed and have access to your
17 deliberations in terms of making public policy and
18 setting these things?

19 MR. GLANCEY: I think you're absolutely
20 right. AND wherever I think you can, Councilman,
21 whereever you can, I think you must opt in favor of
22 making it open, of making it transparent. One of
23 the things, from my own experience and what you've
24 just referred to, is that you folks, all of City
25 Council, brought to the attention of the citizens

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2 who we are, how we did it, what we were supposed to
3 do it, where the numbers came from. And you grilled
4 me for days on end, and that's fine, that's what you
5 should do. And I think that's a very responsible
6 thing for you to do.

7 Another thing that Council does is that
8 you hold the purse strings for all of these
9 agencies. I mean, if they are making decisions, if
10 agencies are making decisions, if they're kind of
11 run-away and they're making decisions that you all
12 decide are not decisions that you have granted the
13 authority, if they are local municipal authorities,
14 that you have granted the authority for them to
15 make, I think there are ways that you can get them
16 to at least become public. Bring them in. You can
17 always bring them in here, you can make them talk
18 about it.

19 I just think in this instance -- and
20 again, in a very narrow instance, I'm not so sure
21 having our fact-finding deliberations open to the
22 public is answering any of the problems that you've
23 just raised. I think what has to happen is,
24 clearly, if there is somebody -- and I'm not saying
25 this happens in the City. If you believe that there

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2 is an agency that is runaway, well then sure,
3 something maybe more dramatic has to be done. But
4 for those of us -- people may not like what we do
5 but we sure try to tell them what we are doing. And
6 quite frankly, every day we have public hearings.
7 And sometimes we do make a decision in public when
8 somebody makes such a clear argument, I've been
9 known to sit there and say, "Madam, you win" or
10 "Sir, you win." Sometimes that happens. But I
11 honestly believe through the core of my being that
12 when we are sitting as fact-finders deliberating 75,
13 a hundred cases a day, taking them one at a time, we
14 make better decisions for the taxpayers and,
15 therefore, for the general government as a whole.
16 If we are free, as I said, I'll use the shorthand,
17 to arm wrestle and to be full and fair and frank
18 with our comments. I don't know if I'm answering
19 your question specifically. I understand what
20 you're saying. I think we should always try to err
21 on openness, but then I think we have to balance
22 that when we see or when we believe that there may
23 be some other reasons to counterbalance that.

24 COUNCILMAN COHEN: The Chair notes the
25 presence of Councilman Nutter and informs him that

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2 in view of the decision of the Commonwealth Court
3 this morning, his right to increase the number of
4 questions to 50 is again restored, but the notice
5 that if that the ruling is later reversed or
6 overruled that the limitation will again be set at
7 25.

8 Councilman Kenney.

9 COUNCILMAN KENNEY: Thank you, Mr.
10 Chairman.

11 Mr. Glancey, I appreciate your
12 testimony. One of the things e wanted to raise as a
13 result of committee legal counsel advice is that we
14 don't believe that the BRT is affected by this bill
15 due to the fact it's not a Charter-created
16 committee. It was created by an act of the
17 Legislature and your appointing authority is
18 different than, as I learned mistakenly in a recent
19 controversy, that your appointing authority is
20 different than other boards and commissions within
21 the City. So at this point now without a definitive
22 answer, we believe that the BRT is not affected.

23 One of the problems, I think, in the
24 genesis of bills like this is that we get a lot of
25 complaints from our constituents that feel as if

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2 they really don't know what's going on, where they
3 attend a hearing at the Zoning Board, for example,
4 where they bring the whole neighborhood on bus,
5 where their elected officials go over and testify,
6 where testimony is taken pro and con of development
7 projects for something, and then the Board says,
8 "We'll take all this information under advisement."
9 Two months later, a month later come out without any
10 explanation read the calendar number and say "Yes,
11 yes, yes, yes, yes," and then the people in the
12 neighborhood are notified. Well, what was the basis
13 of the yes? What was the basis of the no?

14 We've been through cases recently where
15 everybody that's anybody that's elected, appointed,
16 and the neighborhood groups were all opposed to a
17 particular project and it winds up getting approved
18 without explanation. And I think that's part of the
19 problem. So hopefully, as we move forward, BRT,
20 based on your concerns, won't even be part of this
21 to begin with. But I also believe that -- again,
22 and you've said this twice already and I do admire
23 your public service because you've been a public
24 servant for a long time. It's always better err on
25 the side of sunshine, on the side of openness. I

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2 think the issues of confidentiality that were
3 expressed in earlier testimony I think can be
4 protected and should be protected under law. I just
5 think when it comes to what's going on in people's
6 neighborhoods when they're interested and they show
7 initiative and they show a desire to be part of the
8 process and then they're shut out of the process for
9 whatever reason, we would like to know for whatever
10 that reason is. And I think this is a result of
11 frustration that I've experienced and heard from in
12 other Councilmembers, District Councilpeople,
13 community people, civic people, that just want to be
14 part of what's happening in the City but because
15 of -- and I don't think the way these boards and
16 commissions operate was intended to shut out people.
17 I think that some of the procedure is used to shut
18 people out and shut people out of information. So
19 we're going to do a little more investigation on the
20 ability of the particular ordinance to the BRT but,
21 again, I think this is a result of people's
22 frustration with ongoing processes throughout the
23 government.

24 MR. GLANCEY: I hope you're right.

25 Thank you.

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2 COUNCILMAN COHEN: Councilman Nutter.

3 COUNCILMAN NUTTER: Thank you, Mr.

4 Chairman.

5 Mr. Glancey, having spent four long
6 hearings with you of the five -- I'm sorry, maybe it
7 was five out of six for the different appellants at
8 BRT hearings over the past two months, I can tell
9 you that I'd much rather prefer being on this side
10 of the table than I was on the other side of the
11 table, putting aside the fact that you treated me
12 wonderfully and I do appreciate it, but I like being
13 back on this side of the table.

14 As you well know, I did spend a fairly
15 significant amount of time with the BRT over the
16 past couple months dealing with appeals. One, I
17 want to go on the record and thank you for the
18 sensitivity and the treatment that you gave my
19 constituents throughout the district, and all of our
20 appeals are complete. And I guess lastly I would
21 say that it is a tremendously interesting and
22 informative and enlightening process that you engage
23 in over at the BRT, and I learned a tremendous
24 amount and I thank you for that as well.

25 On of the question I had, and I heard

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2 part of your testimony downstairs as I was coming up
3 and then I've listened to the rest and I heard what
4 the sponsor of the bill said with regard to you and
5 we've also had some discussions about who can, kind
6 of, tell the BRT what to do or not based on State
7 Statutes and the like. I did want to raise a
8 question with regard to section 21 1502 2 in this
9 exception section and, I guess, ponder with you the
10 nature of your executive sessions, which I've not
11 participated in but I'm generally familiar with how
12 you try to go through the entire list of 40,
13 50-some-odd that you've heard that morning. And
14 I've been excused from that room as you needed to
15 conduct your business in that regard.

16 I guess the one thing I would raise with
17 you and I'd like your reaction is at a certain
18 point, notwithstanding the public nature of when the
19 homeowners come in and talk about what they want to
20 talk about and they lay their case out and put their
21 souls on the table, it seems to me that for one kind
22 of brief moment in your session your talking also
23 about somewhat private information that is pertinent
24 to the homeowner as it relates to either condition
25 of home or what they will actually pay.

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2 Subsequently, naturally, all that information
3 becomes public through your new and updated website.
4 But I would raise the question at least with regard
5 to the BRT as to that temporary moment of privacy
6 that homeowners may want to have afforded as their
7 sensitive personal or financial information is
8 further discussed in that kind of session. So I'm
9 raising that as an issue. I'd like to get your
10 response to it and see if there is a way -- I mean,
11 I believe in as much openness as the next person.
12 But I also think that taxpayers, similar to when we
13 deal with the Department of Revenue, even as a
14 member of City Council, we can only get so much
15 information about our citizens through our process
16 because all of them, I think, have a right to some
17 amount of privacy. So could you shed any particular
18 thoughts on that?

19 MR. GLANCEY: Thank you, Councilman.

20 There are two kind of information that we get. At
21 the public hearing, we clearly will get the
22 information on the numbers and this its information
23 that for the most part will be public information,
24 what somebody paid for a property, what they think a
25 property is worth, what an appraiser thinks the

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2 property it worth. And you also get some objective
3 physical descriptions of properties and you also get
4 information where someone will be telling us about
5 their property maybe reluctantly at that hearing but
6 doing it because they feel it is the best way for
7 them to describe factually what the property is and
8 tell us that the roof is falling apart or the wall
9 is falling down or any number of potential
10 disabilities that a person might have with their
11 property, which I am convinced, Councilman, is not
12 something that but for that small purpose in that
13 room with those folks who were there -- and they're
14 usually, as you know, their neighbors who are
15 sitting there. I'm not so sure that they would like
16 that information to be broadcast publicly to a
17 larger audience than what they are doing at that
18 point. And we're very sensitive about that.

19 We also have seen instances where folks
20 talk about their financial abilities. And as you
21 know, the law does not allow us to take into
22 consideration the financial ability to pay when it
23 comes to valuing properties. But nonetheless, there
24 is no one sitting at that table who isn't a human
25 being who does not feel the reaction, the emotion

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2 that is given to us in those particular instances.

3 So I think, again, is information that
4 is meant for a very limited purpose and not for a
5 general public purpose, as is the information about
6 maybe the deterioration of someone's home.

7 When we go into public hearing, that
8 information is something that we know -- I'm sorry.
9 When we go into decision-making hearings, that is
10 information that, particularly where it comes to the
11 physical description of a property, that's
12 information that we're going to use because that has
13 valuable objective criteria in what that home would
14 sell for. And as to the other emotion kinds of
15 testimony that's given for that limited purpose, how
16 could we not take that into consideration whether we
17 say do or not? Quite frankly, it has an impact just
18 as when you hear folks here who testify before you
19 in a very emotional way, it has an impact.

20 I hope that answers your question.

21 COUNCILMAN NUTTER: I think it does.

22 Let me just make sure I'm clear. Your testimony is,
23 at least from what I heard earlier, you're not
24 opposed in any way to the general public hearing
25 process, public discussion process for what you do

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2 at your agency, but you're also, I think, expressing
3 some amount of concern about the complete public
4 nature of all discussions that lead to your
5 deliberations, and what I'm hearing is cautioning to
6 some extent to show some sensitivity to that. I
7 share the sensitivity about that. Again, having
8 gone through this process, I do believe that the
9 agencies should generally be required to engage the
10 public in a very open way. And to the extent that
11 as much of the decision-making process as is either
12 appropriate or legal, should be shared in that
13 fashion. But I do hold some amount of sensitivity
14 for certain aspects of certain agencies and what
15 they do. So I think in discussions with the
16 sponsors, there may be some amount of adjustment
17 that could be made that accomplishes the primary
18 goal but doesn't put citizens in a -- with less
19 privacy individually. Thanks.

20 Thank you, Mr. Chairman.

21 COUNCILMAN COHEN: Any further questions
22 of Mr. Glancey?

23 (No response.)

24 COUNCILMAN COHEN: Seeing none, thank
25 you very much for your attendance here today. And

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2 I'm going to ask that Carla Puppín and Colleen
3 Pucket to the stand if they are here.

4 Please state your name and spell your
5 last name.

6 MS. PUPPIN: Good afternoon. My name is
7 Carla Puppín, P-U-P-P-I-N. I'm the Executive
8 Director of the Queen Village Neighbors Association,
9 and I'm speaking today on behalf of th Queen Village
10 Neighbors Association Board of Directors and its
11 precedent Colleen Pucket who, unfortunately,
12 couldn't be here this afternoon because of a prior
13 commitment.

14 The Queen Village Neighbors Association
15 also is a Charter member of the Coalition of
16 Philadelphia Neighborhood Associations, CPNA, an
17 umbrella organization of civic groups across the
18 City. While the opinions expressed below are
19 strictly those of the Queen Village Neighbors
20 Association, some of our testimony is based on
21 information gleaned from other civic groups about
22 their experiences with zoning and other matters.

23 The Queen Village Neighbors Association
24 supports Bill 020728 and the welcome sunshine it
25 could cast into the decision-making processes of the

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2 City's boards and commission. The decisions these
3 board make have a huge impact on the quality of life
4 on our City and our neighborhoods, yet too often are
5 made behind closed doors with no rationale required.
6 A board or commission member is accountable not to
7 the public, but to whoever appointed him or her to
8 the position. The system is not new. It's been
9 this way under every Mayor probably since the code
10 was written, but it's certainly discouraging to a
11 civic group that is fighting to preserve or build a
12 neighborhood. Most civic groups are run by
13 volunteers. It's frustrating to develop a case for
14 a hearing, organize neighbors to show up which
15 usually means taking time from work, present your
16 case and then be told either, one, your case has no
17 merit; or two, you'll find out how the case is
18 decided later. You're not privy tot he discussion,
19 the thought processes or the political pressures
20 brought to bear on your case.

21 Certainly, the intent of this bill is to
22 change that, and we fully support the intent of the
23 bill, but respectfully ask that you don't stop here.
24 By all means pass this bill as a first step towards
25 more open government. But we'd also like to see

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2 other reforms, such as:

3 Extend the notification period of public
4 hearings. The ZBA, for example, only requires 14
5 days notice of a hearing. Extending that to 4 or
6 even 3 weeks would help community groups
7 immeasurably when developing a case or lining up
8 testimony; require that board and commissions follow
9 their own rules; ban prehearing ex parte case
10 discussion among board members at the risk of losing
11 their appointment; require that finds of fact be
12 made available upon request, not just as a result of
13 an appeal; build meaningful enforcement mechanisms
14 to ensure that the body and the spirit of the
15 legislation are carried out.

16 Queen Village Neighbors Association
17 supports Bill 020728. We encourage Council to vote
18 yes to show its commitment to meaningful civic
19 participation in the governments of our City. Thank
20 you.

21 COUNCILMAN COHEN: Thank you very much.
22 Councilman Ortiz.

23 COUNCILMAN ORTIZ: Ms. Puppin, you heard
24 the testimony of Mr. Glancey and Ms. Wilkerson.
25 They had some question as to certain privacy

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2 matters. What's your opinion of those situations?

3 MS. PUPPIN: It would seem that there
4 may be commissions and there may be situation where
5 indeed there should be some exceptions to the
6 Sunshine Rule where matters of having to do with
7 personnel or issues as they related might well
8 require some exceptions.

9 COUNCILMAN ORTIZ: But I think what
10 you're relating to is the broad public policy that
11 is made by these boards and commissions and by
12 specific projects.

13 MS. PUPPIN: Yes, with civic groups
14 especially with the ZBA and the Historic Commission
15 is most often where civic groups find themselves in
16 a situation of not knowing at all how a decision was
17 made.

18 COUNCILMAN ORTIZ: And whether influence
19 of other more powerful voices, be they monetary or
20 political --

21 MS. PUPPIN: Right, behind that are
22 governing how the decision is made. And that's
23 something that, as a civic association, one needs to
24 know what's happening.

25 COUNCILMAN COHEN: Any other questions?

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2 I just wanted to mention it's very
3 important of the functioning of a city that
4 community organizations remain active and vital.
5 Trusting government just to elected officials would
6 be a terrible mistake, I believe, or to appointed
7 officials or to the combination. You need an active
8 vibrant citizenship, and that's why I'm interested
9 in these kind of bills. And I think that what we
10 may have to do is to realize we can't have total
11 sunshine. There may be some special circumstances
12 which require special treatment, but that what is
13 needed is a fresh influx of sunshine over what
14 currently exists today. And we will mindful of the
15 thoughts that you've expressed when we make our
16 consideration. Thank you very much. Thanks for
17 Queen Village organization does regularly. Thank
18 you.

19 The next witness will be Richard Thom.

20 MR. THOM: Good afternoon, Mr. Chairman,
21 Councilmembers of the Committee. My name is Richard
22 Thom, T-H-O-M. I chair the Developments Committee
23 of the Old City Civic Association, OCCA. I'm here
24 to represent the entire OCC organization and its
25 support of Council Bill 020728, as introduced by

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2 Councilman Kenney and Ortiz.

3 In the 15 years I've been on the
4 Developments Committee, with the past 9 as Chair,
5 I've had the privilege of appearing dozens of times
6 before virtually all of the boards and commissions
7 that would impacted by the proposed legislation. I
8 have repeated witness these boards take extensive
9 and thoughtful evidence on a case or appeal before
10 them, only to have the end result left undetermined.
11 Reasons publically given to the assembled attendees
12 are usually related to the need for submission of
13 additional appellant information or protest evidence
14 further supporting materials or affidavits.
15 Occasionally, no reason is offered at all.

16 Such delay serve to frustrate those
17 members of the public in attendance who often take
18 the time off from their workday and patiently wait
19 to observe or give personal evidence in an open
20 public hearing. Unfortunately, in the great
21 majority of these delayed cases, the board or
22 commission's decision is made either in executive
23 session with no public witness or at future public
24 meetings with no evidence or advance notice or
25 additional testimony possible. Ultimately, the

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final discussion and/or voting of the cases is an executive or delayed session, giving the public the unintended appearance of behind-the-scenes maneuvering by influential attorneys and government officials. Since this may no longer be a fully open public process, we can never be sure. However, even the appearance of undue influence is a detriment to the adjudication process and an implied impediment to our rights to be heard on an equal footing. The very confidentiality of these deliberations helps to undermine the legitimacy of these boards and commissions and that these communities must appeal to for redress. Citizens in the end feel that their input may not be given all due consideration and is unworthy of the time they have taken to participate in what they believe to be a full and open process.

It is time to ensure that this perception is reversed and then Philadelphians can put their full faith and trust in these boards once again. By making all final deliberations public, we can strengthen their credibility, honor the service provided by their members, and restore the public's confidence that citizen participation is a worthwhile enterprise in our democracy.

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2 We urge Council to swiftly enact Bill
3 020278 for benefit of all citizens of the City.
4 Thank you.

5 COUNCILMAN COHEN: Thank you, Mr. Thom.
6 Is there any question of the witness?
7 Councilman Ortiz.

8 COUNCILMAN ORTIZ: Mr. Thom, the same
9 question I asked Ms. Puppini. You heard the comments
10 of two government officials, and I'd like your
11 impression as to their slant to it. There are some
12 aspects where confidentiality may be a coin that has
13 to be taken into consideration, but in terms of the
14 Historic Commission, for example, designating
15 something in the neighborhood, that's a circumstance
16 in which developers and other folks who may have
17 some monetary interest on the issue may have some
18 more influence than the neighbors and citizens. So
19 I'd like to see how you balance those.

20 MR. THOM: I agree that there are
21 confidentiality issues that clearly were raised here
22 today that are of a concern to anyone and anyone as
23 a citizen of the City and that there are certain
24 boards in which this such divulgence of
25 confidentiality might in fact negate their

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2 decisions. I would urge Council to re-look at the
3 issue but to look at those cases in the most narrow
4 definition and confinement as possible so that we
5 ensure ourselves that the use of confidentiality is
6 not a smoke screen to undermine the will of the
7 Council in its legislation. Narrowly define it as
8 narrow as possible. Exclude those agencies where
9 it's absolutely necessary to do so. But let's not
10 make it an out for some of these agencies to avoid
11 the Council bill.

12 COUNCILMAN COHEN: Thank you very much.
13 And the comments are made before to another citizen
14 representative apply to Mr. Thom and citizens like
15 him who participate and insist on participation by
16 the citizenry, and we thank you for that role that
17 you play so frequently. And we urge that all
18 citizens understand this is their government, they
19 have a right to participate in its decision-making
20 and they have a responsibility to participate in
21 choosing the leaders, and this is a good year for
22 that.

23 Lance Haver.

24 MR. HAVER: Good afternoon. My name is
25 Lance Haver, H-A-V-E-R. I'm speaking today on

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2 behalf of the Equity Project, an advocacy group
3 dedicated to ensuring that every American gets
4 their fair share of the economic pie. Thank you
5 very much for the opportunity to be heard on this
6 pressing issue.

7 I'd like to just deviate quickly and
8 answer Councilman Ortiz questions because I do think
9 that speaks to the heart of the matter and I think
10 that Chairman Glancey and the Mayor's position is
11 one that has to be considered. But there's a
12 tremendous difference between setting public policy
13 and individual rights. What this bill speaks to is
14 how do we set public policy. Jury trials, with all
15 due deference to Ms. Wilkerson who speaks very well,
16 jury trials have to do with individual rights, not
17 with society's policymaking. The Board of Revision
18 of Taxes has to do with individual's rights, not
19 with public policy. Zoning, commissions, boards,
20 authorities all have to do with how we set public
21 policy. All those deliberations should be in
22 public. The public should weigh heavily on those
23 people who re setting public policy and people who
24 are making those decisions and think that they can
25 go behind closed doors and disregard what the public

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2 wants are not serving the public interest. It is
3 not the same as a jury, it is not the same as a
4 criminal jury, and it is not the same as deciding on
5 the Board of Revision of Taxes. Those are
6 individual matters. In those cases, you have to
7 make sure that privacy of the individual is
8 protected. On public policy matters, where
9 restaurants can be, what we're going to do with the
10 parks, how we're going to do things, those are
11 particularly political decisions and should be made
12 with the public in mind.

13 With that, if I may, I would like to
14 thank Councilman Kenney and Councilman Ortiz for
15 introducing this bill. I want to urge every Member
16 of the Council to support it. This bill speaks to
17 the very issue that underlies our democracy in
18 informed citizenship. All too often we hear the
19 complaint that citizens are not involved in
20 government, that they don't vote, don't attend
21 meetings, and choose not to exercise the very
22 freedoms for which their parents and grandparents
23 and ancestors fought.

24 One of the reasons people stop
25 participating in government is because some forms of

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2 government have been privatized, taking control away
3 from the people and their elected legislative bodies
4 and placed in the hands of unaccountable,
5 well-connected bureaucrats.

6 Many of the decisions these bureaucrats
7 make affect people more than decisions a selected
8 body makes. The Pennsylvania Intergovernmental
9 Cooperative Authority holds sway over the City's
10 budget. The School Reform Commission, unelected and
11 unaccountable, controls the education of our
12 children while purposely holding meetings during the
13 day making it almost impossible for working parents,
14 teachers, and yes, even students to attend and be.

15 Among the private forms of government
16 are the commissions and boards that are established
17 by the City of Philadelphia. The people who serve
18 on these boards are not accountable to the voters.
19 That is why this bill is so important. If it
20 passes, the citizens of Philadelphia will be at
21 least guaranteed an opportunity to participate in
22 the decision-making process.

23 Commissions and boards given real power
24 to affect people's life should be forced to conduct
25 their business in public so that we can see how the

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2 decisions are being made. We should have an
3 opportunity to address issues that affect us and an
4 opportunity to seek redress for our grievances.

5 I would ask that consideration of a
6 amending the bill to include that boards and
7 commissions on some schedule should hold meetings in
8 the evening so that more can attend be added.

9 Even without such an amendment, this
10 bill should be passed. Citizens shut out of the
11 deliberations denied access to important issues
12 cannot give their consent.

13 If members of this Council believe that
14 the right to govern comes from the consent of the
15 governed, then you are obligated to vote in favor of
16 this bill. Thank you very much for the opportunity.

17 COUNCILMAN COHEN: Thank you very much
18 for a very thoughtful statement.

19 Are there any questions from Members of
20 Committee?

21 I think the distinction you make about
22 public policy and decision-making are very important
23 and very relevant. And it's often a distinction
24 that's overlooked.

25 MR. HAVER: Thank you very much. I look

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2 forward to testify when your back at your normal
3 home downstairs.

4 COUNCILMAN COHEN: Heidi Gold and
5 Colleen Farrell.

6 MS. GOLD: Good afternoon, Mr. Chairman,
7 Members of City Council. My name is Heidi Gold,
8 G-O-L-D, President of the League of Women Voters of
9 Philadelphia. What I would like to do is introduce
10 our legislative liaison Colleen Farrell to give our
11 testimony and then I'd like to come back because I,
12 too, have an example that I think addresses the
13 intent of the legislation.

14 MS. FARRELL: Thank you very much. We
15 the League of Women Voters fully support Bill No.
16 020728. We believe that the right of the public to
17 be present at all meetings of agencies and to
18 witness the deliberation policy formulation and
19 decision-making of agencies is vital to the
20 enhancement and proper functioning of the democratic
21 process and that the secrecy in public affairs
22 undermines the faith of the public in government and
23 the public's effectiveness in fulfilling its role in
24 a democratic society.

25 Our state and local positions both

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2 support this belief. We believe that the
3 governmental authorities should act in the public
4 interest, that the powers of authorities are clearly
5 defined, and that authorities are established only
6 when the authority structure enhances the ability to
7 provide a public service. We fully support measures
8 that enable local governments to operate more
9 effectively. We also believe that amending
10 Philadelphia Code to include legislation requiring
11 public deliberations and adjudications would
12 strengthen the Philadelphia Home Rule Charter as
13 well as strengthen the public right to know.

14 COUNCILMAN COHEN: Thank you very much.

15 MS. GOLD: The Internet is a wonderful
16 thing, because when you search various subjects, you
17 can always find something that you're looking for.
18 And like Mr. Glancey, I found a Commonwealth court
19 case from 2001, Kennedy versus Upper Milford
20 Township that addresses a zoning board hearing
21 whereby a decision was made in executive session.
22 It turned out to be a compromise. And what
23 happened, it was appealed to the Commonwealth Court
24 because there was no public deliberation on that
25 decision and it was upheld under the context of

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2 public would have the right to be in on that
3 decision and have public input. And I think that is
4 actually -- it's the adjudication that we're talking
5 about today with this legislation.

6 COUNCILMAN COHEN: Thank you.

7 Any questions?

8 (No response.)

9 COUNCILMAN COHEN: If not, thank you
10 very much for your testimony.

11 Pat Freeland and Joe Bellar. Either one
12 or both present?

13 (No response.)

14 COUNCILMAN COHEN: Is Patty Brennan
15 here? Rosie Adams? Grace Miller? Job Itzkowitz?

16 MR. ITZKOWITZ: Thank you, Councilman
17 Cohen and Members of the Committee. My name is Job
18 Itzkowitz, I-T-Z-K-O-W-I-T-Z, and I represent Young
19 Involved Philadelphia, an organization of the City's
20 young citizens dedicated to increasing civic
21 engagement and advocating policy reforms that will
22 improve the City's future, our future.

23 As a young Philadelphian, I have the
24 luxury of bringing a fresh perspective to the
25 challenging task of governing the City. And I am

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2 here today to express YIP's shock and dismay of the
3 fact that so many of the key decisions made by our
4 City's boards and commissions are made behind closed
5 doors. The proposed bill will give the public an
6 important opportunity to glance in once in a while
7 on its public servants to see who is making what
8 decisions and to learn why.

9 We have all heard the uproar over
10 drastic real estate assessment increases. We've all
11 grown increasingly frustrated with the number of
12 parking lots, both surface lots and garages that
13 clog our City and the increased traffic that comes
14 with such development. But real estate grievances
15 don't just come from Queen Village and Chestnut
16 Hill. Complaints about parking lots are not limited
17 to those who live on Rittenhouse Square. Issues
18 like zoning, taxes, and parks affect all of your
19 constituents, every single one of us. There should
20 be nothing to hide from us when it comes to our
21 taxes, our parks, our redevelopment. The public
22 demands to be let in on the reasons behind the
23 decisions that affect our lives.

24 Of course, there are certain times, and
25 it has been noted, where it will be necessary to

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2 keep certain discourse in committee confidential or
3 to keep the doors closed to the public for other
4 reasons. These exceptions, however, should be few
5 and far between. For the rare occasion where it is
6 necessary to keep the public out to protect
7 confidential information, I think the bill allows
8 for it.

9 Finally, for a City that is committed
10 itself to reversing the brain drain, it is
11 especially important to find ways to break down the
12 prevailing cynicism among young people about the way
13 government works. The flight of talented young
14 adults from Philadelphia is about more than just
15 schools ash taxes. It's also about whether people
16 feel they have a municipal government that works for
17 and listens to them.

18 This bill will be a great step towards
19 more open government, improved communication and
20 public inclusion. I strongly urge you to support
21 this bill.

22 I'd also like to take moment to address
23 Councilman Ortiz' question that he's asked other
24 representatives of civic groups. I find the jury
25 comparison a little off, I'd say. It seems to me

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2 that the people making these deliberations and
3 decisions, beyond the fact that they're adjudicating
4 policy issues, are also public servants. Juries are
5 held in private and they protect defendants and
6 plaintiffs, but they also protect jurors.

7 These are people that have either been
8 appointed or somehow have been made public servants
9 to the City and their deliberations should be opened
10 to the public.

11 Mr. Glancey also mentioned Supreme Court
12 of Pennsylvania ruling that mentioned public
13 confusion as a reason why maybe we should keep these
14 things private. The fact is, the public may be
15 confused when we open these deliberations to the
16 public because they've been uninformed, because
17 they've been kept in dark for so many years. It
18 seems to me that if we start making these
19 deliberations more public and more open, the public
20 will become informed, you'll have a more informed
21 and stronger constituency.

22 I'd also like to comment on Councilman
23 Kenney's comment. He mentioned that we're always
24 better to err on the side of openness; and I truly
25 agree what that.

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2 One final issue, there seems to be a lot
3 concern on behalf of the Administration than others
4 that people's privacy rights might be violated. But
5 a liberal interpretation of the way the legislation
6 is written makes me believe that a the right to
7 privacy could be a legal mandate that would protect
8 citizens from public deliberation. Thank you very
9 much for your time.

10 COUNCILMAN COHEN: Thank you.

11 Councilman Ortiz.

12 COUNCILMAN ORTIZ: You speak about the
13 confusion the public may have. Sometimes confusion
14 leads to clarity. What I think what we have right
15 now in terms of all these deliberations that take
16 place is that it leads to cynicism. And I think our
17 populus is getting very cynical as to how public
18 policy is made. And I think anything we can do to
19 break down that wall of said cynicism will go a long
20 way towards making a citizen that is much more
21 responsive. We wonder why people don't vote in
22 elections. One of the reasons why is these things
23 that happen. Thanks.

24 COUNCILMAN COHEN: Thank you very much
25 for appearing today.

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2 David Thompson.

3 MR. THOMPSON: Thank you. My name is
4 David C. Thompson. I am First Vice President of the
5 Fairmount Civic Association in the Art Museum
6 section of Philadelphia. I've been four times
7 president of the civic association, active with
8 their zoning committee and other committees and
9 active in getting the neighbors boards, especially
10 the Zoning Board of Adjustment. Our board at our
11 meeting earlier this month, and while we don't
12 normally support or oppose bills unless they affect
13 our vital interest, one of the case which we did do
14 that was the famous bill which would have restricted
15 our rights to appear in zoning hearings, the one
16 sponsored or pressed by the bill board interest and
17 others. But that is the rare case.

18 In this case, we're not endorsing the
19 bill, but all members of the board saw the need for
20 more openness in the government and we support the
21 bill that you have before you.

22 I too recognize the problems with, first
23 of all, privacy for individuals and sometimes that
24 should be overridden. If in a zoning case there are
25 people with money invested in the project or the

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2 neighbors want to submit some information, that
3 should be part of the public record. But there are
4 other cases where I would agree, maybe there's
5 personnel problems, the Commission hires employees
6 some problem with that, discuss salary levels or
7 something else that they have to discuss in private,
8 I think the bill already provides for that.

9 So that's my testimony. I would
10 certainly see that this bill would be a wise
11 addition to the ordinances of the City of
12 Philadelphia.

13 Can I take my hat off as a civic
14 association officer and put on a partisan hat? I'm
15 also the ward chairman of the 15th Ward. I was the
16 ward leader back in '87 when it was a big mayoral
17 election. And twice we've come as republicans
18 within 3 percent of winning the Mayor's race. I
19 would like to suggest that Council think about the
20 idea for each commission that has five or members
21 that there be a requirement that at least one of the
22 members be from a party another than Mayor's party.
23 And of course, if we succeed in the coming election,
24 the democrats will be the ones with the benefit of
25 that proposal. Now, maybe you're going to laugh at

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2 that proposal. I think it might require a Charter
3 change rather than this bill. But think about that
4 idea and whether it might make the minority, but a
5 pretty good large minority, of republicans in the
6 City feel better represented on these boards and
7 commissions. Thank you very much. Any questions?
8 I didn't get to prepare a written statement because
9 I knew I could speak extemporaneously and briefly.

10 COUNCILMAN COHEN: Are there any
11 questions by Members of the Committee?

12 (No response.)

13 COUNCILMAN COHEN: Seeing none, thank
14 you very much for your attendance.

15 Of course, in Philadelphia, it's often
16 hard to tell the difference between democrats and
17 republicans. If anybody followed the City Council
18 currently now may find that probably the strongest
19 supporters of a democratic mayor are a majority of
20 the republican of City Council which is confusing to
21 most citizens and very confusing often to
22 Councilmembers. So it's hard to tell. On
23 citizenship things, often there is no separation.
24 But your idea is very interesting because we do want
25 the widest and broadest selection of citizenry on

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2 the various boards. And I'm sure many republicans
3 serve on boards under the democratic administration
4 as many democrats served during the time the
5 republicans held Mayor's Office.

6 But we think your association and all
7 associations are outstanding in that they maintain
8 the very strong role of citizens. And for that, we
9 think Philadelphia owes a great deal to its
10 strength. Thank you very much, Mr. Thompson, for
11 coming here today.

12 I understand there are two witnesses who
13 were listed to be here who were who are on their way
14 and requested an extension of five minutes, and I
15 think that might be a good idea to take because we
16 have another hearing to go through and it gives
17 everybody a chance to rest. The committee will
18 stand in recess for five minutes at which time we
19 will complete the current bill and go on to the
20 proposal for changing the Home Rule Charter.

21 (Recess.)

22 COUNCILMAN COHEN: The Committee on Law
23 and Government now back in session. Next witness is
24 Mary Tracy. We're delighted to have you here today.

25 MS. TRACY: Good afternoon, Mr.

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2 Chairman. I really appreciate your waiting for me,
3 and I apologize for being late. There's a lot going
4 on in this City right now and it seems that there's
5 little time to deal with a lot of it. I appreciate
6 the opportunity to share with you some of our
7 frustration and some of the work that we've been
8 doing since we last saw each other a little over a
9 year ago.

10 First of all, I'll introduce myself for
11 the record. My name is Mary Tracy, T-R-A-C-Y. I'm
12 here today to testify on Bill No. 020728 which will
13 require all meetings and deliberations of
14 City-appointed boards and commissions to be open to
15 the public, broadening the reach of the Pennsylvania
16 Sunshine Act. The bill would affect, among others,
17 the City Planning Commission, the Board of Pensions,
18 L&I Review Board, and the Zoning Board of
19 Adjustment. And it is the last board that I have
20 the most experience with and that I would like to
21 address before this body today.

22 Just before I came over here, I received
23 a call from our attorney, Samuel Stretton, with the
24 news that, I'd say probably for about the 30th time,
25 the Zoning Board of Adjustments has granted a

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2 variance allowing billboards in a location that the
3 law that our City Council passed in 1991 protects.
4 And it is very frustrating for me as a citizen, as a
5 taxpayer and as a leader in that movement to
6 continually be defeated by this body that is not
7 elected; it's selected. It's an appointed body, and
8 they are accountable to no one. And I think I would
9 be very interested to sit in on the deliberations
10 concerning those hearings that have special interest
11 to me because I think somewhere along the line the
12 appointed members of the Zoning Board don't
13 understand the law. And despite having won 11
14 published Commonwealth Court decisions setting legal
15 precedence in the State of Pennsylvania on land use
16 law, including hardship, dimensional of variances,
17 and as we all know standing, and repeatedly
18 explaining to this board what defines hardship, the
19 zoning board continues to grant variances that
20 abuses their discretion. And we can be here, we can
21 fill this room up with community people, we can all
22 pour our hearts out to you about how we want a
23 better government and how the City just isn't
24 working for us and we're in the neighborhoods in the
25 trenches trying to make our City look better, we can

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2 poor all the neighborhood transformation money in
3 the world into these neighborhoods, but if we're not
4 willing to stand up and enforce the law, if we're
5 not willing to say no to these intrusions, then what
6 are we ever going to have in the City? It's just
7 lip service. It's bells and whistles, smoke and
8 mirrors. You know, the government's pretending that
9 you listen to people and yet it's always business as
10 usual.

11 And SCRUB, the Society Created to Reduce
12 Urban Blight, has taken a different road, thinking
13 that, well, the courts can rule on this. If it's a
14 valid law then, of course, the City will follow it.
15 And it's quite contrary to what's going on in the
16 rest of the world. We have situations we're helping
17 others in suburban communities and their boards
18 actually wait to see what the courts say and then
19 they abide by it. Not here, not in Philadelphia.
20 We can wave every decision in the face of this
21 board, and they ignore it.

22 And so what do you do? I mean, just all
23 throw up our hands and say, "Well, that's the way it
24 is in Philadelphia." Or are we really interested in
25 making it better? And I'd say it would be a good

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2 start to open up the deliberations, but as we all
3 mutely sit there listen to folks argue, we all know
4 that the decision going to be the same.

5 I think one the most important things
6 that we can do is to change the make-up of that
7 body. Our commissions and our boards should not be
8 primarily political appointees. Our boards, if they
9 are to do the proper job, need to bring the
10 knowledge and the skills and the objectivity with
11 them in making decisions that will impact, not today
12 and tomorrow, but future generations of
13 Philadelphians. And we see so many shortsighted
14 decisions being handed down on a daily basis in the
15 City that one almost wonders, why do we even try.

16 And I think by opening the board
17 deliberations to people who can understand and know
18 and publicize what's going on, perhaps there would
19 be a bit of account bit. Perhaps that one person
20 who is on that board will have the courage to speak
21 up. And then we can also learn who are the best
22 qualified people on that board and also what are
23 they really thinking. Like, why would they continue
24 to flaunt a law that's really for the public good?
25 And maybe we can educate them as to where they're

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2 going wrong.

3 I think Councilman Nutter would be
4 particular interested if he had gotten his decision,
5 but this is just anecdotally a day in the life of
6 SCRUB and community groups. But on December 27th
7 there was a hearing before the board about some
8 billboards on Ridge Avenue and Osborne Avenue,
9 they're in a plot of land there, that the local
10 neighborhood groups have been trying to have removed
11 for years because they were impermanent, illegal
12 signs, they were adjacent to residential property,
13 they were the gateway area. We have a community
14 here who is really trying to improve the commercial
15 residential strip. And these signs were on their
16 list of things that could be improved. And I just
17 heard today, despite having Councilman Nutter there
18 and five different community groups on December
19 27th, mind you, the Zoning Board of Adjustment
20 granted those variances.

21 And just last week Mayfair Civic has the
22 exact situation, five illegal billboards on roof top
23 property in an area that their CDC is trying to
24 improve. What will the zoning board do there? Will
25 they be consistent? Will they continue to grant

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2 variances or will they say, "No, here is our one and
3 only opportunity to rally make the City visually
4 attractive."

5 We say we want to attract new residents.
6 We say we want new businesses. But we don't act as
7 we say.

8 And so I think I'll end my testimony
9 again with just saying I think this is a good start
10 but there's still much that this body, City
11 Councilmembers can do to help the communities make
12 our quality of life enhanced for all.

13 COUNCILMAN ORTIZ: And you support the
14 bill?

15 MS. TRACY: I support the bill.

16 I would like to hand up, actually, also
17 just a list of some of the cases that we've worked
18 on over the past few years. I think there's about
19 25 or so listed. And we also have listed all the
20 different community groups that we have worked
21 before the Zoning Board. It's from Tacony Civic,
22 Old City residents, Stadium Community Council,
23 Whitman Council, Packer Park, Fish Town, Eastwick,
24 Bridesburg, Powelton Village, Friends of FDR Park.
25 I mean, we work with neighborhoods across the City

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2 and we're losing everywhere.

3 And also I'm very proud our -- we had an
4 intern this summer that put together a brochure for
5 us that just came out. I would also like to just
6 pass that out to each of you so you know who we are
7 and what we're up to.

8 COUNCILMAN COHEN: Thank you very much.

9 Are there any questions? Any comments?

10 (No response.)

11 COUNCILMAN COHEN: Thank you very much
12 for your testimony.

13 The Committee on Law and Government
14 hearing process will stand adjourned.

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COUNCIL OF THE CITY OF PHILADELPHIA

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PUBLIC MEETING

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COMMITTEE ON LAW AND GOVERNMENT

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Wednesday, February 19, 2003

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Public Meeting conducted by the
Committee on February 19, 2003, held in Room 696,
City Hall, Philadelphia, Pennsylvania, on the above
date, to consider action on the following:

10

BILLS 020728, 020810.

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PRESENT:

14

COUNCILMAN DAVID COHEN, Chairman

COUNCILMAN W. WILSON GOODE

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COUNCILMAN JAMES KENNEY

COUNCILMAN MICHAEL NUTTER

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COUNCILMAN ANGEL ORTIZ

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1 2/19/03 - LAW - PUBLIC MEETING

2 COUNCILMAN COHEN: The meeting of the
3 Law and Government Committee will now take place.
4 The Chair notes the presence of a quorum consisting
5 of the Councilman Kenney; myself, Councilman Cohen;
6 Councilman Ortiz; Councilman Goode; Councilman
7 Nutter.

8 The Chair calls on Councilman Kenney for
9 a motion.

10 COUNCILMAN KENNEY: Thank you, Chairman.
11 First, I'd like to request the Chair hold Bill No.
12 020810 and Resolution No. 020817. We had been
13 expecting written testimony from City Controller's
14 Office on that issue. I think due to weather
15 issues, they were unable to get that to us. So we
16 would respectfully request a rescheduling a hearing
17 of those the bill and resolution at the appropriate
18 time.

19 COUNCILMAN COHEN: Hearing no objection,
20 the request for continuance of the other matters
21 before the committee will be granted.

22 COUNCILMAN KENNEY: Thank you, Mr.
23 Chairman. I also now move Bill No. 020728 out of
24 this Committee with a favorable recommendation. I
25 don't think there's any need suspension because

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2 we're waiting for some additional information from
3 the Administration.

4 (Duly seconded.)

5 COUNCILMAN COHEN: There's been a motion
6 made in support of the bill before us and there's
7 been a second. Any discussion on the motion?

8 (No response.)

9 COUNCILMAN COHEN: Hearing none, all
10 those in favor, please say aye.

11 (Aye.)

12 COUNCILMAN COHEN: Those opposed, nay.

13 (No response.)

14 COUNCILMAN COHEN: There are no nays.

15 The bill is reported out and will be reported at the
16 next session of City Council for a first reading.
17 Thank you very much.

18 The meeting of the Law and Government
19 Committee is hereby adjourned to the call of the
20 Chair.

21 (Council adjourned at 2:45 p.m.)

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of February 19, 2003, were reported
fully and accurately by me, and that this is a
correct transcript of the same.

RE: COMMITTEE ON LAW AND GOVERNMENT

Lisa C. Bradley, RPR
and Notary Public