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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING - COMMITTEE ON LICENSES AND
INSPECTIONS

- - -

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, June 7, 2005, 1:30 p.m.

BILL NO. 050384

PRESENT:

COUNCILWOMAN JOAN KRAJEWSKI
COUNCILMAN JUAN F. RAMOS
COUNCILMAN FRANK RIZZO
COUNCILMAN DARRELL L. CLARKE
COUNCILWOMAN MARIAN TASCO
COUNCILMAN JACK KELLY

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2 COUNCILWOMAN KRAJEWSKI: Good
3 afternoon. The Committee on License and
4 Inspection is now in session.

5 Will the clerk please read the
6 number of the bill.

7 THE CLERK: Bill 050384, an
8 Ordinance enacting a new Section 9-213 of The
9 Philadelphia Code, entitled "Farmers'
10 Markets," and amending Section 9-203 of The
11 Philadelphia Code, entitled "Street Vendors,"
12 Section 9-204 of The Philadelphia Code,
13 entitled "Sidewalk Vendors in Center City,"
14 and Section 9-205 of The Philadelphia Code,
15 entitled "Sidewalk Sales," to provide for the
16 licensing and regulation of Farmers' Markets
17 throughout the City of Philadelphia, all under
18 certain terms and conditions.

19 COUNCILWOMAN KRAJEWSKI: Thank
20 you.

21 Good afternoon. Please state your
22 name for the record from the Administration.

23 MR. HAIGLER: Good to see you
24 back.

25 COUNCILWOMAN KRAJEWSKI: Thank

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2 you.

3 MR. HAIGLER: Good day,
4 Councilwoman Krajewski and members of the
5 committee. I am Otis Haigler, Jr., Director
6 of Legislative Affairs for the Department of
7 Licenses and Inspections. Today I am here to
8 provide testimony on Bill 050384, which, if
9 enacted, will add a new Section 9-213 to the
10 Philadelphia Code to regulate Farmers Markets
11 in the City.

12 The intent of this amendment will be
13 to codify informal agreements that have been
14 made in the past related to the operations of
15 farmers' markets in the City and to allow for
16 their continued operation in designated areas
17 subject to continued compliance with this
18 section.

19 The Department understands that
20 proposed amendments will be offered for
21 clarification purposes and to address concerns
22 we have raised. In light of such amendments,
23 the Department offers no objections to
24 enactment of Bill 050384 as amended.

25 Thank you for the opportunity to

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2 provide testimony on this bill and I'll be
3 happy to answer any questions at this time.

4 COUNCILWOMAN KRAJEWSKI: Thank
5 you.

6 Any questions from members of the
7 committee?

8 Councilman Clarke.

9 COUNCILMAN CLARKE: Thank you,
10 Madam Chair.

11 Good afternoon, Mr. Haigler.

12 MR. HAIGLER: Good afternoon.

13 COUNCILMAN CLARKE:
14 Mr. Haigler, currently are there any
15 regulations that are related to vending; i.e.,
16 farmers' markets in place within the City of
17 Philadelphia?

18 MR. HAIGLER: Yes. We have a
19 law that was enacted last year. It was you as
20 the sponsor. You sponsored an ordinance last
21 year to permit such activity at Rittenhouse
22 Square.

23 COUNCILMAN CLARKE: So that was
24 at one particular location?

25 MR. HAIGLER: There was a

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2 Sunset Provision in that law that expires this
3 year. So with this ordinance being passed,
4 this will extend that operation, as well as
5 all the other operations that are mentioned in
6 the ordinance or other locations in the
7 ordinance.

8 COUNCILMAN CLARKE: Okay. I
9 just wanted to get a sense. But we have no
10 general provisions similar to what we
11 currently have for traditional sidewalk
12 vendors throughout the City of Philadelphia?

13 MR. HAIGLER: No, we do not.
14 We would probably generally treat them as
15 vendors, but with informal agreements that
16 have been entered into in the past, we
17 separated or designated them as farmers'
18 markets.

19 COUNCILMAN CLARK: There's
20 nothing in the Code currently?

21 MR. HAIGLER: That's correct.

22 COUNCILMAN CLARKE: Right.
23 Okay. Thank you.

24 COUNCILWOMAN KRAJEWSKI: Any
25 other questions from members of the committee?

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2 (No response.)

3 COUNCILWOMAN KRAJEWSKI: Thank
4 you.

5 MR. HAIGLER: Thank you.

6 COUNCILWOMAN KRAJEWSKI: Is
7 there someone else here for or against this
8 bill to testify?

9 Come forward. Don't be frightened.
10 Good afternoon, gentlemen.

11 MR. LANG: Good afternoon.

12 MR. WIDEMAN: Good afternoon.

13 MR. PIERSON: Good afternoon.

14 COUNCILWOMAN KRAJEWSKI: Who is
15 going to begin? Please state your name for
16 the record.

17 MR. LANG: My name is Brian
18 Lang. I'm a project coordinator for The Food
19 Trust. Am I free to begin?

20 COUNCILWOMAN KRAJEWSKI: Sure.

21 MR. LANG: Good afternoon,
22 Council members and guests. As I said, my
23 name is Brian Lang and I manage the farmers'
24 market program for The Food Trust. We're a
25 Philadelphia-based non-profit group that works

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2 to improve access to healthy food in
3 low-income communities and provide nutrition
4 education in schools. I am here today to
5 discuss the farmers' market ordinance
6 introduced by Councilman Clarke, as well as
7 the amendment that has been offered to this
8 ordinance.

9 Our main interest is to ensure that
10 the final version of the ordinance contains
11 nothing to impede the growth of farmers'
12 markets that has taken root in Philadelphia.
13 We are concerned that some of the proposed
14 regulations and fees may have the unintended
15 consequence of forcing existing farmers'
16 markets to close, preventing new markets from
17 opening or resulting in fines for farmers who
18 already struggle to make a living.

19 The Food Trust was founded in 1992
20 with the mission of opening farmers' markets
21 in areas of the City where residents had
22 difficulty obtaining healthy food like fresh
23 fruits and vegetables. We now operate
24 farmers' markets in 12 Philadelphia locations
25 in places like West Oak Lane, Center City,

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2 University City, West Philadelphia, Fairmount,
3 Fishtown, Germantown and Northeast
4 Philadelphia.

5 There is no question that these
6 markets improve the health of residents by
7 providing nutritious great-tasting fresh
8 fruits and vegetables. These markets also
9 help to revitalize communities.

10 I invite all Council members to
11 visit a Food Trust farmers' market, perhaps
12 our Clark Park farmers' market on Saturdays at
13 43rd and Baltimore, and just witness the
14 transformative effect these markets have on
15 the neighborhood.

16 The Food Trust tries to address food
17 access issues on a number of levels. In the
18 early '90s, Philadelphia was second to last of
19 major American cities in supermarkets per
20 capita. The Food Trust has been working to
21 improve this problem. We embarked on a \$40
22 million initiative with Governor Rendell and
23 the state legislature to open supermarkets in
24 underserved neighborhoods. This initiative
25 has enjoined strong support from City Council.

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2 We have opened the first supermarket in South
3 Philadelphia on Island Avenue and we have
4 other projects in the pipeline at 48th and
5 Brown, Progress Plaza and more.

6 As a result, the food access picture
7 is improving in Philadelphia, but we still
8 have a long way to go. Even with the growth
9 in supermarket development, farmers' markets
10 play a vital role in bringing healthy food
11 into neighborhoods where fresh food is scarce.

12 The ordinance on farmers' markets
13 being discussed today sets some common-sense
14 regulations to protect citizens from any
15 problems associated with farmers' markets. We
16 are certainly not opposed to common-sense
17 regulations. However, I do want to note that
18 we have rarely received a complaint about any
19 of our farmers' markets, and to the contrary,
20 we receive many, many requests each year to
21 open farmers' markets in communities that have
22 poor access to healthy food. The requests
23 come from citizens who want to revitalize
24 their communities, from seniors who want to
25 use their farmers' market vouchers and from

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2 food stamp recipients who need access to fresh
3 fruits and vegetables. In fact, The Food
4 Trust is one of the only organizations in the
5 country that is successfully pioneering
6 wireless EBT access at farmers' markets so
7 that food stamp recipients can purchase
8 healthy fresh fruits and vegetable in that
9 neighborhood.

10 This year we are opening two new
11 markets, one at 3rd and Poplar in Northern
12 Liberties and one at 52nd and Haverford. We
13 are concerned that some of the regulations
14 that have been proposed for this ordinance
15 would create unnecessary burdens on opening
16 more new markets in future years. For
17 instance, the ordinance contains a list of
18 permissible locations for farmers' markets
19 consisting of the locations where markets
20 currently exist. This would make new
21 legislation necessary to open a farmers'
22 market.

23 In the past, The Food Trust has
24 worked with community groups and local elected
25 officials to ensure that a community supported

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2 a farmers' market in their neighborhood. We
3 think that the ordinance should instead
4 require that new locations receive approval
5 from the Councilmember from the appropriate
6 district.

7 We also think that the fee structure
8 proposed is unnecessarily high. We requested
9 a waiver from the fee as a non-profit
10 providing a needed service to City residents.
11 The City of Philadelphia has never contributed
12 any funds to our farmers' market program.
13 This is a program that is improving public
14 health by preventing malnutrition and obesity
15 and revitalizing low-income communities. We
16 think a nominal flat fee of \$100 to \$250 for
17 farmers' market operators would be a better
18 solution than some of the larger fee
19 structures that have been proposed. We hope
20 that Councilmembers will continue that the
21 lower fees, the more funds will be available
22 for us to expand access to healthy food for
23 more City residents.

24 In closing, I would like to add that
25 cities around the country are looking at

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2 Philadelphia as a model for how to
3 successfully operate farmers' markets. With
4 the rise of the obesity epidemic and the
5 sprawl of suburbs pulling economic activity
6 away from the urban centers, farmers' markets
7 are seen as a way to improve citizens' health
8 and quality of life.

9 We respectfully ask that the Council
10 tread very carefully on a system that has
11 performed remarkably well for the last 15
12 years and which serves a vital public
13 interest. We are eager to see the final
14 version of this ordinance and hope that it
15 will serve not only to regulate farmers'
16 markets but also to ensure that they continue
17 to flourish.

18 Thank you and I will be happy to
19 answer any questions.

20 COUNCILWOMAN KRAJEWSKI: Thank
21 you very much.

22 Anyone else to testify?

23 Thank you very much gentlemen. Oh,
24 one more.

25 MR. PIERSON: My name is Bob

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2 Pierson. Good afternoon, Councilpersons. I'm
3 Program Director for Farm to City, and our
4 mission is to unite communities, families and
5 farmers year round through local good food.

6 Urban markets are as old as
7 civilization and play an important part in the
8 formation of cities in the civic life of its
9 citizens. Today seasonal farmers' markets
10 reflect these origins and provide a civilized
11 and democratic gathering place for people to
12 meet and purchase agricultural products for
13 their region.

14 In 1996, there was one outdoor
15 farmers' market. My friends and I started
16 this market, South and Passyunk Farmers'
17 Market, in June of that year. This year marks
18 its tenth season.

19 Today there are over 20 outdoor
20 farmers' market in Philadelphia. Farm to City
21 will operate nine of these, the Food Trust the
22 remainder. In my years with The Food Trust, I
23 planned and managed seven outdoor farmers'
24 markets in Philadelphia, Camden and Chester
25 before starting Farm to City in 2000. These

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2 markets and many other links to local farmers
3 by restaurants and institutions are laying the
4 foundation for our future food supply, as
5 energy costs increase and centralized
6 industrial food sources become more vulnerable
7 and high energy prices and terroristic acts.

8 The bill before you is the
9 expression of ten years of work by myself and
10 many others to bring fresh produce and other
11 products from local farms to Philadelphia's
12 diverse neighborhoods. This bill codifies the
13 experience of Farm to City, The Food Trust and
14 our local partners and City agencies that
15 regulate outdoor sales. Together we have
16 applied these years of cooperation to create
17 the bill before you today, which creates a new
18 section of The Philadelphia Code for outdoor
19 farmers' markets.

20 Last year City Council supported
21 Farm to City's efforts to start a farmers'
22 market in Rittenhouse Square by passage of
23 Bill 040400. This bill is the model in which
24 the bill before you is drafted.

25 I'd like to comment on some of the

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2 testimony by The Food Trust. This legislation
3 I believe is needed. The fee structure can be
4 what it is, whatever Council deems it to be in
5 the public interest. However, I make a strong
6 proviso on that that whatever fee it is apply
7 equally to profit and non-profit. I am a
8 small business person and I do not want the
9 competition for exactly the same service by a
10 non-profit that would claim a lower fee for
11 providing public service that I'm providing.
12 It just simply has to be a level playing
13 field, and I can live with that.

14 Now, on behalf of Farm to City and
15 its thousands of farmers' market customers and
16 supporters in many Philadelphia communities, I
17 wholeheartedly endorse this bill to you and
18 will follow your guidance on the fee
19 structure, and recommend that the committee
20 send this bill to City Council for its first
21 reading. Thank you very much.

22 COUNCILMAN CLARKE: Thank you,
23 Mr. Pierson.

24 Mr. Haigler, can you also come up to
25 the witness stand? I may want to ask you a

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2 couple of questions.

3 First, I'd like to commend all of
4 you for bringing healthy and fresh food to the
5 City of Philadelphia. We appreciate the
6 service that you bring to some of the
7 neighborhoods who traditionally would not have
8 such service. So I want to say that I commend
9 you for that.

10 I do have a couple of questions for
11 Mr. Lang as it relates to your reference to
12 non-profit status. I just want to get some
13 clarity. Is it your contention that as a
14 non-profit you should not have to be regulated
15 or is it simply the fee structure that is
16 proposed, or is it both?

17 MR. LANG: I think maybe it's a
18 little bit of both, but certainly we'd like to
19 address the fee structure first and foremost,
20 just because we feel that we are a non-profit
21 providing a City service. As such, I mean,
22 there are cities across the country that
23 actually fund their farmers' markets, and for
24 us to be in a position where we'd be sort of
25 charged money to operate farmers' markets I

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2 think is sort a reversal of that equation.

3 COUNCILMAN CLARKE: So I'm

4 assuming that there is a fee associated with

5 your produce? I mean, you're not giving this

6 away for free.

7 MR. LANG: Yes. We charge our

8 farmers a stall fee. It's a very nominal

9 percentage of their sales and it really

10 doesn't even go towards covering all of the

11 costs of the program.

12 COUNCILMAN CLARKE: And the

13 farmers sell their produce to the customers?

14 MR. LANG: Farmers --

15 COUNCILMAN CLARKE: I'm

16 assuming there's a cost associated with that,

17 right?

18 MR. LANG: I'm sorry. I didn't

19 understand your question.

20 COUNCILMAN CLARK: I'm assuming

21 there's a cost associated with the sale of the

22 produce to the customer?

23 MR. LANG: I'm not sure I

24 understand what cost you mean. I mean, the

25 City -- they sell the products for a cost,

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2 but, I mean, they're also already paying
3 business privilege taxes on that, too.

4 MR. HAIGLER: A point of order,
5 if I can. Non-profits do not pay business
6 privilege taxes, Councilman. Title 19,
7 19-2601, if you look at that, which defines
8 what a business is, and I have a copy of that
9 with me for the committee and the Chair, if I
10 can read that. 19-2601 defining what a
11 business is, it says "carrying on or
12 exercising for gain or profit within a city of
13 the first class, any trade business, including
14 financial business as hereinafter defined,
15 profession, vocation or commercial activity,
16 including the partial or complete
17 liquidation," so forth and so on, but under
18 the exemption requirements under Subsection 1
19 of that same section where we find an
20 exemption, "any business conducted by a
21 non-profit corporation or association or
22 association organized for religious,
23 charitable or educational purposes, the
24 business of any political subdivision, or of
25 any authority created thereunder," they're not

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2 classified as a business or a business entity.

3 And if you go to 2602, 19-2602,
4 requiring the business privilege license, they
5 wouldn't be classified as a business, because
6 license only applies to anything classified as
7 a business as defined in the 19-2601.

8 COUNCILMAN CLARKE: Okay.

9 MR. WIDEMAN: If I could just
10 comment. I'm John Wideman also with The Food
11 Trust.

12 We know we don't pay a business
13 privilege tax as a non-profit. Actually, I
14 had a conversation with Steve Massers just the
15 other day where he thought that non-profits
16 did, and we explained that we absolutely do
17 not.

18 What we do do is pay the taxes for
19 the farmers. We organized an entity to pay
20 the taxes. I'm not sure if it's the privilege
21 tax or the sales tax, but these farmers are
22 paying taxes.

23 In terms of your question about
24 should we be regulated as a non-profit,
25 absolutely, we should be regulated. All we're

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2 saying is that we're providing this great
3 service to the City. We would hope that the
4 City could waive or reduce or a flat fee, as
5 Bob was saying, a nominal flat fee, so that we
6 can continue to have these farmers' markets
7 flourish in the City.

8 COUNCILMAN CLARKE: Okay. And
9 I didn't want to get into this, but as an
10 example, last year a farmers' market, without
11 referencing who the operator was, opened up on
12 Fairmount Avenue 30 feet away from a corner
13 store that, in my estimation, provides fresh
14 produce and has done so for as long as I can
15 remember.

16 Do you think it's fair that that
17 store and its operator has to pay all fees
18 associated with his operation of the business
19 and a farmers' market that opened up across
20 the street shouldn't have to pay any fees
21 associated with that operation?

22 MR. WIDEMAN: I don't know all
23 the fees that the corner store has to pay,
24 but, again, it's up to City Council. We're
25 just putting forth the idea. And I don't know

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2 what the product line is at the corner store.

3 I don't know --

4 COUNCILMAN CLARKE: Same
5 product line. Matter of fact, he has pictures
6 of fruit on his sign, fruit and vegetables.

7 MR. WIDEMAN: Most corner
8 stores in Philadelphia sell mostly cigarettes,
9 beer and junk food, but this must be a really
10 good corner store. The Food Trust actually
11 has another --

12 COUNCILMAN CLARKE: Pretty good
13 corner store. It's been there forever.

14 MR. WIDEMAN: That's great.

15 In general, the farmers' markets
16 that we open, there is very poor access to
17 fresh fruits and vegetables and the citizens
18 are crying out for better access to fresh
19 fruits and vegetables. Instead what they're
20 faced with is Dunkin Donuts, McDonald's and
21 places that are contributing to the obesity
22 epidemic.

23 COUNCILMAN CLARKE: I'm
24 supportive of your efforts, because I know of
25 several locations in my district where there

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2 was a lack of fresh produce, and I support it,
3 but the bottom line is, you are a functioning
4 business. There needs to be some regulations
5 associated with that business, and if you're
6 in business, you traditionally pay fees, just
7 like everyone else in the City of
8 Philadelphia, because there is a cost
9 associated with the business that you do.

10 So that's why we're imposing -- my
11 understanding, and I wasn't in the
12 negotiations but a staff member of mine, my
13 legislative assistant, was, I believe in
14 extensive conversations between all of you and
15 a member of the technical staff. Some of the
16 structures of the fees associated with this
17 bill, my understanding is that the Department
18 of License and Inspection wanted to have
19 higher fees and some requirements were
20 requested to have lower and we kind of came to
21 some consensus on a middle number.

22 MR. HAIGLER: Actually,
23 Councilman, if we look at other sections of
24 The Philadelphia Code related to vending and
25 vending activity, individual vendors pay a fee

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2 of \$250 per vendor.

3 COUNCILMAN CLARKE: Right.

4 MR. HAIGLER: It's not
5 something where that license is transferable.
6 That license is not combined. If the vendor
7 has multiple locations where they have vending
8 operations, they're paying \$250 per location
9 that they have their vending operation.

10 What this ordinance did was, it
11 combined locations where the farmers' markets
12 are going to be located and it set up a
13 particular fee structure based on a
14 combination of multiple locations regardless
15 of the number of farmers that are going to be
16 located at those locations. So, in essence,
17 it somewhat has given consideration to the
18 farmers and the farmers' markets by reducing
19 our fees. We've reduced our fees by not
20 charging the individual farmer.

21 Now, as I understood this
22 gentleman's testimony, his testimony was that
23 maybe we should charge them a flat fee for
24 individual operators of \$100 to \$250 per
25 operator. That would be more than what we're

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2 charging here and we would absolutely not
3 object to that.

4 MR. WIDEMAN: I think the word
5 choice here we're using in the ordinance is
6 the farmers' market entity, which is the
7 organization that does all the work, that goes
8 out, recruits farmers to come from far away to
9 come into the City. That's the entity that's
10 going to be paying the fee. That was the flat
11 fee for that.

12 So there's really two organizations
13 that are going to be a source of these fees,
14 The Food Trust and Farm to City. I think Food
15 Trust and Farm to City would both be
16 comfortable with a nominal flat fee of 100 or
17 200 bucks, but if we get into these fee
18 structures where the more farmers' markets you
19 open, the higher you pay, I mean, it's up to
20 Council, but how does that fit in with the
21 City's plan to get more fresh fruits and
22 vegetables into the City?

23 COUNCILMAN CLARKE: Councilman
24 Kelly had a question.

25 COUNCILMAN KELLY: Mr. Haigler,

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2 I just want to get this straight. As far as
3 the vendors inside the farmers' markets, they
4 do not or do pay a fee?

5 MR. HAIGLER: They do not pay a
6 fee. They have an organizational structure.
7 The head of their organizational structure is
8 the one who would take out the license --

9 COUNCILMAN KELLY: Then each
10 vendor does not pay a fee?

11 MR. HAIGLER: No, they do not.

12 COUNCILMAN KELLY: Okay.

13 MR. HAIGLER: It's the farmers'
14 market entity.

15 COUNCILMAN KELLY: Mr. Lang,
16 I'd like to ask you, how many vendors are in
17 one of your -- what's the average?

18 MR. LANG: Our farmers' markets
19 span anywhere from just being a single farmer
20 to maybe at the most 12 farmers in peak
21 season.

22 COUNCILMAN KELLY: 12 farmers?

23 MR. LANG: Yes.

24 COUNCILMAN KELLY: And as far
25 as they're concerned, they don't pay any fees

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2 to the City individually?

3 MR. LANG: Just taxes. And
4 they pay the business privilege tax.

5 MR. HAIGLER: Again, I think
6 Mr. --

7 COUNCILMAN KELLY: I think
8 Mr. Haigler has a different opinion on that.

9 MR. HAIGLER: I still raise
10 that point of order. If it's non-profit, they
11 do not pay a business privilege tax.

12 MR. LANG: But we set up an
13 entity to specifically pay those taxes.

14 COUNCILMAN KELLY: That's my
15 point. The point is, as a vendor, one of your
16 markets, are they in there for profit or are
17 they also non-profit?

18 MR. LANG: They're in there for
19 profit, but these are people doing this as a
20 second job sometimes. These are people who
21 are facing a very uphill struggle to make a
22 living.

23 COUNCILMAN KELLY: Then they do
24 come out with a profit then, in other words?

25 MR. LANG: Yes, sir.

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2 MR. PIERSON: Again, Bob

3 Pierson. I'd like to comment on who is
4 getting licensed. If it's an entity that, as
5 Mr. Haigler points out, is a business that The
6 Food Trust has paid the taxes for the farmers,
7 then that is the entity that should be taking
8 out this license, not The Food Trust, which is
9 a non-profit. That's what this suggests very
10 strongly to me. And then for me as a
11 business, then we're on equal footing.

12 Now, again, whatever the -- I'm not
13 going to get in the middle of what the fee
14 structure is, because I've come to peace with
15 Mr. Haigler on this, but I think whatever it
16 is, it should be the same for whatever
17 entities are operating our farmers' markets
18 and have taken out that business privilege
19 license and are paying the taxes on behalf of
20 the farmers.

21 COUNCILMAN CLARKE: Councilman
22 Rizzo.

23 COUNCILMAN RIZZO: So I
24 understand the concept, and I know that you've
25 invited us and I'm going to accept that offer

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2 to come visit, are you limited to produce? Is
3 this going to become where we go and see CDs
4 and tapes?

5 MR. LANG: No. In fact, we
6 have people come up to our farmers' markets
7 and say, Hey, I'd like to sell this, that and
8 the other thing, and they're refused.

9 COUNCILMAN RIZZO: Also --

10 COUNCILMAN CLARKE: There was a
11 question. Councilman asked is it limited to
12 fruit.

13 MR. LANG: It's not limited to
14 fruits and vegetables. We do have baked
15 goods, dairy products and meats.

16 COUNCILMAN CLARKE: But only
17 food products?

18 MR. LANG: It's food, nothing
19 else. Flowers as well, I might add.

20 COUNCILMAN CLARKE: Pardon me?

21 MR. LANG: Flowers.

22 MR. HAIGLER: And your
23 amendment that that will be offered will
24 prohibit the sale of cooked food, with cooking
25 appliances at the farmers' market. We were

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2 going to prohibit any cooking or warming or
3 heating of food. That's for a safety issue.
4 That's in his amendment.

5 COUNCILMAN CLARKE: My
6 understanding is that a number of these
7 locations do cook food on site.

8 MR. HAIGLER: Well, that's a
9 concern that we have from a fire safety
10 perspective, because with cooking, you're
11 using propane or some other fuel source, and
12 we have to be concerned about that. So we
13 would like to prohibit the sale or the
14 cooking -- not the sale of cooked foods. If
15 you cook it somewhere else and bring it there,
16 that's fine, but we would like to prohibit the
17 actual cooking on site of food, because we're
18 not there all the time to make sure that that
19 operation is safe. They are allowed to have
20 things out there such as canopies and --

21 COUNCILMAN CLARKE: All right.
22 The operation that was at 13th and Girard
23 where there was chicken --

24 COUNCILMAN RIZZO: Ribs.

25 COUNCILMAN CLARKE: Ribs also,

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2 Councilman?

3 COUNCILMAN RIZZO: Sausage.

4 COUNCILMAN CLARKE: Was that
5 simply being warmed up or did they actually
6 cook it on site?

7 MR. HAIGLER: I have no idea.

8 MR. PIERSON: I can speak to
9 that. Bob Pierson again.

10 That was one of my markets, 13th and
11 Girard. It was a highly successful market
12 with produce and a barbecue operation by an
13 Amish farmer, and in the year, I think it was,
14 2003, he was selling three tons per week of
15 barbecued chicken to the people of
16 Philadelphia, and they loved it, and he was
17 shut down by the Health Department. And he
18 tried in 2004 to get back in unsuccessfully,
19 and now he's no longer in Philadelphia. But I
20 still get calls, When are you going to open
21 again, we want that barbecued chicken, we want
22 that barbecued ribs.

23 And I think that the regulation --
24 it can be regulated so that it works, because
25 people love it and there were no incidents. I

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2 don't think it should be prohibited outright.
3 I think it should be regulated for those
4 points of public safety that are necessary.

5 COUNCILMAN CLARKE: I must
6 admit, I drove by there on numerous occasions,
7 I was tempted to get out and purchase some
8 chicken. I was a little concerned that my
9 picture would be taken by some of the
10 businesses across the street and they would
11 put that little line across me.

12 Mr. Haigler, I'm a little concerned
13 about the inability for some of those types of
14 operations. Was that being cooked with coal
15 or --

16 MR. PIERSON: Charcoal.

17 COUNCILMAN CLARKE: It was
18 charcoal, right?

19 MR. HAIGLER: But also,
20 Councilman, you got to understand that the
21 Health Department has regulations also related
22 to cooked food, cooked food items, how they
23 have to be prepared, how they have to be
24 covered to prevent bird droppings on the food.
25 So there are certain things that you may have

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2 to take into consideration that the Health
3 Department would have to be involved in this.

4 COUNCILMAN CLARKE: All right.

5 MR. HAIGLER: I think that's
6 where this is coming from as well.

7 COUNCILMAN CLARKE:

8 Mr. Pierson, would it be okay if we address --

9 COUNCILMAN RIZZ0: Can I
10 finish?

11 COUNCILMAN CLARKE: Oh, I'm
12 sorry, Councilman.

13 COUNCILMAN RIZZ0: That's okay.
14 I'm used to that.

15 COUNCILMAN CLARKE: Let me
16 finish this.

17 Would it be okay if we addressed the
18 issue that we talk about today and then come
19 back on that including the Health Department
20 and maybe come up with some sort of --

21 MR. HAIGLER: Our main concern
22 again is safety, and if we can come up with
23 some sort of compromised solution to address
24 the safety issues, particularly the use of any
25 type of fuel source, propane in particular.

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2 That's something that we definitely want to
3 make sure that we regulate.

4 COUNCILMAN RIZZO: Electric is
5 a good alternative. They've done that before.

6 COUNCILMAN CLARKE: Councilman.

7 COUNCILMAN RIZZO: Electric is
8 a good alternative to propane, but it's
9 obviously more expensive.

10 I'd like to finish up. As you know,
11 we have a significant issue before Council.
12 We're relocating the produce market to
13 possibly the Navy Yard. Are you assuring us
14 that all of the produce that will be on sale
15 will only come from farmers that actually grow
16 it? Will they not be buying it some other
17 place and bringing it to Philadelphia, which
18 could affect the operation down at the Navy
19 Yard? There's a significant operation plan
20 there for people to buy produce.

21 How are you assuring me that this is
22 really stuff that was grown up in Reading, a
23 bunch of tomatoes, and brought to your market
24 and not coming from Chile?

25 MR. LANG: Well, we have

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2 on-site management at all of our locations.

3 We require that our farmers sell local

4 produce, and we additionally have done farm

5 inspections in times past just to ensure that

6 farmers are growing what they're selling.

7 COUNCILMAN RIZZO: But if they

8 wanted to substitute, they could, right?

9 MR. LANG: We ask them not to,

10 and we've removed items from people's tables

11 when they were bringing it from the produce

12 terminal in South Philadelphia.

13 MR. PIERSON: I can confirm

14 what Brian has said, that I have tossed

15 farmers out of farmers markets when I

16 discovered that they are selling tomatoes from

17 Florida in one instance, and I have strong

18 words with others when I believe that their

19 produce is coming from other than the local

20 areas. We do allow, we call them, gaps in the

21 market for a farmer to bring in something from

22 a neighbor, but it has to be a neighbor and we

23 have -- I have some very strong trust

24 relationships with most of these farmers.

25 There's a couple of them that push the

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2 envelope and we watch them like hawks.

3 COUNCILMAN RIZZO: Will you be
4 competing, will any of the restaurants and
5 other -- forgive me for not knowing all the
6 terms here. Will people be coming that own
7 restaurants to shop at these facilities and
8 not go to the food distribution center?

9 MR. PIERSON: I see it as a
10 different marketplace. The restaurants want
11 the freshest produce available for what they
12 are serving their customers. Some restaurants
13 do and some of them are, and there's a
14 movement in Philadelphia to get, it's called
15 the Fair Food Project, to get restaurants to
16 buy from local farmers because of the quality
17 of the products that they offer. The chefs
18 that wish to go to the food distribution can,
19 but the ones I think should have the freedom
20 to go to local farmers and get theirs either
21 directly on the farm or through farmers'
22 markets or other distribution methods into
23 Philadelphia.

24 MR. LANG: That's a good
25 question, but, I mean, I think for the

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2 immediate future, the amount of produce being
3 bought by restaurants to be prepared and sold
4 at the restaurants is just going to be very
5 small. I don't see it as being a significant
6 percentage any time in the near future, would
7 that be a problem.

8 MR. PIERSON: I confirm that.

9 My guess is that the amount of food that's
10 purchased from farmers coming into
11 Philadelphia is less than one or two percent
12 of the total food bought in Philadelphia.
13 We're working to improve that for many, many
14 good reasons, but right now it's not even on
15 the scope in terms of percentage.

16 COUNCILMAN RIZZO: Do you
17 believe that the people at the food
18 distribution, at the -- I guess we call it the
19 produce distribution center have this on the
20 radar? Do you think they're aware you're out
21 there?

22 MR. LANG: We're actually
23 working to try to get more of Pennsylvania
24 produce at the distribution terminal.

25 MR. PIERSON: There's another

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2 element --

3 COUNCILMAN RIZZO: Answer my
4 question. Do you think they're aware? Do you
5 think they have knowledge of what you're
6 doing? No knowledge that-

7 MR. PIERSON: I am not aware.

8 MR. WIDEMAN: Yes. They
9 definitely have knowledge of what we're doing.
10 As Brian was saying, we've met with Sundry
11 DiGreccio (ph) and members of Senator Fumo's
12 staff about the Philadelphia Regional Produce
13 Terminal. They're interested, actually as
14 Brian was saying, getting more
15 Pennsylvania-grown foods sold down there.
16 Right now it's about one percent of the total.
17 It's a \$1.1 billion business.

18 But the merchants down there in
19 terms of the farmers' markets being a threat
20 to their business, I would say they don't
21 think of it as a threat and they're supportive
22 of doing what they can to help Pennsylvania
23 farmers, because as we know, Pennsylvania
24 farmers are struggling. We lose about two
25 farms a day in Pennsylvania. They go out of

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2 business. It's a tough way to make a living.

3 COUNCILMAN RIZZ0: That's an
4 interesting statistic. You're saying at the
5 produce terminal now, only one percent of the
6 products sold comes from Pennsylvania?

7 MR. WIDEMAN: That's from a
8 study that was -- it's a few years old now,
9 but it's the most up to date study. They
10 don't track it regularly, but we are working
11 with the Department of Agriculture. We're
12 doing a big promotion there this summer
13 actually to increase that number to get
14 more -- because it stimulates the Pennsylvania
15 economy a little bit more. But, yeah, most of
16 that is coming from South America and
17 California, State of Washington.

18 COUNCILMAN RIZZ0: Thank you.

19 Thank you, Mr. Chair.

20 MR. PIERSON: I'd like to
21 follow up on that. Pennsylvania farmers'
22 agriculture overall, they get about 10 to 20
23 cents on the consumer dollar for what they
24 grow. As Brian said, they're going out of
25 business very quickly. The people in the

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2 middle for transportation long distances and
3 warehousing and all that and advertising,
4 marketing, shelf space, sliding fees, they get
5 the rest of what the farmers' hard work
6 produces. Farmers' markets are a way that the
7 farmer can capture most of the customer
8 dollar, the consumer dollar, so that he or she
9 can stay in business in a very, very hard way
10 to make a living. Most of the farmers we work
11 with, you'd consider them low-income people,
12 but they work very hard.

13 COUNCILMAN CLARKE: Okay. All
14 right.

15 Any more testimony?

16 I'd like to thank you gentlemen very
17 much.

18 Any other witnesses to testify on
19 this bill?

20 Please step forward.

21 MR. PIERSON: Councilman
22 Clarke, one last, some of the issues that have
23 come up here, I hope that they do not delay
24 passage of this bill this session, because the
25 operation of all the farmers' markets in

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2 Philadelphia are dependent on it.

3 COUNCILMAN CLARKE: Thank you.

4 MR. WEST: Hello,

5 Councilpersons.

6 COUNCILMAN CLARKE: Good

7 afternoon.

8 MR. WEST: My name is Tony

9 west. I am President of Friends of Clark

10 Park. It's the park support group for Clark

11 Park, which is a community park in West

12 Philadelphia. It's administered by the

13 Department of Recreation, and I'd like to make

14 two comments about our own experience of our

15 farmers' market and a third comment on some of

16 the problems that you've come up with in your

17 own district, noticed on Fairmount and Girard

18 Avenue. I have some familiarity with those

19 because I worked for many years for the Star

20 and Home News newspapers. I know those

21 commercial strips and those issues pretty

22 well.

23 First off, I would say that our

24 experience with the farmers' market in Clark

25 Park that's about four to five years old now

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2 has proven to be very successful in more than
3 just a nutritional way. Clark Park is a
4 fairly large, very busy park. It's heavily
5 used. It is diversely used. A lot of stuff
6 goes on there. A lot of different stuff goes
7 on there.

8 In testing and polling our
9 membership in the past couple of years, we
10 have found that of all the different uses to
11 which Clark Park is put, the farmers' market
12 on the 500 block of South 43rd Street is the
13 most popular. It is the one that unites most
14 people.

15 It is in practice not just a place
16 to go to get your food. It's a place that
17 pulls the community together. It reflects
18 community values. It says something about how
19 the people in our neighborhood see each other,
20 how they feel about each other. It helps
21 define the community. It's a place to meet
22 people. It's something that I don't see in
23 our neighborhood supermarket, where I also
24 shop.

25 So I would tell you that by

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2 facilitating the growth of farmers' markets,
3 you're going to be doing more than just
4 spreading cabbages around town. You are going
5 to be building true community. This is
6 something that I think is public good. It's
7 something that merits facilitation.

8 The second point that I would make
9 is that I can't speak about farmers' markets
10 in general, but in the Clark Park farmers'
11 market, it would be a mistake to say that
12 their produce competes with the produce of
13 stores in any but a very, very general way.
14 This is, in our case, clearly locally grown
15 produce, and it's something that speaks for
16 itself. Once you see it, there's no way that
17 you're going to confuse a Florida tomato or a
18 Chilean lettuce or an apple with the stuff
19 that they have. The varieties are different.
20 The appearance is different. We know it's
21 locally grown.

22 This is not something that we can
23 get in any corner store or in any supermarket
24 in our neighborhood, except often times at
25 very high price, if at all. And this is

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2 certainly, in many cases, more than a question
3 of taste, but it affects health. My wife is a
4 breast cancer survivor. She's been under
5 treatment for the past couple of years. Part
6 of her recovery program at the University of
7 Pennsylvania is, it's clinically authorized,
8 is to refrain from eating commercially
9 mass-marketed chemically treated produce as
10 much as possible. Her doctors are telling her
11 go to the organic, go to the locally grown.

12 This is something that's much easier
13 said than done. The farmers' market gives us
14 a chance to literally walk to it and get it.
15 So that's not something that is easily
16 replaced. I think that, once again, the City
17 should see more of this, not less of it.

18 The third point also addresses
19 competition between commercial establishments
20 and farmers' markets. And that issue does
21 arise. I think it's quite serious and it's
22 something that needs to be in the granting of
23 new -- or the establishment of new farmers'
24 markets, definitely one should consider
25 whether or not you're competing with an

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2 established store, if there's one right across
3 the street who is selling comparable food.

4 I would think that a City Council
5 person is the best person to judge that sort
6 of thing. The district Councilman knows the
7 district. They know their commercial strips,
8 and if they are currently the ones who are
9 involved in advising whether or not to set up
10 a farmers' market, that's the system I would
11 stick with.

12 That's all I have to say, gentlemen.

13 COUNCILMAN CLARKE: Thank you.

14 Any questions of that witness?

15 (No response.)

16 COUNCILMAN CLARKE: Anyone else
17 to testify on this bill?

18 (No response.)

19 COUNCILMAN CLARKE: There being
20 none, this concludes the public hearing.

21 (Public hearing of Committee on
22 Licenses and Inspections adjourned at 2:10
23 p.m.)

24 - - -

25

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2 CERTIFICATE

3 I HEREBY CERTIFY that the
4 proceedings, evidence and objections are
5 contained fully and accurately in the
6 stenographic notes taken by me upon the
7 foregoing matter on June 7, 2005, and that
8 this is a true and correct transcript of same.

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15 MICHELE L. MURPHY

16 RPR-Notary Public

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1 June 7, 2006 - Bill 050384 - L&I
 2 COUNCIL OF THE CITY OF PHILADELPHIA
 3 PUBLIC MEETING - COMMITTEE ON LICENSES AND
 4 INSPECTIONS

5 - - -
 6 Room 400, City Hall
 7 Philadelphia, Pennsylvania
 8 Tuesday, June 7, 2005, 2:10 p.m.

9
 10
 11 BILL NO. 050384

12 PRESENT:
 13 COUNCILWOMAN JOAN KRAJEWSKI
 14 COUNCILMAN JUAN F. RAMOS
 15 COUNCILMAN FRANK RIZZO
 16 COUNCILMAN DARRELL L. CLARKE
 17 COUNCILWOMAN MARIAN TASCO
 18 COUNCILMAN JACK KELLY

19
 20
 21

22 V A R A L L O Incorporated
 23 Litigation Support Services
 24 1835 Market Street, Suite 600
 25 Philadelphia, PA 19103
 215.561.2220 215.567.2670

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2 COUNCILMAN CLARKE: We will now
3 go into the public meeting.

4 Councilman Kelly, I would like to
5 ask you to offer the amendment.

6 COUNCILMAN KELLY:
7 Mr. Chairman, I would like to offer
8 amendments to Bill NO. 050384. I would also
9 like to move that the amendments be adopted.

10 COUNCILMAN CLARKE: Thank you.

11 COUNCILMAN RIZZO: Second.

12 COUNCILMAN CLARKE: All in
13 favor?

14 COUNCIL MEMBERS: Aye.

15 COUNCILMAN CLARKE: All
16 opposed?

17 (No response.)

18 COUNCILMAN CLARKE: The ayes
19 have it.

20 Councilman Kelly, I'd like to ask
21 you to make a motion on Bill 050384.

22 COUNCILMAN KELLY: Yes. Mr.
23 Chairman, I move that Bill No. 050384 be
24 reported out of this committee with a
25 favorable recommendation as amended.

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2 COUNCILMAN RAMOS: Second.

3 COUNCILMAN KELLY: And I also
4 move that there be a suspension of the rules
5 in order that this bill may be heard at the
6 next session of Council.

7 COUNCILMAN RAMOS: Second.

8 COUNCILMAN CLARKE: All in
9 favor?

10 COUNCIL MEMBERS: Aye.

11 COUNCILMAN CLARKE: All
12 opposed?

13 (No response.)

14 COUNCILMAN CLARKE: The ayes
15 have it. Bill 050384 will be reported out of
16 committee with a favorable recommendation
17 with a suspension to be read at the next
18 session of Council. Thank you all very much.
19 This concludes the public meeting on the L&I
20 committee.

21 (Public Meeting on Committee on
22 Licenses and Inspections adjourned at 2:11
23 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on June 7, 2005, and that
this is a true and correct transcript of
same.

MICHELE L. MURPHY
RPR-Notary Public

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