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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING AND PUBLIC MEETING
BEFORE COUNCIL COMMITTEE ON RULES

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, December 1, 1998
9:45 a.m.

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BILL 980718 - Related to Hospitals & Higher
Education Facilities Authority

9

BILL 980657 - Prohibiting Sale of Laser Pens

BILL 980750 - South Street/Head House District
(previously heard, voted on)

10

BILL 980748 - Amending Phila. Zoning Maps

11

BILL 980749 - City Ave. Spec. Svcs. District

BILL 980761 - Related to Appeals to Courts

12

BILL 980779 - Related to Zoning and Planning

BILL 980780 - Amending Phila. Zoning Maps

13

BILL 980781 - Amending Model Cities Urban Renewal
Area

14

BILL 980801 - " " " " "

Bill 980800 - (Being held by sponsor.)

15

RES. 980112 - Related to Minority Contractors
Collection of Funds

16

(Full text of bills contained within transcript.)

17

18

PRESENT: COUNCILMAN JAMES F. KENNEY, Chair
COUNCILWOMAN AUGUSTA A. CLARK
COUNCILMAN DAVID COHEN
COUNCILWOMAN ANNA CIBOTTA VERNA
COUNCILMAN W. THACHER LONGSTRETH
COUNCILMAN FRANK RIZZO

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

3 COUNCILMAN KENNEY: Good morning,
4 ladies and gentlemen. This is a public hearing of
5 the Committee on Rules. A quorum has now been
6 established, and we thank you for your patience in
7 waiting.

8 Bill No. 980718 is an ordinance
9 declaring that it is desirable for the health
10 safety, and welfare of the people in the area
11 served by Temple East, Inc., at its Northeastern
12 Hospital facility and at its Neumann Medical
13 Center facility and the Convent of the Sisters of
14 St. Joseph, Chestnut Hill, at its St. Joseph Villa
15 Nursing Home facility, for the Hospitals and
16 Higher Education Facilities Authority of
17 Philadelphia to undertake certain projects for
18 Temple East, Inc. and the Convent of the Sisters
19 of St. Joseph Chestnut Hill, each a Pennsylvania
20 nonprofit corporation organized under the laws of
21 the Commonwealth of Pennsylvania please identify
22 yourself for the record and proceed.

23 MR. CRAMP: Good morning.

24 Please identify yourself for the record
25 and proceed.

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2 MR. CRAMP: Mr. Chairman, committee
3 members, my name is Donald Cramp. I serve as the
4 chief executive officer of the Hospitals and
5 Higher Education Facilities Authority of
6 Philadelphia. I wish to make a brief introductory
7 statement in support of the proposed bills before
8 you this morning.

9 On October 13, 1998, representatives of
10 Temple East, Inc. and the Convent of the Sisters
11 of St. Joseph Chestnut Hill attended the Hospitals
12 and Higher Education Facilities Authority of
13 Philadelphia board of directors meeting seeking
14 the Authority's assistance in a financing. Temple
15 East, Inc. and the Convent of the Sisters of St.
16 Joseph Chestnut Hill's applications were accepted
17 by the Authority board. A Public Tax Equity and
18 Fiscal Responsibility Act, a TEFRA, hearing on
19 behalf of Temple East and the Convent of the
20 Sisters of St. Joseph Chestnut Hill will be held
21 on December 9th in our boardroom in accordance
22 with the published newspaper advertisements.

23 Today we have the privilege together of
24 assisting Temple and Convent of the Sisters of St.
25 Joseph Chestnut Hill and the many people

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2 associated with these outstanding medical
3 centers. And, to close, I would like to express
4 our appreciation sincerely to each member of the
5 Rules Committee and the Council on behalf of the
6 board of the Authority for the scheduling and
7 prompt handling of this meeting.

8 Mr. Chairman, I'd like to introduce, if
9 I may, Sisters Marie Rudegair, who is the
10 administrator of the Convent of the Sisters of St.
11 Joseph Villa.

12 COUNCILMAN KENNEY: Good morning,
13 Sister, please identify yourself for the record.

14 SISTER RUDEGAIR: I'm Sister Marie
15 Rudegair, the administrator at St. Joseph Villa in
16 Flowertown, Pennsylvania.

17 COUNCILMAN KENNEY: Please proceed.

18 SISTER RUDEGAIR: First of all, Mr.
19 Chairman and members of the committee, I'd like to
20 thank you for the opportunity be here today. We
21 are grateful to the Hospital Authority for their
22 assistance in helping us to finance capital
23 expenses for the villa.

24 St. Joseph opened in 1968 and it was
25 built as a convent home for the Sisters of St.

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2 Joseph. However, in 1981, we realized that we
3 could expand our mission from just Sisters of the
4 St. Joseph, and we rearranged levels of care, and
5 we also are a licensed nursing home, and we take
6 in lay people and religious of other congregations
7 commission.

8 We're joint-commission-certified and,
9 you know, we have a building that is 30 years old,
10 and we have some capital needs, and that's what we
11 are using the money for, to finance a sprinkler
12 system as our major thing, and also other capital
13 needs.

14 COUNCILMAN KENNEY: Thank you very much
15 for your testimony.

16 Are there any other questions for
17 Sister?

18 (No questions.)

19 COUNCILMAN KENNEY: Is there anyone
20 else to testify?

21 MR. CRAMP: Yes, there is Mr. Chairman.
22 Mr. Ray Lefton is the chief financial officer of
23 Temple East.

24 MR. LEFTON: Good morning. You should
25 all have a handout which I've provided. Again, my

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2 name's Dr. Ray Lefton. I'm the chief financial
3 officer for Temple East, which is the result of a
4 merger between Northeastern Hospital and Neumann
5 Medical Center. It's a pleasure to testify here
6 in front of you to discuss the financing of
7 approximately \$11.5 million on behalf of Temple
8 East.

9 The money will be used to consolidate
10 two tax-exempt debt financings that were issued
11 outside of Philadelphia County. The refinancing
12 will result in cost saving as well as result in
13 providing flexibility with respect to a less
14 restrictive bond indenture. No new money will
15 result from the financing. We appreciate City
16 Council's support on this initiative as well as
17 the assistance of the Hospital Authority.

18 On the next page of the handout, please
19 find some background information on Temple East.
20 If you have any questions, please feel free to ask
21 me at this time or at your convenience.

22 Thank you very much.

23 COUNCILMAN KENNEY: Thank you very
24 much. Any questions for this witness?

25 (No questions.)

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2 COUNCILMAN KENNEY: Seeing none, Mr.

3 McGreal.

4 MR. MCGREAL: Mr. Chairman, if your
5 board members feel that we can vote this out,
6 please suspend the rules if you may.

7 COUNCILMAN KENNEY: Thank you very
8 much.

9 MR. MCGREAL: Thank you.

10 COUNCILMAN KENNEY: Anything else to
11 add Mr. Cramp?

12 MR. CRAMP: No, sir.

13 COUNCILMAN KENNEY: Thank you very much
14 for coming in. Is there anyone else here to
15 testify on this bill?

16 (No response.)

17 COUNCILMAN KENNEY: Seeing none, we
18 will now move to Bill No. 980657, which is an
19 ordinance amending Title 9, entitled
20 "Regulation of Business, Trades and Professions"
21 of The Philadelphia Code by prohibiting the sale
22 of laser-pointing devices to minors and regulating
23 the display of laser-pointing devices for sale.

24 Will the witnesses please approach the
25 -- if we can get the whole group of witnesses up

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2 around the table.

3 (Witnesses come forward.)

4 COUNCILMAN KENNEY: First for the
5 record, the person's who's going to lead off the
6 testimony, please identify themselves for the
7 record and then you can proceed.

8 You can just have a seat. Thank you.
9 And please, this system's very old, you need to
10 pull the microphone right close up to you.

11 LT. COLARETTE: My name's Lieutenant
12 John Colarette.

13 COUNCILMAN KENNEY: Could you spell
14 your last name.

15 LT. COLARETTE: C-O-L-A-R-E-T-T-E. I'm
16 a member of the Philadelphia police force,
17 currently assigned to the SWAT team.

18 COUNCILMAN KENNEY: Please proceed with
19 your testimony.

20 LT. COLARETTE: I've been asked to
21 perform a demonstration this morning, comparing
22 the laser pointer and comparing it to weapons that
23 are equipped with laser cites.

24 COUNCILMAN KENNEY: Please proceed.

25 COUNCILMAN MARIANO: Use that board.

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2 LT. COLARETTE: If you notice, the
3 laser dart or the laser pointer, you can obviously
4 see that quite clear.

5 What I have here is a Taser device that
6 introduces 20,000 volts of electricity into the
7 body. It paralyzes you, rendering you completely
8 incapable of any type of defensive acts at all.

9 COUNCILMAN KENNEY: Is that commonly
10 known as a "stun gun"?

11 LT. COLARETTE: Stun gun, that's
12 correct.

13 This is laser-pointed laser-sighted.
14 And, as you can see, there's no way to
15 differentiate between the two.

16 COUNCILMAN KENNEY: When that's
17 activated the Taser gun, there's a cord that
18 shoots out?

19 LT. COLARETTE: There are two darts
20 that shoot out, correct.

21 COUNCILMAN KENNEY: What's the distance
22 to that?

23 LT. COLARETTE: The distance of the
24 Taser is 15 feet.

25 COUNCILMAN KENNEY: Okay.

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2 LT. COLARETTE: I have a 9-millimeter
3 pistol here. This is laser-sighted. This weapon
4 is totally unloaded, the slides lock to rear, it
5 can't fire at all.

6 COUNCILMAN KENNEY: Good.

7 LT. COLARETTE: There's no ammunition
8 in it, the magazine is empty.

9 COUNCILMAN KENNEY: Although yesterday,
10 after five hours of testimony, I wish you would
11 have shot me with that.

12 (Laughter.)

13 COUNCILMAN KENNEY: Please proceed.

14 LT. COLARETTE: And you can see that
15 the laser on this weapon, it's very difficult to
16 tell the difference between the two, the laser
17 pointer and this. Same type of thing.

18 Laser sights can be mounted on any type
19 of weapon. They can be mounted on M-16 rifles,
20 they can be mounted on AK-47 assault rifles. It's
21 very difficult for a police officer to be able to
22 make a call between what you're being pointed at,
23 whether it be a laser pointer or a laser-sighted
24 weapon. It could cause some very serious and
25 tragic outcomes.

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2 COUNCILMAN KENNEY: So is it your
3 belief that the use of laser pointers on the
4 street, for the most part, is being done by people
5 under the age of 18, 17 years of age?

6 LT. COLARETTE: I would say most
7 reckless use of laser pointers is being done by
8 juveniles, yes.

9 COUNCILMAN KENNEY: Could you identify
10 yourself and proceed.

11 MR. HASSON: My name's Michael Hasson
12 (ph.), I'm the Director of Security and Services
13 at the First Union Complex, in South
14 Philadelphia. And we're responsible for both the
15 Spectrum and the Center events.

16 COUNCILMAN KENNEY: Please proceed.

17 MR. HASSON: Over the last two years,
18 we have had an enormous impact of laser pens
19 coming into the building by juveniles and adults
20 alike, pointing them at hockey players, basketball
21 players, entertainers --

22 COUNCILMAN KENNEY: Wrestlers.

23 MR. HASSON: Wrestlers, in fact, which
24 is probably the heaviest use. In fact, yesterday,
25 we had a ten-year-old that we escorted out of the

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2 building for the use of the pointer, and he blamed
3 us for telling not telling him that he wasn't
4 allowed to use it, even though we had signs up all
5 over the building, on the doors, on our
6 turnstiles.

7 And the thing that probably bothers me
8 the most is that they try and make us responsible
9 for the use by not letting them know that they're
10 not allowed to use them, but the performers
11 themselves, the production companies don't want
12 them in the building for the same reason that the
13 police are testifying, is that there's a whole lot
14 of different uses with the laser pointer itself.

15 In fact, last week, there was an
16 article in the paper, the Kiss group was up in
17 Madison Square Garden, and they almost got into
18 fight when the drummer had a pointer on him, and
19 the person that was actually doing it was only two
20 or three rows into the seating area. And they
21 weren't going to perform.

22 That's a major problem for us because
23 we fight that every day when they come in and they
24 say, you know, they want all these rules and
25 regulations about the use of lasers. And we're

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2 resource-poor as it is, in the sense that we have
3 enough people on to handle the security, without
4 trying to grab 500 people laser pens and putting
5 them on the performers.

6 So besides the fact that it confronts
7 us all the time, the use itself, I think the
8 responsibility has to be placed on the user and
9 not necessarily where they're using 'em.

10 I brought one specific laser, which
11 I'll point on the board in a second that they've
12 gotten cute too. I mean, it's the same thing.
13 It's a personal affront, I believe, when someone
14 puts a laser pointer on you, especially if there's
15 some other hidden agenda behind doing that, and
16 you can use your own mind to say what that -- you
17 know, feel that one out.

18 This one here we had, they were putting
19 it on the scoreboard on one event, if you can see
20 that, get it there. That's real nice when you
21 come in and you're in a family entertainer center
22 and someone's got that shining all over the
23 building, and you're trying to locate it to get it
24 out. These are the kinds of things that are
25 actually --

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2 COUNCILMAN KENNEY: I'm trying to
3 figure out how to let the record reflect as to
4 exactly what was shown on the board. It's a
5 commonly -- "flipping the bird," I guess would be the
6 way to --

7 MR. HASSON: Would be appropriate. But
8 there's other ones out there too that are, in
9 fact, very insightful too for different things for
10 discrimination and things like that.

11 COUNCILMAN KENNEY: And as part of your
12 duties and your people, are your people authorized
13 or directed to confiscate them?

14 MR. HASSON: We consider it contraband,
15 so depending on -- my policy down there is to
16 confiscate and to remove the people from the
17 building. And, depending on what these different
18 production people want for the different shows, is
19 we'll put that on top of it also, for
20 confiscations or escorts out in that regard.

21 But I'd like to see further, even
22 though the sale for juveniles would help us out
23 tremendously 'cause it would be a good educational
24 process, is the use itself or defining use of it
25 at a certain point about the actual use of laser

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2 pens.

3 COUNCILMAN KENNEY: Okay. Is there
4 anyone here from L&I?

5 Do the officers have anything else to
6 add as far as your testimony?

7 Thank you. Any questions from any of
8 the witnesses? Councilmember Verna.

9 COUNCILWOMAN VERNA: Are they only
10 being used by minors or --

11 MR. HASSON: No.

12 COUNCILWOMAN VERNA: Or do you find
13 that adults are using them too?

14 MR. HASSON: Adults that act like
15 juveniles are -- we have a lot of those, too.

16 COUNCILWOMAN VERNA: But we're just
17 talking about minors in this bill.

18 MR. HASSON: Right. That would help us
19 out, it would be a great help for us.

20 COUNCILMAN KENNEY: Well, one of the
21 things that the lieutenant mentioned was the issue
22 of children on the street using them. It would
23 put them in a dangerous position. Considering the
24 new weaponry or the technological aspects of the
25 weaponry being used out there today, it may put

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2 that child in danger.

3 Councilmember Mariano.

4 COUNCILMAN MARIANO: Thank you, Mr.
5 Chairman.

6 I have something to say that -- I have
7 a box here with one of these laser pointers, and I
8 had hoped to have someone here from Wills Eye
9 Hospital; he called up at the last minute and
10 couldn't come, one of the eye doctors from down
11 there.

12 But basically the box says, it says:
13 "Please note that the laser radiation is harmful
14 to the eye. Do not look directly into the
15 aperture while the laser is in operation."

16 Well, you could look into it, which
17 would be pretty dumb, but if someone's shining it
18 in your eye, it could hurt your eye, depending how
19 close you are.

20 These things are available everywhere.
21 I consider this a two-part legislation. This one
22 will take care of what it says, will regulate the
23 use of these. Then we're going to do what the
24 gentleman from the First Union Center said, we're
25 going to try to get that in in the next couple

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2 weeks. L&I was here this morning, they couldn't
3 stay around. They're drafting legislation for me,
4 which we could regulate the use in the second
5 part, the second part, there, you know, the misuse
6 of it, and we're going to do that, but I think it
7 has to be two parts. That's why I wanted to do it
8 this way.

9 COUNCILMAN KENNEY: Any other
10 Councilmembers have anything to add?

11 Councilmember Nutter.

12 COUNCILMAN NUTTER: I don't know
13 whether it's for the police or the gentleman from
14 the Center. Are these devices illegal?

15 LT. COLARETTE: I don't know of any law
16 forbidding the use or the manufacture of laser
17 pointers.

18 MR. HASSON: I'm not aware of any law
19 that says they're illegal, either.

20 COUNCILMAN NUTTER: And, I guess, at
21 least for the moment, based on what Councilmember
22 Mariano just said, I mean, this particular bill
23 will not necessarily do anything for you as it
24 relates to the little thing that you showed with
25 the hand or pointing out performers or anything

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2 like that 'cause this just talks about who can
3 sell them. It has nothing to do with behavior or
4 anything like that or --

5 MR. HASSON: Well, I can answer, if I
6 may. I think the issue of a juvenile purchasing
7 one with an adult, you know, there has to be
8 something there. That's an educational tool that
9 at least makes the parents aware that there is a
10 problem.

11 But as far as changing behavior,
12 there's nothing here because they can still come
13 into our building and they can still be on the
14 street if, in fact, their parents have allowed
15 them to purchase one.

16 COUNCILMAN NUTTER: Right, or they
17 bought it for them.

18 LT. COLARETTE: Or they bought it for
19 them, right. But at least there's an education of
20 saying, you know, why do I have to sign for it.
21 At least it educates 'em to the fact that there is
22 a problem with laser pens.

23 COUNCILMAN NUTTER: Right. And is
24 there now under discussion that there will be
25 regulations on how this can used, whether it's an

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2 adult or a juvenile, that you wouldn't be able to
3 point it at people? I mean, what's the offense?

4 MR. HASSON: A lot of the things that
5 we have down at the Center that affect behavior
6 that the police write citations for. I would like
7 to see it go that way that if, in fact, you're
8 using --

9 COUNCILMAN NUTTER: You mean like
10 rowdyism or being drunk or disorderly conduct or
11 something?

12 MR. HASSON: That kind of thing, the
13 sort of conduct where they write them up and it's
14 a summary offense. I would like to see that
15 because that actually might help us to change the
16 behavior, because we do it to educate people that
17 come in the building, we tell them that they're
18 not allowed to use them.

19 But we only either take the laser if
20 they use it or we escort them out of the
21 building. So all lose really is the laser pen or
22 the cost of the ticket to enter. But our policy
23 down there is very strict because of the types of
24 crowds that we have. Anyone that's there that
25 causes a problem, the police will cite them.

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2 So if this helps us to get the word out
3 that people come, especially if they come in more
4 than once that, in fact, this is what will happen
5 if don't control your own behavior. And that's
6 really where I would like to see it go, as a
7 behavioral aspect of being able to control them.

8 COUNCILMAN NUTTER: Who are the primary
9 sellers of these things? I mean, where can you
10 buy these?

11 MR. HASSON: I have never purchased one
12 but I know for a fact that at wrestling in
13 particular, there will be vendors outside in our
14 lots and on the streets selling laser pens. And
15 they're very cheap; you can get them for about
16 \$15. And if you watch wrestling, if you're into
17 wrestling, at every event that's on TV, you'll see
18 laser pointers, hundreds of laser pointers on the
19 ring and on the performers, the wrestlers. And,
20 you know, that helps out to sell them.

21 COUNCILMAN MARIANO: Mr. Chairman?

22 COUNCILMAN KENNEY: Councilmember
23 Mariano.

24 COUNCILMAN MARIANO: You can buy these
25 anywhere. I mean, like he said, out in the lot.

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2 I bought one on South Street, I bought one on the
3 Boardwalk in Wildwood, New Jersey.

4 When I first started this idea to do
5 this, I narrowed it down to the regulation, but
6 like this gentleman's saying from First Union
7 Center, it looks like we have to -- I have
8 following legislation being drafted to follow
9 where the actual usage is.

10 You know, and it can be cited, just as
11 you mentioned, as possibly as like drinking at the
12 Vet, same deal. They can write a ticket and it
13 would be -- what is it, a summary offense,
14 Councilman? And that's what would happen.

15 COUNCILMAN NUTTER: And you said that
16 the --

17 COUNCILMAN MARIANO: But the regulation
18 that I'm trying to do now, what's going to
19 probably happen is that if you type in "laser
20 pointer" on the Internet, they're so available
21 now. Six months ago, when I thought of this
22 legislation, they weren't that available. They've
23 become so common now that this is just step 1 in a
24 two-step process.

25 COUNCILMAN NUTTER: Councilman, did you

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2 say that L&I had been here but they left?

3 COUNCILMAN MARIANO: Well, they were
4 here. They thought there was a hearing for L&I at
5 9, and I spoke with --

6 COUNCILMAN KENNEY: There's an L&I
7 hearing at 11.

8 COUNCILMAN MARIANO: At 11. John
9 Campbell was here, and he had to go somewhere
10 else, but I had talked to him previously, and he's
11 almost ready with that.

12 COUNCILMAN NUTTER: Okay. All right.
13 Thank you.

14 COUNCILMAN KENNEY: Councilman Cohen.

15 COUNCILMAN COHEN: Probably Councilman
16 Mariano can give the answer to this. I wanted to
17 know why the bill is limited to minors.

18 I'm following up on what Councilwoman
19 Verna said. Because it seems to me that if
20 parents can do it, they're going to be hard-put to
21 resist doing it on behalf of this kids, and you're
22 going to continue to have the same problem. If
23 there is a problem, it seems to me it's as bad a
24 problem whether an adult does it or a child does
25 it.

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2 COUNCILMAN MARIANO: I think the
3 problem has gotten worse as the time goes on. The
4 technology changed so fast. From June and July,
5 when I considered this legislation, they've become
6 cheaper. They went from \$125 two years ago --
7 which was something that everybody probably
8 couldn't afford unless you were or a college
9 professor or someone in an office and you were
10 doing demonstrations -- to \$30. Now they're down
11 to \$9. And certainly, they'll probably be \$5
12 before Christmas.

13 We wanted to do it like regulating the
14 use of spray paint, but as we got into it and had
15 this bill introduced, I saw that, as I just spoke
16 with Councilman Nutter, that we're probably going
17 to have regulate more the usage next. But I think
18 this is a start.

19 COUNCILMAN COHEN: Okay, okay. Thank
20 you, Mr. Chair.

21 COUNCILMAN KENNEY: Councilman Nutter.

22 COUNCILMAN NUTTER: I may have missed
23 this, and I apologize.

24 What is the problem, other than that
25 the performers and I understand the police are

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2 concerned that they might see a beam and that can
3 be confused for a gun with a laser site on it, but
4 what is the magnitude of this problem?

5 COUNCILMAN MARIANO: This touches on
6 pretty much sort of Councilwoman Verna's question
7 too. The problem is how people behave with these,
8 and that's why we're trying to regulate behavior,
9 their usage. But behavior, a lot of young people
10 take these on South Street on a crowded Saturday
11 night, people will take that pointer point out a
12 female's. . .

13 COUNCILMAN NUTTER: Okay, I get the
14 point.

15 COUNCILMAN MARIANO: Right. I was
16 trying to think of a nice way to say it.

17 COUNCILMAN NUTTER: I understand, I've
18 been around for a little bit.

19 COUNCILMAN MARIANO: Private parts.
20 And maybe Councilman Longstreth could demonstrate
21 that on me, I don't know.

22 COUNCILMAN NUTTER: No, no, please
23 don't.

24 COUNCILMAN MARIANO: It just causes --
25 I've seen different scenes where, Oh, you did that

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2 you, pointed at my girlfriend? It's a big deal.
3 I didn't realize it was that big of a deal till
4 I've seen it two or three times. I saw down the
5 shore but then I saw it back here in September.

6 COUNCILMAN NUTTER: Okay, thank you.
7 That's interesting.

8 COUNCILMAN KENNEY: Councilman Cohen.

9 COUNCILMAN COHEN: Just in response to
10 Councilman Nutter's question, it can have a
11 harassing effect when you're walking along 'cause
12 I noticed that down the shore. Suddenly you're
13 surrounded, your feet level, by these red dots and
14 don't know what they are, and you sort of move
15 away from it because you don't know what it is,
16 and it follows you.

17 And I heard a lot of complaints from a
18 lot of the adults about the annoyance. They don't
19 know whether they're being targeted by somebody
20 for some purpose, and they start looking around at
21 who's doing what. You can't see anybody because
22 it's a small thing and could be hidden.

23 So, as I say, it has a harassing
24 effect. And if it's a young woman, she doesn't
25 know whether it's a group of men going to be after

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2 her or what.

3 COUNCILMAN NUTTER: Right.

4 COUNCILMAN COHEN: So I just think it's
5 not a good practice. And I think people ought to
6 be able to be free to walk around without being
7 followed by these red dots.

8 COUNCILMAN MARIANO: And also,
9 Councilman, I think we're missing one point -- the
10 actual damage that it can do to your eye or my
11 eye. Imagine a 3-year-old or a 2-year-old where
12 their eyes aren't totally developed.

13 COUNCILMAN KENNEY: So I would assume
14 the attempt these now for sale is the first step
15 in --

16 COUNCILMAN MARIANO: That's the first
17 step.

18 COUNCILMAN KENNEY: And the next set of
19 legislation would be dealing with behavior.

20 COUNCILMAN NUTTER: The shore must be
21 an interesting place in the summertime.

22 COUNCILMAN MARIANO: That's right. .

23 COUNCILMAN KENNEY: You ought to try
24 it.

25 COUNCILMAN NUTTER: No, I think I'll

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2 stay up here in West Philly.

3 COUNCILMAN KENNEY: Thank you very
4 much.

5 Any further questions?

6 (No further questions.)

7 COUNCILMAN KENNEY: Seeing none, thank
8 you very much, gentlemen, for coming in.

9 We'll now move to Bill No. 980780,
10 which is an ordinance to amend the Philadelphia
11 Zoning Maps by changing the zoning designations of
12 the following area of the City from partly Class
13 "R-15" Residential and partly Class
14 "Recreational" to a single designation of Class
15 "RC-4" residential: Southeasterly corner of 21st
16 Street and Hamilton Street, containing in frontage
17 along 21st Street, approximately 298 foot, and
18 along Hamilton Street approximately 320 feet.

19 Please identify yourself for the record
20 and proceed.

21 MR. LOMBARD0: Good morning, Mr.
22 Chairman and members of the committee. My name is
23 Richard Lombardo, from the Planning Commission,
24 and I'm here today to speak on Bill No. 980780.

25 As you said, this is a bill to rezone

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2 approximately one acre of land at 25th and
3 Hamilton -- the 21st and Hamilton, I'm sorry, on
4 the map on your left, my right, which Mr. Kramer's
5 pointing to. The existing zoning is R-15 and
6 class "recreational." If anyone's familiar with
7 this site, what the site is, it's actually a hole
8 in the ground or a railway cut that exists behind
9 the Rodin Museum.

10 What is proposed by this bill and a
11 subsequent -- or a companion bill, which is a
12 public property bill, would be for the City,
13 through PAID, to transfer basically what is the
14 slope of the railway easement, but it's owned by
15 the Fairmount Park Commission and some land behind
16 the Rodin Museum, which today is more of a service
17 and loading area, not very well maintained.

18 Two of the parties that are interested
19 here who proposed to use that land along with the
20 land that they own -- they own the remainder of
21 this one acre parcel of land -- and develop that
22 site with a hotel.

23 I believe the hotel will be a 23-story
24 building, will have roughly 48,000 square feet of
25 retail and office space in it, both underground

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2 and above-ground parking. The above-ground
3 parking will be on 4 levels of structured parking
4 garage, 252 units of hotel rooms. I believe these
5 will be suite hotels. The proposed developer is
6 here with his architect and will get into the
7 detailed plans.

8 This proposal, given the fact that the
9 number of actors involved on the public side --
10 it's land owned by Fairmount Park, it's under the
11 jurisdiction of the Art Museum, the Rodin Museum,
12 and it's had to go through a number of meetings
13 and approvals. I believe it's been to the Art
14 Commission, the Art Museum, and the Fairmount Park
15 Commission as well as the Planning Commission for
16 review.

17 The reason it's being rezoned to RC-4
18 is that the -- well, the R-15 would allow a
19 building of this size, it would allow an 18-story
20 building, and that building could be used as a
21 hotel in terms of the rooms, the hotel as a
22 residential use. The other aspects of the hotel
23 -- the restaurants, the office space the shops,
24 the commercial activity would not be permitted in
25 the R-15 residential, so the proposal here is to

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2 zone it RC-4 residential.

3 RC-4 residential is a residential
4 district that allows some limited accessory
5 commercial to go within the same building, and it
6 is a district. That was drafted for uses like a
7 hotel or an apartment building that would have
8 some ground floor retail or services for the
9 tenants of that live above the -- in the upper
10 floors of the building.

11 For the record, the Planning Commission
12 had its meeting on November 5, 1998, and
13 recommended approval of this bill.

14 COUNCILMAN KENNEY: What was the vote
15 on the approval, do you know?

16 MR. LOMBARDI: I believe it -- I'm
17 trying to think if somebody abstained. It would
18 have been -- I believe it was -- it would have
19 been unanimous of the people voting. I just don't
20 know the number of members there, if anybody
21 abstained for any reason. But no one voted
22 against it.

23 COUNCILMAN KENNEY: Okay, thank you.

24 MR. LOMBARDI: If you have any
25 questions about the RC-4, the RC-4 basically is a

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2 floor area district. It has requirements for
3 public space and open space. The public space and
4 open space will be met both on this site. Part of
5 their deal with the Fairmount Park Commission and
6 the Art Museum is they will also improve the space
7 behind the Rodin Museum, which is, like I said, a
8 servicing area.

9 They also will be providing off-street
10 parking. They're actually doing two sort of
11 levels of parking -- underground parking and
12 above-ground. The underground parking with
13 accessory to the hotel will also provide parking
14 for patrons of the museum as well as there has
15 been talk about having direct access to the lower
16 level of the hotel for access to restaurants and
17 shops for people coming to the museum.

18 COUNCILMAN KENNEY: Councilman Cohen.

19 COUNCILMAN COHEN: Just where is
20 Hamilton Street? Is it between Spring Garden and
21 Callow Hill?

22 MR. LOMBARDO: It's -- yeah, it's above
23 Callowhill.

24 COUNCILMAN COHEN: North of Callow
25 Hill.

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2 COUNCILMAN KENNEY: Between Spring
3 Garden and Callow Hill.

4 COUNCILMAN COHEN: And there's a
5 building there now?

6 MR. LOMBARDO: No. All that's there on
7 that block now is the Rodin Museum. And if you
8 were to go out to this site today, you would see a
9 railroad cut. The building site is actually a
10 railroad cut that used to be -- used to be used by
11 Conrail. One of the prime uses was to carry
12 newsprint to The Inquirer. In earlier days, it
13 carried other freight to the 401 North Broad
14 building. The buildings no longer use the rail
15 service.

16 COUNCILMAN COHEN: Where's it in
17 relation to the Youth Study Center?

18 MR. LOMBARDO: It is two blocks to the
19 -- it's one block west of the Youth Study Center.

20 COUNCILMAN COHEN: But in about that
21 same location from a north-south range.

22 MR. LOMBARDO: Yeah, about the same
23 location. It's one block off the Parkway. Of
24 course, the Parkway's going up in a diagonal.

25 COUNCILMAN COHEN: Was there a hearing

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2 by the Planning Commission.

3 MR. LOMBARDO: There was a meeting on
4 November 5th.

5 COUNCILMAN COHEN: As well as a
6 hearing?

7 MR. LOMBARDO: Yes, a public meeting.

8 COUNCILMAN COHEN: Was there protest?

9 MR. LOMBARDO: My understanding was
10 that there was a developer who was asked to have
11 these community meetings, I think, before this
12 thing was even introduced, so I will let him speak
13 to that. But by the time they came before the
14 Planning Commission, they had been before the Art
15 Museum, they had been before the Logan Square
16 Neighbors Association, they had a written
17 agreement with the Logan Square Neighbors
18 Association. They've been to the Fairmount Park
19 Commission, they've been to the Art Commission.
20 The Art Commission has to review it.

21 Part of this on had been land adjacent
22 to Fairmount Park and the Art Museum because
23 they're doing a joint sort of improvement of the
24 area around the Rodin Museum.

25 COUNCILMAN COHEN: Right now it's open

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2 space?

3 MR. LOMBARDO: The ground level is
4 open. When you go out there and look at it, what
5 you're looking at is a railway cut.

6 COUNCILMAN COHEN: Particularly in the
7 downtown area, and I guess it would apply to other
8 areas, I'm very concerned about losing open
9 space. Because for the current residents, it may
10 present a problem. We have so little of it in
11 many parts of Center City, but that would be a
12 concern that I would have.

13 But you say that this was discussed
14 fully at the hearing before the Planning
15 Commission?

16 MR. LOMBARDO: Yes, it was. And to
17 answer your question, I mean, it is open, as
18 physically, there's nothing there, but it is a
19 railroad cut. And what land is there, even if the
20 land is coming from the Fairmount Park Commission,
21 is the slope of that cut. It's not a part of the
22 park that's actually usable by park patrons or
23 patrons of the museum.

24 COUNCILMAN COHEN: But it's open as far
25 as the eyes are concerned. It may not be usable.

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2 MR. LOMBARD0: Yeah, it is open as far
3 as the eyes are concerned, but the trade-off here
4 would be improvement of the land that is behind
5 the museum to a level -- well, the Fairmount Park
6 Commission can speak for themselves. But that was
7 the rationale of the deal, was the improvement of
8 the area around it.

9 COUNCILMAN COHEN: Incidentally, it's
10 going to be used for a hotel plan?

11 MR. LOMBARD0: Pardon?

12 COUNCILMAN COHEN: Is the planned use a
13 hotel?

14 MR. LOMBARD0: The planned use is a
15 hotel, some retail space and some office space as
16 well as -- as I said, off-street parking both for
17 the hotel patrons and the museum patrons.

18 COUNCILMAN COHEN: Okay. Hotels seem
19 to be springing up everywhere. Is that true of
20 Market Street East? Which, to my consternation,
21 since it's the first place I had a law office on,
22 I understand the building is totally empty?

23 MR. LOMBARD0: Which building is this?

24 COUNCILMAN COHEN: "Market Street
25 East," it used to be called. Now it's One East

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2 Penn Square.

3 MR. LOMBARDO: I haven't heard any
4 hotel proposal for that.

5 COUNCILMAN COHEN: It's in between --
6 right next door to --

7 MR. LOMBARDO: I know where it is, in
8 the annex, right next door to it.

9 COUNCILMAN COHEN: And there's the
10 Marriott Hotel on the other side.

11 MR. LOMBARDO: Right. And the Marriott
12 is the next block over, and then the PSFS is going
13 to be a hotel and --

14 COUNCILMAN COHEN: And the City Hall
15 annex is going to be a hotel.

16 MR. LOMBARDO: The City Hall annex is
17 going to be -- yeah, it's going to be a Marriott.

18 COUNCILMAN COHEN: And this building
19 right across from City Hall is between the City
20 Hall annex and the --

21 MR. LOMBARDO: Yeah. One East Penn
22 Square, I haven't heard of anybody wanting to do a
23 hotel there yet, but that doesn't mean that it may
24 not happen there in the future, but. . .

25 COUNCILMAN COHEN: All right, thank

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2 you.

3 COUNCILMAN COHEN: Councilwoman Verna.

4 COUNCILWOMAN VERNA: Mr. Lombardo, I
5 don't know if you indicated how many stories the
6 hotel would be.

7 MR. LOMBARDO: The hotel would be 20
8 stories. I think it's 18 stories of hotel above a
9 couple levels of off-street parking. It's 18
10 stories of room and a total of 20 stories.

11 COUNCILMAN KENNEY: Thank you very
12 much.

13 Any other questions for these
14 witnesses?

15 (No further questions.)

16 COUNCILMAN KENNEY: Thank you. Who
17 else do you have plan to have to testify?

18 (Paul Deegan comes forward.)

19 MR. DEEGAN: Good morning. I'm Paul
20 Deegan, representing PIDC and PAID. I have
21 submitted written testimony and I think Mr.
22 Lombardo -- I think a lot of it will be redundant
23 as far as the description of the actual project.

24 But I would like to say, to get to the
25 second page of my testimony, to point out the

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2 benefit of a new hotel. It will be 225 new hotel
3 rooms, when the City is trying to reach a goal for
4 the year 2000 for the Republican Convention.

5 The developer has also been negotiating
6 for many months with Fairmount Park Commission,
7 and the developer's agreed to provide significant
8 capital improvements and ongoing maintenance to
9 the adjacent Rodin Museum property. And this will
10 be a public benefit that the developer of the
11 hotel will provide.

12 They've met with the Art Museum people,
13 who actually operate the Rodin Museum, and with
14 the Fairmount Park Commission. And they've gotten
15 into quite a bit of detail of what kind of capital
16 improvements will be made to the property.

17 So the end result will not only be a
18 new, attractive hotel, but it also will improve
19 the Rodin Museum property, which is one of the
20 City's tourist and convention attractions.

21 Another significant point, especially
22 in light of Councilman Cohen's comments, this
23 hotel will be 100 percent privately financed.
24 There will be no TIFs, there will be no KOZs, no
25 empowerment zones, no enterprise zones, no special

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2 services district. This will be all privately
3 funded. And a developer has, you know, put a
4 significant part of his business out to get this
5 project moving, but he has not asked the City for
6 any public financing for the project.

7 It's also what I think or I think what
8 many people think from looking at the brochure
9 that's been handed out, the site now is basically
10 an eyesore, it's an overgrown vacant lot. It
11 slopes down to an old railroad -- an abandoned
12 railroad right-of-way, and the park land -- I
13 think it's unusual for the park to agree to sell
14 the property. But in this case, this park land
15 has such little use that Fairmount Park is okay
16 with conveying title to the developer through the
17 Philadelphia Authority.

18 So for those reasons, we support the
19 proposed rezoning.

20 COUNCILMAN KENNEY: Thank you very
21 much.

22 Are there any questions?

23 (No questions.)

24 COUNCILMAN KENNEY: Thank you.

25 Who's going to testify for the

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2 developer?

3 (Joseph Pacetti comes forward.)

4 COUNCILMAN KENNEY: Good morning, sir.
5 Please identify yourself for the record.

6 MR. PACETTI: Good morning. My name is
7 Joseph --

8 COUNCILMAN KENNEY: Sir, you need to
9 bring the microphone close and speak very loudly.

10 MR. PACETTI: Yeah, okay. I speak very
11 low most of the time.

12 My name is Joseph Pacetti (ph.). I
13 have offices here at the Bourse Building, we've
14 had offices downtown Philadelphia for the past
15 30-some years. Most of my development has been
16 basically out of the City, although I have
17 developed a few items in the City back in the
18 '70s.

19 We've purchased this parcel and one or
20 two others in the City that I've had for quite
21 long time. About ten years ago, we went through
22 the process of introducing this same bill, I
23 believe, and the economics at that time were such
24 that the real estate market had just disappeared.

25 We've recently, because of the influx

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2 of growth and hotel and also the economy, we sort
3 of dusted off this project and went through the
4 process all over again and revisited the entire
5 group and the entire regulating authorities to get
6 this bill to where it is today.

7 The hotel in question, by the way -- I
8 just want clarify one point -- is a suite hotel,
9 primarily an extended state facility, which is
10 more in conforming with that particular area than
11 a transient type of hotel. We spent a lot of
12 time, a lot of effort, and a lot of design time
13 and negotiating with the various groups.

14 I would like for this board to give us
15 their consent to proceed with this project. Also,
16 if you look at the facility that's there now, it's
17 totally -- it totally doesn't do anything for the
18 environment currently at the location, and I would
19 appreciate if we could get some assistance from
20 the group to permit us to proceed after ten years
21 of process.

22 Thank you.

23 COUNCILMAN KENNEY: Thank you for your
24 testimony.

25 Are there any questions for Mr.

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2 Pacetti?

3 (No questions.)

4 COUNCILMAN KENNEY: Mr. Egan, do you
5 have anything to add? Or if you would identify
6 yourself, please.

7 MR. EGAN: Yes. My name is Joseph
8 Egan. I am the real estate consultant to Joe
9 Pacetti and his projects here and also in projects
10 in other parts of the country.

11 I would add two things to his
12 statement. One is this is going to be an
13 all-suites hotel. And I think the point of
14 building an all-suites hotel, we were sensitive to
15 making sure we protect the character of that
16 neighborhood.

17 The other is that it's going to employ
18 a hundred-plus people, and this is a project that
19 would be a real complement to the commerce of this
20 city. And in addition to that, it will be a real
21 complement to the Parkway because of the process
22 that we went through here -- I mean, from the
23 neighborhood group, Logan Square, which is the
24 name of the designated neighborhood group in that
25 area, all the way through the Art Commission and

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2 the Rodin Museum and the Art Museum.

3 And there's lots and lots of opinions
4 about design when you build a building on the edge
5 of the Parkway, which is a very discrete resource.
6 And we came to a consensus which we think is a
7 very fine building, an architectural statement.
8 And great buildings make great cities, and this is
9 a great building.

10 And I've been involved in a lot of
11 projects in the City, from the Gallery to the
12 Convention Hall to Independence Mall to Penn's
13 Landing. Believe me, this building will win
14 awards, and it's something we feel very proud of.
15 And we feel proud that we did this conventionally,
16 without coming to the City for TIFs or incentives.

17 Thank you.

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

20 Councilmember Cohen.

21 COUNCILMAN COHEN: Mr. Egan or the
22 developer or both, is it your understanding that
23 the community is fully in support of this?

24 MR. EGAN: Well, I think the Logan
25 Square community signed a trust agreement with us

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2 on this building maybe five or six years ago. And
3 we went back and briefed them and we asked them at
4 the last meeting that we went to, would they help
5 us talk to the neighbors regarding putting our
6 servicing of the building underneath instead of
7 leaving it up at the Rodin Museum. And,
8 basically, there was a consensus in that group to
9 do that.

10 But they've signed an agreement with us
11 in that area, and we went through that process and
12 a fairly extensive one and a professional one.

13 But every time you build a building 20
14 stories in the air, you aren't going to get total
15 consensus, you just aren't.

16 COUNCILMAN COHEN: Well, Logan Square
17 Association, I have high regard for but I think
18 they represent one area. I think this location,
19 if my knowledge of the City's wards are accurate,
20 probably comes sort of in between several areas,
21 and downtown Philadelphia's full of lots of
22 community organizations.

23 MR. EGAN: Well, they are, and there's
24 no question they have a right, and should have a
25 right, to come in and voice their opposition or

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2 support. And, you know, I've been in government
3 and I recognize that fact.

4 And there might be a community group --
5 we've met with other interests in this area. We
6 didn't think, for example, the Art Museum -- but,
7 generally, they were very concerned about how this
8 building would relate to the Art Museum. We met
9 with them, and we'll be glad to meet with anyone
10 else if it's the Council's will to do that.

11 However, in this market that we're in,
12 when you set aside this long process of well over
13 a few years and you get to now, in a time that
14 we're between a stock market that is influencing
15 interest rates and people are in an uncertain time
16 for financing, we have some feeling that we have a
17 window of opportunity to finance.

18 And this is something you can check
19 independently. The financing of hotels have now
20 become very difficult, and we have a hard time
21 holding our flag and we want to make sure that our
22 flag is a top flag. So the longer we're delayed,
23 this project moves away. And I don't think a city
24 like ours can afford to have this project move
25 away because --

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2 COUNCILMAN COHEN: Well, I don't think
3 involvement of appropriate community groups, you
4 know, causes delay. Generally, it provides an
5 opportunity for the party to exchange views. And
6 if it's done in good faith, generally, there's an
7 agreement. That's the matter I'm concerned about.

8 MR. EGAN: And I concur, no
9 disagreement on that, Councilman. And your track
10 record is significant in that area and something
11 that I have always respected.

12 COUNCILMAN COHEN: Thank you.

13 COUNCILMAN KENNEY: Thank you very
14 much, thank you for your testimony.

15 Is there anyone else to testify on this
16 bill? Please come forward.

17 (Arthur Plaxton comes forward.)

18 COUNCILMAN KENNEY: If anyone else is
19 going to testify, please come forward.

20 MR. PLAXTON: Good morning.

21 COUNCILMAN KENNEY: Please identify
22 yourself for the record.

23 MR. PLAXTON: My name is Arthur Plaxton
24 (ph.). I live at 2022 Brandywine Street. I am
25 the past president of the Spring Garden Civic

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2 Association and an elected Democratic committeeman
3 from the 17th Division of the 15th Ward.

4 First, I wish to thank the committee
5 for the opportunity to testify here. I would also
6 like the committee to know that I had the
7 opportunity of meeting with the developers and
8 their architect yesterday afternoon. They were
9 very helpful, they showed me their drawings and
10 answered my questions.

11 However, we are still -- I'm still
12 urging you very strongly to vote against this
13 particular bill. The change would allow the
14 construction of a high-rise hotel. This plot of
15 land is situated on the southwest corner of North
16 21st and Hamilton, not the southeast, as stated in
17 the ordinance summary.

18 It is the land immediately behind the
19 Rodin Museum. Part is a portion of Fairmount
20 Park, and the remainder is land below the natural
21 grade level formerly occupied by railroad tracks
22 leading into to the Philadelphia Inquirer
23 buildings.

24 The division which I represent is the
25 division most affected by the proposed building.

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2 The sentiment here is overwhelmingly against the
3 construction of a high-rise building on the site.
4 There are several important reasons.

5 First, the Parkway is very heavily
6 used, not only for various events for the entire
7 city, but also on a daily basis by the residents
8 of Spring Garden and Fairmount. We need an
9 enlargement of the Parkway, not a reduction with
10 even heavier use and traffic.

11 Also, a high rise behind the Rodin
12 Museum will act as a wall visually and
13 psychologically, so to speak, isolating and
14 throwing a shadow on the neighborhoods to the
15 north. This isolation will depress property
16 values and tend to reduce business north of the
17 Parkway as people unconsciously see the high-rises
18 as the northern boundary of Center City rather
19 than considering Spring Garden and Fairmount as
20 extensions of it.

21 Of course, as a member of the Rules
22 Committee, you're concerned with the interests of
23 the City as a whole, not just our neighborhood.
24 The case that the proposed zoning change is
25 detrimental to the City as a whole is very

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2 compelling.

3 The Parkway is one of the major assets
4 of Philadelphia. It's a magnificent, beautiful
5 urban boulevard, unrivaled by anything in New
6 York, Los Angeles, San Francisco, or King of
7 Prussia, for that matter. It cannot help but
8 favorably influence business people to locate here
9 or tourists to visit here.

10 The proposed zoning change site is
11 approximately midway along the Parkway, which is
12 lined with classical structures of about four
13 stories, such as the Cathedral, Family Court, the
14 Free Library, the Academy of Natural Sciences,
15 Franklin Museum, Rodin Museum, and culminating in
16 the Art of Museum.

17 All of these are whose height is much
18 less than their width. They have a human scale,
19 so to speak. They have a degree of architectural
20 unity. Do we really need to destroy this to build
21 a hotel when there are numerous other sites for
22 which can be found in the city? Is the dominating
23 huge mass of a high-rise building a few feet away
24 something that will enhance the attractive
25 proportions and setting of the Rodin Museum?.

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2 Given that we do not yet know what will eventually
3 replace the Youth Study Center on the adjoining
4 block, can we really intelligently decide what's
5 the best use for this site?

6 Now, you don't need to take my word on
7 it. The next sunny day, maybe today, go and take
8 a walk there. Go to the north side of the 2200
9 block of Spring Garden Street and ask, Where will
10 the tower be? And you will not that the view it
11 will block. And ask yourself, How compatible is a
12 20-story tower there with the rest of the
13 Parkway?

14 COUNCILMAN KENNEY: Thank you for your
15 testimony. Before I ask for questions and
16 recognize the other gentleman, you had mentioned
17 in your testimony that this is not the
18 southeasterly corner.

19 MR. PLAXTON: It is the southwesterly
20 corner of 21st and Hamilton.

21 COUNCILMAN KENNEY: What I've asked is
22 for the Planning Commission and PIDC to determine
23 whether, in fact, that is true. And if it is,
24 there's a problem with the bill on its face, and
25 that is, the title has to be changed, which

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2 requires new legislation to be introduced, so
3 we're going to try to get some confirmation.

4 Just hold on one second.

5 (Chairman Kenney confers with Mr.
6 Lombardo.)

7 COUNCILMAN KENNEY: After you gentlemen
8 are done testifying, we're going to have the Law
9 Department come up and clarify this southerly and
10 southwesterly issue and whether or not it's
11 critical to the bill.

12 So what I'll ask you to do, to the
13 gentleman, if you could identify yourself for the
14 record and proceed, then we'll ask whatever
15 questions are appropriate.

16 MR. RUBIN: Good morning. My name's
17 Allen Rubin. I'm an attorney and I resident of
18 Spring Garden, I'm past president of the Spring
19 Garden Civic Association, and I have been on the
20 board of that organization since 1968.

21 We represent approximately 2,000
22 members and another several thousand occupants of
23 the area between Spring Garden and Fairmount, the
24 Art Museum and Broad Street. And, essentially, we
25 have been responsible for the rebirth of that

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2 neighborhood. We are an organization that started
3 in 1965 and have succeeded in what you now know as
4 "the Art Museum area." The property values, the
5 tax base, all of these things have gone up
6 50-fold. And not only that, the taxes are
7 collected.

8 Ten years ago, I was on the site with
9 Councilman Street and I believe the then-ward
10 leader Bernice DeAngelis. And we looked very
11 carefully at this sight because there was an
12 application. And we came to the conclusion, all
13 of us, that it was an inappropriate site to build
14 that type of a building. One of the reasons,
15 which has not been mentioned today, was because it
16 affects the site lines of members of our
17 community.

18 If you stand out at Pennsylvania
19 Avenue, the houses, 2601 Parkway House, all of
20 those buildings, the site line of the Cathedral
21 and City Hall will be blocked by this site. The
22 site lines from some of the high decks on Green
23 Street and on the fabulous restorations that have
24 happened in the 2200 block of Green Street will
25 also be affected by this site.

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2 Something else has occurred since that
3 ten-year span, which makes it even more
4 inappropriate to build this building on this
5 site. Fresh Fields has been built and is a hugely
6 successful development and it is right behind the
7 police station. It is where the old police
8 station used to be, at 20th and Pennsylvania,
9 directly across from the Youth Study Center.

10 The police station has now moved to
11 21st Street. The emergency entrance for vehicles
12 is essentially diagonally exactly across the
13 street from the entrance to this garage. The
14 trucks for Fresh Fields' loading dock is directly
15 across the street from this entrance to this
16 garage from this hotel. The street is
17 approximately 30 feet wide. The 48 Bus turns
18 there, it is a congested spot. There is also a
19 child day care center directly across the street.

20 So you have a day care center, you have
21 police emergency vehicles, you have huge trucks
22 backing up, all of which is across from the only
23 entrance of this garage. It is an absolute
24 disaster in terms of planning.

25 It is a totally inappropriate site

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2 aside from the fact that the site is much too
3 small for a building of this size. It blocks the
4 views and it is creating problems for the police,
5 for the day-care center, for Fresh Fields traffic,
6 and traffic is extremely because of Fresh Fields.
7 And it's wonderful, Fresh Fields is a wonderful
8 addition, but we cannot stand one more piece of
9 density on that site.

10 I think, in addition, we have not been
11 consulted. There was testimony that the Logan
12 Square had signed eight or ten years ago some kind
13 of agreement. Logan Square is not as affected.
14 It technically may be in Logan Square or may not
15 be in Logan Square -- I don't want to get into the
16 details, but it affects traffic from our area and
17 views from our area, and the density would be
18 insufferable from the standpoint of the quiet
19 residential nature of our neighborhood.

20 We have not been consulted. Someone
21 mentioned that it was posted. I went to look for
22 a posting; I could not find a posting. It was
23 then pointed out to me that the posting for this
24 hearing was on a pole this high in a parking lot
25 which says "No Trespassing." Of course, I did go

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2 in there and looked at it and I saw it. But it
3 was an obscure a posting as I have ever seen
4 anywhere.

5 COUNCILMAN COHEN: It was posting for
6 what?

7 MR. RUBIN: I assume it was a posting
8 for this hearing. It was on an -- there's an old
9 iron fence, and in the corner of the iron fence,
10 near the railroad cut, it is no more four feet
11 high, wrapped around this post -- not on a stick,
12 not out where you could see it. Wrapped around
13 this post was what purported to be a legitimate
14 posting for this hearing.

15 Plus the fact that we had been on
16 record from ten years ago with this same developer
17 that they were opposed to his position. And, of
18 course, we weren't consulted over the last months
19 and months. And we are a presence in the City, we
20 are well known by the Planning Commission, we are
21 well known by every department, by our Councilman,
22 by everyone. And, inadvertently, we were
23 forgotten.

24 Thank you.

25 COUNCILMAN KENNEY: Councilwoman Verna.

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2 COUNCILWOMAN VERNA: I'm sorry, I was
3 distracted.

4 From your testimony, I understand that
5 the developer never met with your civic
6 association?

7 MR. RUBIN: Well, then years ago, we
8 met and said we did not like the proposal. We
9 have not met with anyone, no.

10 COUNCILWOMAN VERNA: They have not been
11 in touch with you?

12 MR. RUBIN: No.

13 COUNCILWOMAN VERNA: They haven't?

14 MR. RUBIN: No, not in the last ten
15 years.

16 COUNCILWOMAN VERNA: Not in the last
17 ten years.

18 MR. RUBIN: That's correct.

19 COUNCILWOMAN VERNA: Thank you.

20 COUNCILMAN KENNEY: Councilmember
21 Cohen.

22 COUNCILMAN COHEN: That was one of the
23 questions I was going to raise.

24 Is that the reason that you were not at
25 the Planning Commission public hearing?

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2 MR. RUBIN: I did not even know of that
3 hearing. We were never notified of the hearing by
4 the Planning Commission, and we are in touch with
5 the Planning Commission. I know personally the
6 members that were here, they know me by name, they
7 know my phone number, and I know Barbara Kaplan,
8 and they know us and they know that we're active,
9 and we have heard nothing from anyone on this.

10 COUNCILMAN COHEN: One other question.
11 Each of you has identified yourself as a past
12 president of the Spring Garden Civic Association.

13 MR. RUBIN; that's correct.

14 COUNCILMAN KENNEY: I have a letter.

15 COUNCILMAN COHEN: From the --

16 COUNCILMAN KENNEY: That's what I was
17 going to enter into the record after the gentlemen
18 completed their testimony. This is a letter from
19 the current president of the Spring Garden Civic
20 Association, a Patricia L. Freeland. And that's
21 F-R-E-E-L-A-N-D.

22 Basically, the letter is in complete
23 agreement with the previous two testifiers. We
24 will add it formally into the record.

25 COUNCILMAN COHEN: All right, thank

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2 you. That was the question. I was going to ask
3 why were the two the past presidents here and if
4 there was any consideration by the current
5 administration of the association.

6 MR. RUBIN: Well, we're presently on
7 the board. I'm chairman of the zoning committee
8 as well. Thank you.

9 COUNCILMAN COHEN: Well, you present
10 very interesting arguments. It's a typical
11 problem that we have in cities that are trying to
12 avoid urban sprawl, protect free land; and, at the
13 same time, promote economic development. It's a
14 classic controversy.

15 MR. RUBIN: We are certainly not
16 against development, and we have never taken that
17 position as a blanket position, never.

18 COUNCILMAN COHEN: All right, thank you
19 very much.

20 COUNCILMAN KENNEY: Thank you very much
21 for your testimony.

22 Is there anyone here from the Law
23 Department to clarify the issue on the description
24 of the property so that the record's clear. There
25 was a question raised by Mr. Plaxton relative to

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2 the description of the property as southeasterly
3 corner of 21st Street and Hamilton Street. His
4 contention is that it's not the southeasterly but
5 the southwesterly corner, and that that is a fatal
6 flaw or a serious flaw in the legislation.

7 Could you please identify yourself for
8 the record and respond.

9 MR. SCHWARTZ: Good afternoon. My name
10 is Henry Schwartz. I'm the Divisional Deputy City
11 Solicitor for Real Estate and Economic
12 Development.

13 It was brought to my attention that
14 there is a mistake in the title to the bill. It
15 is, in fact, the southwesterly corner, and not the
16 southeasterly corner. However, the intent of the
17 charter in the short title is to provide notice
18 that there is a matter pending before Council. It
19 is the corner of 21st and Hamilton, so it was
20 posted and it was advertised so that anybody with
21 an interest would realize that it was the corner
22 of 21st and Hamilton.

23 The substance of the bill, which is the
24 text of the bill, is correct, and so it would be
25 my opinion that it is not a fatal flaw because

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2 there was adequate notice to the surrounding area
3 that the bill would be concerning 21st and
4 Hamilton, but the substance of the bill is
5 correct, as far as legal position.

6 COUNCILMAN KENNEY: Councilman Cohen.

7 COUNCILMAN COHEN: Respectfully, I
8 would have to disagree. I believe that the
9 purpose of titles and the advertising is to give
10 people notice. Conceivably, people might have a
11 different view if it's on the southeast or in the
12 southwest. It would seem to me that it would be
13 in everybody's interest that whatever action
14 Council takes, that it be immune from attack.

15 The feelings on both sides seem to be
16 very strong, and under those circumstances, I
17 would clearly say I believe it quite dangerous to
18 enact a bill, if that's what Council would do, in
19 its in its present form. There's no serious lost
20 time at all, but it may save a lot of time in the
21 future.

22 So it would be my feeling that this is
23 a fatal flaw in the bill if, in fact, the land is
24 on the southwest and not the southeast side.
25 Thank you very much.

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2 COUNCILMAN KENNEY: Thank you.

3 Councilmember Clark.

4 COUNCILWOMAN CLARK: Good morning.

5 Thank you for the opportunity.

6 I think I'm inclined to agree with you,
7 Mr. Schwartz, that this is, at worst, a
8 (unintelligible) error. In every other respect,
9 is the description of the same accurate in this
10 bill.

11 MR. SCHWARTZ: Yes, Councilwoman, it
12 is.

13 COUNCILWOMAN CLARK: Containing
14 frontage along 21st Street approximately 298 feet;
15 and along Hamilton Street, approximately 320
16 feet. Is that correct?

17 MR. SCHWARTZ: Yes, it is.

18 COUNCILWOMAN CLARK: Okay. So if you
19 looked at the entire paragraph below the term and
20 ordinance, every word in it is correct except the
21 term "southeasterly," which should have read
22 "southwesterly."

23 MR. SCHWARTZ: That's correct.

24 COUNCILWOMAN CLARK: Mr. Chairman, I
25 think it is a stretch to say that (unintelligible)

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2 error is such a fatal flaw. Now, I understand
3 that it is our intention to hold bill over, and in
4 that period, I think we should correct it, but I
5 think the record should be clear that this is a
6 fatal flaw.

7 COUNCILMAN KENNEY: Thank you very
8 much.

9 MR. SCHWARTZ: Just to clarify the
10 Councilwoman's --

11 COUNCILMAN KENNEY: Yes.

12 MR. SCHWARTZ: The short title cannot
13 be amended without republishing it; as compared to
14 the bill, which can be amended as part of the
15 legislative process.

16 COUNCILMAN KENNEY: Well, I mean we
17 have two lawyers here -- three lawyers here that
18 are expressing two different opinions. And as
19 long as -- what I think Councilmember Cohen did
20 was bring the issue to the fore so that you can
21 make whatever decision you think is appropriate in
22 this regard.

23 Councilmember Clark agrees with you and
24 your position, so to be forewarned is to be
25 forearmed, I would say.

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2 COUNCILWOMAN CLARK: And I don't
3 disagree that we should hold it. And I think, in
4 that intervening period, it should be corrected.
5 But just for the record, I think that is a stretch
6 to say the (unintelligible) error arises to the
7 level of a fatal flaw.

8 COUNCILMAN KENNEY: Thank you very
9 much.

10 Thank you very much for your testimony.
11 Is there anyone else here to testify on
12 this bill?

13 (No response.)

14 COUNCILMAN KENNEY: As was previously
15 stated by Councilmember Clark, this bill will be
16 held to a date into the future, and all parties
17 will be notified, and we thank you for coming in
18 with your testimony.

19 Bill No. 980750 was originally heard on
20 November 17th but over-advertised for November
21 17th and for December 1st. So in an effort to
22 accommodate anyone who like to testify based on
23 the December 1, notification, Bill No. 980750 is
24 an ordinance amending Title 14 of The Philadelphia
25 Code relating to zoning and planning by amending

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2 Section 14-1612, entitled "South Street/Head House
3 Square Special Services District Controls," under
4 certain terms and conditions.

5 If there was testimony given on the
6 17th, there is no need for additional testimony,
7 but I'd like to ask anyone in the room who had not
8 testified on the 17th but is here because of the
9 advertisement for December 1st, if they would like
10 to testify.

11 (No response.)

12 COUNCILMAN KENNEY: Seeing no one, we
13 will continue on.

14 Bill No. 980748, an ordinance to amend
15 the Philadelphia Zoning Maps by changing the zone
16 designations of certain areas of land located in
17 the 26th Ward and within an area bounded by 20th
18 Street, Pattison Avenue, Penrose Avenue, and the
19 Walt Whitman Bridge approach from partly Class
20 "R-10" Residential, partly Class "C-7"
21 Commercial, partly Class "L-5" Limited Industrial,
22 and partly Class "R-9A" to partly Class "R-10"
23 Residential, partly Class "C-7" Commercial, partly
24 Class "L-5" Limited Industrial, and partly Class
25 "R-9A" Residential.

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2 Please identify yourself for the record
3 and proceed.

4 MR. LOMBARDO: Good morning, Mr.
5 Chairman and members of the committee. My name is
6 Richard Lombardo, Chief of Project Planning,
7 Planning Commissioner, here today to speak on
8 behalf of this bill.

9 Although this bill talks about 2.35
10 acres of land to be rezoned from various
11 classifications, what we're really talking about
12 here is, back in 1995, Bill No. 1240, the City
13 Council approved the rezoning of land from "L-5"
14 industrial to "R-9A" residential to permit a
15 residential subdivision to go ahead in the Packer
16 Park neighborhood of South Philadelphia.
17 Basically, it proposed to take what was various
18 limited industrial uses -- mostly trucking-related
19 -- and to put in new streets and to build new
20 single-family row houses.

21 Subsequent to the passage of that bill
22 and the beginning of construction, the party
23 interested had acquired additional land. And what
24 this bill basically does is redraw that boundary
25 of the zoning to conform to the additional land

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2 that was acquired by the developer to allow for
3 the -- basically for this to be developed in
4 accordance with the same plan that's been around
5 since 1995 and has been approved by the Planning
6 Commission on several occasions and City Council,
7 on several occasions, in terms of streets, bills,
8 and utility bills and a previous zoning bill and
9 by the Packer Park community.

10 When this is completed -- if this bill
11 is passed, the developer will build 79 attached
12 single-family sales housing, market-rate housing,
13 along a series of new city streets, in accordance
14 with the zoning and subdivision regulations of the
15 City of Philadelphia.

16 For the record, the Planning
17 Commission, in its meeting of October 21, 1998,
18 recommends approval of Bill 980748. Also, the
19 Planning Commission, in various meetings, has
20 approved the streets, bills, and subdivision plans
21 for this development.

22 Are there any questions?

23 COUNCILMAN KENNEY: Any questions for
24 these witnesses?

25 Councilmember Verna.

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2 COUNCILWOMAN VERNA: Mr. Lombardo, did
3 you attend any community meetings?

4 MR. LOMBARDO: I did not, but I believe
5 there have been -- I guess one of our South
6 Philadelphia planners may have attended. I
7 personally was not there.

8 But we have had this before the
9 commission a number of times. We've always been
10 accompanied by letters or comments from Packer
11 Park in support of this. I know I've talked over
12 the phone over the years to individual members of
13 the Packer Park leadership, asking questions about
14 when these bills are going to be passed or when
15 this project was going to move forward.

16 COUNCILWOMAN VERNA: Thank you.

17 COUNCILMAN KENNEY: Thank you very
18 much.

19 Any other questions?

20 (No further questions.)

21 COUNCILMAN KENNEY: Would you like to
22 testify? Members of the community? No, yes?

23 (Carl Primavera comes forward.)

24 COUNCILMAN KENNEY: Good morning.

25 MR. PRIMAVERA: Good morning.

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2 COUNCILMAN KENNEY: Could you please
3 identify yourself for the record.

4 MR. PRIMAVERA: Carl Primavera,
5 P-R-I-M-A-V-E-R-A. I'm here representing First
6 Anthony Residential Capital Corporation, Mr.
7 George David, Sr., behind me. They are the
8 anticipated developers for the project. And also
9 with us is Barbara Capozzi, from the Packer Park
10 Civic Association, who has been working very
11 closely with the with the developer to make sure
12 that this proposed development meets the
13 community's needs.

14 We're really here to answer any
15 specific questions and just to confirm that we
16 have been working with the community.

17 COUNCILMAN KENNEY: Mr. Primavera,
18 could you please give us, for the record, a
19 description of the developed and what's proposed.

20 MR. PRIMAVERA: Yes. These are going
21 to be --

22 COUNCILMAN KENNEY: Sorry, this is Bill
23 -- for the committee's sake, this is Bill No.
24 980748.

25 COUNCILMAN LONGSTRETH: 748?

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2 COUNCILMAN KENNEY: Yes, sir.

3 Please proceed.

4 MR. PRIMAVERA: Yes. As a matter of
5 fact, with me is George David, Sr., and what I
6 will have him do is just describe the development
7 plan as he's devised it and as approved
8 preliminarily by the Planning Commission.

9 COUNCILMAN KENNEY: Please identify
10 yourself for the record.

11 MR. DAVID: My name is George David,
12 Sr., and I'm the primary stockholder and President
13 of First Anthony Residential Capital Corp.

14 COUNCILMAN KENNEY: Please proceed.

15 MR. DAVID: What we propose to do here
16 in stages is develop 79 row-house configuration
17 homes in modules of 3 or 6 homes, without a
18 break. They will be 3- and 4-bedroom town house
19 configurations. We intend to start the
20 development along the existing street. And then
21 as it progresses to build a new street, a loop
22 street back in to accommodate the balance of the
23 property.

24 MR. PRIMAVERA: And that street is up
25 before Council next week, I believe, for a street

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2 ordinance.

3 And could you tell us a little bit
4 about who will be the anticipated residents and
5 what the prices will be?

6 MR. DAVID: Well, our sales agent will
7 be Barbara Capozzi's real estate agency, who has
8 done a great deal of preliminary work in offering
9 this property and describing it to the community.
10 And so we really anticipate that the vast majority
11 of the houses will be bought by people from the
12 existing neighborhood or people who formerly were
13 from that neighborhood.

14 COUNCILMAN KENNEY: Are these homes --
15 could you describe these homes. Are they singles,
16 twins, or row houses?

17 MR. DAVID: They are rows of three
18 typically.

19 COUNCILMAN KENNEY: And this would be
20 similar, I guess, to what the existing Packer Park
21 configuration is now?

22 MR. DAVID: Yes.

23 COUNCILMAN KENNEY: Reminiscent of
24 that?

25 MR. DAVID: Yes.

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2 COUNCILMAN KENNEY: And my
3 understanding is that the great desire or demand
4 for property in Packer Park would, hopefully,
5 maybe keep some of our younger couples in
6 Philadelphia who may want to move to Washington
7 Township and maybe thing about staying in South
8 Philadelphia, in Packer Park.

9 MR. DAVID: We've been convinced of
10 that by the community.

11 COUNCILMAN KENNEY: And do you have a
12 general price range on that?

13 MR. DAVID: Yes, the general price
14 range would be from 175 to about 185 or 190
15 thousand dollars.

16 COUNCILMAN KENNEY: Not bad for South
17 Philly.

18 MR. DAVID: Not bad for South Philly.

19 COUNCILMAN KENNEY: Nice to hear.
20 Councilwoman Verna?

21 COUNCILWOMAN VERNA: When do you
22 anticipate construction beginning?

23 MR. DAVID: We're now at a point where
24 the weather will be what will be the determining
25 factor. We would be ready in every respect by

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2 about January 15th.

3 COUNCILWOMAN VERNA: And when do you
4 expect completion of the buildings?

5 MR. DAVID: Well, if our absorption
6 rate projections are correct, it would be about a
7 two-and-a-half-year project to build out.

8 MR. PRIMAVERA: They're going to build
9 in sections.

10 COUNCILWOMAN VERNA: They're going to
11 do it in stages?

12 MR. PRIMAVERA: Yes.

13 COUNCILWOMAN VERNA: So how many would
14 you do in the first stage?.

15 MR. DAVID: The first stage would be
16 six -- two sets of three houses.

17 COUNCILWOMAN VERNA: And I would like
18 Miss Capozzi to come up and state for the record
19 what the position of the Packer Park Civic
20 Association is regarding this bill.

21 MS. CAPOZZI: At the request of --

22 COUNCILMAN KENNEY: Barbara, could you
23 please identify yourself for the record.

24 MS. CAPOZZI: Okay, Barbara Capozzi,
25 C-A-P-O-Z-Z-I.

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2 COUNCILMAN KENNEY: Thank you.

3 MS. CAPOZZI: I'm currently the
4 President of the Packer Park Civic Association.

5 And from the beginning, this developer
6 has sought our advice and taken our suggestion
7 when we asked for changes in the home, different
8 design changes, things that we knew would be
9 comparable to our neighborhood. So from the
10 beginning, they have been most willing. And at
11 our request -- this bill was at our request to
12 make this development the same R-9A zoning as
13 Packer Park, to eliminate any duplexes or
14 triplexes.

15 That was at our request. At our
16 request, Councilwoman Verna introduced this bill,
17 so we're very happy about it. Right now, there's
18 a dirty trucking company there, and it could be
19 only -- we know it will be a big improvement.

20 COUNCILMAN KENNEY: Thank you very
21 much.

22 Councilmember Clark.

23 COUNCILWOMAN CLARK: Miss Capozzi, did
24 I understand one of the other witnesses to say
25 that you were doing the sales of it?

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2 MS. CAPOZZI: Yes.

3 COUNCILWOMAN CLARK: Of these houses?

4 MS. CAPOZZI: Yes. I own the property
5 right next door also, so I mean I have multiple
6 interests in seeing this --

7 COUNCILWOMAN CLARK: My interest in the
8 question is that you are not a disinterested
9 citizen, resident. Are there other residents who
10 do not have a financial interest in the success of
11 the project who would be willing to come forward
12 and say they agree with you, that this is a good
13 thing to do?

14 MS. CAPOZZI: Well, we have 18 people
15 on our board. The developers met with our board
16 three times, and it's been unanimous. There's
17 nothing not to like in having new homes in your
18 neighborhood, especially when it's a trucking
19 company now.

20 COUNCILWOMAN CLARK: Well, I'm in no
21 position to argue that point, I only raise the
22 point that you are not a disinterested party.
23 Your being the head of the civic association is
24 somewhat in conflict with your being the sales
25 agent for the new houses.

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2 Having said that, that does not mean
3 that you are not a wonderful, wise, and good
4 person. However, you would have to see that there
5 is some confluence of interest, if not conflict.
6 "Confluence" is the term that I've used here.

7 MS. CAPOZZI: Okay. From the very
8 beginning --

9 COUNCILWOMAN CLARK: Let me ask you
10 another question, and we will just that statement
11 hang out there.

12 Are the houses going to be cul-de-sac?
13 What is the configuration of the land use?

14 MS. CAPOZZI: There's 16 homes on 20th
15 Street, and then there's one break in that, and it
16 winds around to a very quite cul-de-sac where
17 there's more homes.

18 MR. DAVID: It's really a loop.

19 COUNCILWOMAN CLARK: It's a loop.

20 MR. GEORGE: A loop, yes, ma'am. Yes
21 ma'am.

22 MS. CAPOZZI: From the very beginning,
23 even at our general meetings, I have made my
24 multiple positions known to everybody, and I have
25 heard no opposition. I will be happy to get a

1 12/1/98 COMMITTEE ON RULES - Bill 980748
2 letter from the rest, signed individually by the
3 rest of the board or whatever you would feel
4 comfortable with.

5 COUNCILWOMAN CLARK: The point that I
6 have made has been made. If you want to send a
7 letter, we will happily receive it.

8 MS. CAPOZZI: Okay.

9 COUNCILWOMAN CLARK: However, even when
10 you send the letter, wearing one of your other
11 hats, that does not take away the confluence of
12 interests.

13 MS. CAPOZZI: Mm-hmm.

14 COUNCILWOMAN CLARK: And I have nothing
15 further to say.

16 COUNCILMAN KENNEY: Thank you very
17 much. I would --

18 COUNCILWOMAN VERNA: Excuse me, if I
19 may something.

20 I believe that there's been so much
21 interest generated for this particular proposal.
22 How many people do you have on the list who have
23 expressed a desire to purchase one of these
24 properties?

25 MS. CAPOZZI: As of yesterday, we have

1 12/1/98 COMMITTEE ON RULES - Bill 980748
2 232 people on a -- I don't want to say "a waiting
3 list," but an interest list, who have received a
4 brochure, who have seen the home and who know the
5 prices. So once we get these preliminary
6 approvals, we'll bring the people in, you know,
7 and see how many of those 232 people will actually
8 buy a home.

9 But the interest is very high. And I
10 have -- my very, very first buyer is somebody
11 moving back from New Jersey, which I'm very happy
12 to report, and that's a story that we all want to
13 tell.

14 COUNCILWOMAN VERNA: That's wonderful.

15 COUNCILMAN KENNEY: Thank you. In
16 great respect for Councilwoman Clark's concern
17 over confluence, I just want to say for the record
18 that Miss Capozzi, in addition to their civic
19 functions and volunteerism, represents something
20 that's unique in South Philadelphia and in
21 Philadelphia, and that is a real estate agent who
22 lives in her neighborhood.

23 We have real estate agents by and large
24 in South Philadelphia who have decided that
25 greener pastures may be better in South Jersey and

1 12/1/98 COMMITTEE ON RULES - Bill 980748
2 Delaware and Montgomery Counties. So I am
3 confident, as a South Philadelphia resident and as
4 someone who has known Barbara and her family for a
5 long time, that their major commitment is making
6 the neighborhood work because they have a stake in
7 it because they live there and are not simply
8 selling people property while they go home to
9 their cul-de-sac in Montgomery County and don't
10 care what the quality of the residents are.

11 And I mean this respectfully, and I do
12 understand Councilwoman Clark's raising the
13 confluence issue, but I just want to say for the
14 record that we're glad you're living with us.

15 MS. CAPOZZI: Thanks.

16 COUNCILMAN KENNEY: Thank you.

17 Would anyone else like to testify on
18 this bill?

19 (No response.)

20 COUNCILMAN KENNEY: Thank you very
21 much.

22 MS. CAPOZZI: Thank you.

23 COUNCILMAN KENNEY: The next bill is
24 No. 980749, which an ordinance approving the plan,
25 estimated costs, and proposed method of charges of

1 12/1/98 COMMITTEE ON RULES - Bill 980748
2 the City Avenue Special Services District for and
3 concerning business improvements and
4 administrative services to portions of the City
5 Avenue area of the City of Philadelphia and
6 Township of Lower Merion.

7 COUNCILWOMAN CLARK: What's the
8 number?

9 COUNCILMAN KENNEY: 980749.
10 Is there anyone here to testify on this
11 bill, Councilmember? Could those interested
12 parties -- this is City Avenue.

13 COUNCILWOMAN CLARK: That's Michael's
14 Special Services Direct.

15 COUNCILMAN NUTTER: Mr. Chairman, I
16 think my chief staff has talked to John O'Connor
17 in your office. That bill has already been done.
18 That's one of those double-advertising.

19 COUNCILMAN KENNEY: Since it was
20 already done, is there anyone else here to testify
21 on this bill advertised for December 1st?

22 (No response.)

23 COUNCILMAN KENNEY: Seeing none, we
24 will move again.

25 Bill No. 980761, an ordinance amending

1 12/1/98 COMMITTEE ON RULES - Bill 980749
2 Section 14-1807 of The Philadelphia Code, entitled
3 "Appeals to the Courts," to provide for the
4 re-posting of the notice of a zoning hearing when
5 the Court of Common Pleas remands to the Zoning
6 Board of Adjustment for a full and complete
7 record.

8 MR. LOMBARDO: Good morning, Mr.
9 Chairman and members of the committee. My name is
10 Richard Lombardo, from the Planning Commission,
11 here testify on Bill No. 980761.

12 This bill amends the administrative
13 section of the zoning code deal with the Zoning
14 Board under the section of "Appeals to Courts" by
15 requiring that when a case is remanded back to the
16 Zoning Board for additional testimony by the
17 courts on the case of an appeal of a Zoning Board
18 decision, that the property be re-posted so as to
19 provide notice to the neighbors of the additional
20 testimony being taken before the Zoning Board of
21 adjustment.

22 Basically, the way the posting
23 requirements are is that any requirements for
24 public notice by the Zoning Board requires an
25 ordinance of City Council to require that public

1 12/1/98 COMMITTEE ON RULES - Bill 980761
2 notice. Since there is no requirement today for
3 expanded testimony on something that's already
4 been heard by the Board, if you're an interested
5 neighbor and from some reason you couldn't make
6 the first hearing and therefore didn't put notice
7 in, you would not be notified of the new hearing.
8 This would assure that everyone that lives near a
9 property would be renotified.

10 As a matter of policy, the Planning
11 Commission has always supported the concept of
12 adequate public notice in the posting of public
13 property, so we would support the enactment of
14 this bill.

15 COUNCILWOMAN CLARK: How high are the
16 posts that you put your notices on?

17 MR. LOMBARD0: That's an administrative
18 procedure.

19 COUNCILWOMAN CLARK: We just had a
20 criticism that it was a little tiny notice on a
21 low post that was inside a fence that said "No
22 Trespassing." So how much notice is that?

23 MR. LOMBARD0: Well, the Zoning Board
24 -- let me ask you this -- I don't know about --
25 that was a City Council posting. The Zoning Board

1 12/1/98 COMMITTEE ON RULES - Bill 980761
2 posting requires it to be posted at the street
3 frontage, at the sidewalk poster, and their poster
4 is a bright orange that you can see for blocks
5 away, but it has to be posted at the public
6 sidewalk for the Zoning Board.

7 I don't know what the posting
8 requirements of City Council are in terms of
9 public posting.

10 COUNCILWOMAN CLARK: Okay.

11 COUNCILMAN KENNEY: Thank you very
12 much.

13 Any other questions for these
14 witnesses? Councilman Nutter.

15 COUNCILMAN NUTTER: Thank you, Mr.
16 Chairman.

17 Just very briefly, I have had
18 conversations about this proposal prior to its
19 introduction with Common Pleas Court Judge Steven
20 Levin, who receives the appeals from any zoning
21 cases, which is the next level of appeal, as well
22 as the chair of the Zoning Board, chairman Tom
23 Kelly.

24 The reason this issue arises is when
25 people take their -- when the applicant or

1 12/1/98 COMMITTEE ON RULES - Bill 980761
2 protestants utilize their right to appeal the
3 action of the Zoning Board of Adjustment and the
4 case goes to Common Pleas Court, sometimes judge
5 will accepted the case back without retaining
6 jurisdiction so the case go back to the Zoning
7 Board the judge will send the case back without
8 retaining jurisdiction, and so the case goes back
9 to the Zoning Board. The judge, at that point,
10 considers the case to be a new case.

11 There is, though, as Mr. Lombardo said,
12 no posting requirement, and that process can take
13 some months. And, literally, property can be
14 bought and sold in the intervening time between
15 the first hearing, the appeal, and the remand.
16 And so new neighbors or current neighbors may not
17 know that there is a second hearing for this
18 particular application.

19 Judge Levin and Mr. Kelly, chair of the
20 Zoning Board, are both in agreement with this
21 particular bill, and that is the reason for it; it
22 is only to provide additional notice. There is no
23 additional payment for the new posting to be paid
24 by the applicant. They're not required to post
25 any additional dollars, only to put up the signs

1 12/1/98 COMMITTEE ON RULES - Bill 980761

2 and be in accord with the 12-day posting
3 requirement.

4 Thank you, Mr. Chairman.

5 COUNCILMAN KENNEY: Thank you very
6 much.

7 Is there anyone else to testify on this
8 bill?

9 (No response.)

10 COUNCILMAN KENNEY: Seeing none, we'll
11 now move to Bill No. 980779, which is an ordinance
12 amending Title 14 of The Philadelphia Code,
13 relating to "Zoning and Planning," by amending
14 Chapter 14-300, entitled "Commercial Districts,"
15 by amending Section 14-305, entitled "C-4"
16 Commercial and "C-5" Commercial Districts," and by
17 amending Chapter 14-1600, entitled
18 "Miscellaneous," by amending Section 14-1607,
19 Entitled "Special Controls for the Center City
20 Commercial Area," under certain terms and
21 conditions.

22 Please identify yourself for the
23 record.

24 Before you do that, the City Council
25 Committee on Licenses and Inspections scheduled to

1 12/1/98 COMMITTEE ON RULES - Bill 980779
2 meet at 11 will be meeting immediately following
3 the Rules Committee.

4 Please identify yourself and proceed.

5 MR. LOMBARDO: Rich Lombardo, from the
6 City Planning Commission, here to today to speak
7 on behalf of Bill 980779.

8 This bill really is a bit of
9 housecleaning. It comes about because, in the
10 planning for a new Performing Arts Center, one of
11 the streets, basically the street that used to
12 exist between the subject site and the
13 Philadelphia University of the Arts, which are
14 Delancey Street, was stricken a number of years
15 ago as part of site assemblage. Since that street
16 is no longer a City street, it would function and
17 will continue to function like a street.

18 When the Performing Arts Center is
19 built, this street -- we'll call it a "private
20 street," will still provide access for parking and
21 loading and servicing of the new Performing Arts
22 Center. But since it is not a -- since it was
23 stricken as a street, it has become a driveway.
24 It creates a zoning problem.

25 The Zoning Code in Center City does not

1 12/1/98 COMMITTEE ON RULES - Bill 980779
2 allow a curb cut from Broad Street, ingress or
3 egress from Broad Street, without a zoning
4 variance. There is no special exemption, there is
5 now way around it. A site that -- it can meet
6 zoning and every other category. It can be within
7 the height, the width, the frontage, the permitted
8 use, but because it has a curb cut to Broad
9 Street, it would require a zoning variance.

10 Obviously, that was done to encourage
11 continued introductions of left- and right-turns
12 off of Broad Street into various parking garages
13 and accesses. This, however, is a place where a
14 turn has always been permitted but until,
15 recently, there was a street there. The street
16 was just stricken as part of the site assemblage.

17 So what this bill do, it would exempt
18 this block from that prohibition on curb cuts.
19 And since its a publicly controlled block, and the
20 rest of the block is historically certified in the
21 University of the Arts, we know there will never
22 be more than one curb cut, and that curb cut will
23 go where Delancey Street used to be -- or
24 actually, where Delancey Street will still be,
25 though it won't be public street anymore. That's

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2 all the bill does.

3 For the record, I did talk to on the
4 phone with the representative -- I believe she's
5 the attorney, Judith Eden, calling on behalf of
6 that for Center City residents and just asked her
7 that's all this bill will do and I explained it to
8 her, and she said they had no problem with it.

9 COUNCILMAN KENNEY: Thank you very
10 much.

11 Any questions for this witness?

12 (No questions.)

13 COUNCILMAN KENNEY: Thank you.

14 Anyone else to testify on this bill?

15 MR. DEEGAN: Good morning, Mr.

16 Chairman.

17 COUNCILMAN KENNEY: Good morning.

18 MR. DEEGAN: My name is Paul Deegan,
19 D-E-E-G-A-N, and I represent PIDC and PAID. We
20 were instrumental in assembling the site for the
21 Regional Performing Arts Center.

22 We also -- we're the sponsor of the
23 bill to strike the street, thereby creating this
24 problem. And so we asked the Planning Commission
25 how to fix it, and this is the bill they

1 12/1/98 COMMITTEE ON RULES - Bill 980779
2 produced. And we respectfully request favorable
3 consideration and report it out at the next
4 session of Council, with a suspension of the
5 rules.

6 COUNCILMAN KENNEY: Thank you very much
7 for your testimony.

8 MR. DEEGAN: Thank you.

9 COUNCILMAN KENNEY: Any other witnesses
10 for this bill?

11 (No response.)

12 COUNCILMAN KENNEY: The next bill is
13 Bill No. 980781, an ordinance amending an
14 ordinance approved December 15, 1969, as amended,
15 which approved the Redevelopment Proposal, the
16 Urban Renewal Plan, and the Relocation Plan of the
17 Redevelopment Authority of the City of
18 Philadelphia for the redevelopment of the Model
19 Cities Urban Renewal Area by approving the 22nd
20 amendment of the Redevelopment Proposal and the
21 14th amendment to the Urban Renewal Plan, which
22 provide, inter alia, for certain additional land
23 acquisitions.

24 Redevelopment Authority.

25 (Noel Eisenstat comes forward.)

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2 COUNCILMAN KENNEY: Please identify
3 yourself for the record when you're prepared.

4 MR. EISENSTAT: Good morning. My name
5 is Noel Eisenstat, E-I-S-E-N-S-T-A-T. I am the
6 Executive Director of the City's Redevelopment
7 Authority. And as you've read, I'm here to give
8 comments on Bill No. 980781. This is a bill
9 authorizing an amendment to the Model Cities Urban
10 Renewal Area. This bill is actually the 22nd
11 amendment to the Redevelopment Proposal, and the
12 14th amendment to the Urban Renewal Plan.

13 The maps before you describe -- we are
14 basically here for two reasons today. One is to
15 acquire 38 parcels of land for the
16 African-American Development Corporation.
17 Unfortunately, their president Marwan Kreidie,
18 who's also a member of the City's Civil Service
19 Commission, is conducting business in his capacity
20 as a civil service commissioner and is unable to
21 be with us.

22 But let me explain that this is an area
23 that is adjacent to the Al-Aqsa Islamic Society,
24 and the Society is currently housing space for
25 worship and classroom and a specialty food store.

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2 The properties are to be developed into a parking
3 lot to provide approximately 83 parking spaces in
4 an area for 5 modular classrooms -- these are
5 actually double-unit classrooms.

6 The Arab-American Development
7 Corporation will lease the parcels from the
8 Islamic Society. Financing for this project is
9 being provided by the Arab-American Development
10 Corporation.

11 The other development in this urban
12 renewal taking are for two properties on behalf of
13 Community ventures and the Francisville Community
14 Organization. Mr. Steve Kauffman (ph) was here
15 earlier here today; he left just recently.

16 These two properties are for a senior
17 citizen rental development project located at
18 Edwin and Wylie Streets. The project will consist
19 of new construction of 24 affordable rental units
20 for seniors. The rest of the properties for this
21 project were previously acquired during urban
22 renewal taking approved on June 11, 1998, the same
23 calendar year. Funding is to be provided through
24 low-income housing tax credits in a combination of
25 Year 23 Community Development Block Grant Funds.

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2 If you have any questions about either
3 of these --

4 COUNCILMAN KENNEY: At the beginning of
5 your testimony, we think that you said --
6 Councilwoman Clark and myself -- "African-American
7 Development Corporation." Do you mean
8 "Arab-American Development Corporation?"

9 MR. EISENSTAT: I'm sorry -- it's
10 "Arab-American."

11 COUNCILMAN KENNEY: I'm we glad made
12 that change. Thank you.

13 Are there any questions for Mr.
14 Eisenstat?

15 (No questions.)

16 COUNCILMAN KENNEY: Is there anyone
17 else here to testify on this bill?

18 (No response.)

19 COUNCILMAN KENNEY: Thank you very
20 much.

21 Bill No. 980800 will be held at the
22 request of the sponsor, Councilman DiCicco.

23 The next bill is 980801, which is an
24 ordinance amending an ordinance approved August
25 15, 1969, as amended, which approved the amended

1 12/1/98 COMMITTEE ON RULES - 980781
2 Redevelopment Proposal, the amended Urban Renewal
3 Plan, and the amended Relocation Plan of the
4 Redevelopment Authority of the City of
5 Philadelphia for the redevelopment of Pennsport
6 Urban Renewal Area, by approving the 4th amendment
7 of the Redevelopment Proposal and the 3rd
8 amendment to the Urban Renewal Plan, and by
9 providing for certain changes, namely: certain
10 additional acquisition of a property for
11 rehabilitation with an institutional reuse;
12 certain land use changes from residential to
13 institutional/public; certain expressly designated
14 and provided-for imminence of condemnation; and
15 updating the property rehabilitation standards,
16 all as contained in the amended Redevelopment
17 Proposal and Urban Renewal Plan.

18 Please identify yourself for the
19 record.

20 MR. EISENSTAT: My name is Noel
21 Eisenstat. I am the Executive Director of the
22 City's Redevelopment Authority. I'm here to
23 provide comment on Bill No. 980801.

24 This is a revision to the Pennsport
25 Redevelopment Area. I would note that this is the

1 12/1/98 COMMITTEE ON RULES - Bill 980801
2 for the since the early 1970s that the Pennsport
3 Urban Renewal Area has had any activity.

4 The property that's actually in
5 question, that is the cause of this hearing, is
6 1600 South Second Street, which is adjacent to
7 1602 South Second Street, the Jokers New Year's
8 Day Association headquarters.

9 Councilman Kenney and I have spent
10 numerous other attempts to attempt to acquire this
11 property through other mechanisms, through buying
12 liens, other types of condemnation vehicles. And
13 ultimately, this is a property that needs to be
14 acquired through the urban renewal process, and
15 this will be used to expand their Mummers
16 Clubhouse. The property is a vacant three-story
17 mixed-use commercial property, and it's a
18 blighting influence along Second Street, in the
19 Pennsport community.

20 COUNCILMAN KENNEY: Okay. For the
21 record, I think it's important to make it clear
22 that I am a member of that New Year's association,
23 which is a nonprofit organization. There is no
24 financial interest whatsoever in the organization.

25 And the bill was introduced by

1 12/1/98 COMMITTEE ON RULES - Bill 980801
2 Councilman DiCicco at the request of the
3 organization and the surrounding neighbors, due to
4 the blighted nature of the building and the lack
5 of prospects that the owner, which is no longer
6 the owner, was going to do anything to fix it up.
7 As a matter of fact, there were pieces of bricks
8 that were falling out of the second floor and a
9 dangerous pavement that's resulted in a number of
10 lawsuits. And children and young adults were
11 entering the basement and using it as a kind of
12 hangout, drinking, drug-using activity.

13 So we're hoping that the acquisition by
14 the club will enable the club to rehabilitate it
15 into a useful purpose and less of a blight on the
16 neighborhood.

17 Are there any questions for Mr.
18 Eisenstat?

19 COUNCILWOMAN VERNA: You've made your
20 case.

21 COUNCILMAN KENNEY: Thank you.

22 MR. EISENSTAT: Thank you.

23 PRESIDENT STREET: Anyone else here to
24 testify on this bill?

25 (No response.)

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2 COUNCILMAN KENNEY: Seeing none, we
3 will now move to Resolution No. 980112. I think
4 there are four witnesses that have requested to
5 testify. If they could approach the witness table
6 now. This is a resolution.

7 Let me say for the record that this
8 resolution authorizing the Rules Committee to
9 conduct hearings examining the problems that
10 certified minority subcontracting firms experience
11 during the course of their employment on
12 City-funded projects; specifically, their attempts
13 to collect funds due from certain general
14 contractors.

15 Let me say for the record that this
16 resolution deserves and will get a more expanded
17 hearing. Because of the rush of the legislation
18 in the limited days left before our recess, we
19 thought it would be appropriate to allow these
20 individuals to come in to open the record. This
21 record will be extended and expanded at a
22 different time more appropriate to a full-blown
23 hearing on this resolution.

24 But we do thank you for taking time
25 from your work day today. We know you're trying

1 12/1/98 COMMITTEE ON RULES - Res. 980112
2 to -- considering the resolution, you're out there
3 trying to make a living, and we'd like to give you
4 the opportunity to testify on your concerns today,
5 and then we will recess the hearing to another
6 date and notify you again.

7 So please identify yourself for the
8 record. Thank you for waiting and proceed.

9 MR. CALLOWAY: Good morning.

10 COUNCILMAN KENNEY: Good morning.

11 MR. CALLOWAY: I'm Earl Calloway, and
12 I'm the owner of C.E. Franklin, Incorporated. I'm
13 a certified minority business enterprise with the
14 City of Philadelphia, and we subcontract for
15 plumbing, heating, and air-conditioning work from
16 general contractors. I've been in the business
17 since 1976.

18 All large contracts involving general
19 contractors withhold 10 percent retainage of the
20 total amount of the contract until it's complete.
21 This happens even if the general contractors are
22 only being charged 5 percent retainage themselves.
23 I have a continuing problem with ever collecting
24 this amount and even collecting the final bill.

25 Once we've finished the work for the

1 12/1/98 COMMITTEE ON RULES - Res. 980112
2 general contractors, the general contractors
3 habitually do not pay the balance for various --
4 you know, they use various excuses ranging from
5 missing paperwork to erroneous back-charges. They
6 make up the back-charges which consist of work
7 they claim to have done that we were supposed to
8 have done. They do not have to present any proof
9 of this work and often come up with this months
10 after the contract was committed.

11 The only current result I have is to
12 place mechanic liens on the property or sue the
13 general contractor. Both of these involve legal
14 fees, which are very costly.

15 Currently apply all of the retainage
16 for the Sarah Allen Project, Phase IV, which I
17 have completed in December of 1997. This amount
18 is \$58,000. I have been back-charged
19 approximately \$8,800 of this \$58,000, which
20 they're holding until I sign a final waiver. This
21 is a typical ploy by the GCs who can afford to
22 wait, to play the waiting game. So because we, as
23 subcontractors, have limited resources, we must
24 settle for smaller amounts.

25 This problem at Sarah Allen and with

1 12/1/98 COMMITTEE ON RULES - Res. 980112
2 the Sarah Allen contract is only one of the many
3 examples I could use to demonstrate the payment
4 difficulties I have had and continue to have.

5 I appreciate your interest in the
6 problem. We would like the City to become
7 involved in the process on City-funded jobs. When
8 GCs aren't paying their subs, we would like to see
9 the City step in and enforce payment to the
10 subcontractors. The subcontractors need someone
11 to go to when the authorities -- with the
12 authority to act so that we can get paid.

13 Thank you.

14 COUNCILMAN KENNEY: Councilwoman
15 Clark.

16 COUNCILWOMAN CLARK: Mr. Calloway,
17 thank you for your testimony.

18 COUNCILMAN KENNEY: Councilwoman, could
19 you pull that mike closer.

20 COUNCILWOMAN CLARK: Let me see if I
21 understand it. As a standard practice of doing
22 business, GCs, your own contractors, withhold up
23 to 10 percent of the total value of your
24 contract.

25 MR. CALLOWAY: That's correct.

1 12/1/98 COMMITTEE ON RULES - Res. 980112

2 COUNCILWOMAN CLARK: Excuse me?

3 MR. CALLOWAY: Yes, ma'am.

4 COUNCILWOMAN CLARK: And almost always
5 come up with some reason not to pay it over.

6 MR. CALLOWAY: Yes, ma'am.

7 COUNCILWOMAN CLARK: So it's a thinly
8 disguised way of stealing 10 percent of the money,
9 isn't it?

10 MR. CALLOWAY: Yes, ma'am.

11 COUNCILWOMAN CLARK: And if I were to
12 distill your comments, it would be that you need
13 the City to establish an oversight to make sure
14 that this illegal extortion of money is ended.
15 You need some entity in the City that has the
16 authority and the willingness to follow up on that
17 10 percent hold-back that almost never gets paid
18 over.

19 It's almost like security rent where
20 the landlord figures out some reason that, you
21 know, you either painted the place too dark or you
22 left holes in the wall, something's going to give
23 him a reason not to give you back your security
24 deposit. Is that the same kind of thing?

25 MR. CALLOWAY: That's exactly what

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2 happens to us constantly, and we have many people
3 here today that could testify to the same thing.

4 COUNCILWOMAN CLARK: Now, specifically,
5 you have 58,000 that is owed to you on a recent
6 project.

7 MR. CALLOWAY: Yes, ma'am.

8 COUNCILWOMAN CLARK: Have you any
9 reason to believe that you are going to get any of
10 it back? I know you say that 8,000 is "back-work"
11 or something, that they had to do that you were
12 supposed to do.

13 MR. CALLOWAY: That's correct. And at
14 this present moment, they are wait for me to sign
15 the releases so that they will pay me the 58,000,
16 less the 8,500.

17 COUNCILWOMAN CLARK: And in signing the
18 release, you agree in writing legally sufficient
19 to foreclose any other claim to the \$8,000.

20 MR. CALLOWAY: That's correct.

21 COUNCILWOMAN CLARK: Okay. So you, in
22 effect, in order to get the 50, which you
23 desperately need, are complicit in contributing
24 8,000.

25 MR. CALLOWAY: That's correct.

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2 COUNCILWOMAN CLARK: You hate that,
3 don't you?

4 MR. CALLOWAY: Yes, ma'am. When we
5 work basically on a 2 to 3 percent margin, when
6 we're operating out there, that \$8,000 basically
7 is all of my profit.

8 COUNCILWOMAN CLARK: Mr. Chairman, I
9 think that is a reprehensible practice.
10 Thank you for the clarity of your
11 testimony.

12 COUNCILMAN KENNEY: That's why we
13 decided to have this hearing and have an
14 additional hearing into the future, to discuss
15 this at length.

16 Councilwoman Verna.

17 COUNCILWOMAN VERNA: What is your
18 recourse at the present time if you're waiting
19 over a year to be paid?

20 MR. CALLOWAY: Basically, there is no
21 recourse, we have no recourse, and that's why
22 we're coming to Council today, to ask for your
23 support, to kind of step in and help us with our
24 problem. We have no recourse.

25 The only recourse that we have is,

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2 basically, like I stated earlier, is to basically
3 sue the general contractor, which is very costly,
4 or, you know, put a lien on the properties where
5 we've been working. That is also a costly and
6 drawn-out process.

7 COUNCILWOMAN VERNA: And the city never
8 gets involved?

9 MR. CALLOWAY: The City never gets
10 involved.

11 COUNCILMAN KENNEY: Miss Gibson, would
12 you like to give your testimony.

13 MS. GIBSON: Yes, I will, thank you
14 very much. My name is Grace Gibson. I am the
15 owner of Quality Heating and Sheet Metal. I'm an
16 HVAC company, which is heating, ventilating, and
17 air-conditioning. The company was incorporated in
18 1966. I purchased this company in 1983 and became
19 certified WDBE in January of 1995.

20 In 1991 and 1992, I connected connect
21 with a general contractor named Earnest Bach (ph)
22 & Sons and was awarded jobs on seven different
23 Projects for him. Those jobs ranged from jobs
24 outside the city to jobs inside the city. One of
25 the jobs was a City-funded project, 47th, 56th and

1 12/1/98 COMMITTEE ON RULES - Res. 980112
2 Chestnut Street, 74 apartments. Another was
3 Medical College of Pennsylvania and 2100 Pioneer
4 Road, Tom Bach's personal home.

5 All were completed 100 percent or 95
6 percent complete. Mr. Bach paid me the 15th of
7 the month until I approximately completed 60
8 percent of the job, and then the back-charges
9 started. He would state that we did not close and
10 lock doors and windows, we did not lock the gate,
11 we did not clean up. And his favorite was we were
12 not adhering to his schedule. Needless to say, we
13 were not the last ones to leave the job. It was
14 not our responsibility to lock his job; it was his
15 foreman's. We did, in fact, clean up. And as far
16 as the schedule, there never was one, either
17 written or verbal.

18 The total money owed to me at that time
19 from this one contractor was \$165,000. I sued Tom
20 Bach for \$30,000 and --.

21 COUNCILMAN KENNEY: Miss Gibson?

22 MS. GIBSON: Yes.

23 COUNCILWOMAN CLARK: Just one minute,
24 Miss Gibson. Of the \$165,000 owed, how much of it
25 is City projects? Recognizing that our

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2 responsibility is to City projects.

3 MS. GIBSON: It was over \$60,000.

4 COUNCILWOMAN CLARK: Greater than
5 60,000.

6 MS. GIBSON: Yes, ma'am.

7 COUNCILMAN KENNEY: Please proceed.

8 MS. GIBSON: On the one project, I was
9 owed \$30,000, which was a federal project, the
10 bulk mail postal service. I won but, another
11 stall tactic is to appeal, which only delays, and
12 we don't still get our money. I had to settle
13 with him for \$20,000; I lost \$10,000, which he
14 pocketed. The balance of \$135,000 was still
15 owing, and I had to file a lawsuit, which is very
16 costly to me.

17 During the time that I was working for
18 Tom Bach, I received threats and false statement
19 made by him in the form of verbally abusive
20 conversation. He sent me three or four faxed
21 letters per day and sent me certified mail two to
22 three times a day. This is each and every day.

23 Tom Bach would state in his letters
24 that I had to be at a job at a specific time, a
25 specific day, and if I was not there, I would be

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2 removed from the job and back-charged. If I did
3 not install equipment on a specific day, I would
4 be removed from the job, and I would be
5 back-charged. These sordid demands were meant to
6 terrorize me since the job was not ready for me to
7 comply with his demands, as he was well aware of.

8 I nonetheless sent men and equipment to
9 the jobs and lost precious time and money trying
10 to meet his demands. His conversations with me
11 went beyond business issues. He threatened to see
12 me homeless, on the street, and would never pay me
13 a dime. He threatened to punch my 70-year-old
14 father in the mouth the next time he saw him. Tom
15 Bach, at the time, was 32 years old.

16 My father tried to resolve these
17 problems. He did nothing but insult us, call us
18 liars in writing. I pleaded with Mr. Bach to at
19 least pay my subcontractors and my suppliers. He
20 did say in a letter, in writing, that he would,
21 but he never did.

22 My company installed Tom Bach's
23 personal home -- duct work in his personal home,
24 and I billed him for the work at that address. He
25 called me and told me in order to get paid, I had

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2 to send a new bill and bill it to a City-funded
3 project, and that was the only way I was going to
4 get paid. I did so out of fear of not getting
5 paid. I informed Tom Bach that it was not right
6 to do and his response, "You don't tell me who to
7 bill, I tell you."

8 During these years, we hand-delivered
9 invoices, there were miscellaneous times he said
10 he did not receive the invoice. His pay was
11 supposed to be 45 days from the date of the
12 invoice. According to rules on City-funded
13 projects, we're supposed to receive payment within
14 5 days after he receives payment. He also holds
15 10 percent of the money on all City projects, and
16 we never get it; and if we do, it's not all that
17 we all should get because they make up these
18 erroneous back-charges.

19 My husband -- and Tom Bach knew this --
20 is not well, he's physically handicapped, he has
21 multiple sclerosis for the last 11 years, and he
22 has a very bad heart and has had two major heart.
23 I am the sole support of my family, and if I have
24 these kinds of things that happen with general
25 contractors on City-funded projects, I'll be out

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2 of business.

3 The problem we face as MBE/WBEs is that
4 we have no contact directly to City agencies; we
5 can only deal with the general contractor or
6 builder. If we have a legitimate complaint,
7 problem, or we're not getting paid, we have no
8 recourse to correct these problems, no one to
9 contact.

10 We also do not, as MBEs, know which
11 general contractor's builders have a good track
12 record and are honest with dealing with their
13 subs. We take a gamble when we work for general
14 contractors do not know. There are at least 18
15 companies that I am aware of that have this
16 ongoing problem.

17 Any general contractor who abuses their
18 subcontractors to this degree should not be
19 allowed to continue to be awarded City-funded
20 work, but that is currently going on.

21 I respectfully request a solution to
22 our problems and I thank you for your time.

23 COUNCILMAN KENNEY: Thank you very
24 much.

25 Sir, would you please identify yourself

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2 for the record.

3 MR. ALI: I wear two hats. I'm Jihad
4 Ali, wearing the hat of a committee member of the
5 United Minority Enterprise Association, and I'm
6 going to give a statement on the resolution you
7 just --

8 COUNCILMAN LONGSTRETH: What was that
9 organization?

10 MR. ALI: Pardon me? I'm with the
11 United Minority Enterprise Association, which is a
12 trade organization.

13 COUNCILMAN KENNEY: Mr. Ali, could you
14 please pull the microphone closer.

15 MR. ALI: Chairman Kenney and members
16 of the committee, I appreciate the opportunity to
17 appear before you today to discuss this
18 committee's resolution authorizing public hearings
19 and examining the problems that certified minority
20 subcontracting firms experience during the course
21 of their employment on City-funded projects;
22 specifically, their attempts to collect funds due
23 from general contractors.

24 Mr. Chairman, to begin with, I would
25 like to just thank you for considering this

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2 resolution. When I think of the enormous workload
3 of all the members of City Council are under at
4 these final stages of the year, it is truly
5 exceptional for you and members of this committee
6 to still take the time out of a very active
7 schedule to consider the matters of the
8 disadvantaged.

9 My remarks will be very brief in light
10 of the work burden this Council is under.

11 Our organization, the United Minority
12 Enterprise Association, is a self-supported
13 building trades organization with a decade-longer
14 existence than any City agency that is involved in
15 the black, male, women, disadvantaged and disabled
16 field.

17 We have many members who are here to
18 testify at the planned hearings. Our members are
19 prepared to give anecdotal evidence of many
20 occasions when they were not paid, resulting in
21 some firms experiencing financial difficulty, and
22 in some instances, their firms ruined. It is a
23 necessity for this Council to investigate how
24 millions of dollars are being disbursed and who is
25 benefitting.

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2 Thank you, members of this committee
3 for initiating this and inquiring into this
4 problem.

5 I'd like to put my other hat on now as
6 one of the members of the subcontractor community
7 that was ruined on several City-funded projects.
8 I had a company a few years ago called Jawil (ph.)
9 Construction, and I didn't know Mr. Calloway was
10 going to be here today, but we also performed on
11 the Sarah Allen project. My company was a
12 carpentry subcontract company and was composed of
13 a group of young African-American men who were
14 very gifted in their field.

15 The Sarah Allen project that I'm
16 speaking of was the 80-unit old nursing home on
17 40th and Poplar Streets. And on that project, my
18 subcontract was -- I believe it was \$640,000. The
19 fact that the general contractor gave us a
20 contract without a bond indicates our level of
21 expertise and our experience. We completed that
22 job -- it was a 7-story building with 80 units.
23 We did the entire layout on our own.

24 From the initial day that we started
25 our work scope, the architects came over, checked

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2 our layout, and never came back. We completed all
3 80 units, we got down to the first floor, we had
4 yet to do our finish coat on our dry wall. We
5 were doing the drywall, the framing, all the
6 interior layout. We got down to the first floor,
7 and the contractor -- we were down to our last
8 60,000 to build. He owed us 50. There was
9 130,000 in change orders that he didn't want to
10 pay for, so he refused to pay us.

11 And at that time, we were also doing a
12 project with the Shriners Hospital. I did the
13 entire ninth floor of the Shriners Hospital with
14 another company called "Wyatt," but on that
15 project, we were second-tier, which is another
16 disadvantaged position for subcontractors to be
17 in.

18 The bottom line is that you get stole
19 from twice because you have work that's in place
20 that's complete and you also have that 10 percent.
21 So they're actually stealing. In this case with
22 the contractor on the Sarah Allen, we had 50,000
23 we were yet to bill for, they took that 50, and
24 then had our other 60,000 that was retainage for
25 what we had already completed.

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2 But there are solutions. The problems
3 that we have is that the City -- our forefathers
4 that preceded us already laid this out. And part
5 of the problem is today, we just don't have the
6 heads of certain departments taking a strong
7 stand. They're just denying their
8 responsibilities because most of the money that
9 we're benefitting from is federal money.

10 And most of that money, when the
11 projects are proposed to developers and
12 contractors, they're only by law entitled to
13 receive a certain percentage. So the way to
14 correct problem is to start having the Finance
15 Director or the other appropriate entities do an
16 audit because in those cases where we were
17 replaced or we weren't paid, somebody made that
18 profit, and it wasn't the builder.

19 By law, the builder's not supposed to
20 make that profit. That's just a little known
21 fact. If we could just get some enforcement of
22 the provisions, things would end overnight, and it
23 also would end up benefiting the welfare of our
24 community. Because those of us who are
25 disadvantaged from the inner neighborhood, we

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2 employ other disadvantaged people.

3 And when you employ youth, you end up
4 putting a dent in crime, and that's what it's all
5 about. All our whole will be better, but what
6 we're going is we're creating modern day titans,
7 and we're standing by while crimes are being
8 committed.

9 But I thank you all for taking the time
10 out of your busy schedule to look into this
11 matter.

12 COUNCILMAN KENNEY: Thank you very much
13 for coming in and for your testimony.

14 Councilmember Clark.

15 COUNCILWOMAN CLARK: Well, Mr. Ali, we
16 really don't have anything that's more important.
17 This is work. I appreciate your kind words, but
18 this is work, this is what you elected us to do,
19 this is what said we would do if you elected us.

20 MR. ALI: Yes.

21 COUNCILWOMAN CLARK: Let me ask you
22 about the Sarah Allen project. Is that a City-
23 funded project in any way?

24 MR. ALI: Yes, it was. It was funded
25 by the Redevelopment Authority, and they had

1 12/1/98 COMMITTEE ON RULES - Res. 980112
2 received HUD funds. Most of the multi-million
3 dollar contracts have some form of HUD money in
4 it. And HUD money, once that one dollar of HUD
5 money comes in, that's really our strongest
6 position because that really has a lot of
7 sanctions attached to that money.

8 There's a lot of rules and regulations
9 that the Council is aware of, like the mayor's
10 executive order, which is his executive order that
11 has no sanctions attached to it. When you put in
12 HUD money, you're triggering Section 3, which has
13 some very stiff sanctions in it.

14 COUNCILWOMAN CLARK: Federal.

15 MR. ALI: Federal, exactly.

16 And what we really need is just as I
17 said earlier, we just need stronger leadership in
18 these organizations to say they're not going to
19 tolerate it. Because just like that guy holds up
20 our money, if you hold up his money, it will put
21 an end to it.

22 COUNCILWOMAN CLARK: You say he ruined
23 you. Did the practice of back-charges and holding
24 on to some percentage of the money destroy
25 whatever profit you would have made on the job?

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2 MR. ALI: Well, with my firm, we really
3 -- by the grace of God, we're really gifted. I
4 never got back-charged for anything that we had
5 omitted or failed to do. Our problem was always,
6 if you pay me for one cup, I'm only going to give
7 you one cup, don't expect me to give you two.

8 COUNCILWOMAN CLARK: Right.

9 MR. ALI: So when they came up with
10 change orders, I wanted to be paid, and I would --
11 in the industry, you either have to issue
12 something, a document saying, Well, I'm going to
13 do this but it's in protest and you're going to
14 pay me for this later. Well later, they wouldn't
15 want to pay. They tell you, Well, I didn't get
16 paid, or, I signed a no-change-order contract.
17 But somebody had to get paid because sometimes
18 there are clearly admissions from the documents.
19 If it's not on the document, it's a change order,
20 and that's really the way to look at it plainly,
21 and the problem was they wouldn't pay us.

22 And then some people -- you get into
23 this -- into people and their personality and what
24 they perceive how you should act. I would be at a
25 meeting and they would be with some other

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2 disadvantaged contractors and put their arm around
3 them and say, Well, you should be a contractor
4 like this. You're too arrogant, you know, you
5 stand up too much.

6 This one contractor we're speaking of,
7 I wrote a letter to the Congressman because it was
8 federally-funded project and I asked him to look
9 into it. When I went up to the office, he pulled
10 me out, he was ranting and raving. He said, I do
11 \$80 million a year in business with HUD, and
12 you're threatening to have me disbarred. So they
13 released my funds at that time, but that was just
14 preceding the rest of the issue.

15 And what normally happens is -- it's
16 just really just outright theft. Because if
17 you're a competent contractor, other guys don't go
18 through this, and there is -- sometimes it's
19 unpleasant to talk about black and white, but
20 sometimes, with the African-American firms, it's
21 harder because you really have a legitimate
22 problem on the change order, and they just don't
23 want to pay you, it's just that blatant.

24 Whereas, I've done joint ventures with
25 other majority firms, and we never have a problem

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2 over nothing. We just say, We'll do it, and then
3 we get paid at the end. Nothing's ever held up,
4 money is smooth, everything like that

5 So it's a host of problems, but there
6 are solutions.

7 COUNCILWOMAN CLARK: Thank you.

8 COUNCILMAN KENNEY: Thank you very much
9 for coming in and testifying.

10 Is there anyone. Is MBEC -- is there
11 anyone from the City? No, okay.

12 COUNCILWOMAN CLARK: Does OHCD follow
13 its dollars?

14 COUNCILMAN KENNEY: As I said, so you
15 know what will happen, we will have, after the 1st
16 of the year, we will have another hearing that's
17 more and more expansive than this. And, again,
18 thank you for waiting till the end and giving your
19 testimony. Thank you very much.

20 That will conclude the business of the
21 Rules Committee public hearing.

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1 12/1/98 COMMITTEE ON RULES - Public Hearing

2 COUNCILMAN KENNEY: We will now convene
3 a public meeting.

4 The Chair recognizes Councilwoman Verna
5 for a motion on Bill No. 980657. All of these
6 will be requesting a rules suspension.

7 COUNCILWOMAN VERNA: Mr. Chairman, I
8 move that Bill No. 980657 be reported out of
9 committee with a favorable recommendation; also a
10 recommendation that the rules of Council be
11 suspended so as to permit first reading at our
12 next session of Council.

13 (Duly seconded.)

14 COUNCILMAN KENNEY: Moved and seconded.

15 All in favor, aye?

16 Let the record reflect that Councilman
17 Longstreth had to leave room but has requested to
18 be voting aye on all bills.

19 There are none opposed on Bill No.
20 980657. This bill will be reported out of the
21 committee favorably, and a request will be made
22 for a rules suspension to allow for first reading
23 at our next session of Council.

24 The Chair recognizes Councilmember
25 Verna for a motion on Bill No.980718.

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2 COUNCILWOMAN VERNA: Thank you, Mr.
3 Chairman. I move that Bill No. 980718 be reported
4 out of committee with a favorable recommendation;
5 also a recommendation that the rules of Council be
6 suspended so as to permit first reading at our
7 next session of Council.

8 (Duly seconded.)

9 COUNCILMAN KENNEY: Moved and seconded.
10 All in favor, aye?

11 There are none opposed. Bill No.
12 980718 will be reported out of this committee
13 favorably, and a request will be made for a rules
14 suspension to allow for first reading at our next
15 Council session.

16 The Chair recognizes Councilmember
17 Verna for a motion on Bill No.980748.

18 COUNCILWOMAN VERNA: Thank you, Mr.
19 Chairman. I move that Bill No. 980748 be reported
20 out of committee with a favorable recommendation;
21 also a recommendation that the rules of Council be
22 suspended so as to permit first reading at our
23 next session of Council.

24 (Duly seconded.)

25 COUNCILMAN KENNEY: Moved and seconded.

1 12/1/98 COMMITTEE ON RULES - Public Hearing

2 All in favor, aye?

3 There are none opposed. Bill No.

4 980748 will be reported out of this committee
5 favorably, and a request will be made for a rules
6 suspension to allow for first reading at our next
7 Council session.

8 Bill No. 980749 and 980750 were
9 previously reported out of this committee on
10 November 17th and have received first reading and
11 will be finally voted on this Thursday, so no
12 action needs to be taken by this committee.

13 The Chair recognizes Councilmember
14 Cohen for a motion on Bill No.980761, with a rules
15 suspension.

16 COUNCILMAN COHEN: Mr. Chairman, I move
17 that Bill No. 980761 be reported out with a
18 favorable recommendation, and with a request for a
19 suspension of the rules of Council permit first
20 reading at our next session of Council.

21 (Duly seconded.)

22 COUNCILMAN KENNEY: Moved and seconded.

23 All in favor, aye?

24 There are none opposed. Bill No.

25 980761 will be reported out of this committee

1 12/1/98 COMMITTEE ON RULES - Public Hearing
2 favorably, and a request will be made for a rules
3 suspension to allow for first reading at our next
4 Council session.

5 The Chair recognizes Councilmember
6 Cohen for a motion on Bill No. 980779.

7 COUNCILMAN COHEN: Mr. Chairman, I move
8 that Bill No. 980779 be reported out with a
9 favorable recommendation and a request for a rules
10 suspension to permit first reading at the next
11 Council session.

12 (Duly seconded.)

13 COUNCILMAN KENNEY: Moved and seconded.

14 All in favor?

15 There are none opposed.

16 Bill No. 980779 is reported out of this
17 committee with a favorable recommendation, and a
18 request will be made for a rules suspension to
19 allow for first reading at our next Council
20 session.

21 Bill No. 980780 will be held at the
22 request of the sponsor.

23 The Chair recognizes Councilmember
24 Clark for a motion on Bill No. 980781.

25 COUNCILWOMAN VERNA: Mr. Chairman, I

1 12/1/98 COMMITTEE ON RULES - Public Hearing
2 move that Bill No. 980781 be reported out of
3 committee with a favorable recommendation, and
4 that the rules of Council be suspended so as to
5 permit consideration at our next stated meeting.

6 (Duly seconded.)

7 COUNCILMAN KENNEY: Moved and seconded.

8 All in favor, aye?

9 There are none opposed. Bill No.
10 980781 will be reported out of this committee
11 favorably, and a request will be made for a rules
12 suspension to allow for first reading at our next
13 Council session.

14 Bill No. 980800 will be held at the
15 request of the sponsor.

16 The Chair recognizes Councilmember
17 Clark for a motion on Bill No.980801.

18 COUNCILWOMAN VERNA: Mr. Chair, I move
19 that Bill No. 980801 be reported out of committee
20 with a favorable recommendation, and that the
21 rules of Council be suspended so as to permit
22 first reading at our next stated meeting.

23 (Duly seconded.)

24 COUNCILMAN KENNEY: Moved and seconded.

25 All in favor, aye?

1 12/1/98 COMMITTEE ON RULES - Public Hearing

2 There are none opposed. Bill No.
3 980801 will be reported out of this committee
4 favorably, and a request will be made for a rules
5 suspension to allow for first reading at our next
6 Council session.

7 That concludes the business of the
8 Rules Committee. We thank you for your
9 attendance. Let the record reflect that the
10 hearing on Resolution No. 980112 will be recessed
11 to a date certain, and the appropriate parties
12 will be notified, at the call of the Chair.

13 That concludes the business of the
14 Rules Committee. Thank you for your attendance.

15 (Adjourned at 11:45 a.m.)

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RE: COUNCIL COMMITTEE ON RULES

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JOSEPHINE CARDILLO,

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Registered Professional Reporter

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