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COUNCIL OF THE CITY OF PHILADELPHIA

3

PUBLIC HEARING

4

BEFORE THE COMMITTEE OF THE WHOLE

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Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, April 15, 1998
8:45 a.m.

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10 BILL NO. 980022 - An ordinance amending Section
11 9-206 of Philadelphia Code entitled,
12 "Sidewalk Vendors in the Neighborhood
13 Business District" by designating University
14 City as a neighborhood business district in
15 which sidewalk vending is regulated pursuant
to Section 9-206 and enacting special
provisions regulating vending, both sidewalk
vendors and street vendors, in University
City, all under terms and conditions.

16 PRESENT: PRESIDENT JOHN F. STREET, Chairman
17 COUNCILMAN DAVID COHEN
18 COUNCILWOMAN JANNIE BLACKWELL
19 COUNCILMAN JAMES F. KENNEY
20 COUNCILWOMAN ANNA C. VERNA
COUNCILWOMAN DONNA REED MILLER
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN FRANK DICICCO
COUNCILMAN FRANK RIZZO

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Department of Licenses and Inspections

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University of Pennsylvania

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Director, Parking Management
Philadelphia Parking Authority

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1 RECESSED HEARING, COMMITTEE OF THE WHOLE, BILL 980022

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

3 PRESIDENT STREET: Good morning, ladies
4 and gentlemen. This is a recessed hearing of the
5 Council Committee of the Whole. Today we will
6 take further testimony on Bill No. 980022, which
7 is an ordinance amending Section 9-206 of
8 Philadelphia Code entitled, "Sidewalk Vendors in
9 the Neighborhood Business District" by designating
10 University City as a neighborhood business
11 district in which sidewalk vending is regulated
12 pursuant to Section 9-206 and enacting special
13 provisions regulating vending, both sidewalk
14 vendors and street vendors, in University City,
15 all under terms and conditions.

16 We appreciate very much the cooperation
17 of our good City folks, Commissioner Egan. This
18 record should note that you and your staff were
19 here yesterday and you were very patient with us.
20 And at our request, you delayed the presentation
21 of your testimony until this morning. And you
22 know how much we appreciate your good work and
23 your testimony in this matter.

24 So, if you will, I would appreciate
25 very much if you would identify yourself for the

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2 record and proceed with your statement. And I
3 would like to make sure that all Members of
4 Council present have a copy of Commissioner Egan's
5 statement.

6 If there is a Councilmember who does
7 not have that statement, would you please raise
8 your hand. Seeing no hands raised, I can only
9 assume -- does everyone in the balcony have the
10 statement? Okay.

11 (Commissioner Frances Egan comes
12 forward.)

13 PRESIDENT STREET: Good morning,
14 Commissioner. Please proceed with your statement.

15 COMMISSIONER EGAN: Good morning,
16 President Street. I am Frances Egan, Commissioner
17 of the Department of Licenses and Inspections.

18 President Street, Councilmembers, I
19 appreciate the opportunity to testify on the
20 provisions of Bill 980022, creating an additional
21 neighborhood vending district in University City.

22 The first thing I'd like to do is
23 complement Councilwoman Jannie Blackwell for
24 involving our department in the development and
25 writing of this bill. From my observation point,

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2 she did a very good job of including all
3 interested parties in the formulation of this
4 ordinance.

5 The Department supports the inclusion
6 of the University City area in the neighborhood
7 vending district program. These districts were
8 created to address the unique concerns and
9 problems which arose as vending activities spread
10 into business districts throughout the City.

11 This program has been implemented
12 successfully in Germantown. Vending activity has
13 been regularized, complaints have dropped
14 significantly, a safer environment has been
15 created for both vendors and pedestrians, and
16 businesses and vendors seem to complement each
17 other's activities.

18 If this program is extended to the
19 University City area, vendors, their customers,
20 and the University should enjoy those same
21 benefits that have accrued to the Germantown
22 community:

23 Vendors will not have a secure location
24 assigned by the Department. Streetscape clutter
25 that now exists will be replaced by an orderly,

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2 improved placement of vendors, the University
3 community will benefit from the safe placement of
4 vendors, and vending activity will complement
5 University operations.

6 We do have two concerns with the
7 proposed ordinance. The proposed legislation will
8 create a Vendor Advisory Board with administrative
9 responsibilities and duties. We request that all
10 references to the University City Vendor Advisory
11 Board be deleted.

12 The Philadelphia Home Rule Charter
13 provides that the executive and administrative
14 powers of the City are vested in and exercised by
15 the Mayor. And, therefore, only the Mayor can
16 create additional advisory boards.

17 The ordinance also gives the vendor
18 boards certain administrative functions. We
19 believe this violates the City Charter, as these
20 functions can only be performed by this agency,
21 and not by an advisory board.

22 We also request that subsection
23 9-206(10)(b)(.2)(J) be deleted. This section lets
24 vendors sell their vending spot on the public way
25 to another vendor. The City opposes this

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2 franchising of the public way; and vendors lack
3 property rights on the public streets and
4 sidewalks and cannot sell interest they do not
5 own.

6 So, given those two changes in the
7 current ordinance, otherwise, we do fully support
8 the bill as it would make our job easier in
9 enforcing the vending laws in Philadelphia.

10 I'd be happy to answer any questions
11 you may have.

12 PRESIDENT STREET: Thank you
13 Commissioner.

14 Now, I -- the Vending Advisory Board,
15 you are aware of the fact that, as written, the
16 Vendor Advisory Board is just that, advisory.
17 It's only advisory to the City L&I Department, and
18 it's advisory to the University.

19 And it doesn't have any -- at least my
20 understanding that it doesn't have any power to do
21 anything other than to make a recommendation,
22 which your Department can accept or reject.

23 COMMISSIONER EGAN: Well, that's what
24 -- but our preference would be that it would not
25 be a part of a bill passed by this Council.

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2 You know, in other words, an advisory
3 board can still be created, just not a part of
4 this ordinance.

5 (John Campbell comes forward.)

6 MR. CAMPBELL: Councilman -- Mr.
7 President, John Campbell from Licenses and
8 Inspections. When we originally set up the
9 neighborhood vending districts, we did put a
10 Section 11 in, consultation with neighborhood
11 organizations.

12 And that was put in there anticipating
13 moving this throughout the City and going into
14 various districts where, you know, you could end
15 up with a proliferation of vendor advisory boards.
16 We put in Section 11 originally to deal with that
17 subject.

18 And what the section says is that in
19 implementing and enforcing provisions of this
20 section, the Department shall consult with any
21 organization representing businesses, vendors,
22 merchants, residents within that particular
23 neighborhood district.

24 That's exactly what we did at
25 Germantown and Cheltenham. We worked with all the

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2 business organization, the business organizations,
3 a number of community organizations, and the
4 vendors themselves, and in placing. You know, we
5 thought that would really deal with the situation
6 that, you know. . .

7 PRESIDENT STREET: I'm looking for -- I
8 see Section 10, Designated Neighborhood Districts.

9 MR. CAMPBELL: At the bottom of page
10 18, Mr. President, you'll see it at the very
11 bottom.

12 PRESIDENT STREET: Oh, okay, I see it.
13 So it's your fundamental view that that section,
14 that if a vendor advisory board was set up
15 independent of the ordinance, that section would
16 fundamentally require that you take into account
17 recommendations that were made by that board,
18 okay.

19 COMMISSIONER EAGAN: Yes.

20 PRESIDENT STREET: We'll take that --
21 the Committee will take that view under
22 advisement.

23 Now, you talked to us a little bit
24 about your other reservation, and that's the
25 reservation, I believe, that relates to the

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2 selling of their vendor locations.

3 COMMISSIONER EGAN: Well, again, what I
4 stated in my testimony is that the vendors don't
5 have the property right to sell that spot. It's
6 not theirs to sell; they don't own it. So we
7 would probably --

8 PRESIDENT STREET: Excuse me a second.

9 COMMISSIONER EGAN: I'm sorry.

10 (Brief interruption.)

11 COMMISSIONER EGAN: There have been
12 recent court decisions that back that up. And
13 what we do in the Center City District or in the
14 Germantown area, when spots become available,
15 people can make application for them, and we have
16 a lottery system too.

17 PRESIDENT STREET: I would like to --
18 what page is (10)(b)(.2)(J) on?

19 MR. CAMPBELL: That's also page 18, Mr.
20 President, about mid-page.

21 PRESIDENT STREET: Is this provision in
22 any of the other ordinances applicable to special
23 vending districts? Neighborhood, business --

24 MR. CAMPBELL: I'm sorry. Is this
25 provision in any other -- no, it is not, Mr.

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2 President. In fact, over -- and I think you
3 talked about the long history of vending
4 yesterday.

5 This has been a constant point of
6 discussion. And in any portion of the vending
7 bill, 9-203, 9-205, which deal with sidewalk sales
8 vending, the Center City District, we specifically
9 say that licenses are non-transferrable,
10 non-assignable.

11 Again, this is a temporary situation;
12 it's not a permanent situation. And for people to
13 trade or sell spots, again, on a public way, gives
14 it something that it really isn't. It's more like
15 -- and I don't want to use the term -- I think
16 that there is a legal term, sort of like
17 squatters, I guess, or people along that line, the
18 tenants of sufferance. And. . .

19 PRESIDENT STREET: You're fumbling
20 around for a word, and I think we know what you're
21 trying to say.

22 Does the Law Department have a view on
23 this provision, do you know?

24 MR. CAMPBELL: I've had a number of
25 discussions with Mr. Auerbach. There is no formal

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2 written public opinion that I'm aware of on this
3 particular situation.

4 PRESIDENT STREET: Are you aware of
5 whether or not the Law Department has a view in
6 this provision?

7 MR. CAMPBELL: No, I am not.

8 PRESIDENT STREET: All right, we'll
9 find out, I can find out. It's not a problem.

10 Okay, are those the main two
11 objections, Commissioner?

12 COMMISSIONER EGAN: Yes.

13 PRESIDENT STREET: Let me ask you about
14 one other problem, and I may need some advice
15 but. . .

16 This ordinance, as proposed, includes
17 an effective date of April 30th of 1998. Could
18 you comment on the propriety of having an
19 effective date so early?

20 COMMISSIONER EGAN: Of April '98? That
21 would be a tough thing to implement.

22 PRESIDENT STREET: What do you think --
23 and maybe -- and I need the University to pay
24 careful attention to this testimony. And if you
25 have a view on it, I'm going to need you to make

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2 sure that you tell us.

3 Assuming that some form of this bill is
4 approved by City Council, what is the earliest
5 reasonable date that you think --

6 COMMISSIONER EGAN: We would need about
7 three months. We can get that in three months to
8 implement fully.

9 PRESIDENT STREET: About three months
10 -- April, May. . .

11 So you don't think you would be
12 prepared to be able to fully implement this until
13 the end of July?

14 COMMISSIONER EGAN: That's right. You
15 know, in other words, from date of the passage,
16 three months from date of passage.

17 PRESIDENT STREET: I need a
18 representative of the University.

19 COMMISSIONER EGAN: It may be, Mr.
20 President, that with the school being out of
21 session in the summer, we could do something for
22 like, you know, September 1st, or something like
23 that.

24 (Carol Scheman comes forward.)

25 MS. SCHEMAN: The question is, when

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2 does the University believes it would be
3 reasonable to have -- I'm sorry.

4 PRESIDENT STREET: That's not the
5 question.

6 MS. SCHEMAN: The question is --

7 PRESIDENT STREET: The question is, how
8 long will it take the Department of Licenses and
9 Inspections, working in conjunction with the
10 University, in order for them to be able implement
11 the bill? They couldn't do it in one day; in
12 addition to which, it would be unfair --

13 MS. SCHEMAN: Absolutely.

14 PRESIDENT STREET: -- to just say,
15 Tomorrow you gotta go.

16 MS. SCHEMAN: I would -- the day that
17 Commissioner Egan mentioned strikes me as very
18 reasonable.

19 PRESIDENT STREET: 90 days from the
20 date of passage.

21 MS. SCHEMAN: Yes, July 31st.

22 PRESIDENT STREET: Okay. The Chair
23 recognizes Councilman Cohen.

24 COUNCILMAN COHEN: With respect to the
25 issue we were discussing, you're saying that there

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2 shouldn't be any item even like good will?

3 A vendor stays in a spot at the
4 University of Pennsylvania, from the discussions I
5 heard yesterday. Any concept of it being
6 temporary is not realistic.

7 They apparently feel that vending will
8 always in some form be necessary. They don't see
9 any way, from the testimony as I understood it, of
10 having no vendors. They have no facilities for
11 providing for food for all of the people out there
12 without some sort of vending facility.

13 So it's more than -- and I'm sure the
14 same thing exists at Temple. From every
15 appearance I have there, I don't know where they'd
16 ever be, you know, able to provide without
17 vending.

18 Now, it seems to me a business person
19 who invests time and energy and makes a place
20 attractive, worries about good food and so forth,
21 and builds up a reputation, you're saying that
22 because it's in a public spot, the element of good
23 will should be eliminated entirely, that there's
24 no way of anybody building up any value?

25 COMMISSIONER EGAN: Well, what we're

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2 saying is that vendor does not have a right to
3 sell his spot to another vendor.

4 COUNCILMAN COHEN: Does he have the
5 right to sell his business to another vendor?

6 COMMISSIONER EGAN: I'm sure he has a
7 right to do that.

8 COUNCILMAN COHEN: Well, I have
9 concerns. I heard what the President said about
10 communicating with the Law Department. I think
11 that would be a very wise thing to do.

12 I'm concerned about saying that --

13 PRESIDENT STREET: Councilman Cohen,
14 unfortunately, I have some experience in this
15 area.

16 COUNCILMAN COHEN: Why unfortunately?

17 PRESIDENT STREET: Well, I say
18 "unfortunately" because I have had the occasions
19 to deal with people, as a lawyer, who wanted to
20 sell spots and who ran into all kind of -- there
21 was never a day in my life when I believed that I
22 would ever be able to do anything other than use
23 vending as a way of making a living on a daily
24 basis.

25 I mean, I just always understood that

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2 it was just -- it would just be problematic. I
3 was never, ever thinking about depending on it in
4 this way.

5 I think, in this bill, we're taking
6 about three different kinds of locations. We're
7 talking about locations on the University campus,
8 private locations, locations where people will
9 actually have a lease, and that they will have a
10 stand, the University will authorize their being
11 there, and I don't know how elaborate those
12 locations will be. That's one thing, because the
13 University can do pretty much what it wants to do
14 within reason with those private locations.

15 And, of course, if I'm over there,
16 right, I'm trying to get on a private location
17 because now you've got something that you can hold
18 on to.

19 Then there are those locations that are
20 on the street itself. They park at really
21 literally parking meters, which is another whole
22 issue about taking up the parking and the revenue
23 that the City loses, and all of that. But they'll
24 be on the street, and they'll move on a regular
25 basis, daily basis.

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2 And then there are those people who
3 will be on the sidewalk.

4 Well, part of what this bill
5 contemplates is is that those spots will be --
6 people will be given a license to vend, right, in
7 a blockface, on a blockface for -- on a kind of
8 seniority basis.

9 And the reason why I raise these legal
10 questions is 'cause this thing is -- these
11 ordinances are crafted in such a way so that when
12 you take a look at, you know, the traffic lights,
13 the stop signs, the furniture, and all the things
14 that are going on in the block, a certain number
15 of spots are available.

16 We are -- we are actually authorizing
17 somebody to conduct this economic activity on
18 someone's private property. Now, when we go --
19 that's one thing.

20 Now, when we go a step further and say,
21 You now have a right not only to conduct the
22 activity, but if you decide to get out of that
23 business, you can take that business and you can
24 sell it to somebody else, and then the Department
25 has to authorize another person to do business on

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2 this private part.

3 Now, the problem with some of that is
4 that there are people over -- there are prime
5 spots. And I don't always -- when we first got
6 into this business, I always believed that the
7 people who were vending in Center City, when we
8 were doing the Center City District, and the
9 people were vending in the University of
10 Pennsylvania, those areas, ought to be able to
11 move to the spots that are best, on a seniority
12 basis.

13 So let's just hypothetically say that
14 here that there are 100 vendors over there and
15 there are 100 spots. And if you rank the spots
16 from 1 to 100 -- and the vendors know the best
17 spots -- that those people who were there longer
18 and who couldn't qualify for the best spots, ought
19 to be able to move up and get better spots when
20 other people move out; as opposed to letting a
21 person, who today has a spot, sell it to somebody
22 else, because they are doing this in a public way.

23 So that if and I were both at the
24 University of Pennsylvania, and I had 20 years of
25 seniority and you had 15, right, and this is being

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2 done, authorized by the City, and the private
3 property agrees with it.

4 Now, when I leave, I think you ought to
5 be able to have a right of first refusal to my
6 better spot; not somebody else coming from the
7 outside. I mean, that's just a preference of
8 mine.

9 So that once these vendors get ranked,
10 the ones that are there --'cause you got to draw a
11 line on the number of people who are vending in
12 these areas. At some point in time, you draw a
13 line.

14 Part of the reason why we're here is
15 because when we made changes in vending in other
16 areas, people flock to the University of
17 Pennsylvania, they run to Temple, they run to
18 these areas.

19 So if we are going to authorize these
20 spots on the basis of seniority, it would be my
21 preference that we not allow people to sell their
22 spots, but that we establish a pecking order, an
23 order of seniority. And then once one person
24 moves out, other people get a chance to move up.

25 I mean I think that, in my judgment,

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2 that is a fairer way to do this than allowing me,
3 in some respects, just by the luck of a draw to,
4 you know, kind of 'cause I was over there, now I
5 get a right to bring somebody in who never had
6 anything to do with any of this. You know, he
7 just happens to be somebody who could afford to
8 come up with the \$20,000 or the \$25,000.

9 And I guess that I feel that way
10 because I care more about those people who are
11 long-term vendors in an area than I do about
12 somebody who happens to be able to get some money
13 together and then maybe will be able to put
14 himself in the vending business.

15 And I also think that it raises
16 additional legal questions insofar as what we're
17 doing when we go so far as to say, And you now
18 generate -- because what we are doing is giving
19 somebody what is tantamount to a property interest
20 in that spot.

21 And I don't really want to do that. I
22 can tell you, I don't want to do that. Will I go
23 along with that? I don't know, I guess I could.

24 COUNCILMAN COHEN: May I raise an
25 issue? It may sound strange coming from me, but I

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2 hate to see economic value destroyed. It seems to
3 me a vendor builds up a certain value,
4 particularly if he performs in a quality way.

5 I could understand the City having a
6 policy saying that if there is a sale and there is
7 a certain amount of money, the City should have 50
8 percent interest 'cause the City has also
9 contributed to the buildup of the vendor's
10 business by providing this public area.

11 But just to eliminate, as if it didn't
12 exist, the reputation for, say, good food, quick
13 access, quality service, to just eliminate that as
14 if it didn't occur, it seems to me to be
15 destroying something of economic value. It's
16 economic value. You know, if you were in a store,
17 it would clearly be economic value if he built up
18 a business intended to attract people.

19 So, you know, I'm also seeing it as a
20 source of revenue for the City, and I would just
21 suggest that that may be another way of the City
22 gaining some revenue from these services in
23 addition to the annual vendor's fees. I just hate
24 to see this regarded as being regarded as no use
25 whatever.

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2 I think it also acts as a stimulus to
3 reaching quality service; you know, sort of
4 rewarding the vendors who do good work over many
5 years. And so I suggest that, you know, for
6 thinking as a means of not vesting any special
7 permanent right in the vendor, but in recognizing
8 the economic value of what good service really
9 builds up to.

10 PRESIDENT STREET: I understand that.

11 COUNCILMAN COHEN: They could have an
12 agreement to share 50 percent. The City would get
13 an additional revenue, and we would recognize
14 economic value. I'm not arguing --

15 PRESIDENT STREET: Councilman Cohen, I
16 think you've just made a bad idea worse.

17 COUNCILMAN COHEN: Okay, tell me, tell
18 me.

19 PRESIDENT STREET: Now, you can tell
20 that here's a man -- here are people who have been
21 working together for a long time, right? You have
22 just made a bad idea worse.

23 Now we are going to -- now we are going
24 to get further in it, instead of getting further
25 out of it. 'Cause that's now -- that's now some

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2 kind of new form of taxation, which I'm not sure
3 we even have the authority to do.

4 How can we tax -- how can we tax the
5 proceeds of this sale? What basis do we have to
6 say that we are entitled to -- we could -- we
7 could -- we could generate money in limited ways.
8 One, we can impose fees; two, we can impose taxes,
9 right? Fees and taxes. Some people characterize
10 our fees as taxes.

11 I don't know what else -- I don't know
12 how else we generate money.

13 COUNCILMAN COHEN: Well, that would fit
14 in. I don't see any problem at all in that
15 because we're taxing public space.

16 PRESIDENT STREET: But what tax is it,
17 though? I mean, you're not talking about for the
18 use of the public space; that's a tax on the
19 transaction.

20 If we just tried to capture a certain
21 amount of the money that is transferred pursuant
22 to this sale or lease or whatever it is, right,
23 and that is -- that's got to be a form of
24 taxation. And I don't know if I want the
25 authority we have to tax. And I'm fairly

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2 familiar, as you are, with most of the basic taxes
3 that we impose, .

4 'Cause they're already subject to all
5 the business taxes, they're already subject to all
6 the fees because there are a whole long list of
7 taxes and fees that they have to -- that they are
8 subject to filing and/or paying, right?

9 And I don't know how we reach that
10 transaction, I don't know.

11 COUNCILMAN COHEN: I don't see any
12 problem if the policy is general, providing that
13 when a business is terminated, the vendor may go
14 out of business, but if he chooses to sell, that
15 portion of the value attributable of good will
16 shall be shared between the vendor going out of
17 business and the City government.

18 PRESIDENT STREET: Well, that's a very
19 interesting comment, Councilman, but we can't --
20 that's not the way we generate revenue. The
21 difference shall be shared between us.

22 I mean, we really do have to have a
23 little bit more authority than that. All of our
24 taxing authority comes from the Commonwealth of
25 Pennsylvania, either in some special legislation

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2 as the authorization that we have, the State
3 authorization that we have to pose a tax on the
4 retail sale of liquor.

5 Or it's got to be a general grant of
6 taxation that we got under the first class
7 enabling legislation as further adopted by us in
8 the Philadelphia Home Rule Charter.

9 We don't have any other way of raising
10 revenue other than that and imposing fees that are
11 based on our cost of providing regulatory and
12 supervisory activity.

13 I mean, for example, if we decide --
14 and Councilman Kenney has, as the Council
15 Committee Chairman on Licenses and Inspections.
16 And we are doing more regulating of activity today
17 than we did before because of the way situations
18 have changed.

19 There are times when the Administration
20 comes in and says, We're raising all the fees
21 because it's costing us more money to regulate
22 this activity.

23 I -- I just have a reservation about
24 going that far. And, look, I'm a big supporter of
25 sidewalk sales and vending and all of that, and I

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2 think we will always vend in this city, always.

3 I don't think -- one of the concerns
4 that I had about the testimony is I think that
5 some of those spots might not be viable spots, I
6 really do. I think some of them might be very
7 viable.

8 I can remember a day -- and you all
9 will pardon me. I can remember a day when my
10 brother introduced kosher hot dogs on the campus
11 of Temple. A kosher hot dog was never sold. And
12 we used to go over to 29th and Fletcher Street, at
13 Sandler's, and we bought kosher hot dogs, and we
14 would get anywhere from four to six in a pound.

15 Those hot dogs -- you'd boil those hot
16 dogs, and they would be -- we would have lines --
17 we'd have 50 people standing in line. You know
18 why? They wanted to get 'em. And then, of
19 course, everybody got them. And part of this is
20 marketing. I'm telling you, part of this is
21 marketing.

22 And I understand the reservations. And
23 I think if you move some these people, it's going
24 to be a little inconvenient. Some people will
25 have to do a better job of marketing.

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2 But you know what? If you are a person
3 -- if you are a person who wants a certain kind
4 of ethnic food, and that vendor, instead of being
5 on Walnut Street, you find out he's two blocks
6 away. And you life falafels (ph), or whatever it
7 is, you know what you'll do? You'll find a way.

8 And I'll tell you something, I'm
9 impressed by the fact that -- I mean there are
10 these vendors who are -- I mean they're dispersed,
11 but they really are on the campus. I mean,
12 they're on the -- they're all about the campus,
13 and people will find them. That's a part of what
14 it is. That's a part of running a business.

15 I get real nervous, though, when I --
16 see, I'm nervous about our telling people, You can
17 vend on a particular spot. 'Cause I think you now
18 raise -- nobody is going to tell anybody, You can
19 vend on the sidewalk in front of Councilman
20 Cohen's house. You're not going to do it.
21 They're going to be gone, and you and I know
22 they're going to be gone.

23 We do this in business areas and
24 University areas as a compromise for service to
25 the University, service to the students. We do it

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2 in vending in Center City and where there are
3 crowds, and all because it's a service.

4 We do not do it in neighborhoods. What
5 we do in neighborhoods is we pass bills. The list
6 of areas where there is no vending in this City is
7 ten times as long today as it was when I first
8 came to this Council.

9 We probably have two or three or four
10 bills right now. You know why? Because we're
11 doing two things with vending in the City at the
12 same time, we're doing two things. One, we're
13 eliminating it; and, two, we're regulating it in a
14 way that meets the needs and the interests of
15 property owners who are saying, Wait a minute,
16 we're going too far here. And that's what we're
17 doing.

18 You don't ever see any bills
19 eliminating vending from in general from
20 University areas -- Temple, Penn, Drexel, Center
21 City, you know, Germantown and Cheltenham, because we
22 permit it in business areas.

23 But, I'm telling you, we are going
24 through a transition in this area, and there are
25 some people who don't want any of it. And,

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2 fundamentally, what we are doing is respecting
3 those interests. That's what we're doing.

4 That's why what is proposed here,
5 although there is an element about it that is
6 draconian in the sense that it is going to make a
7 difference, a significant difference.

8 On the other hand, there will be
9 vending at Penn, and there will be serious vending
10 at Penn. And there will both be private vending
11 on private property, and there will be vending in
12 the public way, both on the sidewalk and in the
13 streets.

14 But I get real nervous about saying,
15 And in addition to all of that, you get to sell
16 those spots. I tell you, I get real nervous.

17 The Chair recognizes Councilwoman
18 Verna.

19 COUNCILWOMAN VERNA: Thank you, Mr.
20 President.

21 Since we don't have a written form for
22 the proposed amendments, I would ask that Mr.
23 Campbell go through the bill with us, I guess,
24 starting from page 12 as to what he's suggesting.

25 PRESIDENT STREET: Councilwoman, we can

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2 do that. I would rather not have them do that

3 now.

4 MR. CAMPBELL: I can submit it.

5 COUNCILWOMAN VERNA: Well --

6 PRESIDENT STREET: Yeah. Can we do

7 that?

8 COUNCILWOMAN VERNA: Will you submit

9 that in writing?

10 PRESIDENT STREET: I don't want to go

11 through all that on this record.

12 COUNCILWOMAN VERNA: Well, I think it's

13 just deleting the bottom of page 12, and I think

14 it's very simple. It's page 13?

15 MR. CAMPBELL: Actually, definition on

16 page 2, and then -- but I can mark up the bill and

17 present it to the Chair.

18 PRESIDENT STREET: Would you?

19 COUNCILWOMAN VERNA: Fine.

20 We hear about revenues. I would

21 certainly hope that with the regulation, it would

22 make it a lot easier for L&I to really ascertain

23 if the vendors have the proper licenses.

24 It's my understanding that presently at

25 this location, there are approximately 90 vendors,

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2 and we don't even know if they all have the
3 necessary permits because they're not there every
4 day.

5 I also am told that on Monday,
6 approximately at 4 o'clock, there were still six
7 vehicles that were in the vicinity that we're
8 referring to. Of the six vehicles, four had New
9 Jersey auto tags. I would hate to think that
10 people from New Jersey are coming here, doing
11 their business, and not paying the necessary fees
12 that are required.

13 So, hopefully, with this regulation
14 everybody will pay?

15 COMMISSIONER EGAN: Yes, Councilwoman,
16 that would be correct. And it is easier to
17 enforce that way.

18 COUNCILWOMAN VERNA: And that will give
19 you a better handle on it --

20 COMMISSIONER EAGAN: Exactly.

21 COUNCILWOMAN VERNA: -- as to who has
22 paid and who has not?

23 COMMISSIONER EGAN: Yes, absolutely.

24 COUNCILWOMAN VERNA: Thank you.

25 PRESIDENT STREET: Thank you very much.

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2 The Chair recognizes Councilman Kenney.

3 COUNCILMAN KENNEY: Thank you, Mr.
4 President.

5 Just one quick comment on the issue of
6 the ability to sell or not sell spots. It's my
7 view that as a vendor, you own the business, which
8 is a legitimate form of commerce, but it's cheaper
9 than buying and running a store.

10 You don't have to pay real estate
11 taxes, you don't have the upkeep of the building,
12 you don't have the other ancillary costs
13 associated what a store owner in corner store or
14 in a shopping strip mall or somewhere else, who
15 owns bricks and mortar, or leases bricks and
16 mortar has.

17 And however legitimate vending may be,
18 there's no way in the world I could conceivably
19 make the jump to selling the City sidewalk. I
20 mean, you are there, you an intrusion. You may be
21 an attractive intrusion, people may enjoy your
22 presence there, but you intrude on the sidewalk,
23 on the public space, and you use the public right
24 of way to make money.

25 And that's fine because you pay taxes

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2 too, but it does not mean then that you can make
3 the transaction into selling a portion of the
4 sidewalk as if it were real property; it's not
5 your real property. And I could never see making
6 that jump.

7 The question I have is -- and I
8 apologize that yesterday I had to be out of the
9 town -- of the 92, I guess, vendors involved or 95
10 vendors involved, have we ever been able to
11 determine the residence of those vendors?

12 I mean, I hear from some people at Penn
13 that it's as little as 15 to 20 of them that are
14 City residents. I hear from L&I the possibility
15 that 25 to 30 percent are out-of-townners. Is
16 there any way that we can determine what the
17 residence of these vendors are? And I'll tell
18 you why.

19 If I take a lunch truck and pull it up
20 to the curb at Bucks County Community College, I
21 will be towed from that location. If I take a
22 vending stand or a lunch truck and drive over to
23 Rowan University and park by the curb and start
24 selling hot dogs, they will move me within a half
25 an hour.

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2 I have a problem with all of this
3 rigmarole and debate and discussion and problem if
4 we're talking about 15 to 20 City residents out of
5 92. From my perspective, I don't care if they go
6 away altogether. Because they're coming into this
7 city, in a place where they're allowed to come,
8 where they wouldn't be allowed to be if they were
9 doing it in the neighborhood or community they
10 lived in.

11 And, I tell you, we could do this as a
12 test case. Councilman Cohen and I could go get a
13 hurdy-gurdy truck and drive over to Rowan and park
14 by the curb, and we'll count how long we're there
15 before the police in Glassboro are there to move
16 us out of that spot.

17 Now, part of the problem -- and I've
18 said this before about this city -- is that we
19 allow things in this city that no other
20 surrounding community allows. So, therefore, we
21 become the magnet for all things that no one else
22 in the region allows.

23 And, from my perspective, if only 15 or
24 20 of the 92 vendors are City residents and the
25 rest of them are not, as far as I'm concerned,

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2 they can end vending altogether.

3 PRESIDENT STREET: Councilman, I
4 received a phone call today that one person owns
5 five stands on Walnut Street and that this same
6 person has a business in one of the local malls in
7 New Jersey, actually has a business, but also has
8 these five stands over on Walnut Street -- owns
9 five of them and has them kind of under different
10 names and stuff.

11 And I believe Miss Scheman testified
12 yesterday that she had some reason now to believe
13 that some group of these stands are under, you
14 know, some common ownership.

15 And I agree with you; it is a little
16 bit of a problem.

17 COUNCILMAN KENNEY: But the issue for
18 me is, I think vending should be disallowed. I
19 think vending's a legitimate retail enterprise.

20 But my argument is, why do we go stand
21 on our heads and do handstands on an issue that we
22 have to debate in this body, that has to do with
23 people that don't even live here.

24 I mean, you know, they go home to their
25 nice cul-de-sac in Washington Township, with their

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2 vending cart every day. They're not vending in
3 the cul-de-sac in Washington Township, I can
4 guarantee you, because they won't allow it.

5 Now, when I drive through the
6 University of Pennsylvania, I understand how the
7 students and some of the people who are advocates
8 of this continuing activity feel because of the
9 convenience and the price and all the other stuff,
10 but I think it looks terrible. I think those
11 trucks lined up and down those streets look
12 terrible.

13 And we have an ability, a right, I
14 think, as a government, to keep that esthetic --
15 or to improve that esthetic situation and bring
16 some order to this location. We do it in
17 Germantown and, as the Council President said, in
18 South Philly, in business strips in Center City.

19 So why is this particular area a
20 free-for-all? Why should it be a free-for-all?
21 No other neighborhood in the City's a
22 free-for-all.

23 And, more importantly, no other
24 community around the City, outside the City
25 limits, is a free-for-all at all because more

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2 times than not, you're not allowed to do it at
3 all. So if you can't do it in your neighborhood,
4 you drive your truck in here to make money in the
5 City.

6 I don't mind them doing that, but what
7 I mind is that they're telling me you can do it
8 any way you want and part it anywhere you want and
9 be there anywhere you want and not pick up the
10 trash if you don't want to and go back home to the
11 suburbs.

12 Now, if someone can tell me my initial
13 question, which is, how many of these vendors are
14 City residents? And it will certainly color and
15 shade my view on how I'm going to vote on this
16 bill.

17 COMMISSIONER EGAN: We don't know how
18 many of the vendors at Penn are City residents.
19 We would just estimate, based on like the
20 percentage in Center City, that it would probably
21 be about the same, but that's just a guess.

22 COUNCILMAN KENNEY: What is it?

23 COMMISSIONER EGAN: And that's about
24 20, 25 percent. But, I mean, we could get that
25 information and provide it to Council.

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2 COUNCILMAN KENNEY: All I want is the
3 same standard of behavior and acceptability of
4 behavior that they have in the suburbs; I want the
5 same standard here in the City. I don't want to
6 be any different, okay?

7 Thank you, Mr. President.

8 PRESIDENT STREET: Thank you very much.

9 I have contacted the City Law
10 Department and will have information on the legal
11 questions that have been raised here probably by
12 sometime later in today, later in this day.

13 Is there anyone that has anything else
14 for the representatives of the Department of
15 Licenses and Inspections?

16 (No response.)

17 PRESIDENT STREET: Thank you very much,
18 Commissioner. We appreciate it.

19 COMMISSIONER EGAN: Thank you very
20 much.

21 PRESIDENT STREET: If we need you,
22 we'll holler.

23 COMMISSIONER EGAN: Okay.

24 PRESIDENT STREET: You have always been
25 available to us and we appreciate it.

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2 - - -

3 PRESIDENT STREET: Is there anyone here
4 from the Parking Authority?

5 (Parking Authority representative come
6 forward.)

7 PRESIDENT STREET: Would you please
8 identify yourself for the record.

9 MR. DICKSON: Good morning. My name is
10 Richard Dickson. I'm the Director of Parking
11 Management for the Philadelphia Parking
12 Authority.

13 First I want to apologize for Rina
14 Cutler, the Executive Director, who had hoped to
15 testify on this bill. She had a previously
16 scheduled meeting at the airport and is unable to
17 be here today.

18 I'll briefly summarize two issues that
19 the Parking Authority has concerning this
20 legislation.

21 The first is that we believe that the
22 boundaries set in this do not adequately address
23 all of the vendor needs in University City;
24 although I do understand Councilwoman Blackwell
25 has begun discussions with Drexel and some of the

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2 other interests in the area and may be presenting
3 legislation later that would address those
4 concerns. So I would just say that for the
5 record, but it does not really affect our opinion
6 on the bill.

7 The major issue that we believe needs
8 to be addressed is that we believe that it is
9 appropriate that spaces be designated on the
10 streets for vendors. As it currently operates,
11 vendors need to feed meters all day long in order
12 to be legal, and they often play cat-and-mouse
13 games with enforcement officers.

14 We believe that a preferable operating
15 standard would be that they would pay to the
16 Authority \$2,750 a year for each metered space,
17 and we would remove the meter, and they would not
18 have to worry about feeding meter all day.

19 They would have a designated space from
20 which to operate their business, and the City get
21 the appropriate amount of revenue that would
22 normally be generated from that meter.

23 I understand from discussions yesterday
24 that Mr. Goldstein, who represents the Vendors
25 Association, believes that this is an acceptable

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2 proposal to them. And I also believe that the
3 University would agree with this as well.

4 PRESIDENT STREET: Where did you get
5 the \$2,750-figure from?

6 MR. DICKSON: Based on -- if the meters
7 were filled all day for all of the operations for
8 which they are -- they should be enforced, the
9 total revenue about \$3600.

10 We recognize that that is not the case
11 all the time, that they are not there for the full
12 amount of time.

13 PRESIDENT STREET: I need you to carry
14 me through, if you can, the calculation. If you
15 have 10 hours a day, 6 days a week, how many --

16 MR. DICKSON: It's \$12 a day, \$1 an
17 hour, 6 days a week.

18 PRESIDENT STREET: Okay.

19 MR. DICKSON: That comes to 52 weeks a
20 year, and it's \$3,600 a year.

21 PRESIDENT STREET: Okay. Can you give
22 me just a minute?

23 MR. DICKSON: Sure.

24 (Brief interruption.)

25 PRESIDENT STREET: And so that's \$1

1 RECESSED HEARING, COMMITTEE OF THE WHOLE, BILL 980022
2 hour, 12 hours a day, 6 days a week?

3 MR. DICKSON: Right.

4 PRESIDENT STREET: I think the bill
5 contemplates -- the bill contemplates that they
6 would be able to vend more than 12 hours a day.
7 Isn't it from 6 o'clock in the morning till
8 midnight?

9 UNIDENTIFIED SPEAKER: Till 10.

10 PRESIDENT STREET: Oh, 6 to 10?

11 MR. DICKSON: That's correct, but the
12 meters are currently only in operation from 8 to
13 8, so we were only basing it upon the current
14 amount of meter revenue that's generated.

15 PRESIDENT STREET: I thought I heard
16 you say that it corresponds with the hours that
17 they were vending. That's why I was --

18 MR. DICKSON: No, the hours of meter
19 vending.

20 PRESIDENT STREET: Okay. That's
21 different.

22 MR. DICKSON: This is also the same
23 amount that is in place for the vending area at
24 Drexel University on 32nd Street.

25 PRESIDENT STREET: Do they actually pay

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2 it in this way?

3 MR. DICKSON: They pay \$3,000 a year,
4 which includes the \$250-vendor license fee. In
5 this section of the bill, we've attempted to
6 separate that out so that everybody's clear about
7 who's paying what for what service.

8 PRESIDENT STREET: So let me get this
9 straight. Currently, in an area of West
10 Philadelphia, around Drexel, there are people who
11 are paying \$3,000 a year to the Parking Authority
12 for the right to be in a spot that would otherwise
13 be a metered spot, to conduct street vending
14 activity?

15 MR. DICKSON: That's correct.

16 PRESIDENT STREET: Okay. And how do
17 you -- how do you collect the money? Do you just
18 collect it in an annual payment, is it a monthly
19 payment? I mean, how --

20 MR. DICKSON: The Department of
21 Licenses and Inspections actually collects the
22 money.

23 PRESIDENT STREET: All right, Mr.
24 Campbell, tell us how you collect this cash.
25 Maybe we need to see if we can find 10,000 vendors

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2 at \$3,000 apiece.

3 MR. CAMPBELL: Quite simply, Mr.
4 President, we bill the vendors. When we
5 established this in 1995, we set up the \$3,000
6 fee, the vendors have paid it. And every year, we
7 bill them a renewal fee of \$3,000, and they send
8 us checks.

9 PRESIDENT STREET: Why are they sending
10 the checks to L&I?

11 MR. CAMPBELL: We made it part of 9-203
12 for simplicity of collection. You know, the
13 easiest thing -- one bill, one agency. And we
14 keep it in --

15 PRESIDENT STREET: We passed a bill to
16 that effect?

17 MR. CAMPBELL: Yes, sir.

18 PRESIDENT STREET: When did we do that?

19 MR. CAMPBELL: In 1994. We amended
20 Section 9-203 dealing with vendors.

21 PRESIDENT STREET: I forgot about
22 that.

23 Let me get this straight. We passed a
24 bill in this Council that authorizes the
25 Department of Licenses and Inspections to collect

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2 a \$3,000 fee from a street business or a person
3 operating a conveyance on the public sidewalk, in
4 a spot that would be otherwise metered?

5 We authorized you to collect that
6 money? I see the representative of the Parking
7 Authority shaking his head "no."

8 MR. DICKSON: Not on the public -- only
9 on the street, not sidewalk vendors.

10 PRESIDENT STREET: I didn't say
11 "sidewalk," on the street.

12 MR. CAMPBELL: On the street, that's
13 correct.

14 PRESIDENT STREET: I said "street." We
15 don't allow motor vehicles to vend on the
16 sidewalk, and we certainly wouldn't charge them
17 for parking there.

18 And the Parking Authority knows about
19 this?

20 MR. DICKSON: We do.

21 PRESIDENT STREET: And where does the
22 -- does that money go into the City's General
23 Fund?

24 MR. DICKSON: Yes, sir.

25 PRESIDENT STREET: That's good.

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2 MR. DICKSON: We actually believe that
3 the money should probably go to the Parking
4 Authority, but that's something for the Finance
5 Director to work out.

6 PRESIDENT STREET: How many such spots
7 are there?

8 MR. CAMPBELL: Ten, Mr. President, on
9 the unit block of 32nd Street.

10 PRESIDENT STREET: So you took out the
11 meters?

12 MR. DICKSON: We took out the meters.

13 PRESIDENT STREET: You took out the
14 meters, and you put -- you posted signs.

15 MR. DICKSON: That's correct.

16 PRESIDENT STREET: And each vendor has
17 a spot.

18 MR. DICKSON: That's correct.

19 PRESIDENT STREET: And there are ten of
20 them?

21 MR. DICKSON: There are ten of them.

22 PRESIDENT STREET: All right. Okay,
23 okay.

24 So, now, if we were to do that for the
25 locations in this district from the street, the

1 RECESSED HEARING, COMMITTEE OF THE WHOLE, BILL 980022
2 street locations where people would be using
3 trucks, could we just do an amendment to this bill
4 that would reference 9-203?

5 MR. DICKSON: Yes, Mr. President. In a
6 letter addressed to you the other day, Rina Cutler
7 submitted a proposed amendment to the legislation.
8 I have copies of that.

9 PRESIDENT STREET: All right. Can I
10 get a copy of that? It might be in this pile of
11 stuff.

12 COUNCILWOMAN BLACKWELL: Mr. President.

13 PRESIDENT STREET: The Chair recognizes
14 Blackwell.

15 COUNCILWOMAN BLACKWELL: Thank you.

16 While they are bringing that amendment
17 up to you, let me request -- not from Mr. Dickson,
18 but certainly from Miss Cutler. We're going into
19 the third year on this.

20 And if the Parking Authority -- they're
21 a branch of the City, they're a part of us. If
22 they have ideas on legislation, it would be nice
23 if they would work with us. I mean, not to
24 contact us. . .

25 You know, I saw Miss Cutler yesterday,

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2 and she said, Didn't you get a copy of my fax the
3 night before? I haven't looked at anything since
4 we've been dealing with this in the last day.

5 And so it would be great if City
6 departments could work together. If they try to
7 work with us and contact us, then we wouldn't be
8 here now talking about a possible amendment.
9 Certainly, we in the City have no interest in
10 trying to take any money away that we would
11 normally get.

12 When it came to -- when Bennett Levin
13 was the L&I Commissioner, we went out, as was
14 referred to in the hearings, to an area near
15 Drexel, where we set up such a system, and there
16 was no problem. The problem only exists where one
17 agency of the City decides that they're going to
18 operate in a vacuum and not deal with us, which
19 could create problems for us.

20 I'm certainly in favor of us doing
21 whatever makes it easy. We have no interest in
22 taking any money away from the Parking Authority.

23 But, certainly, I think it's unfair for
24 them to come at the last minute and say, Let's do
25 all of these changes for them. It's just not fair

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2 and doesn't work in the spirit of cooperation.

3 It's taken us too long to get here, and
4 the Parking Authority has been in it as they chose
5 to from the beginning and have not seen a need to
6 work with us.

7 Thank you.

8 PRESIDENT STREET: Thank you very much.

9 The Chair recognizes Councilman
10 DiCicco.

11 COUNCILMAN DICICCO: Thank you, Mr.
12 President. You've already asked most of the
13 questions I was interested in concerning the
14 hours. Thank you.

15 PRESIDENT STREET: Thank you.

16 Does anyone else have any questions
17 from the Parking Authority representative?

18 (No further questions.)

19 PRESIDENT STREET: Thank you, sir.

20 MR. DICKSON: Thank you.

21 PRESIDENT STREET: Is there anyone else
22 in the room who wishes to testify on the bill?

23 (No response.)

24 PRESIDENT STREET: If not, this
25 Committee will stand in recess until 9 o'clock

1 RECESSED HEARING, COMMITTEE OF THE WHOLE, BILL 980022
2 tomorrow morning, at which the time we will have
3 prepared a set of amendments that take into
4 account the testimony that has been given.

5 Thank you very much.

6 (Adjourned at 9:42 a.m.)

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RE: COUNCIL COMMITTEE OF THE WHOLE

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BILL NO. 980022

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JOSEPHINE CARDILLO, RPR