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COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC HEARING

COMMITTEE ON RULES

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Room 696, City Hall  
Philadelphia, Pennsylvania  
Wednesday, October 29, 2003  
2:10 p.m.

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BILL 030395, BILL 030488, BILL 030564, BILL 030565,  
BILL 030566, BILL 030628, BILL 030644, BILL 030645,  
BILL 030657, BILL 030658

PRESENT:

COUNCILMAN JAMES KENNEY, Chair  
COUNCILWOMAN JANNIE BLACKWELL  
COUNCILMAN DARRELL CLARKE  
COUNCILMAN FRANK DICICCO  
COUNCILMAN BRIAN O'NEILL  
COUNCILMAN ANGEL ORTIZ  
COUNCILMAN MICHAEL NUTTER  
COUNCILMAN RICHARD MARIANO  
COUNCILMAN FRANK RIZZO  
COUNCIL PRESIDENT ANNA C. VERNA

- - - -

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2                   COUNCILMAN KENNEY: Good afternoon,  
3 ladies and gentlemen. Can we have your attention  
4 please? Council Committee on Rules is now in  
5 session. This is a large group of people here  
6 today, so any conversations that need to be had  
7 could please be had in the hallway. It would be  
8 much easier for us and for the stenographer. A  
9 quorum is present: Councilmembers Rizzo, O'Neill,  
10 Council President Verna, Councilman Kenney and  
11 Councilman Nutter.

12                   The first bill for consideration today  
13 is Bill No. 030645, which is an ordinance amending  
14 Title 14 of the Philadelphia Code relating to  
15 "Zoning and Planning" by amending Chapter 14-1600  
16 entitled miscellaneous by adding a new section  
17 14-1628 entitled "Zoning and Construction Permits  
18 for Retail Stores," all under certain terms and  
19 conditions.

20                   Is there anyone from the Administration  
21 here to testify on this bill?

22                   MR. CHAPMAN: Good afternoon, Mr.  
23 Chairman and Members of the Committee. For the City  
24 Planning Commission, my name is Thomas Chapman. I  
25 don't have testimony on this bill this afternoon

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2 because this bill just happened to fall into a time  
3 period of where it was introduced in between  
4 Planning Commissions meetings so we haven't  
5 considered it formally.

6 COUNCILMAN KENNEY: So the Planning  
7 Commission has no official position on it today?

8 MR. CHAPMAN: I don't have a position to  
9 report to you at this point.

10 COUNCILMAN KENNEY: Thank you.

11 Mr. Wendell Young and Mr. Pat Iding,  
12 would you please go to the table together?

13 Whoever would like to start first, please  
14 identify yourself for the record and proceed with  
15 your young.

16 MR. YOUNG: I'm Wendell Young, President  
17 of the United Food and Commercial Workers, Local  
18 1776, and my son Wendell, IV, is going to do the  
19 testifying.

20 COUNCILMAN KENNEY: Please. Take the  
21 table

22 MR. YOUNG: I apologize. We had a little  
23 caucus. That happens once in a while.

24 COUNCILMAN KENNEY: No problem. Please  
25 identify yourself, please.

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2                   MR. YOUNG: My name is Wendell Young, IV.  
3 I'm a representative with United Food and Commercial  
4 Workers, Local 1776. I want to thank you today for  
5 allowing me to appear before you to discuss Bill No.  
6 030645. This is important legislation that will  
7 limit the so-called big box retailers in  
8 Philadelphia City Limits. Although many of the  
9 examples I will give in this testimony may relate to  
10 Wal-Mart, that should not be taken as meaning that  
11 this legislation is targeted towards that company.  
12 However, they are the largest employer in the nation  
13 as well as in Pennsylvania. They are the largest  
14 force and super center development and have the  
15 greatest impact on community development because of  
16 their size; and therefore, they are the most watched  
17 and studied. Other companies also build big box  
18 super centers, and my comments reflect on the sector  
19 as a whole, not just Wal-Mart.

20                  Across the country, 90,000 UFCW are  
21 locked out and on strike. In California alone  
22 70,000 workers are in picket lines. The companies,  
23 the union, and independent industry analysts all  
24 agree that the biggest reason for this labor unrest  
25 is Wal-Mart and their plans to begin opening super

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2       centers in California. Just like in the  
3       Philadelphia region, there are not many super  
4       centers in California, but the plans are already in  
5       motion.

6                   This legislation does not limit a stores  
7       ability to open in the City, but does put some  
8       limits on general size what sort of goods can be  
9       sold in certain types of store. It says that no  
10      store that sells food shall be larger 180,000 square  
11      feet and that no store larger than 90,000 square  
12      feet can have more than 10 percent of its sales  
13      space in total sales volume dedicated nontaxable  
14      food items and other related items.

15                  This proposed law also requires studies  
16      about the economic impact of such a store, including  
17      the effect on an area's existing workforce and  
18      taxes. This is important information for zoning  
19      officers to have when deciding on allowing such  
20      retail development. This is not to say that UFCW  
21      Local 1776 is in any way against retail development.  
22      We are against the kind of development that trades  
23      good jobs for bad ones, and we're for the kind of  
24      development that will bring in jobs that pay a  
25      living wage, provide adequately for healthcare

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2     insurance and other benefit needs of their employees  
3     and generally assist in the development of a  
4     community, not tear it down.

5                   A June 2003 American Demographic Study  
6     included in the handouts of what's known as pull  
7     factors in Maine showed very clearly that there is  
8     no added sales draw if a big box store opens. The  
9     pull factor is calculated by dividing the per capita  
10    income from a region by the average per capita  
11    retail sales. There was a marked decline in pull  
12    factor in 70 percent of the communities that open  
13    Wal-Marts. In short, any Wal-Mart or other super  
14    center does not create business, it only steals from  
15    existing retailers.

16                  We witnessed the same negative pull  
17    factor when Carrefour opened its super center in  
18    Northeast Philadelphia in 1988, Carrefour's weekly  
19    business of 600,000 to \$1 million resulted in five  
20    neighborhood supermarkets closing in the first year  
21    alone, followed by several more supermarkets closing  
22    during their five years of operation. What did the  
23    City have to show for it? As soon as the City's tax  
24    abatements were exhausted, Carrefour closed its  
25    doors, putting the lesser paid replacement workers

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2       out of a job as well.

3                   The first super center experience in  
4       Philadelphia is when Carrefour killed Philly twice:  
5       First, by destroying the grocery stores in the  
6       neighborhoods and their good jobs, including  
7       managers, administrators, and office workers; then  
8       by closing down and killing off the lower wage  
9       replacement jobs.

10                  The growing power of super centers is  
11       shown by one frightening statistic: 82 percent of  
12       families made at least one purchase out of Wal-Mart  
13       last year in this country. Why is that dangerous  
14       when any one company has such a long, powerful  
15       reach, it can and does set trends for the entire  
16       business community. In an October 6th story in  
17       Business Week, they said at Wal-Mart everyday low  
18       prices is more than just a slogan; it's a  
19       fundamental tenet of a culture masquerading as a  
20       company. The article looked into many aspects of  
21       their business culture and found several disturbing  
22       trends. I've put a copy of this article in the  
23       information passed out to you. Wages at super  
24       centers are well below others in the retail  
25       industry. A study by the United Food and Commercial



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2     Workers International Union as well other  
3     independent studies by other analysts found that  
4     they paid 30 percent less than other retail outlets.  
5     This may not sound too bad, but it means that the  
6     average Wal-Mart associate earns \$13,861 per year.  
7     The federal poverty line is 14,631. In contrast,  
8     local companies here, Acme, Super Fresh, and Shop  
9     Rite pay more per year for employee benefits than  
10    Wal-mart and other super centers pay for a year's  
11    worth of wages for their own employees.

12                Paying below the poverty rate translate  
13    into extra cost for taxpayers. Wal-Mart associates  
14    are largely unable to afford the company healthcare  
15    plan and therefore are applying for state-based aid  
16    programs. At Wal-mart and other super centers, only  
17    about 38 percent of the employees are covered. With  
18    premiums and co-pays making them pay about 50  
19    percent of the health insurance plan costs. This  
20    meager coverage leads most associates to rely on  
21    community hospitals and often leaves them unable to  
22    pay bills, further adding to the escalating cost of  
23    healthcare on the rest of us. Compare this to a  
24    national average of 60 percent of the country's  
25    workers that are covered by employer-based health

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2     insurance, requiring them to contribute 28 percent  
3     of the total cost of these plans. And that includes  
4     all workers, union and non-union.

5                   In many states, Pennsylvania included,  
6     low wages paid by super centers mean that employees  
7     qualify for federally funded food stamps and State's  
8     Child Health Insurance Program, CHIP, as it's well  
9     known, as well as the Adult Basic Care Program. In  
10    fact, the majority of workers at super centers  
11    receive some form of taxpayer funded help. When  
12    compared directly to retail grocery clerks,  
13    non-management Wal-Mart associates on average earn  
14    \$6.50 per hour. Regular full and part-time grocery  
15    store members of Local 1776 earn 12 to \$14 per hour  
16    on average, and more within the full-time rank.  
17    Full-time employees alone make between 14 and \$19  
18    per hour in our Acme, Superfresh and Shop Rite  
19    stores. Big box jobs are not the kind of jobs that  
20    will help with the revitalization of Philadelphia.

21                  Some can say that this legislation is  
22    anti-capitalist or against the free market. Nothing  
23    could be further from the truth. It's completely  
24    false to suggest that these retailers who get tax  
25    breaks, community development funding, and other

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2       taxpayer funds are competing in the free market.

3       This is corporate welfare run amuck. We are not  
4       anti-development; we are for smarter development.

5                   All this says nothing about the multiple  
6       lawsuits filed against Wal-Mart. They are being  
7       sued for forcing employees to work off the clock,  
8       for improper payment of overtime, and recently they  
9       had the largest civil rights suit in history filed  
10      against them for gender discrimination. There have  
11      also been charges of racial discrimination. In one  
12      case, a woman is suing Wal-Mart because she was  
13      fired for simply being married to a black man. And  
14      as we witnessed just this past week, they are the  
15      target of a federal sweep and investigation over 20  
16      states, including Pennsylvania, for violations  
17      related to the hiring and abuse of undocumented  
18      foreign workers.

19                  Small and mid-sized manufacturers have  
20      also expressed concern over the predatory pricing at  
21      Wal-Mart. In a September 8, 2003 article posted on  
22      Alternet.org. Fred Tedesco, owner of PA Ted Spring  
23      company said, "They're destroying small medium sized  
24      businesses. They're destroying the middle class.  
25      That's the dirty secret of this thing."

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2                   In 1997, Professors Edward Shills (ph)  
3   and George Taylor from Wharton found that for every  
4   two jobs created when a super center opens, three  
5   higher paying jobs are lost. These job losses come  
6   from the businesses that Philadelphia needs to  
7   continue to grow. They come from the other  
8   retailers in the City who have invested here for  
9   many years, from the mom and pop stores, from the  
10   businesses that someone has just started.

11                  In recent statements, Wal-Mart executives  
12   say that they expect 44 percent of their 1.3 million  
13   person workforce to quit this year alone. That begs  
14   the question, why are people quitting a job in such  
15   a tight labor market? If the wages, benefits and  
16   work conditions at super centers is so positive as  
17   their executives claim, why would people be quitting  
18   in such numbers. We need the kind of jobs that  
19   people stay at for years to really provide the  
20   economic growth that Philadelphia is capable of.

21                  Developers on behalf of super centers,  
22   such as Wal-Mart, before they open a store come to  
23   town armed with rosy predictions of booming job  
24   growth, an increase in property taxes and shining  
25   tales of success. They don't tell you that a study

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2     in Maryland found that personal property tax  
3     receipts growths slowed in the years after a  
4     Wal-Mart was built. They don't tell you that the  
5     same report found that the expected growth in income  
6     taxes may have been offset by low-wage jobs offered  
7     by the large retailer and the loss of employment in  
8     competing businesses.

9                   I urge you to take a moment to compare  
10    Wal-Mart's promises to reality. I'm sure that you  
11    remember what they said before they opened the  
12    Columbus Boulevard store here in Philadelphia. You  
13    can see the impact. Does their rhetoric match up to  
14    the reality?

15                  Philadelphia would be one City in a  
16    growing list that are taking a stand to help manage  
17    their growth by passing legislation like this.  
18    Ashland, Oregon, passed a bill that limits retail  
19    stores to 45,000 square feet. Roxborough, Maine,  
20    limited new retail stores to only 25,000 square  
21    feet. And just last month, Phoenix, Arizona, passed  
22    a similar big box bill.

23                  Cities and towns across the country are  
24    taking a stand against the increased traffic, the  
25    increase in crime, the increased demands on CITY

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2       services and voting to limit these super centers.  
3       This trend is also growing internationally. Ireland  
4       and Norway have both passed laws limiting new retail  
5       operations to about 32,000 square feet, joining  
6       others who have already done so. France, who really  
7       invented the super center concept as I mentioned  
8       with Carrefour back in the '80s instituted laws  
9       nationally after they realized the negative impact  
10      the hyper-markets, which are super centers, had on  
11      many of their towns and cities.

12                 In Ithaca, New York, they were faced with  
13      the question of Wal-Mart in 1994. The company  
14      promised a gain 405,000 to 490,000 in yearly  
15      property and sales tax receipts. A June 1994  
16      article in the Ithaca Hours reported that when a  
17      study by RKG consultants looked deeper into it, they  
18      found to keep the Center City business district  
19      alive, the City would have to offer free parking in  
20      Center City at a cost of \$865,000 per year. This  
21      just doesn't make good fiscal sense.

22                 One of the keys to stimulating the local  
23      retail sales is known as the multiplier effect.  
24      Basically, this means that every dollar spent at a  
25      local retail establishment is spent about 2.3 times

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2       more within the area. With their low wages, very  
3       little is re-spent locally by money that goes to  
4       SUPER centers. And in Wal-Mart's case, their  
5       profits go straight to Bentonville or on to China  
6       and Mexico where many of their products are made in  
7       sweat shop conditions.

8                   UFCW Local 1776 has 22,000 members across  
9       Pennsylvania, 9,000 of whom live and work in  
10      Philadelphia. These are the individuals that are  
11      affected by the explosion of big box retailers.  
12      They are losing their jobs in record numbers. Over  
13      the past five years, Wal-Mart has become the largest  
14      employer in the State of Pennsylvania. Local 1776  
15      has lost over 6,000 due to super center development  
16      throughout Pennsylvania. Local 1776 is trying to  
17      help Philadelphia and the Council and Administration  
18      with new ways to bring retail business into the  
19      City. We will be happy to continue to do so. We  
20      just want to make sure that the kinds of stores that  
21      are opening are ones that will help all  
22      Philadelphians.

23                  Super centers are not the answer to  
24      Philadelphia needs. They destroy jobs, communities,  
25      and eat at a municipality's tax base without an

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2       appreciable return to the community.

3                   On behalf of the members of Local 1776,  
4       we urge you to pass Bill 030604, and we will  
5       continue to work with the Council, the Mayor and  
6       others to help this City grow and prosper.

7                   I'd like to add a few comments. I  
8       mentioned some numbers about the losses of our  
9       membership. Sometimes it's hard when you're here  
10      looking at what you think the impact might be to  
11      realize what that really is. And it's especially  
12      hard when people are dangling big box development as  
13      a way to bring hundreds of jobs. And some of you  
14      we've had this conversation with over the years,  
15      whether it was the Christopher Columbus Boulevard  
16      store, the Carrefour store up in Councilman  
17      O'Neill's district. But the reality is that  
18      Carrefour store hurt. Those five stores had people  
19      that counted their service in decades that close in  
20      that first year and four or five more in the years  
21      that followed. And the minute those tax abatements  
22      ran out, they were out of here. That doesn't say  
23      that everybody is going to do the same in terms of  
24      running out of here when tax abatements are up, but  
25      what has happened all across the country, we asked



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2     you not to ignore. It is too easy for a developer  
3     to walk in here or someone else to say because it  
4     creates a temporary construction job that this is  
5     good. This is not good for Philadelphia. It has  
6     been bad for a lot of other places. And we don't  
7     have to go too far into the midwest or west to go  
8     look at it, as we had to a few years ago. Right  
9     here in Pennsylvania you can go from town to town  
10    and see what happened local business districts,  
11    shopping centers, other businesses, retail  
12    manufacturers.

13                We represent workers in a number of  
14    fields. This doesn't just squeeze people in the  
15    retail sector, it squeezes people in the whole  
16    supply line.

17                But in terms of retail, I say we have  
18    loss over 6,000 jobs. More if you include the  
19    non-union employees of those firms and management,  
20    clerical and administrative jobs. They are very  
21    real jobs. They worked for companies like Caldor's,  
22    Bradlee's, Shop Rite, Acme, Superfresh, A&P, Bilow,  
23    and Riverside Markets, a number of other markets  
24    around the state. In the Lehigh Valley, if you go  
25    there now and you drive through Lehigh valley,

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2     Allentown, Easton, and Bethlehem, you cannot find  
3     one union grocery store. And the only reason why is  
4     because -- and the developers know this. They're in  
5     their years -- Mark Kaplan over there, he's in there  
6     years ahead of time on behalf of their clients  
7     trying to line up these deals, and the other  
8     retailers know it too, because the Realtors all  
9     talk. The companies that would provide the better  
10    jobs can't compete against this force so they  
11    quickly do not renegotiate leases and do not  
12    reinvest in the reconstruction and renovation and  
13    modernization of stores. The very work that all  
14    these carpenters and painters and glazers have  
15    enjoyed from Acme Superfresh and Shop Rite all these  
16    years and will enjoy many years to come is what's  
17    gone in the Lehigh valley. And it's gone in almost  
18    entire in northeastern Pennsylvania.

19                So I don't come here -- I had some people  
20    almost laugh at me when I went around and talked  
21    about this with some of the officials here resenting  
22    about losing 6 to 7,000 jobs, because they didn't  
23    see it happen here yet because you don't have super  
24    center here yet. Go with me to Allentown, go out to  
25    Lancaster, go out to York, Hanover, go up to the

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2 Lehigh Valley, go up to northeastern Pennsylvania.  
3 Six to seven thousand good jobs above poverty level,  
4 good benefit plans, pensions are gone. And those  
5 people can't even get jobs as minimum wage greeters  
6 at because Wal-Mart won't hire them and Target won't  
7 hire them and Kmart won't hire them because they  
8 knew better. Those people enjoyed a better standard  
9 of living.

10 So I come here urging on behalf of those  
11 members not to put them out of work here in  
12 Philadelphia too. Thank you.

13 COUNCILMAN KENNEY: Thank you very much.

14 What's the oldest municipality -- how  
15 long ago was the first bill limiting --

16 MR. YOUNG: Well, the first one I'm aware  
17 of was the country of France, and I don't know which  
18 year, but in the '80s I testified about that here  
19 earlier when we had some other big box development.

20 COUNCILMAN KENNEY: How about here in the  
21 United States?

22 MR. YOUNG: I'm not sure. I believe Long  
23 Beach, California, enacted one a couple of years  
24 ago. I don't have the detail on that. I think we  
25 provided a list with the handouts of some other

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2 places where this is done. It's also been a recent  
3 trend.

4 COUNCILMAN KENNEY: Is there any  
5 information available from the cities that have  
6 passed these types of legislation whether or not  
7 Wal-Mart or any of these other large super centers  
8 have developed immediately outside of the  
9 municipality?

10 My concern is that if this bill passes,  
11 which is laudable and I understand your testimony  
12 very clearly, what would keep Wal-Mart from opening  
13 a super center across the county line in Bucks  
14 County or Montgomery County? And would they not  
15 then draw similarly from the same group of people if  
16 they were inside the City?

17 MR. YOUNG: The only think I could answer  
18 -- I can't speak for Wal-Mart and I'm sure they  
19 would tell you that I'm guessing, that they would  
20 develop anyway. But those few locations that would  
21 be close enough and draw I think would be far out  
22 weighed by the fact that they have this way huge  
23 chunk of land in Philadelphia that they wouldn't be  
24 able to do it. I think it would also decrease the  
25 amount of locations that they would consider

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2       elsewhere. For example, Wal-Mart eyeballed this  
3       area long before today. I was here in this same  
4       chamber -- well, the other before it was rained on  
5       -- years ago testifying about many of the same  
6       issues where many sites, well over 50, 60 sites in  
7       Pennsylvania were being eyeballed. Many of those  
8       sites, like Philadelphia, ended up being regular  
9       Wal-Mart stores, not super centers. Where they  
10      built them ground up, I think they built them with  
11      an eye for expanding the super centers when they get  
12      enough critical base here. Philadelphia's key to  
13      that critical base. From a marketing, advertising,  
14      distribution, transportation point of view,  
15      Philadelphia is key to their ability to do that well  
16      throughout the five-county area. And for that  
17      reason, I think it's important Philadelphia step to  
18      the plate and protect the jobs that have been  
19      invested in here for so long.

20                   COUNCILMAN KENNEY: Thank you very much.  
21                   Councilman DiCicco.

22                   COUNCILMAN DICICCO: Thank you, Mr.  
23      Chairman.

24                   Good afternoon, Mr. Young. Just to  
25      follow-up on the Chairman's comments, I too

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2 appreciate your testimony and the concerns related  
3 to your testimony and some of the things that the  
4 company Wal-Mart has been neglectful of in terms of  
5 hiring people at decent wages and the benefits that  
6 they deserve.

7 You are aware, and I'm sure everyone in  
8 this room is probably aware that the genesis behind  
9 probably what this bill has to relate to is the  
10 proposed development of a Wal-Mart on Allegheny  
11 Avenue adjacent to the Northeast Hospital.

12 MR. YOUNG: Do you want me to address  
13 that?

14 COUNCILMAN DICICCO: Well, you can if you  
15 want. There are many issues that involve Wal-Mart;  
16 there's no question about it. But you are aware of  
17 a proposed Wal-Mart development site on Allegheny  
18 Avenue?

19 MR. YOUNG: Yes, I am.

20 COUNCILMAN DICICCO: You also are aware  
21 that I've been in negotiations or conducted several  
22 meetings over the last several months to try to  
23 figure out a way in which we can develop that site,  
24 whether it be a Wal-Mart or not.

25 MR. YOUNG: Yes.

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2 COUNCILMAN DICICCO: Unfortunately or  
3 fortunately, depending on which side you're on, the  
4 only developer that came forward to develop that  
5 site is someone who wants to develop a Wal-Mart.

6 During some of those negotiations that  
7 I've been involved with, it has been agreed to,  
8 although not in writing yet, should I, Councilman  
9 DiCicco, move forward with a zoning change for that  
10 site that would allow a shopping center that the  
11 Wal-Mart to be developed there would not be a super  
12 Wal-Mart.

13 So my question is, if it were not a super  
14 Wal-Mart and the size and space of the food area,  
15 the area where sale of food would take place were  
16 limited, would there still be an objection to that  
17 site being developed?

18 MR. YOUNG: If this bill were approved,  
19 no, there would not if it fell within those  
20 parameters.

21 COUNCILMAN DICICCO: Well, this bill  
22 aside, no matter what happens, whether this bill is  
23 passed or not, that site, that particular site on  
24 Allegheny Avenue would require an ordinance  
25 introduced by the District Councilperson. And at

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2 least up until December 31st of this year, it will  
3 be me. Would require that introduction before  
4 anything could happen. Whether this bill passes or  
5 not or whether it existed or not before today. So  
6 if I can carve out those agreements and get the  
7 limited space and this would be in a deed  
8 restriction that it would not be --

9 MR. YOUNG: I'm glad you brought that up.

10 COUNCILMAN DICICCO: I've already  
11 discussed that. I've already discussed the deed  
12 restriction that would limit this to not to become a  
13 super Wal-Mart and limit the size that was of an  
14 appropriate size. Maybe the 10 percent, but I'm  
15 sure so I'm not going to go on the record saying it  
16 would be 10 percent, because I don't know what we  
17 already agreed to. I know it was a minimal amount,  
18 but I don't remember on that particular site whether  
19 it was 10 percent or 20 percent, but it was in that  
20 range.

21 And I understand big box stuff. I don't  
22 like boxes, personally. People tell me I live in a  
23 time warp because I still like to shop in my  
24 neighborhood. Have I ever been to a Wal-Mart, have  
25 I ever been to a Home Depot? Yes. Only when I



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2     can't find what I'm looking for in other places.  
3     But that's me. Unfortunately, Americana has  
4     changed, shopping habits in this country have  
5     changed. People for some reason are drawn to the  
6     big boxes. Although, again, I'm not someone who  
7     promotes those things. What I am promoting is  
8     economic development. And we can differ on the  
9     operation of Wal-Mart and how it treats its  
10    employees. Certainly, we would not disagree on  
11    those things; we would agree. But I have a vacant  
12    warehouse that's sitting on Allegheny Avenue taking  
13    up about two square blocks. I tried desperately for  
14    five years to keep the company there. It was a  
15    printing company. We worked with every agency in  
16    the City to keep them there. After three years,  
17    they just had to fold their tent and leave,  
18    unfortunately. That blighted property is doing no  
19    one in that community any service. I wish it was  
20    something other than Wal-Mart, but no one else has  
21    stepped up to the plate. So there are jobs all the  
22    way around. There are jobs for the trades folks.  
23    And I understand that the trades might be divided on  
24    this issue. Carpenters want it; electricians don't.  
25    You know, we've all got to come together and figure

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2       something out here because the last thing I want  
3       during my watch is to keep that building vacant.

4                   So, again, I'm going to be working --  
5       whether this bill comes out of this committee  
6       favorably, whether it gets voted on or not, I'm  
7       going to work as best I can to address the concerns  
8       of your folks. And a deed restriction will be that  
9       tool that I will use.

10                  MR. YOUNG: I appreciate your efforts.  
11       And if I can comment a little bit, there's no doubt  
12       that what's happened down in your district on the  
13       site you mentioned is part of why we're here, but  
14       it's not the only reason. We've been active since  
15       Carrefour came here in the late '80s on community  
16       development issues throughout Pennsylvania, a lot of  
17       it throughout southeastern Pennsylvania, we've  
18       appeared before many a township council and other  
19       groups like yourself talking about the same issues.  
20       There's people here in the audience today from as  
21       far away as Lancaster participate in the same  
22       efforts on behalf of their communities. We've one  
23       some, we've lost some. In the five-county area,  
24       we've one quite a few. Where we have Wal-marts in  
25       the five-county area and other companies that build

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2     the same kind of big boxes, they are not super  
3     centers, in a large part because of that that  
4     activity. But some of the them have the capability  
5     of being enlarged. And when you open the door for a  
6     regular store -- and since I brought up Wal-Mart as  
7     the example, I'll continue to use that example.  
8     When you open up the door with a new facility to  
9     build a Wal-Mart and down the road you don't know  
10    whether nearby tenants are going to leave, go vacant  
11    or land becomes available. The opportunity is then  
12    there for expansion. They've now built up a base of  
13    stores in this area. And as well as you may protect  
14    the issues we're concerned about in that Aramingo  
15    Avenue area store, the other stores that could  
16    materialize whether it's at Whitman's Chocolate or  
17    other places, someone may not be as vigilant at the  
18    time it's built. And that future expansion could  
19    lead to a very quick turnaround where all of sudden  
20    where we have no super centers, we have 12 or 15 of  
21    them between Wal-Mart, Target, Kmart and others who  
22    aren't even here yet but operate in other parts of  
23    the country.

24                   So I appreciate your sensitivity to it  
25    and we will work with you on those same issues. As

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2       well as I think John Meyerson from my office has  
3       brought up the deed restriction issues with you.  
4       But our concern is more from a regional perspective  
5       and that's why this bill is here. That was the  
6       genesis of this bill. Thank you.

7                   COUNCILMAN KENNEY: Thank you very much.

8                   Mr. Iding, please identify yourself for  
9       the record.

10                  MR. IDING: Good afternoon. My name is  
11       Pat Iding. I represent the Philadelphia Council of  
12       AFL-CIO, which has a present membership of over  
13       125,000, which you should know includes building  
14       trades, private sector unions, and public sector  
15       unions.

16                  The ordinance that we're looking at would  
17       restrict the building of super centers or big boxes,  
18       as we commonly refer to them, within the City of  
19       Philadelphia. Contrary to some of the belief that  
20       the bill would -- contrary to some belief, we  
21       believe this bill would enhance the building of  
22       other stores. And in fact, we also feel it would  
23       entice the building of other stores, traditional  
24       stores, stores that have been here for many years.  
25       And we believe that those stores, the stores that

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2     have been here and the stores that would build here  
3     would be stores that would pay the kind of living  
4     wages and benefits of the stores that we normally  
5     have within the City limits Philadelphia. The big  
6     box stores after one construction site then proceeds  
7     to hire people at low wages. We happen to know that  
8     most of the people who have build and operate big  
9     box stores, their wages are 30 to 50 percent lower  
10    than the other retail stores that would normally be  
11    in the area, whether they be food stores or Target  
12    or those stores.

13               We also know that the predatory pricing  
14    of, in particular, Wal-Mart, but most big stores  
15    that can control the input of their products coming  
16    from China and other places usually put people out  
17    of business that have been there for a long time.  
18    We know for a fact -- and certainly, I'm not going  
19    to repeat all the things that Wendell said. We know  
20    for a fact that people can't compete with that  
21    predatory pricing. Just recently there was an  
22    article in the paper about Wal-Mart in this area and  
23    how they can reduce the price of their  
24    pharmaceutical products more so than anybody else no  
25    matter what anybody does. This is done because they

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2       use imports from China. They get paid low wages.  
3       They pay no benefits. If they pay any benefits at  
4       all, they're very little. And what that results in  
5       is that the rest of the people in the community wind  
6       up paying for that healthcare and the other things  
7       that normally come from people who make good wages  
8       and have good benefits.

9                   So when we look at this ordinance, we  
10      don't see it restricting construction. We believe  
11      there will be more stores. We happen to know that  
12      the traditional retail stores close because of the  
13      predatory pricing. Losing jobs that are jobs that  
14      have traditionally paid money into the City coffers  
15      through taxes and those kinds of things and carrying  
16      their own weight as far as health and welfare. We  
17      also noted that traditional stores won't want to  
18      build in an area where there's super center. And  
19      it's very important if we're going to development in  
20      an area that everybody looks at the City and wants  
21      to put stores new stores. We can go through the  
22      City of Philadelphia any day of the week and see an  
23      Acme or a Superfresh, and those people expanding.  
24      And they're expanding with union labor, building  
25      trades labor, and they're hiring people who are

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2       getting good wages. So it's important that we  
3       remember the overall effect of it.

4                   More than that, as I understand the bill,  
5       and I don't pretend to be a legislator, it doesn't  
6       stop Ikea, Home Depot, Lowes, Kohls, Target and  
7       Wal-Mart discount stores from building. So in  
8       effect we really don't take anything away from our  
9       building construction work that we normally look for  
10      in the City. And it enhances people to want to  
11      build in the City.

12                  I don't know the exact towns. I don't  
13      have them in front of me, but I can locate them.  
14      There's over 170 cities and towns in this country  
15      who have developed legislation to stop big box  
16      stores and super centers. Certainly, if there's  
17      that much movement across this country, some of the  
18      stuff you've heard today has to be believable.

19                  I would like to see the City of  
20      Philadelphia and all the labor unions come behind  
21      this ordinance so this ordinance will have the City  
22      of Philadelphia do the same kinds of things like  
23      Arizona and other places in Pennsylvania have done.

24                  And when I speak about the trades,  
25      anybody who knows me, knows that I come from the

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2       trades. So I certainly wouldn't endorse or bring  
3       anything to this table that would restrict  
4       development in Philadelphia. Everything I do,  
5       whether it be for the AFL-CIO or for the building  
6       trades, it's about development. But we certainly --  
7       in my position as the head of all labor unions in  
8       Philadelphia as they are right now, we have to  
9       concern ourselves with what people make and what  
10      they bring to the community after these buildings  
11      are built. And as Wendell talked about the  
12      Carrefour center that was up in Northeast  
13      Philadelphia, we had a whole lot of trade unions and  
14      retail workers and those kinds of things arguing  
15      back and forth with each other. In the end, what  
16      happened is Carrefour come in here, they picked us  
17      clean and then left.

18                   Just looking at Wal-Mart -- and I know we  
19      have to come back Wal-Mart all the time because it's  
20      the most obvious. This is a company that has taken  
21      over not only in this country, but eventually is  
22      going take over the world if we let them. And I  
23      don't think the City of Philadelphia should let that  
24      happen. So that's why I come here on behalf of this  
25      bill. Thank you.



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2 COUNCILMAN KENNEY: Thank you very much  
3 for your testimony.

4 Councilman Clarke.

5 COUNCILMAN CLARKE: Thank you, Mr.  
6 Chairman. I just had a brief question. I missed  
7 some of the earlier testimony.

8 Can you give me a sense of the disparity  
9 in wages from a dollar perspective, if there is in  
10 fact any between the big box employee versus the  
11 smaller supermarket or the, quote/unquote, mom and  
12 pop stores?

13 MR. IDING: Wages traditionally come in  
14 somewhere around \$14,000 a year, total. In some  
15 cases a little bit more. But how they get around  
16 wages and how they make them look a little bit  
17 better, they say they don't part-time workers. Full  
18 time workers in some of these stores work 28 hours a  
19 week and subsequently what they're making at the end  
20 of day very little compared to what everything else  
21 is. On top of that, if they get any benefits at  
22 all, it's very minimal and very restrictive. And  
23 going into a long history of it, in some cases they  
24 have to buy the kinds of benefits that the company  
25 offers and doesn't include their families or anybody

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2       else. So it goes a little bit further than just  
3       what they make an hour. But I would say there's  
4       very few that make \$30,000 a year.

5                   COUNCILMAN CLARKE: Has there been an  
6       analysis, something that we can review in writing  
7       that talk about the differences in benefits and the  
8       differences in wages on an annual basis.

9                   MR. YOUNG: Yes. In some of the handout  
10      information you have, there are some newspaper  
11      articles and some quotes by analyst other than UFCW  
12      that point out the discrepancy. One analyst report  
13      I read not too long ago -- and it was not a UFCW  
14      source. It was a Wall Street analyst commenting on  
15      super center development, Wal-Mart specifically as  
16      an example, that they pay 15 to 20 percent less than  
17      their other non-union competitors and 30 to 50  
18      percent less than their unionized operations. Now,  
19      what that means here locally, we don't have to go  
20      far to look at Wal-Mart is paying on Christopher  
21      Columbus Boulevard or Northeast Philly. But  
22      generally, if you peel away the management jobs,  
23      Wal-Mart workers make 6 to 6.50 an hour, including  
24      full-timers. Department managers make as little as  
25      8 and 9.50 an hour. Most Wal-Mart workers, a

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2 majority of Wal-Mart workers live and work under the  
3 level of poverty, and their healthcare plans offer  
4 require a thousand dollars deductible --

5 COUNCILMAN CLARKE: Give me a comparable.

6 MR. YOUNG: Acme, Superfresh, Shop Rite.

7 COUNCILMAN CLARKE: What's their wages?

8 MR. YOUNG: The wages there for a regular  
9 employee compared to Wal-Mart's full-time employees,  
10 14 to \$19 an hour. They get fully paid health  
11 insurance, you know, with the typical office  
12 co-payments, a \$5 office co-payment, prescription  
13 co-payments 5 or \$7, things like that. But they  
14 don't pay for premiums and they get insurance that  
15 covers 98 percent of the bill, not 50 percent of the  
16 bill. The pensions, Wal-Mart does not have an  
17 employer paid pension plan. All the companies I  
18 mentioned here locally where we represent workers  
19 have employer paid pension plans as well as 401K  
20 plans if they choose to participate. So the  
21 differences here locally are absolutely huge.

22 I hope that answers your question.

23 COUNCILMAN CLARKE: That's what I was  
24 getting out. Thank you.

25 COUNCILMAN KENNEY: Thank you very much.

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2 Any questions for Mr. Iding?

3 (No response.)

4 COUNCILMAN KENNEY: Thank you very much  
5 for your testimony.

6 The Chair now calls Mr. Bob Burns and Guy  
7 Picoccello.

8 Please identify yourself for the record.

9 MR. BURNS: Good afternoon. Bob Burns,  
10 we're representative of the Metropolitan Regional  
11 Council of Carpenters. We have over 12,000 members  
12 in 17 locals throughout the region and we are  
13 adamantly opposed to this bill.

14 To categorically deny retail stores the  
15 opportunity to thrive in our City is wrong. We are  
16 all too well aware of the declining population and  
17 the decline of good jobs in the City. To attract  
18 new residents into our City, we need to provide  
19 places for them to work and shop. Large retailers  
20 provide this. They will also improve the quality of  
21 life in our neighborhoods.

22 This is an opportunity to stop losing  
23 shoppers to Cherry Hill, King of Prussia, Oxford  
24 valley, and on and on. These retail stores would  
25 provide thousands of man hours for construction

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2       workers and countless hours permanent jobs for local  
3       residents. All of these jobs mean much needed tax  
4       revenue for our City.

5                   The fact is that these stores are being  
6       built across the region and people are shopping in  
7       them. We can't have Philadelphia be left behind.

8                   Mr. Young mentioned locations across  
9       Pennsylvania that have super stores. And  
10      unfortunately, that's where Philadelphians are  
11      moving to. We have to put a stop to this. We can't  
12      deny out citizens this opportunity.

13                  There already is a mechanism in place to  
14      hear these issues, and it's the Zoning Board that's  
15      been working fine for years. Please join is  
16      opposing this bill.

17                  COUNCILMAN KENNEY: Thank you for your  
18      testimony.

19                  (Applause.)

20                  COUNCILMAN KENNEY: Guy, do you have  
21      anything to add?

22                  MR. PIACCELLI: Thank you, Mr. Chairman.  
23      Good afternoon. I'm Guy Piacelli from the  
24      Philadelphia Regional Council of Carpenters Union.

25                  In Philadelphia, our union represents

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2     10,000 active members who live and work in the  
3     Philadelphia area. They pay taxes and enjoy the  
4     quality of life. Our union feels if this Bill  
5     030645 is passed, it will prevent retail stores and  
6     shopping facilities to be built. There's a  
7     mechanism in place, as Council Rep Robert Burns had  
8     mentions for permits and zoning. Why amend this  
9     bill?

10                   Our members earn their daily bread  
11     working on construction projects. We ask you,  
12     Councilmembers, to please oppose this bill. Thank  
13     you.

14                   COUNCILMAN KENNEY: Thank you very much.

15                   (Applause.)

16                   COUNCILMAN KENNEY: Councilmember Clarke.

17                   COUNCILMAN CLARKE: Thank you, Mr.

18     Chairman.

19                   Good afternoon, gentlemen. I would just  
20     like to ask a similar question with respect to the  
21     disparity of wages on a full-time bases, those jobs.  
22     Do you refute or have you done an analysis on what  
23     the earlier testimony was? It's pretty wide-ranging  
24     if in fact those numbers are true; \$14 various \$6.  
25     Have you all done an analysis.

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2 MR. BURN: We have not, but the  
3 opportunity to organize these workers is there, as  
4 it is for us to organize in our field as well.

5 COUNCILMAN CLARKE: Thank you.

6 COUNCILMAN KENNEY: Any other questions?

7 (No response.)

8 COUNCILMAN KENNEY: Seeing none, thank  
9 you for your testimony.

10 COUNCILMAN NUTTER: Mr. Chairman.

11 COUNCILMAN KENNEY: Councilman Nutter.

12 COUNCILMAN NUTTER: Mr. Chairman, I  
13 actually had -- and I apologize. I had a couple  
14 very brief questions I wanted to ask the previous  
15 witnesses.

16 COUNCILMAN KENNEY: Will they please  
17 return to the table?

18 COUNCILMAN NUTTER: You may have answered  
19 this if you did I apologize. What is the largest --  
20 I guess the unit of measure about all these is  
21 square footage?

22 MR. YOUNG: That's the parameters spelled  
23 in this bill deals with square footage and  
24 percentage of food related sales.

25 COUNCILMAN NUTTER: My questions are

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2 related to each other. What's the largest square  
3 footage Wal-Mart in Philadelphia?

4 MR. YOUNG: I'm not sure of the exact  
5 footage of the Columbus Boulevard or the Franklin  
6 Mills store, but my guess is that they're somewhere  
7 around 70-80,000 square feet, in that ballpark. I'm  
8 just not sure of the exact number. It's been a  
9 while we've been here testifying on those.

10 COUNCILMAN NUTTER: And this bill is  
11 concerned with 180,000 plus.

12 MR. YOUNG: Well, it deals two ways. It  
13 puts a limit --

14 COUNCILMAN NUTTER: Plus the 10 percent  
15 on the gross rate?

16 MR. YOUNG: Well, it puts a cap on stores  
17 of the type that sell food at 180,000 square feet.  
18 Most super centers in this country don't go that  
19 large currently. New ones being built in some parts  
20 of the country are being built over 200,000 square  
21 feet. Carrefour when they came here in the late  
22 '80s was built at 330,000 square feet and everyone  
23 recognized as a model was too big. Wal-Mart  
24 perfected the model, rolled out smaller versions  
25 after Carrefour's demise or during its demise.



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2 Super centers range anywhere from -- and  
3 I'm giving you -- this isn't a hundred percent  
4 solid, but about 100 to 200,000 square feet. It  
5 depends on the community they're building in,  
6 availability of land, cost of land, other issues.  
7 The regular Wal-Mart stores are smaller.

8 COUNCILMAN NUTTER: I'm sorry, Mr. Young.  
9 Give me those again.

10 MR. YOUNG: Between 100 and 200,000  
11 square feet.

12 Now, this bill would cap at 180 total for  
13 any store like this. But it also says that anything  
14 above 90,000 square feet could not sell more than 10  
15 percent of its items as a food-related items or  
16 allocate more than 10 percent of its floor space to  
17 that.

18 COUNCILMAN NUTTER: Let me make sure I'm  
19 understanding the distinction because you do have  
20 two things going on here.

21 Would it be fair to say that your primary  
22 concern is on the grocery and food side?

23 MR. YOUNG: It is, but I'd like to  
24 explain.

25 COUNCILMAN NUTTER: So the cap is 180 in

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2 the bill and no more than 10 percent of the square  
3 footage.

4 MR. YOUNG: If it's over 90. It's  
5 important to understand that distinction because as  
6 someone just testifying a moment ago from the  
7 trades, this doesn't stop them from building these  
8 kinds of stores.

9 COUNCILMAN NUTTER: I understand. Let me  
10 just walk through it. I'm a little slower today.

11 Over 90, no more than 10.

12 MR. YOUNG: Right, 10 percent food.

13 COUNCILMAN NUTTER: And 180 --

14 MR. YOUNG: 180 is the up end cap  
15 altogether.

16 COUNCILMAN NUTTER: And I know you had a  
17 second part that you wanted to get to. What is --  
18 if the food and grocery component which, again, I  
19 know you said may be your primary concerns but you  
20 might have primary plus one as some additional  
21 concerns --

22 MR. YOUNG: I would like when you get  
23 done to get a chance to explain that.

24 COUNCILMAN NUTTER: You know I will.

25 Food is a primary concern and you're

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2       dealing with a bill that more than 90,000 square  
3       feet, no more than percent food, 180,000 square foot  
4       cap, which naturally means you can't have more than  
5       18,000 square feet of food.

6                   Tell me what your concern is in a  
7       non-food context for a larger store.

8                   MR. YOUNG: What makes a super center so  
9       lethal is that you put under one roof, whether  
10      100,000 square feet, 150,000, 200,000 square feet,  
11      about half of that square feet gets allocated for  
12      food. And they use food as the lost leader because  
13      people don't go to the non-food store every week to  
14      get videotapes or DVD discs or shoes or pocketbooks  
15      toasters or small TVs. Those are things they might  
16      go once or twice a month or even every couple  
17      months. But people generally go to a supermarket  
18      once or twice a week. So as I said earlier, the  
19      concept was developed in France.

20                  COUNCILMAN NUTTER: I understand that,  
21      but no matter what the size, if you're limiting your  
22      food and grocery to 10 percent, I mean what's the --

23                  MR. YOUNG: Well, I'm trying to explain.

24                  COUNCILMAN NUTTER: Okay. What's the  
25      average size of a supermarket today.

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2 MR. YOUNG: In this region a newly  
3 constructed supermarket will run between 45 and  
4 70,000 square feet.

5 COUNCILMAN NUTTER: And the renovations,  
6 for instance, that I know Acme in my district has  
7 closed some smaller stores and expanded some others  
8 into the 50, 60 neighborhood because they have at  
9 least either figured out or determined that the 30s  
10 don't work anymore.

11 MR. YOUNG: That's right. You can't get  
12 the efficiency out of it from a distribution,  
13 merchandizing point of view.

14 I still want to finish the other, if I  
15 can.

16 COUNCILMAN NUTTER: Go ahead. I'd like  
17 you to.

18 MR. YOUNG: Here's the thing. As I was  
19 saying, people go to the supermarket every week  
20 generally. They don't go for non-food retail. The  
21 food is used here as the lure to get people in that  
22 store, and then they've got a captive audience. And  
23 they use food as a lost leader to get them into the  
24 store. Once they're in there and they pick up those  
25 other things, it doesn't only shut out the other

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2       grocery stores in the area, it shuts out all other  
3       merchants in the area as well, because then the  
4       people don't go to the appliance store on the avenue  
5       or the place that sells sporting goods or other  
6       things because they sell everything under one roof.  
7       And that's what's killed so many towns and so many  
8       business districts within towns and cities. It's  
9       the food that used as the lure. It is the bait on  
10      the hook, folks. And they use it very effectively.

11               Now, I'd like to comment on something I  
12      didn't get a chance to address earlier because you  
13      mentioned a store in your area that's been  
14      reconstructed. You have another one in your area  
15      that's probably going to be constructed with union  
16      labor when they tear down another store, I think  
17      there's plans to do that and build yet another  
18      bigger store. A number of years ago because  
19      Wal-Mart set their sights on this region, not just  
20      Philadelphia, on this region, Acme Markets made a  
21      decision to sell. Some of you remember that; 1990.  
22      We were fighting Carrefour '88 through '90.  
23      Wal-Mart had already set their development plans in  
24      this area. Acme decided to bail out. A&P a few  
25      years ago made a decision to bail out and eliminate

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2     their Superfresh stores in this area and contract  
3     language acted as an anchor. We litigated and kept  
4     them here for now. The only reason why some of  
5     those chains decided to change course and turn  
6     around is we spent a lot of money in nearby  
7     communities and here in Philadelphia -- as I said,  
8     I've been in this Chamber before on these issues --  
9     convincing communities not to allow the larger super  
10    centers. If those super centers are here, these  
11    jobs would already be gone just like in the Lehigh  
12    valley and other places. And you don't have to go  
13    far to see what it's done to other towns. Food is  
14    the bait on the hook. That's why we've used this  
15    bill this way.

16                  Other towns have taken over approaches.  
17    I gave you some examples. If we had simply said you  
18    can't build anything 100,000 square feet, if we  
19    recommended that, then I know there would be a  
20    bigger problem from the building trades because that  
21    knocks out -- if you didn't put the food criteria  
22    in, it knocks out too many other things that aren't  
23    the same as -- you know, people don't set out to go  
24    to Ikea every week. And other businesses within the  
25    community can still compete with an Ikea here. But

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2       when you add food to the dynamic, you eliminate all  
3       those other competitors.

4                   COUNCILMAN NUTTER: Thank you.

5                   COUNCILMAN KENNEY: Councilman DiCicco.

6                   COUNCILMAN DICICCO: Thank you.

7                   Mr. Young, I may have missed this  
8       earlier. How big is a super Wal-Mart.

9                   MR. YOUNG: As I said earlier, new ones  
10      are being built in some parts of the country as  
11      large as 200 to 225,000 square feet. It depends on  
12      when they were built. The more recent they are,  
13      they're larger. They range from 100 to 200,000  
14      square feet. If one was built 10 years ago --

15                  COUNCILMAN DICICCO: So 180,000 is not  
16      considered the super Wal-Mart.

17                  MR. YOUNG: It is. They build within  
18      that 180,000. If you're out in a rural area --  
19      like, you go out into the midwest where land is  
20      plentiful and they're pulling people from 30, 40  
21      miles around because things are scarce, they'll  
22      build a 200 or 230,000 square foot store. Here  
23      where land is pricier, not as available, a lot of  
24      the stores you see in this area went into other  
25      existing retailers like on Roosevelt Boulevard

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2       Wal-Mart put a store in a failed store in that Sears  
3       project that it's not that old, they had limits on  
4       how big they could make one. They couldn't put a  
5       super center. But super centers exists within that  
6       100 to 150 and 200,000 square foot range. And I'll  
7       give you example. You build a store 120,000 square  
8       feet, that gives you 60,000 square foot, you know,  
9       if you use their standard model, for food and 60,000  
10      for non-food. Most supermarkets in Philadelphia  
11      aren't even 60,000 square feet. You might as well  
12      as just get the wood stakes out and drive it in the  
13      heart of the supermarket industry here.

14                COUNCILMAN DICICCO: That's important to  
15      me because, again, no disrespect to all the other  
16      issues and other things that are going on in the  
17      region, as my immediate concern is the Allegheny  
18      Avenue site. The proposed Wal-Mart there is  
19      somewhere between 130 to 140,000. And they did  
20      agree to keep the food section, the food component,  
21      to 10 percent, and they would do that in a form of a  
22      deed restriction.

23                MR. YOUNG: That becomes a far less  
24      problematic store and enables --

25                COUNCILMAN DICICCO: Not withstanding



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2 your other issue, and I respect that. Mr. Meyerson  
3 has been to see me on a number of occasions. I'm  
4 not dismissing those issues.

5 MR. YOUNG: What we're saying here is if  
6 there is a recognition, that they are credible  
7 parameters to achieve, then let's do it city-wide  
8 and not allow people to gain this from one  
9 neighborhood to another.

10 COUNCILMAN DICICCO: Thank you. Know  
11 further questions.

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

14 MR. IDING: I'd just like add, if I  
15 could, I'm hearing a lot of discussion about  
16 development. And I'm here today because of the kind  
17 of stores we're talking about, these super stores  
18 the box stores, I'm certainly not here against  
19 development. I wouldn't be here against  
20 development. In parameters that we're looking at,  
21 even Wal-Mart -- and I know the comment was made  
22 that we can organize them and I can assure you  
23 there's a tremendous move to organize Wal-Mart. So  
24 that really doesn't play in this. The point here is  
25 that it drives other people out when you get to this

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2 other area, this bigger area and the food area.

3 Certainly, as I said in my statement, Ikeas and Home  
4 Depots, there's nothing here that we see that would  
5 stop that or I wouldn't be here testifying.

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

8 May I add for the record that as I  
9 appreciate the fact that there are two unions here  
10 who have strong views on this situation and this  
11 proposed legislation and everyone conducted  
12 themselves with dignity and testified with respect  
13 to this Chamber, and I want to thank both sides for  
14 their maternity. Thank you.

15 COUNCILMAN DICICCO: Mr. Chairman.

16 COUNCILMAN KENNEY: Yes, sir.

17 COUNCILMAN DICICCO: I got here a little  
18 bit later today. Is the Administration testifying  
19 on this at all?

20 COUNCILMAN KENNEY: I had asked that at  
21 the beginning, and there is no one here representing  
22 the Administration. The Planning Commission did not  
23 take this issue up and have at this point no  
24 opinion.

25 COUNCILMAN DICICCO: I'd be curious,

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2 because I know the Mayor shops at the Wal-Mart on  
3 Columbus Avenue, what his position would be on this.  
4 I saw him there on a few occasions.

5 MR. YOUNG: If I may, I think Councilman  
6 Mariano may have stepped, but I do believe the Mayor  
7 offer a letter of support to Councilman Mariano for  
8 this bill.

9 COUNCILMAN KENNEY: I understand that,  
10 but generally what we do for the record is we try to  
11 get the PIDC, the Commerce Director or someone  
12 officially from Administration to kind of put it on  
13 the record, so that would be helpful.

14 Mr. Sklaroff, do you have individuals  
15 with you? Please come forward. Please identify  
16 yourself.

17 MR. SKLAROFF: Mr. Chairman,  
18 Councilmembers, my name is Michael Sclaroff. I'm an  
19 attorney with the law firm of Ballard, Spahr,  
20 Andrews & Ingersoll. With me this afternoon is Doug  
21 Grason who is the Executive Vice President for  
22 Development of Pennsylvania Real Estate Investment  
23 Trust. Pennsylvania Real Estate Investment Trust,  
24 as I think we all know, is a Philadelphia  
25 organization listed on the New York Stock Exchange

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2       and is active in development throughout the eastern  
3       region of the United States and has done major  
4       projects in the City of Philadelphia.

5                   Essentially, we are here to request  
6       further consideration of this bill. This bill was  
7       drafted in haste. This bill should have been  
8       referred to the Planning Commission with sufficient  
9       time for the Planning Commission to comment. There  
10      are serious issues concerning this bill. Some of  
11      the issues are issues in which reasonable people can  
12      differ. There are social issues here. There are  
13      economic issues. There are fiscal issue. And there  
14      are issues that involve the future of City of  
15      Philadelphia as to whether the City will be  
16      welcoming to new development or not.

17                  I've consulted with two of my colleagues  
18      here to see whether I have read the bill correctly.  
19      No disrespect to anybody who might have been  
20      involved in drafting the bill, but when you read the  
21      bill carefully, the bill does some things which I  
22      don't think are intended.

23                  The first thing it does is it contains an  
24      outright prohibition on any retail establishment  
25      which has any food service if that retail

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2       establishment exceeds 180,000 square feet. So that  
3       hypothetically, let us take Nordstrom which is a  
4       very terrific upscale shopping department store, in  
5       effect. If they wanted to come to the City of  
6       Philadelphia and they had any food on their  
7       premises, that would be outright prohibited. And  
8       I'm not sure anybody really intends that.

9                   Number 2, if there's a new concept that's  
10      not a department store but is something that the  
11      market creates and is exciting and it's something  
12      that other cities would want if it's 180,000 square  
13      feet, there's an outright prohibition. And I'm just  
14      not sure that even the people who propounded this  
15      bill intended that.

16                  The second thing is that when you get to  
17      facilities that are in excess of 90,000 square feet,  
18      we have this 10 percent prohibition on food; 10  
19      percent as to the area devoted to food, 10 percent  
20      to the revenues. And this gets the City of  
21      Philadelphia, City Council, and more important, the  
22      Department of Licenses and Inspections in the  
23      business of receiving fiscal analyses and analyses  
24      of what's happening in the business of a user. And  
25      that's unprecedented. It would create a

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2       bureaucracy. I'm not sure we could even meet that  
3       task. But there are no real standards on the  
4       economic development impact. And I think you want  
5       to look at that.

6                   And the third thing, and again, no  
7       disrespect, if you look at this bill literally, you  
8       can get a permit for the sale of food if you are in  
9       excess of 90,000 square feet. But it doesn't  
10      provide that you can get a permit if you're less  
11      than 90,000 square feet. Literally -- and I'm sure  
12      this wasn't intended -- this would outlaw the corner  
13      grocery. This would outlaw Walgreen's and CVS. And  
14      I'm not sure that City Council would want to do  
15      that.

16                  So what we're arguing here today is that  
17      this needs a lot more thought, a lot more work. It  
18      certainly needs the input of the Philadelphia  
19      Planning Commission which, under the Charter, is  
20      supposed to be here. And we're here to re-argue  
21      Aramingo Avenue. This is not about Aramingo Avenue,  
22      at least our position. And I would suggest that if  
23      there were more time and there had been more  
24      advanced notice, there would be other people in the  
25      development community who would come in and have

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2 opinions on this that you would find valuable.

3 Now, I would like Mr. Grason to testify  
4 briefly on what this would mean in terms of the  
5 perception of Philadelphia, both in the development  
6 community nationally and with regard to important  
7 users, the kinds of businesses that we would like to  
8 attract to the City of Philadelphia.

9 So Mr. Grason, would you --

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

12 MR. GRASON: My name is Douglas Grason  
13 I'm Executive Vice President of Development for  
14 Pennsylvania Real Estate Investment Trust.

15 COUNCILMAN KENNEY: Please proceed.

16 MR. GRASON: I think I speak for -- I  
17 know the speak for PREIT and I speak for the  
18 development community at large that when legislation  
19 like this considered by cities, especially cities  
20 that are first class cities such as Philadelphia, it  
21 sends a message that Philadelphia intends to try to  
22 micromanage what is best for the market in general,  
23 to say that ideally a retailer should be  
24 merchandised this way, be laid out this way, occupy  
25 a certain amount of square footage, devote a certain

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2     balance between sales devoted to different type of

3     merchandise. And it would be read as hostile in a

4     very chilling effect on whether or not somebody

5     would want to come and do business in that City

6     because what it does is it has long-term

7     ramifications for real estate. It puts restrictions

8     on the ability to use that real estate in the future

9     which will have an effect on the disposition of it

10    down the road, whether or not a perspective user is

11    free to use it in a way that meets the market. So

12    to try to anticipate what the retail market will

13    look like 10 years down the road and say, this is

14    the ideal store, it's a difficult thing to do. And

15    I don't believe, as there was earlier testimony,

16    that is some huge ground swell of significant cities

17    looking to try to put controls on what the

18    marketplace should look like. There are many places

19    where it's been advanced, and most places it fails.

20                   COUNCILMAN KENNEY: Thank you.

21                   Councilman Clarke, do you have a question

22    or comment?

23                   COUNCILMAN CLARKE: Yes. Actually, a

24    couple of questions.

25                   With respect to Nordstrom, is that why



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2 they're not moving into the City?

3 MR. SKAROFF: No, no, no. I'm giving you  
4 an example of what we would be precluded. If they  
5 wanted to move in the City and if there was a site,  
6 and hopefully there is and will be, this could knock  
7 them out.

8 COUNCILMAN CLARKE: I just don't want  
9 people leaving here with the impression that it's  
10 imminent that Nordstrom is coming.

11 MR. SKAROFF: You and Councilman DiCicco  
12 would be the first to know.

13 COUNCILMAN CLARKE: With respect to the  
14 testimony around City Council micromanaging  
15 development and use of buildings, land, sometimes I  
16 think that it's much needed, not necessarily in a  
17 instance like this, but on occasion we who represent  
18 neighborhoods and people in neighborhoods feel the  
19 need from time to time to get involved in the  
20 operation of a business.

21 I recently introduced an overlay on  
22 Chestnut Street because there's a concern about what  
23 types of development may happen because we want to  
24 induce the type of business climate on that  
25 particular corridor to be comparable to Walnut

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2     Street. So we find ourselves in a position where we  
3     need to get into the business of kind of  
4     micromanaging the type of uses. I was talking to my  
5     colleagues here 30 seconds ago about the numerous,  
6     quote/unquote, stop-and-goes that come into our  
7     communities that we believe are a detriment to our  
8     communities. We feel the need to micromanage that  
9     type of activity. So because we're talking about a  
10    larger entity, I don't think it should limit our  
11    ability to get into some of the operations of some  
12    of the those larger facilities. And I think we  
13    should be cognizant of our constituents' needs and  
14    constituents' concerns. So we find ourselves  
15    sometimes trying to micromanage some operations. If  
16    you'll excuse us.

17               MR. SKAROFF: We understand that and --

18               COUNCILMAN NUTTER: Just say,  
19    "Councilman, we agree with you."

20               MR. SKAROFF: Absolutely.

21               COUNCILMAN NUTTER: Thank you.

22               MR. SKAROFF: I always agree with you,  
23    Councilman. Whether I want to or not.

24               COUNCILMAN KENNEY: Any questions for  
25    these witnesses?

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2 (No response.)

3 COUNCILMAN KENNEY: Anyone else here to  
4 testify on this bill?

5 (No response.)

6 COUNCILMAN KENNEY: The next bill for  
7 consideration is an ordinance to amend the  
8 Philadelphia Zoning Maps by changing the zoning  
9 designations of certain areas of land located within  
10 an area bounded by Roosevelt Boulevard, Grant Avenue  
11 and Blue Grass Road, Bill No. 030395.

12 The Planning Commission.

13 MR. CHAPMAN: Good afternoon again, Mr.  
14 Chairman, Members of the Committee, for the City  
15 Planning Commission, my name is Thomas Chapman. I  
16 am the Director of Development Planning for the City  
17 Planning Commission. I'm here today to testify in  
18 support of Bill No. 030395. Councilmember O'Neill  
19 introduced this bill on May 15, 2003.

20 Bill No. 030395 re-zones an approximate  
21 3.7 acre parcel of land which will be part of the  
22 development of the proposed Whitman Square shopping  
23 center which is located on Roosevelt Boulevard just  
24 north of Grant Avenue. Previously, through the  
25 enactment of Bill No. 020684, the Council had

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2 re-zoned 36-acre parcel immediately to the south of  
3 the subject site to permit the Whitman Square  
4 proposal to move forward.

5 The Planning Commission at its meeting of  
6 June 17, 2003, recommended that Bill No. 030395 be  
7 approved. That concludes my testimony.

8 COUNCILMAN KENNEY: Thank you very much.

9 Any questions for this witness?

10 (No response.)

11 COUNCILMAN KENNEY: Anyone else to  
12 testify on this bill?

13 MR. PRIMAVERA: Councilman Kenney, Carl  
14 Primavera, P-R-I-M-A-V-E-R-A. With me is Robert  
15 Friedman on behalf of the Goldenberg Group and  
16 George Reeves from Langdon Engineering. Good  
17 afternoon, Members of the Committee. We'll be very  
18 brief because I know you've had a long afternoon  
19 already.

20 This is a small expansion, as Mr. Chapman  
21 said, of the Whitman Chocolate Center which is now  
22 under construction. We had the groundbreaking with  
23 Councilman O'Neill about 10 days ago. This piece  
24 was always envisioned, but it couldn't be under  
25 agreement at the same pace as the original piece.

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2 Again, going from the industrial to the commercial  
3 is what the community has supported. We have a  
4 letter from the President of the Greater Bustleton  
5 Civic League, and we believe that this small  
6 expansion will allow us to accommodate some of the  
7 tenant demand that wasn't able to be located within  
8 the original site.

9 Unless there are questions, I'll just  
10 make available Mr. Reeves who does have a large  
11 blow-up. And just for the record, we'll pass up a  
12 site plan, an aerial photo, and some other exhibits  
13 that you can look at at your pleasure. And with  
14 that, we would conclude our remarks.

15 COUNCILMAN KENNEY: Thank you very much.  
16 Any questions for these witnesses?

17 Councilman O'Neill

18 COUNCILMAN O'NEILL: Mr. Primavera, are  
19 you asking for a Rules suspension?

20 MR. PRIMAVERA: Yes. Thank you for  
21 reminding me. We are. Time is of the essence for  
22 this, and we appreciate that. We would definitely  
23 ask that the Rules be suspended.

24 COUNCILMAN KENNEY: Thank you very much  
25 for your testimony.

1 10/29/03 - RULES - BILL 030395

2 Councilman DiCicco.

3 COUNCILMAN DICICCO: Thank you, Mr.

4 Chairman.

5 How big is the Wal-Mart store for this  
6 proposed development?

7 MR. FRIEDMAN: Let me identify myself.  
8 Robert Friedman at the Goldenberg Group. We're the  
9 developer on this. I can certainly go on record and  
10 say that that Wal-Mart store is not a super store;  
11 it will just be a department store. It's about  
12 130,000 square feet which is their prototypical  
13 department store.

14 COUNCILMAN DICICCO: Will there be sale  
15 of food in this facility?

16 MR. FRIEDMAN: Not groceries. I would  
17 guess they sell some bulk items, but it's certainly  
18 a very minor part of their sales

19 COUNCILMAN DICICCO: You were here, Mr.  
20 Friedman, for the previous testimony on the prior  
21 bill?

22 MR. FRIEDMAN: Yes, I was.

23 COUNCILMAN DICICCO: How does this  
24 Wal-Mart fit into what the discussion or concern was  
25 from retail clerk's union, 10 percent of the space,

1 10/29/03 - RULES - BILL 030488

2 20 percent of the space? Could you testify to that?

3 MR. FRIEDMAN: I personally would not  
4 know in terms of either volume or percentage of  
5 revenue. I just don't have those figures,  
6 Councilman.

7 COUNCILMAN DICICCO: Thank you.

8 COUNCILMAN KENNEY: Thank you very much.  
9 Any other questions?

10 (No response.)

11 COUNCILMAN KENNEY: Since there are no  
12 other questions, the witnesses are excused.

13 Anyone else to testify on this bill?

14 (No response.)

15 COUNCILMAN KENNEY: Seeing none, the next  
16 bill for consideration is 030488, which is an  
17 ordinance to amend the Philadelphia Zoning Maps by  
18 changing the zoning designations of certain areas of  
19 land located within an area bounded by Snyder  
20 Avenue, Vandalia Street, the former McKean Street  
21 and Christopher Columbus Boulevard.

22 Mr. Chapman.

23 MR. CHAPMAN: Once again, for the City  
24 Planning Commission, my name is Thomas Chapman.  
25 This Bill No. 030488 was introduced by Councilmember

1                   10/29/03 - RULES - BILL 030488  
2     DiCicco on June 12, 2003. This bill re-zones a  
3     two-block area bounded by Snyder Avenue, Vandalia  
4     Street, McKean Street, Christopher Columbus  
5     Boulevard. This bill re-zones these two blocks from  
6     the existing designation of LR Lease Restricted  
7     Industrial to a designation of C3 Commercial. These  
8     blocks are located between the site of the proposed  
9     Ikea and Lowes development and existing shopping  
10    center, both of which are owned by the Goldenberg  
11    Group. The interested party, the Goldenberg Group,  
12    intends to develop these blocks of retail uses and  
13    to link the existing shopping center with the new  
14    Ikea Lowes proposal.

15                While the Planning Commission has not  
16    specifically considered this bill, this rezoning is  
17    consistent with the Commission's approval of Bill  
18    NO. 020738, which re-zoned the site of the Ikea Lows  
19    proposal to C3 Commercial as well as the adoption of  
20    a redevelopment area plan and blight certification  
21    for this area.

22                I'd happy to answer any questions of the  
23    Committee.

24                COUNCILMAN KENNEY: Councilman DiCicco.

25                COUNCILMAN DICICCO: Thank you, Mr.



1 10/29/03 - RULES - BILL 030488

2 Chairman. My question would be for Mr. Primavera.

3 This is the piece across the street from  
4 Snyder Avenue, right?

5 There will be no potential tenants  
6 besides Target, and then think it's Superfresh or  
7 something I see there?

8 MR. PALMER: Shop Rite is existing.

9 COUNCILMAN KENNEY: Identify yourself for  
10 the record so the stenographer knows who's speaking.

11 MR. PALMER: My name is Steve Palmer.  
12 I'm Vice President of Finance Goldenberg Group.

13 COUNCILMAN DICICCO: Yes, Shop Rite is  
14 existing. I apologize. I mean to say below Target,  
15 that piece that this bill is addressing.

16 MR. PALMER: On the front most parcel  
17 bounding Columbus Boulevard, it will probably be two  
18 restaurant pads. Likely tenants at this time would  
19 highly include a Krispy Creme in the area and also a  
20 Famous Dave's Restaurant.

21 COUNCILMAN DICICCO: Any big boxes  
22 proposed there?

23 MR. PALMER: No, sir, no big boxes.

24 MR. DICICCO: Any Wal-Marts proposed  
25 there?

1 10/29/03 - RULES - BILL 030488

2 MR. PALMER: No, sir.

3 MR. PRIMAVERA: For the record, we've  
4 just handed up a brochure which includes not only  
5 the blow-up that George is showing, but the aerial  
6 photograph. Again, this is just a infield piece  
7 that helps round out the retail environment. We  
8 have been working with Whitman counsel. They are  
9 supportive. And I don't know if you know what  
10 Famous Dave's is, but I hear it's a very nice  
11 restaurant. Krispy Creme we all know is a great  
12 opportunity. So we've been just fortunate to be  
13 able to get that property under agreement.

14 We also ask that the Rules be suspended  
15 on this as well.

16 COUNCILMAN KENNEY: Councilman O'Neill.

17 COUNCILMAN O'NEILL: This probably should  
18 be for the Planning Commission. Why the C3?

19 Carl, you can certainly pinch hit. Why  
20 C3 and not area shopping center or some other -- I'm  
21 just trying to educate myself.

22 MR. PRIMAVERA: It's as simple as this:  
23 The area developed by Bart Blattstein was C3 so for  
24 consistency's sake up and down Christopher Columbus  
25 Boulevard it's been C3. Area shopping center would

1 10/29/03 - RULES - BILL 030564

2 be absolutely fine. I think Bob Friedman and I went  
3 back and forth, but for consistency's sake when  
4 Blattstein started to develop it was C3, we decided  
5 to keep it that way. I don't think that it would  
6 make any difference. And Tom can correct me.

7 COUNCILMAN O'NEILL: That's all I want to  
8 know. There's no impact on setback coverage,  
9 parking, all those things?

10 MR. PRIMAVERA: No.

11 COUNCILMAN O'NEILL: Okay. Fine.

12 COUNCILMAN KENNEY: Thank you very much.

13 Any other questions for these witnesses?

14 (No response.)

15 COUNCILMAN KENNEY: Seeing none, anyone  
16 else to testify on this bill?

17 (No response.)

18 COUNCILMAN KENNEY: Seeing none, we will  
19 now move to Bill No. 030564, an ordinance to waive  
20 concern conditions, covenants and restrictions  
21 affecting the use of development of a certain area  
22 of land situate in the 58th Ward consisting of 20  
23 acres on Red Lion Road and known and assessed as 300  
24 Red Lion Road, Tax Parcel No. 88-2-1744-00.

25 Also we'll take at this time Bill No.

1           10/29/03 - RULES - BILL 030564, 030565  
2           030566, an ordinance to amend Philadelphia Zoning  
3           Maps by changing the zoning designations of certain  
4           areas of land located within an area bounded by  
5           Academy Road, Morrell Avenue, Black Lake Creek,  
6           Berea Street and President Street.

7           These bills are being taken together  
8           because they affect the same area.

9           COUNCILMAN O'NEILL: Mr. Chairman, I  
10          believe they each have amendments which are more  
11          technical than anything else. One amendment is  
12          something that shouldn't have been in the original  
13          bill, was extra and has to come out. The other is  
14          something that should have been in the original  
15          bill. And I believe that the City Solicitor will  
16          testify on that. That's on the deed restriction.  
17          The zoning one was more expansive than it was  
18          supposed to be and we're reducing it.

19          COUNCILMAN KENNEY: Okay. Mr. Chapman.

20          MR. CHAPMAN: Good afternoon, Mr.  
21          Chairman and members of the committee. My name is  
22          Thomas Chapman I'm here today to testify on Bill  
23          030565. Councilman O'Neill introduced this bill on  
24          September 11, 2003.

25          Bill No. 030565 re-zones part of an area

1           10/29/03 - RULES - BILL 030564, 030565

2       Red Lion Road, Gantry Road, Geiger Road and Global  
3       Road. This property is also known as 300 Red Lion  
4       Road and is located in the Bustleton section of the  
5       City.

6           This bill re-zones approximately 20 acres  
7       of land from existing designation of G2 General  
8       Industrial to a designation of R1 Residential.  
9       Currently, the property is vacant. It had been the  
10      parking lot for the Bud plant which had been located  
11      immediately across Red Lion Road from the subject  
12      site. As Council knows, that site is now a golf  
13      course.

14           The party at interest here, my  
15      understanding, is Transit America Limited, the  
16      owners of the property. We understand that there  
17      will be a proposal to construct approximately 60  
18      detached single family homes on this site. That  
19      development will require further action of City  
20      Council in the form of streets bills.

21           There are also deed restrictions on this  
22      property that would prohibit any residential  
23      development of this site. The removal of these  
24      restrictions is the subject of Bill No. 030564.

25           We've discussed both of these bills with

1                   10/29/03 - RULES - BILL 030564

2       the Philadelphia Industrial Development Corporation,  
3       and there are no objections to the proposed zoning  
4       change or to the removal of the deed restrictions.

5                   The Planning Commission at its meeting on  
6       October 14, 2003, recommended that Bill No. 030565  
7       be approved, and I would be happy to answer any  
8       questions.

9                   COUNCILMAN KENNEY: Just so record is not  
10      confused, I made a mistake. I made a mistake.  
11      Right now we are considering 030564 which I read  
12      into the record, and 030565 which I did not read --  
13      I read 030566 instead of 030565. So let me read  
14      both bills so that it's clear.

15                  030564 is an ordinance to waive concern  
16      conditions, covenants and restrictions affecting the  
17      use of development of a certain area of land situate  
18      in the 58th Ward consisting of 20 acres on Red Lion  
19      Road and known and assessed as 300 Red Lion Road,  
20      Tax Parcel No. 88-2-1744-00.

21                  030565 is an ordinance to amend the  
22      Philadelphia Zoning Maps by changing the zoning  
23      designation of a certain area of land situate in the  
24      58th Ward of the City of Philadelphia consisting of  
25      20 acres on Red Lion Road and known and being

1 10/29/03 - RULES - BILL 030564

2 assessed as 300 Red Lion Road.

3 So one I covenants and one is zoning. I  
4 just wanted to make sure the record is clear.

5 030566 will be considered next. Thank  
6 you.

7 Any questions for Mr. Chapman?

8 COUNCILMAN O'NEILL: Mr. Chapman, did you  
9 mention that you have an amendment? Does somebody  
10 have amendment for me for this bill, on the zoning?

11 I believe the Planning Commission pointed  
12 out that the area in the bill covers existing  
13 industrial as well as the vacant ground and we're  
14 only trying to change the zoning on the vacant  
15 ground for housing.

16 MR. CHAPMAN: Councilman, that amendment  
17 has just been passed up to me.

18 COUNCILMAN KENNEY: Is that just one bill  
19 being amended?

20 COUNCILMAN KENNEY: This is for the  
21 restriction, this is for 030565. There's going to  
22 be an amendment for the zoning bill, the 030565.

23 COUNCILMAN KENNEY: So 030564 will not be  
24 amended, is that correct?

25 COUNCILMAN O'NEILL: 030564 will be

1                   10/29/03 - RULES - BILL 030564

2       amended also, but the City Solicitor Office Mr.  
3       Rosman is here to discuss that.

4                   COUNCILMAN KENNEY: Please straighten  
5       this all out because we're totally confused. Please  
6       identify yourself.

7                   COUNCILMAN O'NEILL: I thought the  
8       Planning Commission would have the amendment with  
9       them. I didn't know if you were going to testify to  
10      it or anything. I have the amendment. That's fine.  
11      It's just on the map, right?

12                  MR. CHAPMAN: It's just on the proposed  
13      zoning map.

14                  COUNCILMAN O'NEILL: Thank you. I'll go  
15      through that.

16                  MR. CHAPMAN: Thank you.

17                  MR. ROSMAN: Good afternoon, everyone.

18      I'm Louis Rosman, I'm a Senior Attorney with the  
19      City Philadelphia Law Department.

20                  In connection with Bill 030564, which is  
21      the bill to waive the deed restrictions 300 Red Lion  
22      Road, we recommended to the Councilman an amendment  
23      to the bill that the bill as introduced would  
24      purport to waive two paragraphs of the deed under  
25      which the Bud Company acquired the property. The



1                   10/29/03 - RULES - BILL 030564

2     first paragraph essentially says that the property  
3     can only be used for industrial use and has a  
4     provision stating that that restriction continues  
5     unless until the Council of the City of Philadelphia  
6     shall by ordinance waive, alter or amend the  
7     restriction. And there's no problem with that  
8     portion of the bill.

9                   There's another deed restriction,  
10    Paragraph 3, that contains a number of set back  
11    requirements, parking requirements, things like  
12    that. That does not have the language about  
13    Council's authority to waive the deed restriction.  
14    And absent that language in the deed, our view is  
15    that Council cannot itself waive the restrictions,  
16    that needs to be done by the parties in the chain of  
17    title. So the recommended amendment is to simply  
18    take out of the bill the reference to waiver of the  
19    restrictions in Paragraph 3 of the deed.

20                  COUNCILMAN O'NEILL: That's fine with me.  
21    That's the Law Department's position.

22                  COUNCILMAN KENNEY: That's the amendment  
23    on Bill 030565.

24                  MR. ROSMAN: That's 030564, this is the  
25    bill dealing with the deed restrictions.

1 10/29/03 - RULES - BILL 030564

2 COUNCILMAN KENNEY: Are you going to also  
3 describe the amendment to 030565?

4 MR. ROSMAN: That, I don't know  
5 anything --

6 COUNCILMAN KENNEY: Mr. Chapman.

7 MR. CHAPMAN: Thank you, Mr. Chairman.  
8 The amendments that have been handed up would  
9 replace both the existing zoning map and the  
10 proposed zoning map on the bill as introduced with  
11 the map that I'm holding my hand right now and also  
12 Councilman O'Neill is holding, and it limits the  
13 re-zoning to a property that is roughly 1550 feet  
14 along Red Lion Road, not the entire site bounded by  
15 Red Lion, Global, Geiger and Gantry Roads.

16 COUNCILMAN KENNEY: Any questions on the  
17 amendments?

18 (No response.)

19 COUNCILMAN KENNEY: Seeing none, are  
20 there anymore questions for these witnesses?

21 (No response.)

22 COUNCILMAN KENNEY: Seeing none, is there  
23 anyone else to testify on this bill?

24 COUNCILMAN O'NEILL: I don't know if the  
25 seller is in the room, but I see at least one of the

1                   10/29/03 - RULES - BILL 030564

2       buyers. I don't know if there's any testimony from  
3       them or not.

4                   This was introduced on behalf of both the  
5       seller and the buyer. And I should say it was done  
6       because I was only willing to lift the deed  
7       restriction by Council ordinance from industrial if  
8       R1 housing was built, which is the highest  
9       residential zoning we have in the City which is  
10      generally referred to in my area as Chestnut Hill  
11      zoning, and they were willing to do that. The  
12      seller took a lot less money than the Giant store  
13      and the townhouses and strip center would have  
14      gotten. The buyers already have a huge investment  
15      across the street at the old Bud plant which is now  
16      a golf course. They're going to develop the  
17      property for high-end single homes which will give  
18      more and more people who still want to stay in the  
19      City and live in a suburban-like house the  
20      opportunity to do that. And I think there's a  
21      crying need for it. And, hopefully, this will both  
22      help their investment across the street and also be  
23      a great development itself.

24                  If they want to go on the record and just  
25      say they're in favor of the bill, that's up to them.

1 10/29/03 - RULES - BILL 030566

2 COUNCILMAN KENNEY: Councilman O'Neill's  
3 description, I think, is adequate for the record.  
4 Thank you for coming today and thanks for your  
5 continued investment.

6 COUNCILMAN O'NEILL: And I'm going to  
7 suspend the Rules because I know they've been  
8 waiting for these bills.

9 COUNCILMAN KENNEY: Anyone else to  
10 testify on these two bills?

11 (No response.)

12 COUNCILMAN KENNEY: Seeing none, we will  
13 now move to Bill No. 030566, an ordinance to amend  
14 Philadelphia Zoning Maps by changing the zoning  
15 designations of certain areas of land located within  
16 an area bounded by Academy Road, Morrell Avenue,  
17 Black Lake Creek, Berea Street and President Street.  
18 Please identify yourself.

19 MR. CHAPMAN: Good afternoon, Mr.  
20 Chairman and Members of the Committee. For the City  
21 Planning Commission, my name is Thomas Chapman. I'm  
22 here today to testify on Bill No. 030566.  
23 Councilmember O'Neill introduced this bill on  
24 September 11, 2003.

25 This bill re-zones portions of the area

1                   10/29/03 - RULES - BILL 030566

2       bounded by Academy Road, Morrell Avenue, Black Lake  
3       Creek, Berea Street and President Street in the  
4       Morrell Park section of the City. This bill would  
5       re-zone several sites in the area which have not  
6       been developed to the level permitted under the  
7       current zoning designation to designations more  
8       compatible and consistent with the existing pattern  
9       of development in the community.

10               Currently, this area is zoned partly R2,  
11       partly R4, partly R5, partly R6 and partly R12 and  
12       class recreational. The distribution of the zoning  
13       designations will be changed somewhat through the  
14       enactment of this bill. This bill was drafted at  
15       the request of Councilman O'Neill in response to  
16       community concerns regarding development  
17       possibilities within this area. Councilman O'Neill  
18       met with the West Torresdale Civic Association on  
19       September 2, 2003, regarding this zoning change, and  
20       the community voted to support this bill.

21               The Planning Commission at its meeting on  
22       October 14, 2003, recommended that Bill No. 030566  
23       be approved. That concludes my testimony. I'll be  
24       happy to answer any questions from the Committee.

25               COUNCILMAN KENNEY: Councilman O'Neill.

1 10/29/03 - RULES - BILL 030628

2 COUNCILMAN O'NEILL: Mr. Chapman, thanks  
3 for your testimony. It's very accurate. I would  
4 just hope you could add along with me that any  
5 changes that are recommended in the comprehensive  
6 re-mapping are upgrades of zoning making for more  
7 limited use of the property, less dense, wider lots.  
8 There's no downgrading going on in this zoning  
9 re-mapping.

10 MR. CHAPMAN: I would agree with that,  
11 Councilman. That's an accurate statement.

12 COUNCILMAN O'NEILL: Thank you.

13 COUNCILMAN KENNEY: Thank you very much.  
14 Any questions for this witness?

15 (No response.)

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

18 (No response.)

19 COUNCILMAN KENNEY: Seeing none, we will  
20 now move to Bill 030628, an ordinance amending Title  
21 14 of the Philadelphia Code, entitled "Zoning and  
22 Planning," by adding a new Section 14-1628, entitled  
23 "Third Councilmanic District Special Controls,"  
24 prohibiting certain uses in the Third Councilmanic  
25 District, under certain terms and conditions.

1 10/29/03 - RULES - BILL 030628

2 Mr. Chapman.

3 MR. CHAPMAN: Councilman Kenney, Members  
4 of the Committee, this bill has not been considered  
5 by the Planning Commission yet. It was not  
6 introduced in time to get on our last agenda, but  
7 I'll briefly describe the terms of the bill.

8 Bill No. 030628 amends the Zoning Code by  
9 establishing a new Section 14-1628 entitled "Third  
10 Councilmanic District Special Controls." This  
11 amendment to the Code would ban the sale by a  
12 restaurant of malt or brewed beverages from  
13 consumption of the premises in the Third  
14 Councilmanic District.

15 I believe that we touched on this earlier  
16 today. I believe it was Councilmember Clarke  
17 mentioned the problem with stop-and-goes in many of  
18 the neighborhoods in the City. And the aim of this  
19 bill is to get these uses under control in the Third  
20 Councilmanic District.

21 COUNCILMAN KENNEY: Councilwoman  
22 Blackwell.

23 COUNCILWOMAN BLACKWELL: Thank you, Mr.  
24 Chairman, and to Members of the Committee. We  
25 introduced this legislation because of the many

1                   10/29/03 - RULES - BILL 030628

2     problems we're having, certainly, in West and

3     Southwest Philadelphia with stop-and-goes. We have

4     members of the community who are here and who are

5     happy to testify who have been standing outside of

6     the corner of one stop-and-go for 361 days. Now,

7     our issue is not that -- because we support many

8     stop-and-goes in our neighborhood and certainly we

9     support the generally Asian community and the Asian

10    business folks that operate them. We've always had

11    a wonderful relationship, we do, and Lucien before

12    me with our business owners. But we've reached the

13    point in my district, and I'd like to make my

14    district a pilot, where we feel -- and you may know,

15    Mr. Chairman, because you had hearings before when

16    we coined the term "stop-and-go." It's the same

17    neighborhood where we had problems with the

18    stop-and-go many years ago when we coined the phrase

19    "stop-and-go" and defined it. And now we feel that

20    it is time, much like many, many years ago when we

21    had so many liquor stores in the same neighborhood.

22    The Liquor Control Board came up with ways to deal

23    with that. And so we know it is a long-term

24    solution to count and limit the number of

25    stop-and-goes in one neighborhood. So we view as a



1                   10/29/03 - RULES - BILL 030628  
2     short-term possible solution that at least in an  
3     attempt to deal with the issue, one, where we accept  
4     those that are there but certainly limit new stores  
5     opening so that on one block you don't have three or  
6     four of the same stop-and-goes selling malt liquor,  
7     which is the issue. And that causes so many people  
8     to hang in front of stores to do drugs, many stores,  
9     not all. But those who do not want to work with the  
10    community sell loose cigarettes, loose tobacco,  
11    stop-and-goes and we have a great big problem with  
12    crime.

13                  So it is our goal to support the  
14    community in their effort to try to control what  
15    happens in their neighborhoods. And certainly, as I  
16    said, we support. We have many excellent  
17    businesses. We support our neighbors. We support  
18    those who want to invest in our area. We believe in  
19    the free enterprise of the American system, but we  
20    also believe that community members and businesses  
21    have to coexist in a cooperative manner and that  
22    stores do not have the right to certainly sell  
23    products that will create a criminal element and a  
24    problem in their neighborhood.

25                  Thank you, Mr. Chairman.

1 10/29/03 - RULES - BILL 030628

2 COUNCILMAN KENNEY: Thank you,  
3 Councilmember. Also, that particular hearing we  
4 coined "liquid crack" that was applicable to the  
5 malt liquor that's being sold in these stores. I  
6 applaud you for your efforts in this pilot program  
7 in your district. I am concerned that -- I think  
8 it's worth proceeding anyway -- the State may try to  
9 circumvent this or to supercede this based on the  
10 fact that they believe they're the only ones who can  
11 by law can regulate the sale of liquor. But I think  
12 it's worth getting this issue before court in the  
13 event that the way it goes.

14 COUNCILWOMAN BLACKWELL: Mr. Chairman, we  
15 also have another resolution on the books where we  
16 hold hearings on stop-and-goes. And certainly, we  
17 want to invite state officials, especially those  
18 from the area as well as those who control those  
19 committees at the state to join the Council in  
20 having those hearings. This is a smaller -- it's  
21 like a two-pronged effort. If we try it here and  
22 then hold a big hearing on stop-and-goes with the  
23 State, maybe we can come up with something that will  
24 work.

25 COUNCILMAN KENNEY: And we've had some

1                   10/29/03 - RULES - BILL 030628

2       success with the Liquor Control Board in the past in  
3       eliminating the sale of pint-size bottles of liquor  
4       and also fortified wines in certain state stores  
5       that have had community problems associated that  
6       kind of sale. So they can cooperative when they  
7       want to be.

8                   Please identify yourself for the record  
9       and proceed.

10                  MR. SPEARMAN: Greg Spearman. I would  
11       like to start with saying, even if the State don't  
12       cooperate, I'm asking our representatives, the City  
13       representatives to do all that's within our power to  
14       enforce whatever they're supposed to do to do. It's  
15       not uncommon for these stop-and-goes not to have  
16       access to bathrooms. They always say they broke.  
17       Not have proper seating. I mean, this is common.  
18       You don't even have to go inside the store. The  
19       patrons come out and tell you all the time. And  
20       what we have to do, we have to sit there with the  
21       fallout from these type of procedures that they are  
22       allowed to do.

23                  I watched state officials come in to  
24       monitor a store, go through the whole store. There  
25       is no access to the bathroom, and they come out and

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2       say the store is okay. It has become acceptable for  
3       these practices that these type of establishments  
4       have been practicing. It has become acceptable to  
5       everyone, even the neighborhoods. And I think it's  
6       time for it to stop.

7                   There's a new type of thing that they're  
8       trying to introduce right now. You have one of the  
9       1500 block of South 16th Street. It's a deli with a  
10      bar. The way that they're doing it now, they got  
11      Plexiglass up to the bar, so they slide your  
12      drink -- 52 and Girard. They got another one right  
13      there. They slide your drink through the hole.  
14      That's disrespectful.

15                  When they catering -- they're target  
16      market is the malt liquor drinker. Now, anytime you  
17      can go in and you can buy a bottle of malt liquor  
18      for \$1.75 for 40 ounce, come on now, what do you  
19      expect them to do? They couldn't comprehend  
20      mobilization and organizing to fight for a bathroom,  
21      yet alone understand what this type of liquor is  
22      doing to them. Not only is it doing it to them,  
23      it's doing to us because the majority of my  
24      community, the majority of my community go to work  
25      every day. You can look on the 52, you can look on

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2 the you subway, you can look on the El. We go to  
3 work every day. But it is an acceptable practice  
4 from all the agencies to allow these type of people  
5 control the atmosphere in the communities.

6 At night, the Mayor had talked about on  
7 his bike patrol, how they riding around. These are  
8 beacons of light. They put out these awnings. They  
9 know they can go in there and buy loosies. We know  
10 that. We all know that. They can go in there and  
11 buy loosies, but what happens? They let it happen.

12 COUNCILWOMAN BLACKWELL: What's a loosie.

13 MR. SPEARMAN: A loosie is a cigarette  
14 which is unlawful to sell outside of the package.  
15 You know you can go in there. We seen the article  
16 in the paper about straight shooters, the crack  
17 pipes. That's what they are. They stick a rose in  
18 there to get around the drug paraphernalia law.  
19 That's disrespectful, not only to me, but to you.  
20 You know what I mean? That's disrespectful.

21 We have to sit here and accept the  
22 practices of these here parasites, because that's  
23 what they are. They lazy parasites. And I'm  
24 talking about these business owners now. They lazy  
25 parasites. All they want to do is turn around and

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2 grab a 40 and stick in a bag and take the money.

3 They don't even want to change the grease on their  
4 chicken wings.

5 Now, with this new practice of these here  
6 type of establishments, now we are supposed to allow  
7 our children to go into these establishments which  
8 are essentially a bar? It's acceptable now?

9 COUNCILMAN KENNEY: We agree with you.  
10 We see these problems all across the City. And part  
11 of our problem has been the separation of the  
12 enforcement of the Liquor Code --

13 MR. SPEARMAN: Councilman, we've been  
14 hearing forever.

15 COUNCILMAN KENNEY: I'm agreeing with  
16 you. Let me --

17 MR. SPEARMAN: It's our willingness to  
18 step forward.

19 COUNCILMAN KENNEY: Yes. Remember,  
20 though, part of our problem is we need the State to  
21 help us to allow the Philadelphia Police ultimately  
22 to enforce the Liquor Code because they're the  
23 people who are dealing with it on the law  
24 enforcement ground level. Because if you have to  
25 wait for State Police --

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2 MR. SPEARMAN: We understand that,  
3 Councilman. We understand that.

4 COUNCILMAN KENNEY: I'm not arguing with  
5 you. I'm not disagreeing.

6 MR. SPEARMAN: I know you not.

7 COUNCILMAN KENNEY: I'm on your side.

8 MR. SPEARMAN: You're preaching to the  
9 choir here.

10 COUNCILMAN KENNEY: I just want the  
11 record to be clear that if we ever get an  
12 opportunity to get the State to allow us to deputize  
13 our police to enforce the Liquor Code, we can get  
14 into those places much quicker. We know the  
15 problems that they're causing. We don't have to  
16 wait for the State Police to come out there and do  
17 an investigation and then do nothing in the end  
18 anyway. If we can get these problem bust-out bars  
19 and stop-and-goes under our control from a law  
20 enforce standpoint, I think we can have a much  
21 better effect on shutting them down quickly.

22 MR. SPEARMAN: Councilman, if it was a  
23 bar without a bathroom, he'd be shut down today. We  
24 have L&I. L&I is a very efficient tool to accomplish  
25 things. We have City departments. I say bring the





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2       be a real backlash with paying these here fines.  
3       But they have to feel the pressure of the City of  
4       Philadelphia because its residents are under the  
5       pressure. We're tired of smelling the urine. We're  
6       tired of seeing the vagrants stand outside. We're  
7       tired of the drug sales, right out open drug sales,  
8       not only outside the store, but inside the store.  
9       These are acceptable practices from us. We blame  
10      the State. The State blame us. But we've got to  
11      sit with the fallout of all of this type practices.  
12      And it's totally unacceptable.

13               We've been on this corner -- it' more  
14      than just one group represented up here or  
15      community. 360-something days straight, 7 o'clock  
16      in the morning to 2 o'clock in the morning or  
17      whenever they close. How much more disrespectful  
18      can you get? The Asian Beverage Association and the  
19      Korean Beverage Association before us committed to  
20      support this. Now, how in the world can you do  
21      that, to support this, to support the ripping out of  
22      the soul of a community?

23               COUNCILMAN KENNEY: We agree with you.

24               MR. SPEARMAN: I mean, these here stores  
25      aren't known for anything but selling cheap malt

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2     liquor. They're not known for a good sandwich.  
3     They're not even known for good chicken wings. I  
4     mean, really, they not even known for that. Their  
5     grease is dirty. Their store -- half of their  
6     stores, they come in now it's almost like  
7     mini-franchise. It's a true conspiracy on the  
8     minority and economically depressed communities  
9     throughout this City. And if we don't take a  
10    stand -- we took a stand in our community and we are  
11    asking you to take a stand throughout Philadelphia.  
12    Stand with us. Let them fine us. But we have to  
13    send a clear message that this is totally  
14    unacceptable.

15                  My house, why should my house -- I mean,  
16    how long should I stay there before I look up and  
17    see my property value go down? I mean, we cared so  
18    much about this issue, we have a member that moved  
19    to Cape May, came back up for this hearing just to  
20    voice his opinion on this hearing. I mean, we sit  
21    here, we keep saying the State. The State what? I  
22    want to see L&I go in there. They have problems.  
23    Up there at 55th Street, they got a cover off the  
24    electrical plate up there. I mean, you know, things  
25    can be done and we have to do them.

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2 COUNCILWOMAN BLACKWELL: Mr. Chairman,  
3 let me note also we go through that all the time.  
4 They don't have the tables and chairs. They don't  
5 have a bathroom. L&I shuts them down. Then, as  
6 soon as L&I comes back in town, then we start over.  
7 We go through that all the time.

8 Let me also note that we had a hearing  
9 scheduled for Monday where it was this business  
10 versus Town Watch. They were suing the Town Watch  
11 community organization that Greg Spearman and Cindy  
12 and so many others represent, they were suing Town  
13 Watch for complaining about them being on that  
14 corner. The case was just finally dropped on Monday  
15 and they said they're rehiring another lawyer so  
16 that they can sue the Town Watch. There's another  
17 case where they're suing me and Town Watch.

18 COUNCILMAN KENNEY: I've been in court  
19 with you. I saw judge just reverse everything that  
20 L&I did and sent us out the door. That doesn't mean  
21 we're not going to go and do it again but --

22 COUNCILWOMAN BLACKWELL: How many people  
23 sue Town Watch?

24 MR. SPEARMAN: Now, the guy can sit there  
25 -- Asian Beverage Association allows them to sit

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2       there and sell drugs all night. They don't say  
3       anything.

4                   Let me tell something about this here  
5       corner. They haven't had a hundred customers in the  
6       last year. They haven't had -- we essentially shut  
7       them down just through peaceful boycott. We're not  
8       vigilantes. The message has come across clear. But  
9       they support this type of activity and yet they  
10      allow these boys to set up on the corners and sell  
11      drugs. You never hear them coming in saying, "Well,  
12      you know, let's sue them."

13                  We're coming in peaceful, we coming in  
14      respectful.

15                  Any sensible business owner, if you see  
16      an entire community saying "I want fish," and you  
17      got five people saying, "I want hot dogs," you would  
18      sell the fish. But this is how much disrespect, not  
19      only they have for us, but they have the entire  
20      Philadelphia, period, because we haven't figured out  
21      a way to stop these here parasites from --

22                  COUNCILMAN KENNEY: Being parasites.

23                  MR. SPEARMAN: Right. Thank you, sir.

24                  COUNCILMAN KENNEY: Thank you. Thank you  
25      very much.

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2 Identify yourself for the record.

3 MR. GRANT: My name is Ruby Grant. I'm a  
4 resident in that community. I'm also a protester.

5 And just to piggyback off of what Mr.  
6 Spearman was saying, I mean 300 and some days we've  
7 been out there in all types of weather. Basically  
8 that community is homeowners. People have been in  
9 the community for 30, 40, 50 years. And we're just  
10 tired of people coming into our community taking us  
11 for granted and just figuring that they can do  
12 whatever they want to do and it's okay. We need  
13 support from our City officials, from whomever we  
14 can get support from.

15 This is a serious problem. And it's not  
16 just in our community; it's all over the City, where  
17 they come and they open these businesses, they sell  
18 drug paraphernalia, as Mr. Spearman stated.

19 And I'm a grandmother. I have  
20 grandchildren. They're our future in that community  
21 and we need help. That's all I need to say.

22 COUNCILMAN KENNEY: Yes, ma'am. Thank  
23 you.

24 Please identify yourself.

25 MS. PRESTON: My name is Cynthia Preston.

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2       I represent the police mini station which is  
3       operated by all volunteers and Town Watch.

4                   To piggyback on what Greg Spearman said,  
5       I dealt with the Liquor Control Board numerous and  
6       numerous times. It got the point where we need you  
7       to put into effect, because they're constantly  
8       coming back saying that it's the City permit usage  
9       here, there, everywhere. Some delis are allowed to  
10      have seating. How much, nobody knows. They tell  
11      you 30 percent. To get around seating, they will  
12      put items on the floor such as cases of sodas, box  
13      goods, canned juices, so therefore there is no  
14      seating.

15                  Now as a rule, I don't know now if it's  
16      still stand, but if you had a liquor license, you  
17      must have an entrance and an exit. And any children  
18      being served without an adult was a total violation.

19                  I had a committee that went in a deli  
20      every day for two and a half years to purchase a  
21      pack of crackers just to count the seating, see if  
22      they could go to the bathroom or see if they could  
23      get a glass of water. And no bathroom, no glass of  
24      water, and nowhere to wash your hands.

25                  And the children are being caught up in

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2 this. And anytime you know something is operating  
3 illegally, why are they granted the permits and the  
4 method to open up the doors when it's not even set  
5 in tone from the beginning?

6 And law enforcement, they gonna shove it  
7 back to you. Then you tell us what to do. And the  
8 same thing, we're going to go 361 days more?

9 I have a deli with a problem. It even  
10 had a murder took place outside it last year. I  
11 mean, I watch it from my mini station. If I'm in  
12 there 14 hours, I can tell you 13 incidents in 14  
13 hours. And I don't think nobody should have to live  
14 under them circumstances because every one of them  
15 at one time or another was a bar that was closed  
16 down to violations and issues, but they come in a  
17 deli.

18 So how long are we supposed to be subject  
19 to it?

20 COUNCILMAN KENNEY: Thank you.

21 Sir, would you please identify yourself.

22 MR. MOY: Deacon Marvin T. Moy, Sr.,  
23 Bethany Baptist Church. Reverend Barnes is my  
24 pastor. I'm the young man, I stress young man, that  
25 Greg was speaking moved to Cape May. I'm in the

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2 process of moving to Cape May. The whole thing in a  
3 nutshell is I'm not going to leave Philadelphia  
4 until, hopefully, we can get these issues resolved.  
5 This is my home here. As a matter of fact, we've  
6 been in Larchwood Avenue 38 years. As a matter of  
7 fact, I believe the Councilman here used to have in  
8 the next block, if I'm correct.

9 COUNCILMAN NUTTER: 5519.

10 MR. MOY: I have a picture I have to dig  
11 out for you later.

12 COUNCILMAN NUTTER: Let me see it before  
13 you bring it in.

14 MR. MOY: He was a very young man then.  
15 He's still a young man.

16 The issue here is the stop-and-goes.  
17 Now, I have yet to see a stop-and-go that has done  
18 anything positive for the community. Every time you  
19 look around, you take our neighborhood, for  
20 instance, it's a nice neighborhood and holding up  
21 very well. But if we should just let this  
22 stop-and-go come in to our neighborhood, you can  
23 look around and see all the urban blight that's  
24 created. You can see the tax base deteriorating.  
25 You can see people moving out. I'm moving because



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2       I'm retired. But if I wasn't retired, I'd still be  
3       there.

4                   To make a long story short. We've met  
5       with the merchants, the Korean Beverage Association,  
6       et cetera, and they haven't been very true full to  
7       us. Councillady Blackwell has worked with us very  
8       well. We have spoken to the state, local and even  
9       federal authorities.

10                  But now, you made a statement, Mr.  
11       Chairman, and I want to know how do you or how do we  
12       go about getting the local and State Police to work  
13       together when especially a lot of times in the small  
14       towns, the State Police is the only police they  
15       have. So I would believe somehow their ranks might  
16       be stretched kind of thin. But somehow we need to  
17       work this together because when I spoke to  
18       Representative Robuck, he was very helpful, gave me  
19       a lot of information. As a matter of fact, if you  
20       really want to stop and think about it, the  
21       population has decreased somewhat in Philadelphia.  
22       And there's only supposed to be, according to the  
23       state law, X-amount of stop-and-goes per 10,000  
24       people. I may not be absolutely correct on those  
25       figures.

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COUNCILMAN NUTTER: Three.

MR. MOY: Three thousand?

COUNCILMAN NUTTER: Yes.

MR. MOY: And I think that they're exceeding these numbers. And if you stop and you look at it between 52nd, Cobbs Creek, Market and Woodland Avenue, there might be 50, 60 stop-and-goes. We don't need this. We don't need our children just to see cold beer to go. We are more than chicken wings, cold beck and watermelons. Not that anything's wrong with that. But like I'm saying, they are really coming into our community. And it's not that -- I'll speak for me. It's not that I dislike them; I just dislike what they are doing. And what they're doing, as far as I'm concerned, is unacceptable in the community. Not only in West Philadelphia, but throughout the City.

Sometime in your travels, just ride down 61st and around Reinhart. That was a nice community. Now it's more boarded up homes around there than they are people living in these housing. You take, 58th and Catherine, it's been about six killings there. And we don't need this.

We need the support of the City Council

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2       We need the support of whoever it may be as long as  
3       we can get this done peacefully and we can get it  
4       done soon, because while we're sitting here in all  
5       probability -- look, the organizations or the  
6       opposition, however you want to call them, are  
7       probably planning something now. So we need your  
8       help. We've been out there in the rain, the snow  
9       from early morning to late, late night.

10                COUNCILMAN KENNEY: You'll have it today.  
11                Councilman Nutter.

12                COUNCILMAN NUTTER: Thank you, Mr.  
13       Chairman. First, Mr. Chairman, just for the record,  
14       I would like to state I am a true believer in  
15       chicken wings and watermelon. I don't drink beer,  
16       but I do like an occasional different kind of  
17       beverage from time to time.

18                More seriously, I mentioned in caucus  
19       last week and I stated on the record today, I did  
20       grow up in this neighborhood, in Councilwoman  
21       Blackwell's district and actually worked at this  
22       particular establishment under the previous owners  
23       when the Simms family owned the store.

24                It is a very serious issue. I've seen  
25       the protest and the demonstration by the neighbors

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2       and certainly support their efforts.

3                   Mr. Chairman, I have two things. One, I  
4       need to leave the Chambers for personal business, so  
5       I wish to be recorded as voting aye on all bills  
6       that come out of the committee. I don't know if  
7       there are any amendments. If there are any  
8       amendments, I wish to be recorded as voting eye as  
9       well.

10                  Lastly, Mr. Chairman, with regard to a  
11       Planning Commission matter that would have come  
12       before this committee, an RC-6 zoning matter for  
13       Cathedral Village Life Care Facility at Ridge Avenue  
14       and Cathedral Road, that matter will go forward  
15       without any action from this committee which would  
16       have needed to have taken by October 31st. The  
17       community is in support of it; otherwise, I would  
18       have brought that matter to this committee.

19                  There is some concern with the Planning  
20       Commission being here that the RC-6 process was not  
21       carried out in a way that allowed for maximum  
22       neighborhood input. So with the Planning Commission  
23       here, I wish to put that matter in the record to  
24       make sure that neighbors are aware of what's going  
25       when the Planning Commission is reviewing RC-6

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2    proposals.

3                   With that, Mr. Chairman, I wish to be

4    excused and leave my vote as I stated earlier.

5                   COUNCILMAN KENNEY: Thank you very much.

6                   MR. MOY: What is the number of this

7    particular bill?

8                   COUNCILMAN KENNEY: This bill is 030628.

9                   MR. MOY: And the purpose of this bill is

10   to put restrictions on the --

11                  COUNCILMAN KENNEY: This is a Third

12   Councilmanic District Special Controls prohibiting

13   certain uses in the Third Councilmanic District,

14   stop take-out beer delicatessens.

15                  MR. MOY: Run that pass me a little

16   clearer, will you please?

17                  COUNCILMAN KENNEY: This is prohibiting

18   the operation --

19                  Councilwoman, you want to explain the

20   bill?

21                  COUNCILWOMAN BLACKWELL: I'm sorry, I was

22   talking, Mr. Chairman.

23                  You want me to explain what we're asking

24   for in the bill we just discussed?

25                  COUNCILMAN KENNEY: The witness requested

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2           an explanation of what the bill will accomplish.

3                   COUNCILWOMAN BLACKWELL: Thank you.

4                   This bill is to deal with zoning issues  
5           so as to prohibit additional stop-and-goes from  
6           coming anywhere in West and Southwest, anywhere in  
7           the Third Councilmanic District. So the law doesn't  
8           -- we checked with the Law Department. The law  
9           doesn't allow us to take away the rights of those  
10          operating now, but it means no new ones come.

11                  You know, we're having a problem where  
12          we're getting three and four in a block. So this  
13          would stop any new ones from coming into our  
14          district.

15                  Also, as I've said Chairman, who  
16          understands because he was with us when we have the  
17          argument on the Purple Fox when we coined the phrase  
18          "stop-and-go." We also will have joint hearings  
19          where we will invite the State to come in with us to  
20          testify on these stop-and-goes. We're going to have  
21          hearings on those. But we wanted to at least  
22          immediately try to give you some relief, especially  
23          since they're suing Town Watch, suing me, suing  
24          everybody. We wanted to begin doing what we could  
25          at our level. And so that is why we want to stop

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2     the ability any new stop-and-goes to come in West  
3     and Southwest. And my colleagues will consider  
4     between now and the time the bill comes up for final  
5     vote how they feel about this for themselves as  
6     well.

7                   MR. MOY: Okay, this type of action, is  
8     long-term or can it done rapidly or --

9                   COUNCILMAN KENNEY: Once the Mayor signs  
10    it, it will be immediate. However, I suspect that  
11    your friends at the Beverage Associations will be in  
12    court challenging the bill.

13                  MR. MOY: No doubt about that. Thank  
14    you.

15                  MS. WRIGHT: My name is Mrs. Helen  
16    Wright, and I live across the street from the  
17    stop-and-go that we have been picketing for over 360  
18    days. I live right across the street from it. We  
19    have asked them not to put a stop-and-go there  
20    because we don't want a stop-and-go in our  
21    community. We have a nice community. I've been  
22    living there for 41 years and I plan on staying  
23    there until leave this world. And we don't need a  
24    stop-and-go there. They bring in all kinds of  
25    drugs. We've been on the corner two years to get

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2     the drugs off the corner. And get the street  
3     cleaned up and they come here with this stop-and-go  
4     getting ready to start the same thing over again.  
5     And we just will now allow that. We have been  
6     boycotting and we will continue to boycott until  
7     they leave.

8                   COUNCILMAN KENNEY: Thank you, ma'am.  
9                   Please identify yourself.

10                  MR. WRIGHT: Deacon William Wright,  
11     Calvary Baptist Church. This is my wife. I also  
12     live at the 400 block of South 55th Street. We do  
13     not need this stop-and-go there because of the same  
14     things that's been said. I won't repeat it to save  
15     time. But L&I close them down again because no  
16     corrections have been made to what they were charged  
17     with before. Rat droppings. You can look through  
18     the window and see mice dead on the floor. And they  
19     said they have seating upstairs, but there's no fire  
20     escape in the back of the building for anyone to  
21     come from upstairs down. There's no bathroom, like  
22     was said before. There's a whole lot things that  
23     L&I can close these people down right now, and I  
24     would like to see this place closed down this  
25     afternoon or tomorrow.



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2 If they want to get the higher court or  
3 whatever, let them do it.

4 But we've been a Town Watch for a long  
5 time. I'm the Vice President of Town Watch. I'm  
6 Block Captain there for many years. And we don't  
7 want this in our neighborhood.

8 When they came there and changed hands,  
9 they told me that they was going to remodel, but in  
10 a couple weeks they started taking all the meat  
11 cases out. So I said, "What's going on?"

12 "We're going to take everything out of  
13 here, remodel it, it's going to be back a grocery  
14 store."

15 When they unveiled the windows, it was a  
16 stop-and-go. Plexiglass, refrigerated flower and  
17 whole lot of nothing but beer, so they lied to us  
18 from the very beginning. So we don't want them, no  
19 pizza stand or no nothing else there. I'd rather  
20 see a victory garden there then to see these people  
21 put a stop-and-go or pizza parlor there. Thank you.

22 COUNCILMAN KENNEY: Thank you very much  
23 for coming in and for your testimony. We will  
24 assure you that this bill get out of committee today  
25 and be passed next week by Council.

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2 (Applause.)

3 COUNCILWOMAN BLACKWELL: Mr. Chairman, we  
4 note that Deacon Wright was well, and he's been so  
5 long testifying he got ill. But God blessed him to  
6 be out here today, and we are happy that he's well  
7 enough to be with us.

8 Thank you, Deacon Wright.

9 COUNCILMAN KENNEY: Thank you very much.  
10 Please identify yourself for the record.

11 MR. FUNCHON (ph): My name is Matthew  
12 Funchon (PH), and I am the managing partner,  
13 President and Chief Executive Officer of Penn  
14 Distributors. First of all, I'd like to thank Mr.  
15 Chairperson, the Committee and Councilwoman for  
16 allowing me the opportunity to have a few words  
17 regarding this matter.

18 If I may, I'd like to give a little bit  
19 of background on what our company is all about.  
20 Again, we are Penn Distributors. We are a malt  
21 beverage wholesaler, and we sell our brands  
22 throughout the City of Philadelphia and also in  
23 Chester County and in Lower Montgomery County.

24 The brands that we have, we are  
25 representative of Anheuser-Busch of the Miller

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2       Brewing Company of Beck's North America and several  
3       other smaller brands from across the country. We  
4       employ 125 people. We are located within the City  
5       of Philadelphia, and we work very closely with the  
6       Community Development Corp through Roxborough and  
7       Councilman Nutter and had committed to that program  
8       now for two years. The entire community is very  
9       important to us and to our business throughout the  
10      area where we operate, and in particular the City of  
11      Philadelphia.

12                Just a couple of facts. The malt  
13      beverage industry statewide is down over 8 percent  
14      this year, and in the City of Philadelphia we think  
15      that it is a bit more severe. On that same note,  
16      wine and spirits business up double digits  
17      throughout the State of Pennsylvania. I believe  
18      that's due to a lot of work that's been done by Mr.  
19      Newman in the LCB in making environment more  
20      consumer friendly.

21                The basic purpose of my visit today is to  
22      -- we, as I mentioned earlier, are very, very  
23      committed to the community. If there's any abuse  
24      and any serious problems that are going on, we want  
25      to be a part of the proactive solution. And I think

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2       that there are a number of things that we can  
3       attempt to do, and I would welcome the opportunity  
4       as an industry member to work with this neighborhood  
5       group and with you, Councilwoman, if you so desire.  
6       I would welcome to have you come and visit our  
7       building so that we can talk about some of these  
8       issues and come up with proactive solutions to  
9       assist the community.

10                   That is basically the purpose of my visit  
11       today. I know that it's a very serious concern, and  
12       we'd like to be a part of the solution to the  
13       problem.

14                   COUNCILMAN KENNEY: Councilwoman  
15       Blackwell.

16                   COUNCILWOMAN BLACKWELL: Thank you.

17                   Thank you very much. We would certainly  
18       like to work with you. We'll have my staff attorney  
19       get your card, Darwin. What we are interesting in  
20       is certainly only having the community respected as  
21       business makes its living in that community. And as  
22       has been said, this does not prevent any stop-and-go  
23       from applying for a variance, so we don't take away  
24       their right to operate, but at least it gives the  
25       community some say in who is there so that together

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2 they and the businesses can forge out a cooperative  
3 arrangement. Thank you very much.

4 COUNCILMAN KENNEY: Please don't take any  
5 offense to this question, but I feel compelled to  
6 ask you. Where do you live?

7 MR. FUNCHON: I live in Devon,  
8 Pennsylvania in Chester County.

9 COUNCILMAN KENNEY: Not many  
10 stop-and-goes around Devon, Pennsylvania.

11 MR. FUNCHON: No, sir.

12 COUNCILMAN KENNEY: I didn't think so.

13 MR. FUNCHON: But there are several delis  
14 that sell product the same way.

15 COUNCILMAN KENNEY: But the reason I  
16 raise that is because I just want you to understand  
17 what they're living with on a daily basis that  
18 really is far removed from what your experience is.

19 MR. FUNCHON: I understand that.

20 COUNCILMAN KENNEY: And I don't mean any  
21 disrespect.

22 MR. FUNCHON: I understand that. And  
23 with all due respect, because our business is in the  
24 City of Philadelphia, I personally spend a lot of  
25 time in North and West Philly and personally witness

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2 these issues every day.

3 COUNCILMAN KENNEY: We appreciate that.

4 Thank you. Thank you very much.

5 Councilman DiCicco.

6 COUNCILMAN DICICCO: Thank you for your  
7 testimony. You mentioned that you'd be willing to  
8 work with the Councillady and community  
9 representatives. And you said you something about  
10 some proactive solutions to the problems. Could you  
11 share with us today any of those recommendations.  
12 I'm curious how you can police, if you will, I guess  
13 is the best word I can come up with at the moment,  
14 what the conduct of the proprietors of these  
15 establishment is about in the various communities  
16 other than to stop selling beer? I don't know how  
17 also you can do that.

18 MR. FUNCHON: A couple of things. I  
19 think that first of all we need to spend more time  
20 to come up with solutions. I have a couple of  
21 thoughts that I can give you, but certainly I'm not  
22 stating in any way that we're in the policing or the  
23 enforcement business. I don't think that that's our  
24 responsibility.

25 COUNCILMAN DICICCO: I guess that's why

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2 I'm curious.

3 MR. FUNCHON: But I think that a lot of  
4 the things that we do as an industry, if it's  
5 battling the underage drinking issue, if it's  
6 battling alcohol abuse issues, if it's working with  
7 on premise restaurants bars and taverns across the  
8 City and the area where we work to educate and train  
9 servers of alcohol in the proper serving and when  
10 and when not to serve somebody who may be  
11 intoxicated. Those type of training and education  
12 programs I think could be translated to this trade  
13 channel. Would it be a lot of work? Absolutely.  
14 Would we have to get industry support at the  
15 wholesaler level, at the Asian American License  
16 Beverage Association and the Tavern Owners  
17 Association? Yes, we would.

18 I think that as many people talked  
19 earlier, I think that there's an enforcement issue  
20 that has to be stepped up. And I think those are of  
21 the things that we need to be talking about as  
22 participants and representatives of industry.

23 As an industry, we have backed off of  
24 advertising in urban neighborhoods to a large degree  
25 of our beer products. Those are the type of things

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2       when I talk about proactive and positive solutions.  
3       That is what I'm talking about.

4                   But obviously, again, as a member of  
5       industry and working with the community and working  
6       with the committee, I think that we can come up with  
7       more solutions, but it's going to take a collective  
8       effort.

9                   COUNCILMAN DICICCO: I thank you for your  
10      comments and I respectfully question the ability of  
11      this educational program. We know that anyone under  
12      the age of 21 is not supposed to be served, however,  
13      people do that. And it's not just stop-and-goes.  
14      It's across the board. Less advertising, which was  
15      done I think by matter of a statute or some bill  
16      that had been passed in City Council a number of  
17      years ago. And despite all those best efforts,  
18      these problems continue and will continue because in  
19      a perfect world people who run these establishments  
20      would pay more attention to their customer and to  
21      make sure that the activity of the customer coming  
22      in and out of their facility was in a manner which  
23      did not disturb the quality of life in the adjacent  
24      community. The bottom line is, in many cases, in  
25      most cases, they don't because they're generally



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2     people who don't live in the neighborhood. As and  
3     Councilman Kenney said, no disrespect to you, not  
4     trying to insult you, but these are generally people  
5     who do not live in the neighborhood. They're there  
6     for one reason and one reason only, which is not a  
7     bad thing, to make money. But when they make money  
8     by the sale of their products and it interferes in a  
9     negative way and a negative impact on the community,  
10    then we have to step in and do something about it.  
11    So I think that what Councilwoman Blackwell is  
12    attempting to do is to at least put some more teeth  
13    into the existing laws and to send a clear message  
14    out there that this kind of activity and these kinds  
15    of establishments are no longer welcome in some  
16    neighborhoods. Thank you.

17                   COUNCILMAN KENNEY: The question I have  
18    for the industry, and maybe this is something we can  
19    explore, what is the average alcohol content of a  
20    normal beer?

21                   MR. FUNCHON: Roughly 5 percent.

22                   COUNCILMAN KENNEY: What is the alcohol  
23    content of a malt liquor product?

24                   MR. FUNCHON: Six and a half percent,  
25    roughly six and a half percent; six to six and a

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2 half.

3 COUNCILMAN KENNEY: It would seem to me  
4 the only difference between the normal beer and the  
5 malt liquor is increased alcohol content and the  
6 only reason they have increased alcohol content is  
7 to get drunk faster and longer. I don't get -- I  
8 don't understand the actual product itself other  
9 than to make people drunker quicker. If beer is not  
10 enough at 5 percent, what do you need 6 and a half  
11 for? And I know some of them are even higher than 6  
12 and a half. There are other ones that way up there.  
13 I think 15?

14 MR. FUNCHON: I don't know the answer to  
15 that.

16 COUNCILMAN KENNEY: Well, it's industry.  
17 My point is other than increased alcohol content,  
18 what's the purpose of selling the product other than  
19 making people drunker faster?

20 MR. FUNCHON: Well, it's a product that's  
21 not just marketed to neighborhoods in North and West  
22 Philadelphia. If it's a regular beer product or if  
23 it's a malt liquor product, it's sold and made  
24 available to consumers of all demographics. So in  
25 terms of is it made to get people drunker faster,

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2 we'd like to think that with the products that we  
3 sell that we don't want anybody abusing our product.  
4 If it's regular beer or light beer or malt liquor,  
5 we don't want anybody abusing that product and  
6 getting drunk. That's why we have all of the  
7 education programs out there that we have, and we'd  
8 like to pursue that were this group.

9 COUNCILMAN KENNEY: Would you be willing  
10 to share with us at some point in time in the future  
11 the sales demographics of malt liquor products  
12 throughout Philadelphia that just your company  
13 distributes, how many cases of malt liquor do you  
14 deliver Chestnut Hill or to Center City as opposed  
15 to how many cases are sold in Northwest, Southwest,  
16 South Philadelphia?

17 MR. FUNCHON: Sure. I would be glad to  
18 share that with you.

19 COUNCILMAN KENNEY: It would be  
20 interesting to take a look at that. Thank you very  
21 much.

22 MR. SPEARMAN: I just wanted to say one  
23 more thing, Councilman. In fact, I'd like to thank  
24 the gentleman for putting the offer out.  
25 Collectively, I think we can come up with some good

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2       ideas to curb these type of behaviors that these  
3       business owners have been putting us through in the  
4       community.

5                   You almost lost me when he said it wasn't  
6       targeted for North and West Philadelphia, because we  
7       all know that it is. It's targeted for minority and  
8       economically depressed communities, and that's their  
9       target market. And we're asking them just to be  
10      responsible business owners and other responsible  
11      business owners come to the table with us, we come  
12      up with a solution. That's all we're asking.

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

15                  The next bill on our calendar today is  
16      Bill No. 030644, an ordinance granting permission to  
17      the Sisters of the Holy Family of Nazareth to expand  
18      their cemetery or place of burial, located at the  
19      northwest corner of the former Stevenson Street and  
20      the former Torresdale Avenue.

21                  Please identify yourself for the record.

22                  MR. CHAPMAN: Good after Mr. Chairman,  
23      and members of the Committee, for the City Planning  
24      Commission my name is Thomas Chapman. The short  
25      title of this bill pretty much describes exactly

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2       what's happening here. Holy Family College which is  
3       located in Northeast Philadelphia at the corner at  
4       the corner of Grant Avenue and Frankford Avenue  
5       would like to expand a cemetery on their property.  
6       The cemetery is located roughly at Torresdale Avenue  
7       and Stevenson Street.

8                   Under the terms of the Home Rule Charter,  
9       the expansion of this cemetery is not something  
10      that's permitted by permit. It's something that  
11      requires approval by City Council through the  
12      enactment of an ordinance.

13                  COUNCILMAN KENNEY: Thank you very much.  
14                  Please identify yourself for the record.

15                  MR. TANTALA: My name is Albert M.  
16       Tantala, T-A-N-T-A-L-A. I'm a consulting engineer  
17       working with Holy Family University and the Sisters  
18       of the Holy Family of Nazareth.

19                  I'd like to bring to your attention that  
20       this cemetery was legally established by ordinance  
21       of Council on the 15th of August, 1923, that the  
22       cemetery predates the Philadelphia Zoning Code, that  
23       the original cemetery was approximately 80 feet by  
24       100 feet. The proposed cemetery will be  
25       approximately 96 feet by 291 feet. The proposed

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2 cemetery expansion has been discussed with the East  
3 Torresdale Civic Association. They do not oppose  
4 the expansion. The cemetery is not in the hundred  
5 year flood plane. Accordingly, ask for your support  
6 and to move this bill out of Committee.

7 COUNCILMAN KENNEY: Thank you. The  
8 Sisters aren't intending to build a Wal-Mart, are  
9 they?

10 MR. TART ALA: No, sir.

11 (Laughter.)

12 COUNCILMAN KENNEY: Just kidding. Thank  
13 you very much for testimony.

14 Any questions for these witnesses.

15 (No response.)

16 COUNCILMAN KENNEY: Seeing none, we will  
17 now move to Bill No. 030657, an ordinance amending  
18 Title 14 of the Philadelphia Code, entitled "Zoning  
19 and Planning," by amending Section 14-1621, entitled  
20 "Passyunk Avenue Special District Controls," by  
21 revising the prohibited uses and the regulations  
22 regarding signs within the District.

23 MR. CHAPMAN: Good afternoon, Mr.  
24 Chairman and Members of the Rules Committee. Once  
25 again, for the City Planning Commission, my name is

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2       Thomas Chapman. I'm here today to testify on Bill  
3       No. 030657. Councilmembers DiCicco and Kenney  
4       introduced this bill on October 9, 2003.

5                   This bill amends the Passyunk Avenue  
6       Special District Control section of the Zoning Code.  
7       It expands the list of prohibited uses to include  
8       drive-through restaurants, sell-through windows,  
9       restaurants that exceed 4,000 square feet in gross  
10      floor area, the sale of package beverages and malt  
11      beverages, the sale of drugs and cosmetics, sales of  
12      variety store merchandise, personal service, sales  
13      of live animals, laundries, laboratories, amusement  
14      arcades, and after-hour clubs.

15                  Sign provisions are also amended that  
16      would reduce the total square footage allowed but  
17      would now allow projecting signs.

18                  The Planning Commission has not yet  
19      considered this bill. I would be happy to answer  
20      any questions of the Committee.

21                  COUNCILMAN KENNEY: Thank you very much.

22                  Mr. Rivelli, please identify yourself for  
23      the record.

24                  MR. RIVELLI: Good afternoon. My name is  
25      Robert Rivelli (ph). I'm the Executive Director of

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2       the East Passyunk Avenue Business Improvement  
3       District. I'm glad to be here this afternoon. This  
4       is my first time appearing before Council in this  
5       new position.

6                   COUNCILMAN KENNEY: Welcome.

7                   MR. RIVELLI: I wanted to briefly  
8       describe to you what our organization is. We were  
9       formed by Council ordinance in December of 2002 and  
10      we are probably the newest special services district  
11      in the City. Our purpose is to promote and enhance  
12      the retail corridor within the boundaries of the bid  
13      and create clean and safe environment.

14                  The ordinance authorizes us to asses the  
15      commercial and industrial property owners within the  
16      district, as you are well aware. Our boundaries are  
17      generally Passyunk Avenue between federal and to  
18      Broad Street including one block of broad from  
19      Passyunk to Snyder Avenues.

20                  The reason for this change to the overlay  
21      zone is to enhance and protect the special character  
22      that makes Passyunk Avenue a unique place to do  
23      business. Major public and private investments have  
24      been made and continue to be made to protect and  
25      maintain the viability of the Avenue. This is a



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2 very important neighborhood commercial shopping  
3 district, and over the last several years before my  
4 arrival here we have seen an encroach of  
5 particularly ground floor uses that are not  
6 compatible with the retail flavor of the corridor.  
7 So we are in support of the proposed changes to the  
8 overlay zone.

9 There is one minor change that I would  
10 like to make and this was an error on our part. We  
11 had made some suggestions to Councilman DiCicco to  
12 amend this overlay and made an error in our  
13 comments. If you note on Item No. 4 J and K where  
14 it lists under prohibited uses on the ground floor,  
15 fortune teller establishments and tattoo and body  
16 piercing establishments. This is actually  
17 duplicated from the original language in the  
18 ordinance which prohibits them in their entirety in  
19 any part of the building and is not intent to just  
20 allow that to occur in the upper floors and on the  
21 ground floors, so that was an error on our part and  
22 I wish to have that struck from the proposed  
23 ordinance.

24 COUNCILMAN KENNEY: Okay, great. Thank  
25 you for your testimony.

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2 Any questions for the witnesses?

3 Councilman DiCicco.

4 COUNCILMAN DICICCO: Thank you, Mr.

5 Chair.

6 Mr. Rivelli, I'm sitting here thinking of  
7 other prohibited uses and what just came to mind,  
8 maybe pay phones. Pay phones generally become very  
9 problematic. So I'm going to make that an amendment  
10 as well.

11 MR. RIVELLI: We would support that.

12 COUNCILMAN DICICCO: A lot of requests I  
13 get -- many of the requests concerning pay phones in  
14 various neighborhoods is they have them removed. So  
15 maybe we should do that, make it a prohibited use so  
16 we don't have to deal with removing them at a later  
17 date.

18 MR. RIVELLI: I agree.

19 COUNCILMAN KENNEY: Anyone else to  
20 testify on this bill?

21 (No response.)

22 COUNCILMAN KENNEY: Seeing none, we will  
23 move to Bill No. 030658, an ordinance amending Title  
24 14 of the Philadelphia Code, entitled "Zoning and  
25 Planning," by amending Section 14-1604, entitled

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2       "Outdoor Advertising and Non-Accessory Advertising  
3       Controls," by adding requirements for the issuance  
4       of a permit to erect outdoor advertising and  
5       non-accessory signs; in particular, providing that  
6       no such permit shall be issued if there is any  
7       outstanding violation relating to premises upon  
8       which the outdoor advertising sign will be erected  
9       or maintained, or if the applicant is delinquent in  
10      the payment of any taxes, charges, fees, rents or  
11      claims; all under certain terms and conditions.

12                   Mr. Chapman.

13                   MR. CHAPMAN: Good after, Mr. Chairman  
14       and Members of the Rules Committee. My name is  
15       Thomas Chapman on behalf of the City Planning  
16       Commission. I'm here today to testify on Bill No.  
17       030658. Councilmembers DiCicco and Kenney  
18       introduced this bill on October 9, 2003.

19                   This bill amends the Zoning Code relating  
20       to conditions for the issuance of permits to erect  
21       outdoor advertising signs. If enacted, this bill  
22       would provide that permits for the erection of  
23       outdoor advertising or non-accessory signs not be  
24       issued if there are any outstanding violations for  
25       which all legal appeals have been exhausted of the

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2       Philadelphia Code relating to the premises upon  
3       which the sign is to be erected or maintained.

4                   Additionally, the bill provides that  
5       permits should not be issued when the applicant is  
6       delinquent in the payment of any City or School  
7       District taxes, charges, fees, rents or claims  
8       unless the applicant has entered into an agreement  
9       to pay any such delinquency and abiding by the terms  
10      of the agreement.

11                  Once again, the Planning Commission has  
12      not had the opportunity to consider Bill No. 030658  
13      at this point in time, but this bill is certainly  
14      consistent with previous Planning Commission policy  
15      regarding the regulation of outdoor advertising  
16      signs. That concludes my testimony.

17                  COUNCILMAN KENNEY: Thank you very much.

18                  Any questions from Mr. Chapman?

19                  (No response.)

20                  COUNCILMAN KENNEY: Mary Tracy, please.  
21      Please identify yourself for the record.

22                  MS. TRACY: Good afternoon. My name is  
23      Mary Tracy. I am the President and Executive Director  
24      of SCRUB, which stands for the Society Created to  
25      Reduce Urban Blight.

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2 In 1991, SCRUB at the time was a citywide  
3 coalition of neighborhood organization, business  
4 groups, religious organizations, health, et cetera,  
5 that helped get the Bill 1604 passed that controls  
6 outdoor advertising here in the City of  
7 Philadelphia.

8 I was asked by Councilman DiCicco and  
9 Councilman Kenney to weigh in on this issue. And we  
10 support this bill because we see that it addresses  
11 at least one of the many problems that we currently  
12 have with this legislation.

13 I brought along -- I'm a great believer  
14 in a picture tells a thousand words. This is a  
15 picture that was taken during a survey that we did,  
16 and I actually have copies for the committee  
17 members. This is, I think, exactly what you're  
18 trying to address here. My understanding is you  
19 have here a totally abandoned building which  
20 violates numerous codes, and yet the nicest thing on  
21 that building is actually the outdoor advertising  
22 sign. And in this particular case, it's not  
23 permitted.

24 In the survey that we did which we  
25 actually chose two Philadelphia neighborhoods

1                   10/29/03 - RULES - BILL 030658

2    Tacony-Bridesburg and Belmont-Mantua. And in

3    Belmont-Mantua we found that of 56 billboards, 50 of

4    them were un-permitted; in the Tacony-Bridesburg, 76

5    billboards, and of them, 45. So you're looking at

6    59 percent and an 89 percent non-permitted situation

7    here in Philadelphia. The interesting thing I think

8    is that because of our report, L&I actually started

9    to cite a lot of these illegal signs. And then you

10   find that the billboard company finally, after

11   having these signs up there illegally for, we don't

12   know how many years. Now they go to get the permit.

13   And this process is -- it seems to me those signs

14   should come down, first of all. These buildings

15   many times are in places where signs are prohibited.

16   They're within 300 feet of residential property.

17   They're within 660 feet of parks and playgrounds and

18   schools. They're in districts that are really

19   trying to restore the economic and residential

20   quality of the neighborhood. And yet when they go

21   to get their permits, they are allowed to keep those

22   signs up while they're seeking the permits. So it

23   would be my request at some point for this Council

24   to really look at this policy because these aren't

25   signs -- as we move forward in trying to

1                   10/29/03 - RULES - BILL 030658

2     rehabilitate our neighborhoods, this is not the  
3     message that's going to bring folks in. But I know  
4     this bill doesn't address that. It simply addresses  
5     the fact that if you are going to apply for a permit  
6     to finally legalize your sign, then, A, you need to  
7     pay your taxes and fix the building up and. I would  
8     hope that that actually includes taking that sign  
9     down before you can get a permit, but I'm not quite  
10    sure if it addresses that.

11                  COUNCILMAN DICICCO: Thank you, Ms. Tracy  
12    for your testimony. There are many bills out there.  
13    There is one bill in particular that addresses the  
14    issue of the vacant blighted buildings that has been  
15    on the books for about three years now. And I'm  
16    happy to say, just last week L&I sent a letter to  
17    the owner of the building similar to that example  
18    you show -- the building I'm talking about does not  
19    have a billboard on it but is a vacant building  
20    that's been boarded up. The bill I'm talking about  
21    requires the owner of the building to replace every  
22    door and window with a door and or window rather  
23    than just be boarded up. They finally sent a notice  
24    to a property owner on the 700 block of South  
25    Warnock Street and within 48 hours the owner has

1  
2 decided to put a sale sign up. He's just been  
3 speculating for 20 years waiting for the value to go  
4 up at the expense of the other folks on that block  
5 to make a windfall. So \$300 a day per window per  
6 door for every day that those windows are not  
7 replaced has caused him to get religion all of a  
8 sudden decide to sell building, so there is  
9 something that addresses that as well as what I hope  
10 this bill does for the other purposes of removing  
11 some of the blight. Thank you.

12 MS. TRACY: Thank you, Councilman.

13 COUNCILMAN KENNEY: Thank you very much.  
14 It's nice being on the same side, isn't it.

15 MS. TRACY: It is nice being on the same  
16 side. And I think we are on many, if not most.

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

19 Anyone else to testify on this bill?

20 (No response.)

21 COUNCILMAN KENNEY: Seeing none, that  
22 will conclude the public hearing on Rules Committee.

23 - - - -

24 COUNCIL OF THE CITY OF PHILADELPHIA

25 PUBLIC MEETING



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COMMITTEE ON RULES

- - - -

Wednesday, October 29, 2003

- - - -

Public meeting conducted by the Committee  
on Rules, held in Room 696, City Hall, Philadelphia,  
Pennsylvania, on the above date, to consider action  
on the following:

BILLS 030395, 030488, 030564, 030565,  
030566, 030628, 030644, 030645, 030657, 030658.

PRESENT:  
COUNCILMAN JAMES KENNEY, Chair  
COUNCILWOMAN JANNIE BLACKWELL  
COUNCILMAN DARRELL CLARKE  
COUNCILMAN FRANK DICICCO

1

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

4 (Pause.)

5 The Committee on Rules public meeting IS  
6 now in session.

7 The Chair recognizes Councilmember  
8 O'Neill for a motion on Bill No. 030395.

9 COUNCILMAN O'NEILL: Thank you, Mr.  
10 Chairman. Mr. Chairman, I move that Bill 030395 be  
11 reported out of this committee with a favorable  
12 recommendation and a recommendation that the rules  
13 of Council be suspended to allow for first reading  
14 at our next Session.

15 (Duly seconded.)

16 COUNCILMAN KENNEY: Moved and seconded.

17 All in favor?

18 (Aye.)

19 COUNCILMAN KENNEY: There are none  
20 opposed.

21 Bill No. 030395 reported out of the  
22 Committee favorably. A request will be made for  
23 rules suspension to allow for first reading at our  
24 next Council Session.

25 The Chair recognizes Councilman DiCicco

1  
2 for a motion on Bill 030488.

3 COUNCILMAN DICICCO: Thank you, Mr.  
4 Chairman. I move that Bill No. 030488 be report the  
5 out of this committee with a favorable  
6 recommendation.

7 (Duly seconded.)

8 COUNCILMAN KENNEY: Moved and seconded.  
9 All in favor?

10 (Aye.)

11 COUNCILMAN KENNEY: There are none  
12 opposed.

13 Bill No. 030488 reported out of the  
14 Committee favorably..

15 The Chair recognizes Councilmember  
16 O'Neill for a motion to approve the amendments to  
17 Bill 030564.

18 COUNCILMAN O'NEILL: Mr. Chairman, I move  
19 that the amendments to 030564 that was read in the  
20 record by the Assistant Solicitor be approved.

21 (Duly seconded.)

22 COUNCILMAN KENNEY: Moved and seconded.  
23 All in favor?

24 (Aye.)

25 COUNCILMAN KENNEY: There are none

1  
2 opposed.

3 The amendment to Bill No. 030564 is  
4 approved.

5 The Chair recognizes Councilmember  
6 O'Neill for a motion on the amended bill.

7 COUNCILMAN O'NEILL: Mr. Chairman, I move  
8 that Bill 030564, as amended, be reported out of  
9 this Committee with recommendation and also a  
10 recommendation that the Rules of Council be  
11 suspended to allow for first reading next session.

12 (Duly seconded.)

13 COUNCILMAN KENNEY: Moved and seconded.

14 All in favor?

15 (Aye.)

16 COUNCILMAN KENNEY: There are none  
17 opposed.

18 Bill No. 030564, as amended, reported out  
19 of the Committee favorably. A request will be made  
20 for rules suspension to allow for first reading at  
21 our next Council Session.

22 The Chair recognizes Councilmember  
23 O'Neill for a motion to approve the amendment to  
24 Bill 030565.

25 COUNCILMAN O'NEILL: Mr. Chairman, I move

1  
2 that Bill 030565 be amended to reflect the change in  
3 the maps that were handed up by the Planning  
4 Commission.

5 (Duly seconded.)

6 COUNCILMAN KENNEY: Moved and seconded.

7 All in favor?

8 (Aye.)

9 COUNCILMAN KENNEY: There are none  
10 opposed.

11 The amendment to Bill No. 030565 is  
12 amended accordingly.

13 The Chair recognizes Councilmember  
14 O'Neill for a motion on the amended bill.

15 COUNCILMAN O'NEILL: Mr. Chairman, I move  
16 that Bill 030565, as amended, be reported out of  
17 this Committee with recommendation and also a  
18 recommendation that the Rules of Council be  
19 suspended to allow for first reading at our next  
20 session.

21 (Duly seconded.)

22 COUNCILMAN KENNEY: Moved and seconded.

23 All in favor?

24 (Aye.)

25 COUNCILMAN KENNEY: There are none

1  
2 opposed.

3 Bill No. 030565, as amended, reported out  
4 of the Committee favorably. A request will be made  
5 for rules suspension to allow for first reading at  
6 our next Council Session.

7 The Chair recognizes Councilmember  
8 O'Neill for a motion on 030566.

9 COUNCILMAN O'NEILL: Mr. Chairman, I move  
10 that Bill 030566 be reported out of this Committee  
11 with recommendation and also a recommendation that  
12 the Rules of Council be suspended to allow for first  
13 reading at our next session.

14 (Duly seconded.)

15 COUNCILMAN KENNEY: Moved and seconded.

16 All in favor?

17 (Aye.)

18 COUNCILMAN KENNEY: There are none  
19 opposed.

20 Bill No. 030566, as amended, reported out  
21 of the Committee favorably. A request will be made  
22 for rules suspension to allow for first reading at  
23 our next Council Session.

24 The Chair recognizes Councilmember  
25 DiCicco to make a motion to amend Bill 030628.

1

2 COUNCILMAN DICICCO: Thank you, Mr.  
3 Chair. I spoke to the sponsor of the bill,  
4 Councilwoman Blackwell. I'm offering a friendly  
5 amendment to this bill to include the 1st  
6 Councilmanic District as a district that would come  
7 under the special controls.

8 (Duly seconded.)

9 COUNCILMAN KENNEY: All in favor?

10 (Aye.)

11 COUNCILMAN KENNEY: Bill No. 030628 will  
12 be amended accordingly.

13 The Chair recognizes Councilmember Clarke  
14 for a motion on Bill No. 030628.

15 COUNCILMAN CLARKE: Thank you, Mr. Chair.  
16 I make a motion that Bill No. 030628, as amended, be  
17 reported out of Committee with a favorable  
18 recommendation and a request for a suspension of the  
19 Rules.

20 (Duly seconded.)

21 COUNCILMAN KENNEY: Moved and seconded.

22 All in favor, aye.

23 (Aye.)

24 COUNCILMAN KENNEY: There are none  
25 opposed.

1

2 Bill No. 030628, as amended, reported out  
3 of this Committee with favorable recommendation. A  
4 request will be made for rules suspension to allow  
5 for first reading at our next Council Session.

6 The Chair recognizes Councilmember  
7 O'Neill for a motion on 030644.

8 COUNCILMAN O'NEILL: Mr. Chairman, I make  
9 a motion that Bill 030644 be passed out of this  
10 Committee with a favorable recommendation, also a  
11 recommendation the Rules of Council be suspended to  
12 allow first reading at our next session.

13 (Duly seconded.)

14 COUNCILMAN KENNEY: Moved and seconded.

15 All in favor, aye.

16 (Aye.)

17 COUNCILMAN KENNEY: There are none  
18 opposed.

19 Bill No. 030644, as amended, reported out  
20 of this Committee with favorable recommendation. A  
21 request will be made for rules suspension to allow  
22 for first reading at our next Council Session.

23 The Chair recognizes Councilmember  
24 DiCicco to approve the amendments to 030657.

25 COUNCILMAN DICICCO: Thank, you Mr.



1

2 Chairman. I move that the amendments to Bill NO.  
3 030657 that have been circulated to this Committee,  
4 including a late amendment by myself to include pay  
5 phones as a prohibited use be reported out of this  
6 committee with a favorable recommendation.

7 (Duly seconded.)

8 COUNCILMAN KENNEY: Moved and seconded.

9 All in favor, aye.

10 (Aye.)

11 COUNCILMAN KENNEY: The amendments to  
12 Bill No. 030657 are approved.

13 The Chair recognizes Councilman DiCicco  
14 for a motion on the amended bill.

15 COUNCILMAN DICICCO: Thank you, Mr.  
16 Chair. I move that Bill No. 030657, as amended, be  
17 reported out of this committee with a favorable  
18 recommendation and a further recommendation that the  
19 Rules of Council be suspended.

20 (Duly seconded.)

21 COUNCILMAN KENNEY: Moved and seconded.

22 All in favor, aye.

23 (Aye.)

24 COUNCILMAN KENNEY: There are none  
25 opposed.

1

2 Bill No. 030657, as amended, reported out  
3 of this Committee with favorable recommendation. A  
4 request will be made for rules suspension to allow  
5 for first reading at our next Council Session.

6 COUNCILMAN KENNEY: The Chair recognizes  
7 Councilman DiCicco for a motion to approve the  
8 amendment to Bill No. 030658.

9 COUNCILMAN DICICCO: Thank you, Mr.  
10 Chairman. I move for the adoption of the amendment  
11 to Bill No. 030658. A copy of the amendment has  
12 been circulated to everyone.

13 (Duly seconded.)

14 COUNCILMAN KENNEY: Moved and seconded.

15 All in favor, aye.

16 (Aye.)

17 COUNCILMAN KENNEY: The amendment to Bill  
18 No. 030658 is approved.

19 The Chair recognizes Councilman DiCicco  
20 for a motion on the amended bill.

21 COUNCILMAN DICICCO: Thank you, Mr.  
22 Chair. I move that Bill No. 030658, as amended, be  
23 reported out of this committee with a favorable  
24 recommendation and a further recommendation that the  
25 Rules of Council be suspended.

1

2 (Duly seconded.)

3 COUNCILMAN KENNEY: Moved and seconded.

4 All in favor, aye.

5 (Aye.)

6 COUNCILMAN KENNEY: There are none

7 opposed.

8 Bill No. 030658, as amended, reported out

9 of this Committee with favorable recommendation. A

10 request will be made for rules suspension to allow

11 for first reading at our next Council Session.

12 Bill No. 030645 will held to the call of

13 the Chair.

14 Thank you for your attendance today.

15 (Council adjourned at 3:46 p.m.)

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

I HEREBY CERTIFY that the foregoing  
proceedings of the Council of the City of  
Philadelphia of October 29, 2003, were reported  
fully and accurately by me, and that this is a  
correct transcript of the same.

RE: COMMITTEE ON RULES

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Lisa C. Bradley, RPR