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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE OF THE WHOLE

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Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, May 13, 2010
1:20 p.m.

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PRESENT:

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COUNCIL PRESIDENT ANNA C. VERNA

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COUNCILWOMAN JANNIE BLACKWELL

COUNCILMAN DARRELL CLARKE

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COUNCILMAN FRANK DiCICCO

COUNCILMAN W. WILSON GOODE, JR.

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COUNCILMAN BILL GREEN

COUNCILMAN WILLIAM K. GREENLEE

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COUNCILMAN CURTIS JONES, JR.

COUNCILMAN JACK KELLY

15

COUNCILMAN JAMES KENNEY

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COUNCILWOMAN JOAN L. KRAJEWSKI

COUNCILWOMAN DONNA REED MILLER

17

COUNCILMAN BRIAN J. O'NEILL

COUNCILWOMAN MARIA D. QUINONES-SANCHEZ

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COUNCILWOMAN BLONDELL REYNOLDS BROWN

COUNCILMAN FRANK RIZZO, JR.

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COUNCILWOMAN MARIAN B. TASCO

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BILLS 100115, 100116, 100117, 100118, 100131,
100254, 100284

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RESOLUTION 100141

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COUNCIL PRESIDENT VERNA: Good

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afternoon. Thank you. We appreciate

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your patience. This is a public hearing

5

of the Committee of the Whole.

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I would ask Mr. McPherson to

7

please read the bills that we have before

8

us today.

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MR. MCPHERSON: Bill No.

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100115, an ordinance to adopt a Capital

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Program for the six Fiscal Years 2011 to

12

2016 inclusive.

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Bill No. 100116, an ordinance

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to adopt a Fiscal 2011 Capital Budget.

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Bill No. 100117, an ordinance

16

adopting the Operating Budget for Fiscal

17

Year 2011.

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Bill No. 100118, an ordinance

19

amending Title 19 of The Philadelphia

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Code, entitled "Finance, Taxes and

21

Collections," by adding a new Chapter

22

19-3600, entitled "Sugar-Sweetened

23

Beverage Tax," under certain terms and

24

conditions.

25

Bill No. 100131, an ordinance

1 5/13/10 - WHOLE - BILL 100115, etc.
2 amending Chapter 10-700 of The
3 Philadelphia Code, entitled "Refuse and
4 Littering," by providing for a sanitation
5 services fee, under certain terms and
6 conditions.

7 Bill No. 100254, an ordinance
8 amending Title 19 of The Philadelphia
9 Code, entitled "Finance, Taxes and
10 Collections," by adding a new Chapter,
11 entitled "Tobacco and Tobacco-Related
12 Products Tax," under certain terms and
13 conditions.

14 Bill No. 100284, an ordinance
15 amending Section 19-1301 of The
16 Philadelphia Code, entitled "Real Estate
17 Taxes," by revising the real estate tax
18 rate, under certain terms and conditions.

19 Resolution 100141, Resolution
20 providing for the approval by the Council
21 of the City of Philadelphia of a Revised
22 Five Year Financial Plan for the City of
23 Philadelphia covering Fiscal Years 2011
24 through 2015.

25 Bill No. 100119, an ordinance

1 5/13/10 - WHOLE - BILL 100115, etc.
2 amending Chapter 19-1800 of The
3 Philadelphia Code, entitled "School Tax
4 Authorization," by amending Section
5 19-1806, entitled "Authorization of
6 Realty Use and Occupancy Tax."

7 Bill No. 100120, an ordinance
8 amending Section 19-1801 of The
9 Philadelphia Code, entitled
10 "Authorization of Tax," to further
11 authorize the Board of Education of the
12 School District of Philadelphia to impose
13 a tax on real estate within the City of
14 Philadelphia; all under certain terms and
15 conditions.

16 COUNCIL PRESIDENT VERNA: Thank
17 you.

18 Our first witnesses will be
19 from the Administration.

20 (Witnesses approached witness
21 table.)

22 COUNCIL PRESIDENT VERNA: Good
23 afternoon.

24 (Good afternoon.)

25 COUNCIL PRESIDENT VERNA:

1 5/13/10 - WHOLE - BILL 100115, etc.

2 Doctor.

3 DR. SCHWARZ: Good afternoon,
4 Council President, members of City
5 Council. I'm Donald Schwarz, Health
6 Commissioner. Thank you for the
7 opportunity to present testimony today on
8 Bill No. 100254, which is Councilman
9 Clarke's proposal to tax the retail sale
10 of non-cigarette tobacco products in
11 order to provide an additional revenue
12 source to help fill our significant
13 budget gap.

14 According to the Centers for
15 Disease Control and Prevention, tobacco
16 use is the leading preventable cause of
17 death in the United States. More deaths
18 are caused each year by tobacco use than
19 by all deaths from human immunodeficiency
20 virus (HIV), illegal drug use, alcohol
21 use, motor vehicle injuries, suicides and
22 murders combined. Tobacco use is defined
23 as smoking cigarettes, pipes, cigars or
24 the use of smokeless tobacco, which
25 consists of chewing tobacco, moist snuff

1 5/13/10 - WHOLE - BILL 100115, etc.

2 and dry snuff.

3 Tobacco use of any kind causes
4 many adverse health effects, including
5 heart disease, cancers of the oral cavity
6 and pharynx, oral soft tissue lesions,
7 gum recession, gum disease, tooth decay
8 and nicotine addiction and dependence.

9 The Department of Public Health
10 supports this legislation as a deterrent
11 and prevention measure for the use of
12 tobacco products, and, of course, the
13 revenue from this proposal would help in
14 our ongoing budget considerations.

15 I thank Council for their
16 support of public health issues, and the
17 Administration is in support of this
18 measure. We're happy to answer
19 questions.

20 COUNCIL PRESIDENT Verna: Thank
21 you.

22 Steve, are you going to
23 testify?

24 MR. AGOSTINI: No, I'm not.

25 COUNCIL PRESIDENT Verna:

1 5/13/10 - WHOLE - BILL 100115, etc.

2 Mr. Dubow.

3 MR. DUBOW: Not on this bill.

4 COUNCIL PRESIDENT VERNA: Okay.

5 Doctor, I understand you have a speaking
6 engagement?

7 DR. SCHWARZ: I do.

8 COUNCIL PRESIDENT VERNA: All
9 right.

10 Members of the Committee, do
11 you have any questions of Dr. Schwarz?

12 (No response.)

13 COUNCIL PRESIDENT VERNA:
14 Apparently not.

15 DR. SCHWARZ: Thank you very
16 much.

17 COUNCIL PRESIDENT VERNA: You
18 can leave. Thank you.

19 COUNCILMAN GREEN: Madam
20 President, I have one quick question.

21 COUNCIL PRESIDENT VERNA: Yes.

22 COUNCILMAN GREEN: Thank you.

23 Dr. Schwarz, when you came by
24 my office and we had a great meeting with
25 your staff about your plans in the Health

1 5/13/10 - WHOLE - BILL 100115, etc.
2 Department for the budget, you then
3 followed up with a -- or your people
4 followed up with some information for us
5 regarding the budget. In that follow-up,
6 we were told that if you got all of the
7 positions you were requesting for your
8 department, you would not need the
9 \$571,000 of overtime in your budget for
10 Class 100, and I received a letter from
11 the Administration saying something
12 different, but --

13 DR. SCHWARZ: We clarified on
14 overtime, both the amount and use of
15 overtime for the department. In the
16 conversation that we had, we talked about
17 overtime in general, and that was
18 intended to be specific information for
19 you to the dollar and by proportion.

20 COUNCILMAN GREEN: Right. So
21 you have no objection to reducing your
22 overtime budget by \$571,000.

23 DR. SCHWARZ: I'd be happy to
24 be able to. The issue for the department
25 is that overtime is used in emergency

1 5/13/10 - WHOLE - BILL 100115, etc.
2 situations and on weekends and other
3 times, evenings, for instance, when staff
4 aren't ordinarily around. So they're
5 called in, and that's overtime use.

6 So the department needs
7 overtime funding, and that was what was
8 described, I believe, in the letter which
9 was sent through the Council President.

10 COUNCILMAN GREEN: Okay. Even
11 if you have every position you've
12 requested filled?

13 DR. SCHWARZ: Even if we fill
14 all positions, we still don't have staff
15 for emergency coverage. There will
16 always be a need for that, as with other
17 departments in the City.

18 COUNCILMAN GREEN: Sure. Now,
19 are you going to be able to fill all of
20 your staff on July 1st?

21 DR. SCHWARZ: We, as you could
22 imagine, likely won't have all staff
23 there, but we're making a major push to
24 hire staff at the moment, as we talked
25 about. We also talked about classes of

1 5/13/10 - WHOLE - BILL 100115, etc.
2 public health workers where we've waited
3 a very long time for there to be lists,
4 and there finally are lists, so we are
5 already going through the process of
6 hiring from the list.

7 COUNCILMAN GREEN: Okay. Well,
8 I just wanted to clarify that.

9 Thank you.

10 DR. SCHWARZ: Thank you.

11 COUNCIL PRESIDENT VERNA: Any
12 other questions for the Doctor?

13 (No response.)

14 COUNCIL PRESIDENT VERNA: Thank
15 you again.

16 DR. SCHWARZ: Thank you.

17 COUNCIL PRESIDENT VERNA:
18 Mr. Dubow.

19 MR. DUBOW: Good afternoon,
20 Council President Verna and members of
21 the Committee. My name is Rob Dubow. I
22 serve as the Director of Finance, and I'm
23 here to provide testimony on Bill No.
24 100284, which would revise the real
25 estate tax rate for Fiscal Years 2011 and

1 5/13/10 - WHOLE - BILL 100115, etc.
2 2012. The bill proposes to raise the
3 combined rate to 9.008 percent, which
4 would generate approximately \$78 million
5 in each of those years for the General
6 Fund. While the Administration is
7 reluctant to increases in the real estate
8 tax rate, we think this increase is
9 essential to provide a portion of the
10 revenues needed to allow us to avoid
11 making service cuts. I will note,
12 however, that the bill falls short of
13 providing sufficient revenue to replace
14 the 107.7 million from the sanitation fee
15 included in the proposed FY11 operating
16 budget.

17 Thank you for the opportunity
18 to testify, and I'd be happy to answer
19 any questions you may have. I'm also
20 joined here today by the Budget Director,
21 Steve Agostini, who will also answer
22 questions.

23 COUNCIL PRESIDENT VERNA: Thank
24 you. Thank you very much.

25 The Chair recognizes Councilman

1 5/13/10 - WHOLE - BILL 100115, etc.

2 Goode.

3 COUNCILMAN GOODE: Thank you,

4 Madam President.

5 Good afternoon, Mr. Dubow.

6 MR. DUBOW: Good afternoon.

7 COUNCILMAN GOODE: At our last
8 hearing on revenue measures on March
9 17th, I posed a question of what the
10 average homeowner pays in terms of
11 property taxes in the City. Can you give
12 me the answer to that question?

13 MR. DUBOW: I think we sent a
14 written response. I don't have it with
15 me.

16 COUNCILMAN GOODE: I have it.
17 Don't worry.

18 MR. DUBOW: You do? Okay.

19 COUNCILMAN GOODE: The average
20 homeowner pays \$1,146. A proposed bill
21 before us is a 9 percent increase. Nine
22 percent of \$1,146 is \$103.14, divided by
23 12 months, that's about \$8.60. There is,
24 I believe, a proposed amendment that
25 would take this tax increase to 9.9

1 5/13/10 - WHOLE - BILL 100115, etc.
2 percent. The average homeowner pays
3 \$1,146. Nine point nine percent of that
4 is \$113. If you divide it by 12 per
5 month, that would be \$9.50 a month.

6 Is it clear to say that the
7 average homeowner, if we do a 9 or 9.9
8 percent increase, will pay per year about
9 \$103 to \$113, which is far less than the
10 \$300 flat fee?

11 MR. DUBOW: That's correct.
12 That's correct. It generates slightly
13 less revenue too, but that's correct.
14 The average homeowner would pay less.

15 I should actually say, it's
16 property owners, since this includes
17 businesses too.

18 COUNCILMAN GOODE: And so if we
19 divide that by 12 months and for people
20 working on a monthly budget, \$25 a month
21 is to some people a burden. Particularly
22 if they're paying \$500, \$1,000 in
23 property taxes, that's a considerable
24 increase, but this is at this level for
25 the average homeowner less than \$10 a

1 5/13/10 - WHOLE - BILL 100115, etc.

2 month; is that correct?

3 MR. DUBOW: That's correct.

4 COUNCILMAN GOODE: Thank you,
5 Madam President.

6 COUNCIL PRESIDENT VERNA:
7 You're welcome.

8 The Chair recognizes Councilman
9 Green.

10 COUNCILMAN GREEN: Thank you,
11 Madam Chair.

12 Madam President, as I said
13 during our Stated Meeting earlier today,
14 I'd like to raise a point of order
15 regarding Bill No. 100284, which provides
16 for a 9 percent real estate tax increase.
17 During Council's Stated Meeting on April
18 29th, Councilman Goode put forward a bill
19 which he said was on behalf of Council
20 leadership and noted that he did not
21 draft the bill and did not sign the bill.
22 Councilman O'Neill made clear that the
23 bill was not on behalf of republican
24 leadership. No one in democratic
25 leadership identified himself or herself

1 5/13/10 - WHOLE - BILL 100115, etc.
2 as the sponsor of the bill. There is no
3 sponsor of the bill. Our rules provide
4 that all bills shall be signed by the
5 member or members introducing them, or
6 when bills are introduced by request, the
7 rules require that the bill identify the
8 person or persons requesting
9 introduction.

10 My understanding is that this
11 bill is not signed and that this bill --
12 no other person requesting introduction
13 is listed on the bill.

14 Our rules also provide that a
15 hearing on the bill shall only be held at
16 the request of the principal sponsor of
17 the bill and only after such request has
18 been approved in writing. It is my
19 understanding that someone on Council
20 President's staff requested a hearing for
21 the bill. In this case, there was no
22 request for a hearing by the principal
23 sponsor of the bill.

24 My point of order is that
25 because our rules were not followed,

1 5/13/10 - WHOLE - BILL 100115, etc.

2 there is a fatal procedural flaw with
3 this bill.

4 COUNCILMAN GOODE: Point of
5 order.

6 COUNCILMAN GREEN: I am
7 concerned that this bill could result --

8 COUNCIL PRESIDENT VERNA: The
9 Chair recognizes --

10 COUNCILMAN GREEN: -- once
11 passed being found invalid.

12 COUNCIL PRESIDENT VERNA:
13 Excuse me, Councilman Green.

14 The Chair recognizes Councilman
15 Goode.

16 COUNCILMAN GOODE: I'm sorry,
17 Madam President. For clarity of the
18 record, Councilman Green has said, one,
19 that there is no sponsor of the bill.
20 Then he is going to reference the primary
21 sponsor, which is confusing.

22 COUNCIL PRESIDENT VERNA: You
23 know, I think that we all have the
24 greatest respect for Rick Auerbach. He
25 is here. He has looked into the law, and

1 5/13/10 - WHOLE - BILL 100115, etc.

2 he will address this issue.

3 So, Mr. Auerbach --

4 COUNCILMAN GREEN: Madam

5 President, I'm not -- I have one more

6 sentence --

7 COUNCIL PRESIDENT VERNA: I'm

8 sorry, sir.

9 COUNCILMAN GREEN: -- in my

10 point of order.

11 COUNCILMAN GOODE: I'm asking

12 Councilman --

13 COUNCIL PRESIDENT VERNA:

14 Mr. Auerbach, would you please. I think

15 we heard Councilman Green earlier this

16 morning, and I don't see any reason to

17 keep going down this avenue when we can

18 correct it, once and for all.

19 Mr. Auerbach.

20 I'm sorry?

21 COUNCILMAN GOODE: Madam

22 President, I'm not arguing the point.

23 I'm not arguing Councilman Green's point.

24 I'm asking for a clarity in terms of what

25 he said. He first said there was no

1 5/13/10 - WHOLE - BILL 100115, etc.
2 sponsor for the bill. Then he went on to
3 refer to the primary sponsor of the bill.
4 I wanted to clarify --

5 COUNCIL PRESIDENT VERNA: Would
6 you clarify, sir?

7 COUNCILMAN GREEN: Under our
8 rules, there is no sponsor. There was an
9 attempt to introduce a bill. The fix is
10 easy, introduce a bill, advertise it and
11 pass it on June 3rd. I think we put
12 ourselves at great jeopardy passing this
13 bill --

14 COUNCILMAN GOODE: Point of
15 order.

16 COUNCILMAN GREEN: -- without
17 having followed the rules.

18 COUNCILMAN GOODE: I asked
19 Councilman Green to clarify his
20 statement. He first said -- and this is
21 going to be a matter of this transcript.
22 He first said that there was no sponsor.
23 Then he went on to say that the primary
24 sponsor of the bill had to request a
25 hearing and the primary sponsor did not.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 How could there be a primary sponsor if
3 there's no sponsor of the bill?

4 Clarify your statement,
5 Councilman.

6 COUNCILMAN GREEN: With respect
7 to that issue, because there was no
8 primary sponsor, no hearing could be
9 requested, and, in fact, the person who
10 requested the hearing was not any member
11 of City Council but was a person on the
12 President's staff.

13 COUNCILMAN GOODE: Exactly.
14 The bill was introduced --

15 COUNCIL PRESIDENT VERNA: From
16 the President's staff?

17 COUNCILMAN GOODE: -- on behalf
18 of Council leadership.

19 Councilman, are you listening?

20 The bill was introduced on
21 behalf of Council leadership, as I said,
22 as a result of a phone call from the
23 Council President that morning. It makes
24 perfect sense that if the bill was
25 introduced on behalf of the Council

1 5/13/10 - WHOLE - BILL 100115, etc.
2 President and leadership, that a member
3 of the Council President's staff could
4 request a hearing. Because it's not my
5 bill. It was introduced on behalf of
6 Council leadership.

7 Does that make sense?

8 COUNCILWOMAN TASCO: It makes
9 sense to me.

10 COUNCILMAN GREEN: I understand
11 what you're saying. I don't think the
12 procedural rules were followed, and
13 that's my point of order.

14 Thank you, Madam President.

15 COUNCIL PRESIDENT VERNA: I
16 want to put this to bed, once and for
17 all. I would like Mr. Auerbach to
18 address Councilman Green's issues.

19 MR. AUERBACH: The issues
20 raised by Councilman Green are not issues
21 of requirements that are set forth in the
22 Philadelphia Home Rule Charter or
23 requirements that are set forth in any
24 other law of Pennsylvania. They're
25 solely matters of Council's internal

1 5/13/10 - WHOLE - BILL 100115, etc.
2 rules. And the law is clear that Council
3 is free to disregard its internal rules
4 if it chooses to do so, and acting
5 contrary to its internal rules is
6 implicitly a waiver of its rules.
7 Council's rules provide that any rule of
8 Council may be suspended. So this bill
9 was introduced by Councilman Goode on
10 behalf of leadership. It was duly
11 referred to the Committee of the Whole by
12 the President. As required by the
13 Charter, it was advertised in the
14 newspaper. This is the hearing the
15 Charter requires, and then the Committee
16 will act on the bill.

17 And you've raised issues of
18 procedure. The Committee is free to
19 accept or reject your issues in deciding
20 to report the bill out, but it fully has
21 power to report the bill out, and the
22 Council has power to act on it and
23 implicitly waive its rules, if it so
24 chooses.

25 COUNCILMAN GREEN: I do have

1 5/13/10 - WHOLE - BILL 100115, etc.
2 tremendous respect for your opinion,
3 Mr. Auerbach. I don't believe -- and
4 there is caselaw in Pennsylvania on this
5 point -- that you can suspend a rule or
6 change the rules after an action has been
7 taken. Certainly you can beforehand.
8 And I just think when the fix is
9 introduce a bill, advertise it and get it
10 out June 3rd, that we ought to act in
11 that regard rather than in haste.

12 But my point of order is on the
13 record, and I appreciate it. Thank you.

14 COUNCIL PRESIDENT VERNA: The
15 Chair recognizes Councilman DiCicco.

16 COUNCILMAN DiCICCO: Thank you,
17 Madam Chair.

18 Good afternoon, gentlemen. I
19 want to go back to the line of
20 questioning by my colleague Councilman
21 Goode when he broke it down into monthly
22 and annual real estate tax increases on
23 average for each household. In your
24 testimony, Mr. Dubow, you talk about --
25 you say while the Administration is

1 5/13/10 - WHOLE - BILL 100115, etc.
2 reluctant to see increases in the real
3 estate tax rate, we think this increase
4 is essential to provide a portion of the
5 revenues needed to allow us to continue
6 to avoid making devastating cuts. And
7 then you go on further to say you will
8 note, however, that the bill falls short
9 of providing sufficient revenues to
10 replace the \$107.1 million from the
11 sanitation fee included in the operating
12 budget.

13 As you know and as was brought
14 up again today and mentioned today, I did
15 have a tax bill in at 12.01 percent,
16 which I withdrew, and I would gladly
17 reintroduce it if I can get nine votes
18 for it. But using the figures on the 9.9
19 percent, how much more do we need to
20 raise?

21 MR. DUBOW: It's about \$30
22 million.

23 COUNCILMAN DiCICCO: And we get
24 there, correct me if I'm wrong, and we
25 get there by charging commercial property

1 5/13/10 - WHOLE - BILL 100115, etc.

2 owners \$300 annually for trash

3 collection?

4 MR. DUBOW: That's part of it.

5 COUNCILMAN DiCICCO: I'm going

6 to give you the four items.

7 MR. DUBOW: Okay.

8 COUNCILMAN DiCICCO: Three

9 hundred dollars a year for commercial

10 property owners to pick up their trash.

11 MR. DUBOW: Right.

12 COUNCILMAN DiCICCO: A hundred

13 fifty more than we negotiated a couple

14 months ago.

15 MR. DUBOW: Correct.

16 COUNCILMAN DiCICCO:

17 Three-quarter cent on the soda tax.

18 MR. DUBOW: Right.

19 COUNCILMAN DiCICCO: Nine point

20 nine percent real estate tax. And what

21 was the smokeless tobacco? It raises 4

22 million, but how did we get there? What

23 was the --

24 MR. DUBOW: The rate?

25 COUNCILMAN DiCICCO: Well, 0.3

1 5/13/10 - WHOLE - BILL 100115, etc.
2 cents, 30-something cents, whatever.

3 MR. DUBOW: Right.

4 COUNCILMAN DiCICCO: So in
5 actuality, we will be raising four
6 separate taxes to cover the deficit.

7 On the real estate end, if we
8 did the 12.10 percent, according to the
9 numbers that you gave me a couple of
10 months ago, we would raise about \$107.2
11 million?

12 MR. DUBOW: Correct.

13 COUNCILMAN DiCICCO: And how
14 far short would we be then to accommodate
15 the necessary funds that we need to avoid
16 any service cuts?

17 MR. DUBOW: It would be -- it
18 looks like it's about a \$4 million
19 difference.

20 COUNCILMAN DiCICCO: Four
21 million dollars. So one tax versus four
22 taxes pretty much closes the gap, the
23 deficit. And if we took the 10 million
24 that the soda industry has offered the
25 Administration for the -- in place of the

1 5/13/10 - WHOLE - BILL 100115, etc.

2 soda tax, we'd be plus 6 million.

3 MR. DUBOW: I haven't been
4 involved in any discussions about that.
5 If that's -- I mean, if that's true and
6 then that math works --

7 COUNCILMAN DiCICCO: We'd be
8 plus 6 million.

9 MR. DUBOW: Right. The other
10 issue for us, though, is we need
11 recurring revenues. So the property tax
12 would be recurring. The \$10 million
13 wouldn't. So in '12 --

14 COUNCILMAN DiCICCO: The 10
15 million is over two years, but I
16 understand they would front load it to
17 give it the first year, which would cover
18 the two.

19 MR. DUBOW: Right. So there
20 would be -- in '12 we'd have to figure
21 out how to replace that.

22 COUNCILMAN DiCICCO: And what
23 portion would we have to figure out in
24 '12? How much?

25 MR. DUBOW: Well, it would be

1 5/13/10 - WHOLE - BILL 100115, etc.

2 about the 4 million.

3 COUNCILMAN DiCICCO: Four
4 million. We'd have to find \$4 million --

5 MR. DUBOW: Well, no. That's
6 actually not right, because it would be
7 more like 20 million, because the --

8 COUNCILMAN DiCICCO: Five
9 years?

10 MR. DUBOW:
11 Liquor-by-the-drink -- not
12 liquor-by-the-drink.

13 COUNCILMAN DiCICCO: We did
14 that before.

15 MR. DUBOW: The sugary drink is
16 for half a year in '11. It goes to a
17 full year in '12. So you'd be replacing
18 about another 14 and a half million of
19 that. So you'd have about a 20
20 million --

21 COUNCILMAN DiCICCO: In '12?

22 MR. DUBOW: Yeah. You'd have
23 about a \$20 million issue.

24 COUNCILMAN DiCICCO: So if we
25 did the 12.1, we'd pretty much be out of

1 5/13/10 - WHOLE - BILL 100115, etc.

2 here today, we'd cover the deficit?

3 MR. DUBOW: For '11, right.

4 COUNCILMAN DiCICCO: No further
5 questions, Madam President.

6 COUNCIL PRESIDENT VERNA: The
7 Chair recognizes Councilman Green.

8 COUNCILMAN GREEN: Thank you,
9 Madam Chair.

10 Under the proposals before us
11 today and that you're testifying in favor
12 of, what is the fund balance?

13 MR. DUBOW: The fund balance at
14 the end of 2011 would be about 57
15 million. I'll give you one other number,
16 which is where our cash would be at the
17 end of the year, and that would be about
18 12 million.

19 COUNCILMAN GREEN: I'm sorry.

20 MR. DUBOW: I gave you two
21 numbers. One was the fund balance, which
22 would be about 57 million. The other
23 number that's important to remember is
24 how much cash the General Fund would have
25 at the end of the year, and that's about

1 5/13/10 - WHOLE - BILL 100115, etc.

2 12 million.

3 COUNCILMAN GREEN: So there's a
4 \$57 million fund balance at the end of
5 the year and --

6 MR. DUBOW: And \$12 million in
7 cash in the General Fund.

8 COUNCILMAN GREEN: And that
9 assumes that you're working off of the
10 revenue estimates in the budget presented
11 to City Council; is that correct?

12 MR. DUBOW: That's correct.

13 COUNCILMAN GREEN: Could you
14 comment on how much additional revenue we
15 will have compared to the revenue
16 estimates just making a relatively simple
17 assumption, and, that is, that the wage
18 tax receipts continue to increase at
19 their current rate, what would then be
20 the fund balance at the end of FY11 and
21 the cash position of the City?

22 MR. AGOSTINI: Steve Agostini,
23 Budget Director for the City.

24 It would be about the same as
25 the numbers we have there.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILMAN GREEN: I'm sorry?

3 MR. AGOSTINI: They would be
4 approximately the same as the numbers
5 Mr. Dubow just quoted you, the \$57
6 million.

7 COUNCILMAN GREEN: Well, when
8 you look at wage tax receipts, the most
9 recent numbers we have, they appear to be
10 on an increasing upward trend, and if you
11 annualize that figure, we would end up
12 with significantly more --

13 MR. AGOSTINI: It would be a
14 mistake to annualize that figure. It is
15 one month, and it does not represent a
16 significant trend.

17 COUNCILMAN GREEN: And it's a
18 series of months for which we've had
19 increases.

20 MR. AGOSTINI: As I said, it
21 would be a mistake to annualize that
22 number, because it's one month, and then
23 there are also -- we're showing less than
24 what we had budgeted for property tax.

25 COUNCILMAN GREEN: So why

1 5/13/10 - WHOLE - BILL 100115, etc.

2 should we argue over that number?

3 Neither one of us is the kind of

4 economist that's going to get that

5 exactly right. We're making our best

6 guess.

7 Have you had a chance to look

8 at the 5 percent property tax increase

9 that I proposed that has a float down in

10 the event that the tax amnesty comes in

11 above 25 million or in the event that

12 wage tax or other receipts are above

13 projections in the first quarter?

14 MR. AGOSTINI: Yes, I have. It

15 would be insufficient in order -- it

16 would be insufficient to the City's needs

17 with respect to fund balance and it would

18 be dramatically insufficient with respect

19 to cash flow needs.

20 COUNCILMAN GREEN: With respect

21 to the 5 percent increase. So what would

22 be your objection to putting a float-down

23 provision on 9 percent, assuming you're

24 right, on the tax increase that's the

25 bill that you're here testifying on

1 5/13/10 - WHOLE - BILL 100115, etc.
2 today? Basically what that would mean
3 is, you'll have all the revenue you say
4 you need and in the event that things
5 come in better than expected, taxpayers
6 will get a break.

7 MR. DUBOW: So can you just
8 kind of walk through how the float-down
9 provision would work in relation to a 9
10 percent or 9.9?

11 COUNCILMAN GREEN: Sure. We
12 would just take essentially -- let's say
13 the tax amnesty -- we're raising how
14 much, \$89 million in real estate taxes;
15 is that right?

16 MR. DUBOW: Well, at 9 percent
17 it's about 80 -- 78.

18 COUNCILMAN GREEN: Okay. So
19 essentially let's just say the tax
20 amnesty comes in at 50 million rather
21 than the 25 million budgeted.

22 MR. DUBOW: Thirty million
23 budgeted.

24 COUNCILMAN GREEN: Thirty
25 million budgeted, okay.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 The real estate tax millage
3 would go up only enough to raise \$58
4 million in taxes. So you take the 20
5 extra that we got and you'd lower the
6 millage. If, say, wage tax first quarter
7 comes in 10 million more than we
8 expected, we would lower the tax we're
9 going to raise by another 10 million.

10 MR. DUBOW: You're saying if
11 any tax comes in higher than we
12 anticipate?

13 COUNCILMAN GREEN: No; just the
14 ones that are steady and predictable.
15 Like the amnesty we'll know for certain,
16 wage tax first quarter comes in above
17 what we would project for the first
18 quarter. And I'm not talking about
19 annualizing these figures. I'm just
20 saying the cash actually in the door at
21 the end of the first quarter.

22 MR. DUBOW: I think there are a
23 couple of issues with that, and I think
24 Mr. Agostini may want to add something.
25 First, I think you can't just look at one

1 5/13/10 - WHOLE - BILL 100115, etc.
2 tax or another tax and say this is coming
3 better than we projected, so we're going
4 to reduce rates, because other taxes may
5 be coming in lower.

6 COUNCILMAN GREEN: Sure. I'm
7 talking in the aggregate.

8 MR. DUBOW: Secondly, I think
9 looking at the amnesty, which is a
10 one-time event, and comparing it to
11 something that's going to be recurring
12 also can create problems, and I think you
13 also have to look at what the amnesty
14 means in terms of delinquent collections
15 going forward. So there's some analysis
16 that has to go -- you can't just look at
17 the gross number.

18 COUNCILMAN GREEN: Those
19 numbers you're discussing are already
20 built into your projections, however.

21 MR. DUBOW: They're built in
22 assuming 30 million.

23 COUNCILMAN GREEN: Right.

24 MR. DUBOW: So the question is
25 if you get 50 million, does that have a

1 5/13/10 - WHOLE - BILL 100115, etc.
2 different impact on the delinquent
3 collections you're going to have in the
4 next couple years, and we'd need to
5 understand that before we made any kind
6 of changes to the budget.

7 COUNCILMAN GREEN: Well, I
8 would suggest that it's something we
9 ought to consider, because if, for
10 example, wage tax comes in 10 million
11 higher in the first quarter, every
12 economist I talked to says that that is
13 going to -- likely will trend up
14 throughout the entire year, and we're not
15 talking about annualizing that figure,
16 for example. And it's certainly my goal
17 to raise the revenue that we need, but
18 the minimum amount of revenue we need,
19 without burdening taxpayers
20 unnecessarily, and I just wondered what
21 your rationale was for that.

22 MR. DUBOW: I understand. I
23 guess the only thing I would add is if we
24 had done that this year since wage taxes
25 came in actually much more weaker in the

1 5/13/10 - WHOLE - BILL 100115, etc.
2 first quarter and we tried to base a rate
3 off the first quarter, we would have
4 gotten a much different result than we
5 would get looking at two quarters or
6 three quarters.

7 COUNCILMAN GREEN: And we were
8 able to manage to that. I have full
9 faith and confidence in you and Steve
10 that you can manage to whatever
11 appropriation we provide.

12 Thank you, Madam Chair.

13 COUNCIL PRESIDENT VERNA: The
14 Chair recognizes Councilman DiCicco.

15 COUNCILMAN DiCICCO: Thank you,
16 Madam Chair.

17 I left out something very
18 important in my earlier comments. Going
19 back again to my colleague Councilman
20 Green, when you went through the numbers,
21 that the average household would see an
22 increase of approximately \$113 annually
23 if we did the 9.9 percent real estate tax
24 increase. If we did the 12.10 -- I don't
25 have a calculator in front of me, but is

1 5/13/10 - WHOLE - BILL 100115, etc.

2 it safe to say that would average out to
3 about \$136 annually?

4 MR. DUBOW: Give us one second.

5 COUNCILMAN DiCICCO: 146?

6 MR. DUBOW: Yeah. That's
7 right.

8 COUNCILMAN DiCICCO: So it
9 would be a \$33 difference from the 9.9 to
10 the 12.10 for the average homeowner in
11 the City of Philadelphia. Instead of
12 paying 113, they would be paying \$146 a
13 year. And as I mentioned in the past
14 when I introduced the bill that I
15 withdrew, if you file a federal income
16 tax return, you get a deduction, either a
17 full deduction or a partial deduction,
18 for any real estate taxes that you file,
19 and if you are a property owner who
20 qualifies for the state rebate, real
21 estate tax rebate, you would be made
22 whole. So in many instances, given the
23 number of people who meet the poverty
24 level in the City of Philadelphia, they
25 would in actuality not be receiving any

1 5/13/10 - WHOLE - BILL 100115, etc.

2 increase, because they would be fully
3 refunded. Is that a fair statement?

4 MR. DUBOW: It's certainly true
5 for some people, yes.

6 (Applause.)

7 COUNCILMAN DiCICCO: So the
8 political hit we stand to take if we do
9 the 9.9, the \$300 a year annual
10 commercial trash collection fee, the
11 three-quarter cent soda tax and whatever
12 that percentage of the smokeless tobacco
13 is, it pretty much comes out about the
14 same, if not more, for some people. If
15 you're a commercial property owner,
16 you're actually going to be paying a lot
17 more because you have a fee.

18 MR. DUBOW: Right.

19 COUNCILMAN DiCICCO: Where you
20 didn't have it as a real estate tax. So
21 if we're going to take a political hit no
22 matter what we do, I'd say take the
23 political hit, figure it out between now
24 and next year how we can make this thing
25 a better place and hopefully get more

1 5/13/10 - WHOLE - BILL 100115, etc.
2 efficiencies in, do the 12.10 and not
3 have to worry about the other taxes,
4 because we can't get the nine votes
5 anyway.

6 Thank you.

7 (Applause.)

8 COUNCIL PRESIDENT Verna: Are
9 there any other questions or comments
10 from members of the Committee of our two
11 witnesses?

12 (No response.)

13 COUNCIL PRESIDENT Verna:
14 Gentlemen, thank you.

15 MR. DUBOW: Thank you.

16 MR. McPHERSON: Our next
17 witness is --

18 COUNCIL PRESIDENT Verna:
19 Excuse me. You're going to stay with us,
20 I hope?

21 MR. DUBOW: Sure.

22 COUNCIL PRESIDENT Verna:
23 Thanks.

24 Our next witness?

25 MR. McPHERSON: Is a panel:

1 5/13/10 - WHOLE - BILL 100115, etc.

2 Kevin Pasquay, Joe Gatta, Joseph Bright
3 and Danny Grace.

4 (Witnesses approached witness
5 table.)

6 COUNCIL PRESIDENT Verna: Good
7 afternoon, gentlemen. Please identify
8 yourself for the record and proceed with
9 your testimony.

10 MR. PASQUAY: I guess I will go
11 first. My name is Kevin Pasquay and I'm
12 here -- I represent Swedish Match.
13 Swedish Match makes cigars and other
14 tobacco products that are sold by various
15 retailers throughout Philadelphia.

16 I am here today in an advisory
17 capacity to state that the tax on cigars
18 and other tobacco products, be it the
19 business privilege tax, requires
20 reconsideration. First, we all know that
21 it is already extremely difficult to do
22 business in Philadelphia with a business
23 privilege tax in excess of 6.3 percent.
24 Over the years, our previous Mayors have
25 worked hard to reduce it. Now, if this

1 5/13/10 - WHOLE - BILL 100115, etc.
2 tax is assessed against the retailers,
3 you seek to further burden this industry
4 by adding an additional tax on top of it.
5 For Philadelphia tobacco retailers, that
6 initiative would be a tremendous hardship
7 on an industry that is already heavily
8 taxed and would simply serve as a
9 Band-Aid in attempting to resolve the
10 current City budget crisis before you,
11 not to mention the disadvantage those
12 business retailers, who already
13 contribute to the City via the business
14 privilege tax, would need to endure.

15 Secondly, when you look at any
16 retailer, tobacco or otherwise, they
17 start out of the gate with a State tax of
18 8 percent as opposed to 6 percent in four
19 surrounding Pennsylvania counties. Taken
20 into effect, the BPT, the business
21 privilege tax, and sales tax difference,
22 you are getting woefully close to 9
23 percent between Philadelphia and those
24 four surrounding counties. Now you
25 propose adding to that tax burden for

1 5/13/10 - WHOLE - BILL 100115, etc.

2 tobacco retailers.

3 Please allow me to put that
4 into perspective. Here is a tin of
5 Ashton's. There are ten cigars, small
6 cigars, in this tin, Ashton Esquires.
7 They cost approximately \$21, including
8 tax, here in the City at Holt's. If I
9 could get that tin for \$19.75 in the
10 suburbs, I most likely would head out to
11 that retailer in the course of errands I
12 am already doing in those areas.

13 I buy these tins in bulk of
14 ten. So ten times \$1.85, now you're
15 talking about \$18.50. These counties are
16 right next door and easily frequented by
17 many of us. It is well known that
18 Philadelphians are very savvy customers.
19 In my working-class neighborhood of Port
20 Richmond, we might head over to New
21 Jersey via the Betsy Ross Bridge for
22 dinner or shopping and, while there,
23 purchase our gas and/or alcohol products.

24 I hope through illustration of
25 these examples, to which we could all

1 5/13/10 - WHOLE - BILL 100115, etc.
2 relate, that you see my point. To make
3 that differentially even more convincing,
4 the cost of doing business in the City as
5 opposed to the suburbs or neighboring New
6 Jersey or Delaware would be going in the
7 wrong direction. If anything, we need to
8 decrease the tax burden to make our
9 shops, retailers and vendors more
10 competitive with our neighboring suburbs
11 and within the tri-state area.

12 Finally, it is my understanding
13 that you plan to assess part of this tax
14 as weight based. I don't know if the
15 good Councilpeople know what that means,
16 but let me show you.

17 I want to show you the products
18 that a tobacco retailer might be
19 carrying. As you can see, they come in
20 different sizes, weights, et cetera.
21 There's no uniformity whatsoever to them.
22 You have pipe tobacco; you have snuff,
23 1.2 ounce; you have snuff, 0.9 ounce; you
24 have 2 ounce; you have 1.5 ounce; more
25 chew; chew; pipe tobacco; chew tobacco;

1 5/13/10 - WHOLE - BILL 100115, etc.

2 snuff; snuff, half an ounce.

3 There it is, and I might even
4 be missing some products, quite honestly.

5 The tax you propose will be
6 part of the business privilege tax. How
7 will it be collected and identified? How
8 will it be enforced? What are plans for
9 follow-up?

10 What's a poor retailer to do?

11 He will have to purchase an electronic
12 scale. It will cost him in time and
13 money. It will cost him in the
14 accounting process trying to figure it
15 out. Needless to say, it could be
16 inferred that additional employees will
17 be needed to enforce the tax.

18 Again, this proposal will
19 already stress a system that is not meant
20 to be policed additionally. My gut, as a
21 lifelong Philadelphian, tells me that if
22 I go to a couple retailers in my
23 neighborhood over in the Kensington area
24 and I buy cigars over there and they
25 sell -- those good folks over there sell

1 5/13/10 - WHOLE - BILL 100115, etc.
2 pipe tobacco, you roll cigarettes, do all
3 sorts of things, all sorts of snuff
4 products, they will just try to work
5 around this proposed tax. I doubt that
6 much revenue would be implemented if this
7 proposal were to become law. If
8 anything, it could have the opposite
9 effect; that is, the City is not a good
10 place to do business. Now we have
11 specialty taxes on top of the already
12 excessive business privilege tax that was
13 never meant to be a long-term solution
14 but rather found itself being a fixture
15 in doing business in Philadelphia in
16 response to a short-term solution.

17 Just how many more of these
18 short-term solutions will become
19 permanent in our already distressed City?

20 A final note, a friend of mine,
21 Scott Segan, who Councilman Rizzo and
22 Councilman Kelly know well, who runs
23 Burton Photo Industries with 50 to 60
24 employees, left Philadelphia, the
25 Kensington area -- he was a good

1 5/13/10 - WHOLE - BILL 100115, etc.
2 manufacturer -- for Bucks County. He
3 said the business taxes were killing him.
4 In Bucks County, he feels reborn.

5 Just how many more of these
6 types of stories can the City endure?

7 While Scott had to move large,
8 heavy, sophisticated machinery at a
9 pretty significant cost, he made the
10 move. Scott indicated that Bucks County
11 is enticing since it was only ten miles
12 away.

13 Today, we're going to hear from
14 Robbie Levin of Holt's. I thought I
15 would be giving my statement after him,
16 but I do have a statement here, my
17 feeling of -- as to Robbie Levin, what
18 his sentiments are.

19 Robbie Levin, owner of Holt's,
20 is less than a mile away. Bucks County
21 beckons, as does Delaware, Montgomery and
22 Chester Counties.

23 Please take the points I
24 discussed seriously and seek another
25 solution to our current economic crisis.

1 5/13/10 - WHOLE - BILL 100115, etc.
2 Imposition of this tax would further
3 cement the message that Philadelphia is a
4 terrible place to do business, and we
5 will see another empty storefront on
6 Walnut Street, among the many who have
7 pulled out of the City for greener
8 pastures.

9 Thank you again for your time
10 and consideration.

11 COUNCIL PRESIDENT VERNA: Thank
12 you.

13 Mr. Grace, are you going to
14 testify next?

15 MR. GRACE: He's going to go
16 next.

17 MR. BRIGHT: Madam President,
18 members of Council, thank you for the
19 opportunity to speak on this subject. I
20 am Joe Bright, tax lawyer, tax writer.
21 My firm represents the Pennsylvania
22 Beverage Association, and I was asked to
23 give my view on whether this tax would be
24 sustained by the courts -- by "this tax,"
25 I mean the sugar beverage tax -- if it

1 5/13/10 - WHOLE - BILL 100115, etc.
2 were challenged. I was asked to do the
3 same thing two months ago, and my view
4 now is the same as it was two months ago.
5 I think it will be stricken down by the
6 courts as preempted by the State sales
7 and use tax and by the City's own
8 business privilege tax.

9 The source of the taxing
10 authority is the Sterling Act. The City
11 can tax what the State doesn't take.
12 There already is a State tax on
13 beverages.

14 Now, I have seen the City
15 Solicitor's opinion in which he says, But
16 we have drafted it so that the tax is
17 actually on the seller. The tax
18 authorities -- and by that I mean the
19 learned authorities -- tell you that that
20 doesn't make any difference. What you
21 look at is the actual operation of the
22 tax. The Pennsylvania Supreme Court has
23 said the same thing a number of years ago
24 in the first effort to pass a liquor
25 drink tax in Philadelphia. It was struck

1 5/13/10 - WHOLE - BILL 100115, etc.
2 down by the Pennsylvania Supreme Court as
3 preempted on the grounds that other
4 taxes, which were not imposed in
5 precisely the same way, preempted it. I
6 think -- now, as a result of that, the
7 General Assembly gave special authority
8 and we now have a drink tax. I believe
9 that that same view would be applied
10 here.

11 When you cut through it, this
12 is a substance over form argument.
13 What's it really about? What this
14 proposed tax is about is to hit
15 consumers. That's what it's intended to
16 do. That's what the City says, and
17 that's what it would do, and that's what
18 the sales tax does. If you take the
19 substance view, the tax falls.

20 If you, on the other hand, look
21 at the form as drafted by the City, we
22 already have a privilege tax on doing
23 business in the City, detailed and laid
24 out comprehensively by the General
25 Assembly. Generally speaking, in

1 5/13/10 - WHOLE - BILL 100115, etc.
2 Pennsylvania if the General Assembly
3 legislates thoroughly in a field, there
4 is no room for local improvisation. If
5 that rule is applied here -- and I think
6 it will be -- the tax will fall, if it
7 isn't dead already under the first
8 ground.

9 There are other points, but I
10 don't think I need to belabor them here.
11 As I said, my view now is what it was two
12 months ago. If attacked, this tax will
13 fail.

14 COUNCIL PRESIDENT VERNA: Thank
15 you, Mr. Bright.

16 Mr. Grace.

17 MR. GRACE: Thank you, Council
18 President Verna and all members of City
19 Council, for once again affording me this
20 opportunity to provide testimony in
21 response to the Nutter Administration's
22 proposal to enact a sugar-sweetened
23 beverage tax. For many weeks now, I and
24 Teamster brothers and sisters have
25 implored you to stand against the

1 5/13/10 - WHOLE - BILL 100115, etc.
2 so-called soda tax for multiple
3 legitimate reasons. It is telling that
4 the Nutter Administration appears to have
5 backed off its original
6 two-cents-an-ounce proposal and is now
7 floating various compromised deals. This
8 development should alert every member of
9 City Council that the Administration has
10 come to the realization that the citizens
11 of Philadelphia have no taste whatsoever
12 for this burdensome tax at any level.

13 The only thing that this
14 would -- the only thing that would be
15 compromised by accepting any form of the
16 soda tax is the financial livelihood of
17 many hard-working families, not just the
18 thousand of Teamsters who will stand to
19 lose their jobs if any form of this tax
20 is passed, but also small retailers,
21 their employees and workers in our
22 restaurant and food-service industries.

23 It is also noteworthy that the
24 Nutter Administration seems to have
25 abandoned any pretense that this tax is

1 5/13/10 - WHOLE - BILL 100115, etc.
2 really a public health initiative. It is
3 not. It is yet another unfair tax burden
4 that will disproportionately hurt
5 hard-working, middle-class families and
6 the working poor of this city. Far too
7 many Philadelphians are already
8 struggling to make ends meet in this dire
9 economy. The soda tax is an impractical
10 and shortsighted policy decision that
11 will succeed only in cutting jobs, not
12 cutting obesity rates.

13 Virtually any food or drink
14 consumed without moderation will cause
15 weight gain. Why aren't we talking about
16 taxing cheese steaks, soft pretzels and
17 Tastykakes?

18 Clearly --

19 (Applause.)

20 MR. GRACE: Clearly, the soda
21 tax is discriminatory. Taxing one
22 product and one industry to the exclusion
23 of numerous items containing similar
24 sugar-based ingredients is simply unfair.
25 This initiative is not about health. It

1 5/13/10 - WHOLE - BILL 100115, etc.
2 is about deficit reduction and raising
3 taxes on Philadelphians, who are already
4 burdened with among the highest taxation
5 rates in the country. The Nutter
6 Administration has repeatedly and
7 cynically denied the Teamsters' position
8 that a soda tax will result in lost jobs.
9 They did not do their homework. Beverage
10 industry statistics show that when soda
11 prices rise ten percent, sales drop eight
12 to nine percent. Reductions in soda
13 sales mean job losses from bottling plant
14 workers to Teamster Union delivery
15 drivers. Our best estimate at this point
16 in time is potentially as many as 2,000
17 lost regional jobs if this tax is passed
18 in any form. Yet, these job losses will
19 not be limited to Teamster members alone.
20 Supermarket employees, convenience store
21 workers and small business owners who
22 sell soda in their stores or restaurants
23 would also be adversely affected.

24 There are thousands of
25 family-sustaining, middle-class

1 5/13/10 - WHOLE - BILL 100115, etc.
2 Philadelphia jobs in beverage production,
3 supply, distribution, sales and retailing
4 which depend on a healthy beverage
5 industry. The loss of any of these jobs
6 will only further erode the City's tax
7 base. Teamsters Local Union 830
8 represents 2,200 Philadelphia members in
9 the soft drink and beverage industry.
10 These hard-working, tax-paying City
11 residents do not deserve to have their
12 jobs placed in jeopardy because of a
13 misguided attempt to fill the City's
14 coffers sorely by taxing the product they
15 produce and deliver.

16 Furthermore, it appears that
17 the Administration has not exhausted all
18 other avenues to reduce overhead costs
19 and increase revenues. Just yesterday
20 the City announced that it had received
21 the first installment payment of \$3
22 million that had been sitting in the
23 Clerk of Quarter Sessions' bank account,
24 and there are still untold millions of
25 dollars yet to be identified and

1 5/13/10 - WHOLE - BILL 100115, etc.
2 transferred from the Clerk's Office to
3 the City's General Operating Fund.

4 Similarly, the editorial boards
5 of the City's leading newspapers continue
6 to urge the Administration to make the
7 kind of cuts that other major cities have
8 made to cope with this down economy as
9 opposed to breaking the backs of our
10 bruised and beaten citizens with yet
11 another tax.

12 Members of City Council, I
13 respectfully ask that you vote against
14 any version of the soda tax. It will be
15 an additional financial burden on the
16 families already struggling to make ends
17 meet. It does not work for Philadelphia
18 or for Philadelphia's workers.

19 Thank you.

20 (Applause.)

21 COUNCILWOMAN TASC0: Is there
22 anyone else to testify?

23 (No response.)

24 COUNCILWOMAN TASC0: The Chair
25 recognizes Councilwoman Brown.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILWOMAN BROWN: Thank you
3 very much.

4 Good afternoon, gentlemen.

5 Mr. Joe Bright, I'd like to
6 focus on the legal questions around this
7 proposal, so could you walk through again
8 slowly why, from a legal perspective,
9 this tax is not on solid ground, this
10 proposed tax is not on solid grounds.

11 MR. BRIGHT: Sure. The City
12 has no taxing power that it isn't given
13 by the General Assembly, has no inherent
14 power. The general power is in what we
15 call the Sterling Act. That is, the City
16 is empowered -- and I'm paraphrasing
17 now -- to tax whatever it wants, provided
18 that the State doesn't tax the same
19 thing.

20 So the question here is, has
21 the State taxed the same thing, speaking
22 colloquially, when it has imposed the
23 sales tax on many things, including soda.
24 And as an economic matter, it absolutely
25 has. I mean, common sense tells you that

1 5/13/10 - WHOLE - BILL 100115, etc.
2 when you impose a tax like this, just one
3 step up in the distribution chain, it's
4 going to be passed on. The burden will
5 fall on the consumer, and, in fact,
6 that's what the City said it's intended
7 to do. The original justification of the
8 bill was to deter what was thought to be
9 undesirable behavior from a health point
10 of view.

11 So if you take that view, it's
12 flatly preempted, because the State is
13 taxing the same thing; that is, placing
14 an economic burden on the sale of these
15 items. That's point number one.

16 Point number two is, if you
17 disregard what I just said and if you do
18 not look at the substance of what's going
19 on here and you simply look at the words
20 as they have been drafted in the proposed
21 ordinance, the proposal is to tax the
22 privilege of selling sugar sodas,
23 beverages. We already have a tax on the
24 privilege of doing business generally,
25 including selling all kinds of things in

1 5/13/10 - WHOLE - BILL 100115, etc.

2 the City and --

3 COUNCILWOMAN BROWN: And that
4 would be known as the?

5 MR. BRIGHT: The business
6 privilege tax. And in State law, there
7 is a doctrine that where the General
8 Assembly lays out a comprehensive plan,
9 either in regulation or in taxation, then
10 that's the set of rules that must be
11 followed, and a municipality, including
12 the City, cannot vary those rules by, for
13 example, doubling the tax on sugar bevs.
14 That's point two.

15 Now, there are other arguments
16 that are contained in the memorandum that
17 I did a couple months ago, but those I
18 think are the key points.

19 COUNCILWOMAN BROWN: Now, can
20 you cite an example that supports the two
21 points you just articulated?

22 MR. BRIGHT: Sure. There are
23 quite a few of them. On point one; that
24 is, is this preempted by the sales tax,
25 the case cited in my memo is a decision

1 5/13/10 - WHOLE - BILL 100115, etc.
2 by the Pennsylvania Supreme Court which
3 struck down the first version of the
4 City's liquor-by-the-drink tax. The City
5 defended it on the grounds that the other
6 State taxes were further up the
7 distribution chain, and the Court gave a
8 backhand to that and said they were
9 intended to burden the consumer.
10 Functionally, they are consumption taxes.
11 That's what we have here preempted, and
12 the General Assembly then passed specific
13 authorization, which it is entitled to do
14 any time it feels like it, and we now
15 have the tax. But we have it because the
16 General Assembly said so.
17 COUNCILWOMAN BROWN: Okay.
18 MR. BRIGHT: Now, on the
19 preemption argument, there are lots and
20 lots of cases that illustrate the point
21 that where the General Assembly, in the
22 language of tax parlance, occupies the
23 field, the field in this case being
24 privilege of doing business, that that's
25 it, you can't add additional

1 5/13/10 - WHOLE - BILL 100115, etc.
2 requirements. I don't think I cited any
3 in the memo, but there are lots of them,
4 and if you want me to give you some, I'd
5 be more than happy to do it.

6 COUNCILWOMAN BROWN: If you
7 would just send one example to the Chair
8 of the Committee, that would be helpful.

9 MR. BRIGHT: Sure.

10 COUNCILWOMAN BROWN: But thank
11 you very, very much for your testimony.
12 Thank you all for your testimony.

13 Thank you, Madam Chair.

14 COUNCILWOMAN TASC0: Thank you
15 very much.

16 Any more testimony?

17 (No.)

18 COUNCILWOMAN TASC0: Thank you
19 very much.

20 MR. McPHERSON: Our next
21 witness is Dr. Sam Monismith, Sherri
22 Fiorentino and Jonathan Kirch.

23 (Witnesses approached witness
24 table.)

25 COUNCILWOMAN TASC0: Good

1 5/13/10 - WHOLE - BILL 100115, etc.
2 afternoon. Would you please state your
3 name for the record and begin your
4 testimony, please.

5 DR. MONISMITH: My name is Sam
6 Monismith and I'm a volunteer for the
7 Pennsylvania Division of the American
8 Cancer Society and a member of the
9 Division's Board of Directors, and I want
10 to thank the Council for allowing me to
11 make a few comments to share the American
12 Cancer Society's position on taxing
13 tobacco products, both smoking and
14 smokeless, in the City of Philadelphia.

15 As members of the Philadelphia
16 City Council, you have the opportunity to
17 pass legislation that will help reduce
18 suffering and death caused by tobacco and
19 create parity among the prices of all
20 tobacco products sold in the City. This
21 is vitally important to the American
22 Cancer Society, because the mission of
23 the American Cancer Society is to
24 eliminate cancer.

25 Let's be clear. Where there's

1 5/13/10 - WHOLE - BILL 100115, etc.
2 smoking or smokeless, all tobacco
3 products are harmful, highly addictive,
4 cause cancer and other serious health
5 problems, and unfortunately are commonly
6 used by the youth of Pennsylvania.

7 Tobacco use is the number one
8 cause of cancer death and disability in
9 Pennsylvania. According to the Campaign
10 for Tobacco-Free Kids, it's estimated
11 that 20,000 Pennsylvanians will die each
12 year from their own use of tobacco.
13 Smokeless tobacco users are four to seven
14 times more likely than non-users to get
15 oral cancer and have a 50 percent higher
16 risk of developing pancreatic and
17 esophageal cancer.

18 Use of smokeless tobacco
19 products among high school youth
20 nationwide is three percent. According
21 to the Pennsylvania Department of
22 Health's 2009 Tobacco Facts report,
23 Pennsylvania middle school males use
24 smokeless tobacco at a rate of six
25 percent and high school males use at a

1 5/13/10 - WHOLE - BILL 100115, etc.
2 rate of 14 percent, obviously well above
3 the national percentage. And about 17
4 percent of high school males report
5 smoking cigars.

6 Despite its serious health
7 risks, Pennsylvania is the only state in
8 the United States that does not tax
9 smokeless tobacco products. Taxing
10 tobacco can obviously bring in revenue,
11 but it also provides the added benefit of
12 reducing tobacco consumption. Increases
13 in cigarette prices are effective at
14 reducing both smoking prevalence and
15 average cigarette consumption in adults
16 and youth. Studies show that a ten
17 percent increase in the price of
18 cigarettes produces a cigarette decrease,
19 a use decrease of seven percent in youth
20 and an overall four percent decrease in
21 smoking consumption in general.

22 Increasing tobacco taxes on
23 cigarettes is one of the most
24 cost-effective strategies to reduce
25 tobacco use among adults and to prevent

1 5/13/10 - WHOLE - BILL 100115, etc.

2 youth from starting.

3 New York City has a local tax
4 of \$1.50, bringing the cost of a pack of
5 cigarettes in New York City to about \$9.
6 According to surveys, public opinion
7 indicates that more than 70 percent of
8 New Yorkers support the tax.

9 When creating a tax increase on
10 cigarettes, it is important to create
11 parity among other tobacco products.
12 There is evidence that shows how a price
13 differential impacts use of other tobacco
14 products. Rhode Island last increased
15 their cigarette tax by 75 cents in 2004.
16 They did not increase their smokeless
17 tobacco tax, causing a large disparity in
18 price. In the first six months after the
19 increase, pack sales of cigarettes
20 declined by 19 percent, but sales of
21 other tobacco products increased by 31
22 percent.

23 A price differential exists
24 that makes smokeless tobacco very
25 attractive to Pennsylvania youth. From

1 5/13/10 - WHOLE - BILL 100115, etc.
2 both a public health perspective and
3 revenue perspective, it is important how
4 we tax tobacco products. In order to
5 maximize revenue for the City and to
6 ensure the greatest benefit to public
7 health, ideally your tax would tax all
8 tobacco products at the same rate as
9 cigarettes. If you don't do this, you
10 will lose revenues when smokers switch to
11 other tobacco products, simply because
12 they're cheaper, but we still end up
13 paying for the long-term healthcare costs
14 for the use of those products.

15 It is also important to provide
16 comprehensive definitions of the tobacco
17 products that will come under this
18 ordinance to make sure some tobacco
19 products cannot escape being taxed. The
20 industry has developed ultra lightweight
21 products that will escape being taxed
22 without comprehensive definitions to
23 capture the new products. Because of the
24 range of different non-cigarette products
25 and the absence of any standardized

1 5/13/10 - WHOLE - BILL 100115, etc.
2 packaging, many states and localities tax
3 other tobacco products at a percent of
4 the price charged for the product. A
5 percentage tax based on price also
6 results in price correction when the
7 tobacco product price increases. A
8 weight-based tax does not allow for this
9 correction.

10 I also have brought along one
11 of these new products. This product is
12 called Ariva. Its package identifies it
13 as 20 cigarettes. What are cigarettes?
14 According to Ariva, the tobacco in Ariva
15 is 100 percent Virginia star-cured
16 tobacco. All tobacco products, including
17 Ariva, contain nicotine, an addictive
18 substance. So why should this product
19 which is advertised in this manner:
20 Place a cigarette piece in the mouth and
21 allow it to dissolve. Do not chew or
22 swallow. Use a cigarette piece when you
23 might otherwise have a cigarette but
24 can't. So, in essence, it's advertised
25 on the package that it's a substitute for

1 5/13/10 - WHOLE - BILL 100115, etc.
2 smoking cigarettes. What's so special or
3 unique about this product that it should
4 be given a special tax break that
5 cigarette products in Pennsylvania that
6 are already taxed don't get?

7 The American Cancer Society
8 strongly supports your efforts to tax
9 smokeless tobacco products at the same
10 rate as other tobacco products based on
11 the price of the product. By using this
12 taxation method, Philadelphia can help
13 ensure that the tax on smokeless tobacco
14 products remains an effective public
15 health tool over time. Appropriately
16 taxing smokeless and all tobacco products
17 can help make sure that youth do not view
18 these products as an attractive and
19 cheaper alternative to smoking.

20 The American Cancer Society is
21 available to you and would be happy to
22 assist you in your efforts in passing
23 this ordinance.

24 Thank you.

25 COUNCIL PRESIDENT VERNA: Thank

1 5/13/10 - WHOLE - BILL 100115, etc.

2 you very much, Doctor.

3 Who is going to testify next?

4 Please identify yourself for the record.

5 MS. FIORENTINO: Good

6 afternoon. My name is Sherri Fiorentino

7 and I'm a staff member for the American

8 Lung Association.

9 The American Lung Association

10 supports an excise tax on other tobacco

11 products, OTP, that is based on a

12 percentage of the wholesale cost, not the

13 proposed per ounce. An excise tax in the

14 City of Philadelphia would generate

15 approximately \$10 million or more.

16 Tobacco-related healthcare costs would

17 also decrease by enacting an OTP excise

18 tax.

19 Other tobacco products such as

20 smokeless tobacco, cigars, cigarettos,

21 blunts, et cetera, are harmful and can be

22 deadly. They cause oral cancer, gum

23 disease and nicotine addiction, and

24 increase the risk of cardiovascular

25 disease, including heart disease.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 According to the Centers for
3 Disease Control and Prevention, OTP use
4 in the United States is higher among
5 people who are employed in blue-collar
6 occupations, service labor jobs or who
7 are unemployed. Many of these
8 individuals are also less likely to have
9 adequate health insurance.

10 Smokeless tobacco is the second
11 most commonly used tobacco product in
12 Philadelphia. As many of you are aware,
13 Pennsylvania is the only state in the
14 nation that does not tax non-cigarette
15 tobacco products. For far too long, the
16 tobacco industry and businesses have
17 enjoyed the bounties of profit while
18 their products remain untaxed in our
19 Commonwealth. Unfortunately,
20 Pennsylvania will spend 5.12 billion in
21 tobacco-related healthcare costs in this
22 year alone. With the shortfalls in the
23 City's budget and tough economic times,
24 now more than ever citizens are expecting
25 decisive leadership to find missed

1 5/13/10 - WHOLE - BILL 100115, etc.
2 revenue streams. Now is the time to
3 close this loophole and tax OTP to
4 maximize the overall reduction in tobacco
5 use.

6 From both a public health
7 perspective and a revenue perspective, it
8 is important how the City goes about
9 closing this loophole. In order to
10 maximize revenue for the City and to
11 ensure the greatest benefit to public
12 health, ideally we ask that you tax all
13 other tobacco products at roughly the
14 same rate as cigarettes. The City will
15 lose revenues when smokers switch to
16 other tobacco products because they're
17 cheaper, but still end up paying
18 long-term healthcare costs. It is a
19 lose-lose proposition for the City.

20 Currently, the excise tax on a
21 pack of cigarettes is \$1.60. To create
22 equity with other tobacco products, the
23 City should look at an excise tax of a
24 percentage of wholesale costs, which
25 would generate more than \$10 million,

1 5/13/10 - WHOLE - BILL 100115, etc.
2 provide comprehensive definitions to make
3 sure tobacco products cannot evade paying
4 the tax, new smokeless tobacco products.
5 Orbs, sticks, tobacco water or lozenges
6 are examples. Percentage of wholesale
7 price tax systems are preferable to
8 weight-based systems because they will
9 keep pace with inflation automatically
10 and avoid creating a loophole for new
11 extra light tobacco products that are
12 being marketed by the major tobacco
13 companies. It is projected that by
14 closing the loophole, the City of
15 Philadelphia would generate well over \$10
16 million in new revenue.

17 Economic fears have been raised
18 in regard to taxing other tobacco
19 products. Economic fears in this economy
20 are justified, but it is important to
21 remember that fears are not facts. The
22 reality is, in every state that has
23 passed a significant tobacco tax increase
24 for either cigarettes or other tobacco
25 products, revenues have increased while

1 5/13/10 - WHOLE - BILL 100115, etc.
2 consumption has declined. Research has
3 shown that when you increase tobacco
4 taxes, decreasing tobacco sales actually
5 leads to increases in total sales taxes
6 collected by convenience stores, likely
7 because the people are no longer buying
8 cigarettes, are buying other products
9 instead with the money they are saving.

10 The potential revenue from this
11 proposed excise tax is considerable and
12 would go far to support health
13 initiatives. The American Lung
14 Association is asking the City of
15 Philadelphia to tax OTP at a percentage
16 of wholesale and allow Philadelphia to
17 reap the benefits of taxing these
18 products. This will generate a
19 significant revenue stream that will
20 reduce OTP use rates, raise critically
21 needed revenue and save lives.

22 Thank you.

23 COUNCIL PRESIDENT VERNA: Thank
24 you.

25 Good afternoon.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 MR. KIRCH: Good afternoon. My
3 name is Jonathan Kirch. I'm with the
4 American Heart Association, and we're
5 here today -- we thank the Council, we
6 thank Councilman Clarke for bringing
7 attention to taxation of tobacco products
8 and other tobacco products specifically.
9 I want to try to bullet point what some
10 people have said before me.

11 The American Heart Association
12 supports taxation of all tobacco products
13 at rates significant enough to discourage
14 use and initiation, especially among
15 young people. The bill before this
16 Council is of some concern to my
17 organization because of the methodology
18 that is utilized to calculate the tax.
19 The American Heart Association and others
20 support taxing tobacco products, other
21 tobacco products, at a percentage of the
22 wholesale price. That method will ensure
23 that the tax does not erode with
24 inflation and also is at -- will bring
25 the City more revenue than a weight-based

1 5/13/10 - WHOLE - BILL 100115, etc.
2 method. And it's important to note that
3 new novel tobacco products are probably
4 going to be missed by the tax methodology
5 being proposed today. And this
6 methodology in some regards is more
7 helpful to premium-priced producers who
8 market more heavily to young people and
9 is more harmful to some of the discount
10 tobacco producers and sellers.

11 The American Heart Association
12 has a charge to protect Americans from
13 the deadly effects of tobacco use on the
14 vascular system. We're engaged in a long
15 campaign in this state and across this
16 country to raise the tax rates on other
17 tobacco products using a percentage of
18 wholesale price calculation method. And
19 the proposal before Council, if
20 unchanged, does present some concerns for
21 that effort. So we strongly encourage
22 the Council to consider modifying the
23 taxation method to the wholesale price
24 approach. Again, it yields more revenue
25 to the City, probably \$10 million, as

1 5/13/10 - WHOLE - BILL 100115, etc.
2 opposed to the 6 or 7 that the current
3 proposal would bring to the City, and it
4 preserves the progress being made by
5 health advocacy organizations across the
6 country to tax all tobacco products in a
7 sensible way that maximizes the public
8 health impact.

9 I'm happy to answer any
10 questions that the Council might have.

11 COUNCIL PRESIDENT Verna: Thank
12 you very much for your testimony.

13 Do we have any members that
14 would like to question the witnesses that
15 are before us presently?

16 (No response.)

17 COUNCIL PRESIDENT Verna:
18 Seeing none, thank you very much for your
19 testimony.

20 (Applause.)

21 COUNCIL PRESIDENT Verna: Our
22 next witness?

23 MR. McPHERSON: Robert Levin,
24 Holt's Cigar Company.

25 (Witnesses approached witness

1 5/13/10 - WHOLE - BILL 100115, etc.

2 table.)

3 COUNCIL PRESIDENT Verna: Good
4 afternoon, sir. Please identify yourself
5 for record and proceed with your
6 testimony.

7 MR. LEVIN: Robert Levin. My
8 name is Robert Levin. I am the owner of
9 Holt's Cigar Company in Philadelphia. I
10 want to thank City Council for the
11 opportunity to present this testimony
12 today.

13 The taxes contained in the
14 pending resolution threaten the financial
15 well-being of my family business and all
16 its employees. Holt's has been in
17 business in Center City since 1898.

18 COUNCIL PRESIDENT Verna:
19 Mr. Levin, excuse me a moment, please.
20 Would you pull the microphone closer to
21 you. We're having difficulty hearing
22 you.

23 MR. LEVIN: Okay. Is that
24 better?

25 COUNCIL PRESIDENT Verna: Yes.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 MR. LEVIN: Holt's has been in
3 business in Center City since 1898 and
4 was purchased by my parents in 1957. I
5 started working with my father full time
6 in the early '70s. When my family took
7 over the business in 1957, Holt's was a
8 small retail cigar store across from City
9 Hall. Over the years, our family has
10 grown the business into two retail stores
11 in Philadelphia, our wholesale business,
12 which imports and distributes our
13 proprietary brands all over the world,
14 and a catalogue mail-order business, all
15 based out of our 53,000 square foot
16 facility in Northeast Philadelphia. We
17 now have 95 employees, and I am proud
18 that we have continued the family
19 tradition and that my son and daughter
20 joined me full time in the business.

21 We provide excellent healthcare
22 benefits for all our employees. We pay
23 our fair share of local, state and
24 federal taxes, and our local employees
25 also pay substantial taxes to the City of

1 5/13/10 - WHOLE - BILL 100115, etc.
2 Philadelphia. Last year, Holt's paid the
3 City of Philadelphia over \$420,000 in
4 various business and wage taxes as part
5 of doing business in this city, and in
6 addition, we have paid the Commonwealth
7 of Pennsylvania \$578,000, for a total of
8 almost \$1 million, not including
9 corporate income taxes. My City taxes
10 consisted of the following: Philadelphia
11 City wage tax, \$176,000; Philadelphia
12 real estate tax, \$80,000; the business
13 privilege tax, \$50,000; Philadelphia use
14 and occupancy tax, \$44,000; Philadelphia
15 City sales tax, \$70,000.

16 Philadelphia has been and
17 remains one of the most heavily taxed
18 cities in the country, and each time this
19 tax burden is increased, it becomes
20 harder to compete effectively against
21 competitors in more tax advantageous
22 locations.

23 Over the past years, I have
24 remained committed to this city and have
25 continued to invest in Philadelphia. I

1 5/13/10 - WHOLE - BILL 100115, etc.
2 own the building in which our downtown
3 store is located, and purchased the
4 building in Northeast Philadelphia in
5 2003, where our second retail store,
6 corporate offices, operation center and
7 warehouse are now located.

8 I'm a Philadelphia guy. I was
9 born and raised in this city. My
10 children were born and raised in this
11 city. Both of them graduated from Temple
12 University. The emotional ties I have to
13 this city grew out of my belief that a
14 long-term mutual relationship had
15 developed between our business, our
16 employees, our City customers and the
17 City as a whole. Other businesses
18 abandoned the City and urged us to do the
19 same, reminding me of the significant tax
20 savings that we could achieve. They ran,
21 whether just over the City line or to
22 other jurisdictions entirely. I felt my
23 family and Holt's had a
24 multi-generational relationship that
25 transcended this and we remained

1 5/13/10 - WHOLE - BILL 100115, etc.

2 committed to Philadelphia.

3 This tax could well change that
4 relationship and cause irreparable harm
5 to our family business and our ability to
6 stay and keep our employees gainfully
7 employed and paying their taxes to the
8 City of Philadelphia.

9 When the impact of the proposed
10 tax is considered, I am certain that the
11 analysis could not adequately address the
12 impact it will have on cigar revenues
13 from my two stores, as well as other
14 stores within the City. Premium cigar
15 stores fight a daily battle with online
16 retailers and catalogue companies who
17 constantly bombard people with the
18 message that they can buy the same
19 product at cheaper prices and avoid
20 paying taxes such as the one proposed.

21 While the increase proposed may
22 not seem like much, each small increase
23 on our already heavily taxed products
24 drives consumers to alternate sources and
25 drives down our sales.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 My retail stores are already
3 burdened with Philadelphia City taxes
4 that threaten our ability to compete.
5 The taxes that concern me most and
6 threaten my ability to profitably operate
7 my business are those that are levied
8 directly on my product and must be
9 directly passed on to my customers. We
10 are already trying to manage the impact
11 of the two percent Philadelphia sales
12 tax, and the addition of this tax of 3.6
13 cents per cigar makes that burden even
14 greater. I have been a cigar retailer
15 and wholesaler for almost 40 years and
16 have personal experience with the impact
17 each tax increase has on our sales. What
18 I can assure you is that this tax will
19 not generate the amount of revenue
20 projected, as our sales will decrease as
21 more of our customers purchase on the
22 Internet or from catalogues.

23 That brings me to the second
24 and more disturbing impact of this tax.
25 My catalogue and web store sales are all

1 5/13/10 - WHOLE - BILL 100115, etc.
2 fulfilled out of our Northeast
3 Philadelphia facility. If this tax is
4 enacted and I am forced to collect this
5 tax on all catalogue and web sales
6 throughout Pennsylvania, it will put
7 Holt's at more of a competitive
8 disadvantage to our competitors both in
9 and out of state, who will then have
10 additional margin available to beat our
11 prices.

12 Please understand that the
13 Internet and catalogue marketplace is
14 incredibly price competitive, with
15 customers often changing retailers based
16 upon minute differences in total costs.
17 The imposition of this tax on my
18 catalogue and web sales will leave me
19 with little alternative but to succumb to
20 the pressure which has been building over
21 many years to relocate these operations
22 to a more tax-favorable location, which
23 may be as close as a half a mile further
24 northeast of our current facility.

25 The unfortunate consequence to

1 5/13/10 - WHOLE - BILL 100115, etc.
2 the City would not only be the loss of
3 the significant taxes paid by Holt's and
4 our employees, but many high-paying jobs
5 with excellent benefits. Bucks County is
6 one-half mile down the road from our
7 offices and distribution center and is
8 offering tax incentives, not additional
9 taxes, to attract employers and
10 businesses.

11 My professional advisors have
12 informed me that if I follow the lead of
13 many other businesses and relocated my
14 operations to Florida, I could realize
15 over \$1 million a year in overall tax
16 savings before considering any impact
17 from this tax. Florida has no state
18 income tax and very low business taxes,
19 unlike our own Commonwealth and City.
20 Unfortunately, we also know that taxes
21 never disappear, but always go up.

22 As destructive as this tax is
23 to Holt's and my employees now, it is
24 certain to become more destructive as it
25 increases year after year and my business

1 5/13/10 - WHOLE - BILL 100115, etc.
2 cannot support these increases. That is
3 the reason why I discussed the
4 possibility of a sunset provision in my
5 meetings with several Councilmembers
6 concerning this tax. I have always
7 believed that the long-term prosperity of
8 our city can only be built upon a
9 foundation of a strong and vibrant
10 business community, with businesses that
11 can compete effectively through their
12 success and provide high-quality jobs.
13 This tax, without a sunset provision,
14 will be raised in future times of fiscal
15 need, and I cannot risk the economic
16 health of my business in a city that is
17 clearly sending the message that it is
18 not an environment that understands the
19 needs for businesses to operate with some
20 sense of financial security.

21 I would ask you to direct your
22 attention to the audience in the Council
23 Chamber and ask my employees who have
24 come to this hearing today to stand up.

25 (Audience members standing.)

1 5/13/10 - WHOLE - BILL 100115, etc.

2 MR. LEVIN: These are some of
3 my employees of Holt's Cigar Company who
4 stand to lose their well-paying jobs with
5 good benefits if this seemingly
6 unimportant tax is enacted. Many of
7 them, like many of our employees, have
8 worked for us for over ten years. I have
9 always said that the success of our
10 company is founded on two things:
11 quality products and great customer
12 service. These employees are the reason
13 for that great customer service and the
14 success of this company. I believe that
15 it is important to put faces to this
16 discussion to understand the impact of
17 this tax.

18 Prosperity cannot be built upon
19 new taxes that threaten long-term loyal
20 businesses and cause them to consider
21 packing up and leaving the City.
22 Prosperity cannot be built upon new taxes
23 that prevent businesses from growing and
24 adding more jobs. That alone is reason
25 enough to reconsider the merits of the

1 5/13/10 - WHOLE - BILL 100115, etc.

2 proposed tax.

3 However, I understand the
4 financial issues facing the Council and
5 the City. For me, it would be much
6 better to pay an increased property tax.
7 While I have almost paid \$80,000 to the
8 City last year in real property taxes, an
9 increase in this tax would be much
10 preferable than another tax on our
11 products that would be detrimental to our
12 business.

13 (Applause.)

14 MR. LEVIN: Taxing our products
15 would raise an insignificant portion of
16 the revenue to fix the City's current
17 problems and would cause my family
18 business to relocate, costing the City,
19 my family and these employees more than
20 any potential revenue gain.

21 Leaving Philadelphia and
22 Pennsylvania is neither my desire nor
23 something to be said or undertaken
24 lightly. Holt's has been a proud
25 Philadelphia institution for over 100

1 5/13/10 - WHOLE - BILL 100115, etc.
2 years, and I request that this Council
3 consider all the implications of this
4 proposed tax. I would like to give my
5 son and daughter the same opportunity
6 that my father gave me, to take our
7 family business to the next level and
8 create more jobs as our business grows.

9 Thank you for the opportunity
10 to address these issues.

11 COUNCIL PRESIDENT VERNA: Thank
12 you, sir.

13 (Applause.)

14 COUNCIL PRESIDENT VERNA: The
15 Chair recognizes Councilman Clarke.

16 COUNCILMAN CLARKE: Thank you,
17 Madam President.

18 Good afternoon, sir. First, I
19 would like to publicly thank you and say
20 how much I appreciated having an
21 opportunity to meet with you one and a
22 half times. I count the time in the
23 hallway as a half time. And as a result
24 of our conversations, I learned a lot
25 more about your company, and I want to

1 5/13/10 - WHOLE - BILL 100115, etc.
2 thank you for having a company business
3 in the City of Philadelphia for more than
4 100 years. That's quite a significant
5 achievement. And I know that we talked
6 about a number of things as it related to
7 the industry. I heard you, but I also
8 told you what our fiscal challenge was in
9 the City of Philadelphia that caused me
10 to even propose something like this.

11 MR. LEVIN: Right.

12 COUNCILMAN CLARKE: If it were
13 not for our challenge, there's no way in
14 the world I wake up in the morning
15 thinking about taxing smokeless tobacco
16 or cigars.

17 But understanding that, at the
18 end of the day, we do have a challenge.
19 So during the course of the debate as you
20 talked about your industry, having done
21 the research that we did, it was clear
22 that, one, in terms of what has happened
23 in the State -- I'm not just going to
24 pick on the City of Philadelphia -- that
25 it is clear that with the exception of

1 5/13/10 - WHOLE - BILL 100115, etc.

2 two states --

3 MR. LEVIN: Three other states.

4 COUNCILMAN CLARKE: Is it three
5 now? Well, not counting Pennsylvania.

6 MR. LEVIN: Florida and New
7 Hampshire.

8 COUNCILMAN CLARKE: There is
9 some sort of a tax imposed on these
10 products directly.

11 MR. LEVIN: Correct.

12 COUNCILMAN CLARKE: Which we
13 actually thought it was none, but you
14 corrected me. And we also understood in
15 doing our research, as you heard in
16 earlier testimony from folks from the
17 American Heart and Lung Association, that
18 the way we were taxing -- proposing the
19 tax to this product, it was actually not
20 the best way as it related to getting
21 revenue for the City, and I was chastised
22 actually by another member of the
23 industry who would have preferred that we
24 did it in a different way and I
25 understand makes it lesser cost or a

1 5/13/10 - WHOLE - BILL 100115, etc.
2 lesser quality product, and they feel
3 like they're being penalized because we
4 were proposing a per-unit price as
5 opposed to a percentage of the cost. But
6 I said, you know what, after talking to
7 you and understanding your commitment to
8 the City, I said that's okay. I said, I
9 want to minimize the potential impact on
10 a business in the City.

11 Now, when we did the research,
12 we looked at the various products, and
13 understanding that you don't make all of
14 these products, but you happen to be the
15 last person to testify on behalf of the
16 industry at large, when I look at the
17 surrounding counties because -- the
18 surrounding states when I heard the
19 reference during the course of various
20 testimony, when you look at snuff, for
21 instance, which you do not produce, in
22 Delaware, it's 54 cents an ounce; New
23 Jersey, 75 cents an ounce; New York, 96
24 cents per ounce; Texas, \$1.10 per ounce;
25 Maine, \$2.02 per ounce. Philadelphia,

1 5/13/10 - WHOLE - BILL 100115, etc.

2 what we're proposing is 36 per ounce,

3 which is much less.

4 Chew and smoking, we actually

5 have wholesale prices, but you can

6 compute the numbers. Fifteen percent

7 wholesale on chewing and smoking; 30

8 percent wholesale; 40 percent, six

9 percent wholesale. That's based on the

10 price. Much more. We're proposing a

11 price per weight, which is much less if

12 you compute the numbers.

13 Cigars, wholesale prices, 15

14 percent; 30 percent; 46 in those same

15 states; 15 cents, which is actually per

16 cigar, in Texas. So bottom line is, the

17 numbers are relatively significantly more

18 than what we're proposing. And in spite

19 of that, I said, you know what, after

20 talking to you, I said -- and let me

21 finish, because you have pretty lengthy

22 testimony. You'll have an opportunity to

23 respond.

24 And when I look at -- and I

25 understand after talking to you that some

1 5/13/10 - WHOLE - BILL 100115, etc.
2 of these numbers as it relates to the
3 particular product are a little
4 different, but we did an analysis on the
5 products that were ones that people like
6 to utilize, and we looked at single-stick
7 price, and correct me if I'm wrong, and
8 I'm sure you will, there's a product, a
9 cigar, single cigar, that our information
10 shows that the one most likely to be used
11 or the most popular is \$4.80. Boston
12 there's one called the Peretti, \$5.90;
13 Las Vegas, \$9, on and on, all of them
14 pretty high. But you told me that your
15 average cigar is \$2.50, \$2.60.

16 I'm going to give you a chance
17 to respond. I sat there patiently over
18 there and here.

19 MR. LEVIN: All right.

20 COUNCILMAN CLARKE: And when we
21 compute the numbers based on what we
22 believe to be the most popular, we're
23 talking about a single-stick cigar at
24 4.80. After the proposed price increase,
25 it will be 4.83. Box of 25, \$107. After

1 5/13/10 - WHOLE - BILL 100115, etc.
2 the proposed price increase, \$108. So
3 we're talking about an extremely small
4 increment as it relates to an increase in
5 price.

6 Additionally, something that
7 you also made me aware of is that your
8 business does a significant cash -- what
9 is it called, Internet?

10 MR. LEVIN: Mail order.

11 COUNCILMAN CLARKE: Mail-order
12 product, which I did not know at the time
13 of the proposal of the ordinance, and you
14 talked about the fact that a significant
15 number of your employees, some of whom
16 are here, was their sole responsibility
17 to produce that product that was sent out
18 on mail order. And I didn't think that
19 it was fair to create a disadvantage on
20 products that you sell outside of the
21 City, so I agreed, at your request, to
22 amend that section out, of which we have
23 here today.

24 So in all due respect -- and
25 trust me, I do respect you. I actually

1 5/13/10 - WHOLE - BILL 100115, etc.

2 like you. I was telling Councilman

3 O'Neill that I like that guy.

4 COUNCILMAN O'NEILL: And I told
5 him you liked him, too.

6 COUNCILMAN CLARKE: And that
7 happens more often than not, when you
8 actually have an opportunity to sit down
9 and talk. Your lawyer? No. I'm sorry.

10 But I think that we're trying
11 to be as fair as possible. And I
12 understand your concern. You're supposed
13 to do what you have to do.

14 MR. LEVIN: Right.

15 COUNCILMAN CLARKE: But the
16 reality is, we have a challenge. I'm
17 just trying to put something -- because I
18 don't want to go to the percentage base,
19 because I know that's much more onerous,
20 so I think what we're proposing is fair
21 and reasonable.

22 MR. LEVIN: That was a long
23 question. However --

24 COUNCILMAN CLARKE: It actually
25 wasn't a question. It was just a

1 5/13/10 - WHOLE - BILL 100115, etc.

2 statement. Feel free to respond.

3 MR. LEVIN: I'm very willing to
4 pair our fair share of taxes on anything
5 City Council will do, except our product,
6 because that affects the people we sell
7 it to. Increase a lot of other taxes.
8 Don't increase a tax that I have to put
9 on the product.

10 Now, it's true that every
11 state, except Florida, Pennsylvania, New
12 Hampshire, tax premium cigars, because
13 that's all we sell is premium cigars. We
14 don't really -- we're not in the snuff
15 business, we're not in the smokeless
16 business, we're not in the cigarette
17 business. We just sell handmade premium
18 cigars.

19 And because of our wholesale
20 distribution business all over the
21 country, I can tell you that all the
22 taxes that the states are enacting are
23 destroying the brick and mortar stores in
24 every city in every state, and mail-order
25 companies are the ones that are growing.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 So all the cities, all the stores are
3 struggling because of the high taxes,
4 because the business goes elsewhere. The
5 business goes elsewhere. If there's a
6 high tax in New York and a New York guy
7 wants to buy a box of cigars, he's going
8 to go on the Internet or dial an 800
9 number, order it from Philadelphia, order
10 it from Bethlehem, Pennsylvania, order it
11 from North Carolina, get those cigars,
12 with no taxes paid, no sales tax, no
13 tobacco tax. And in premium cigars,
14 that's the way it goes. So it's just
15 driving business to mail order. Any tax
16 that a city or state puts in, it destroys
17 the small retailer. It doesn't cut down
18 cigar smoking.

19 COUNCILMAN CLARKE: Okay. All
20 right. But you did acknowledge that --

21 MR. LEVIN: It is a small tax.

22 COUNCILMAN CLARKE: You did
23 acknowledge that there's a tax --

24 MR. LEVIN: Yeah, and it's a
25 very small tax.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILMAN CLARKE: -- on
3 product. You did acknowledge that.

4 MR. LEVIN: It's a very small
5 tax you're proposing, but like every tax,
6 my fear is that it's just going to keep
7 going up and up and up. No taxes stay
8 the same. They just keep going up. So
9 if it's 3.6 cent now, if the City has a
10 fiscal problem two years from now, it's
11 going to be a 25 cent tax, and two years
12 after that it could be a dollar tax.

13 COUNCILMAN RIZZO: Point of
14 information.

15 COUNCIL PRESIDENT VERNA: The
16 Chair recognizes Councilman Rizzo for a
17 point of information.

18 COUNCILMAN RIZZO: Sir, could
19 you just clarify something? You said
20 earlier that if a person makes a purchase
21 on the Internet or mail order and they
22 are outside the State, Commonwealth of
23 Pennsylvania, that they are still taxed?

24 MR. LEVIN: No. No.

25 COUNCILMAN RIZZO: I thought

1 5/13/10 - WHOLE - BILL 100115, etc.

2 you said that earlier.

3 MR. LEVIN: Pennsylvania
4 doesn't have a tax. It's a -- New York
5 has a high tax. If you were living in
6 New York, you wanted to order a box of
7 cigars, you would go on the Internet,
8 order a box from another state, order the
9 cigars from another state to be shipped
10 to your house and there would be no taxes
11 charged.

12 COUNCILMAN RIZZO: But you
13 wouldn't be affected -- your customers
14 outside the Commonwealth of Pennsylvania
15 if this is enacted would not be affected
16 by a tax?

17 MR. LEVIN: Correct.

18 COUNCILMAN RIZZO: That's all I
19 wanted to know.

20 COUNCILMAN CLARKE: Nor outside
21 the City of Philadelphia.

22 MR. LEVIN: Well, I wasn't sure
23 of that when we talked.

24 COUNCILMAN CLARKE: I just want
25 to clarify that.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 MR. LEVIN: All right.

3 COUNCILMAN CLARKE: All right.

4 I'm good. Thank you.

5 COUNCIL PRESIDENT VERNA:

6 Councilman Clarke, are you finished?

7 COUNCILMAN CLARKE: Madam

8 President, I'm actually -- and I tell

9 you, I like him. It's not a personal

10 issue, and I've tried to be as fair as

11 possible, and I think this is a

12 reasonable proposal and I'm prepared to

13 address what I thought was his most

14 significant concern, was the

15 mail-order/Internet sales, and we do

16 have, at the appropriate time, an

17 amendment to exempt that out of the bill.

18 COUNCIL PRESIDENT VERNA: Thank

19 you.

20 COUNCILMAN CLARKE: Thank you.

21 COUNCIL PRESIDENT VERNA: Do we

22 have any Councilmembers who would like to

23 question Mr. Levin?

24 COUNCILMAN CLARKE: Madam

25 President, let me say one other thing

1 5/13/10 - WHOLE - BILL 100115, etc.
2 that was in the half a meeting that we
3 had in the hallway. We just met. He
4 doesn't know me for real and I don't know
5 him for real. The reality is, as it
6 relates to my commitment -- and I know he
7 has a concern, because taxes tend to go
8 up and not down, but what I told him,
9 that as a sponsor of this particular bill
10 and I'm not -- frankly speaking, I don't
11 think a whole lot of other Councilmembers
12 are interested in entertaining this or
13 any other similar bill, that I'm not
14 going to propose to increase the cost of
15 particularly as it relates to the cigars,
16 particularly given the fact that it is an
17 industry within the City of Philadelphia,
18 and as most of us know, traditionally we
19 have this decor within Council if it's an
20 issue that -- and I hate to use the term
21 champion, but an issue that relates to a
22 particular Councilperson, it tends to
23 stay within that realm.

24 So I'm just saying that I'm not
25 going to increase the tax. It's an issue

1 5/13/10 - WHOLE - BILL 100115, etc.
2 that we currently have. Hopefully down
3 the line we may not even need the tax
4 anymore. I mean, I'm hoping that some of
5 the news that you hear on CNN and MSNBC
6 is actually correct, that the economy is
7 improving. So as we move down the line,
8 I'm hoping that we're in a position where
9 we won't need this or any other proposed
10 taxes. So I just want to put that on the
11 record.

12 MR. LEVIN: Okay. Thank you.

13 COUNCILMAN CLARKE: You're
14 welcome.

15 COUNCIL PRESIDENT VERNA: Thank
16 you.

17 Thank you, Mr. Levin.

18 MR. LEVIN: Thank you.

19 (Applause.)

20 MR. McPHERSON: Our next
21 witnesses are Robert Wonderling and
22 Varsovia Fernandez.

23 (Witnesses approached witness
24 table.)

25 COUNCIL PRESIDENT VERNA: Good

1 5/13/10 - WHOLE - BILL 100115, etc.
2 afternoon. Nice to see you. Please
3 identify yourself for the record and I
4 would ask you to proceed with your
5 testimony.

6 MR. WONDERLING: Thank you.
7 Good afternoon, President Verna and
8 members of the Committee of the Whole.
9 My name is Rob Wonderling and I am
10 President and CEO of the Greater
11 Philadelphia Chamber of Commerce. I'm
12 also joined to my right, your left, with
13 Denise Earley, who is a member of our
14 Public Policy team at the Chamber of
15 Commerce, and to my left, the President
16 of the Hispanic Chamber of Commerce,
17 Varsovia Fernandez. We're pleased to
18 join you today to offer comments on the
19 City's FY11 budget.

20 This is a too familiar position
21 for all of us. Once again, Council and
22 the Administration face a very difficult
23 challenge in crafting an annual budget.
24 The economic outlook for FY11, although
25 not as dire as last year, still shows

1 5/13/10 - WHOLE - BILL 100115, etc.
2 sluggish job growth as businesses of all
3 sizes proceed with great caution at
4 adding to their workforce. Businesses
5 have made painful decisions to create
6 real efficiencies in their operations,
7 have enhanced their technology to improve
8 employee output, and generally have
9 become leaner in order to remain
10 competitive. This is the new normal, and
11 we must recognize it and all adjust to
12 it.

13 This year's municipal budget
14 requires a shared sacrifice approach. It
15 must be a budget that takes a scalpel to
16 spending and imposes realistic goals for
17 revenue. If we are truly to address the
18 challenges of the future, it must produce
19 real efficiencies on the spending side
20 and shared responsibility on the revenue
21 side by both businesses and residents.

22 While we applaud the Mayor and
23 this Council for identifying expense
24 reductions in the budget, we foresee
25 circumstances beyond the City's control

1 5/13/10 - WHOLE - BILL 100115, etc.
2 which could dash the assumptions on which
3 these proposed cuts have been crafted.

4 Just as business has been
5 forced to make difficult, substantive and
6 definitive spending reductions, the City
7 too must accept this fiscal reality and
8 seek to deliver its services in a more
9 efficient manner.

10 The business community is
11 justifiably proud of the work done by the
12 Mayor's Private Sector Outreach Board in
13 conjunction with the Administration and
14 members of this Council. However, the
15 fruits of its labor are long-term
16 efficiencies. We pledge to continue that
17 work, in the hope of helping the City to
18 balance future budgets and to restore the
19 City's tax cut program as quickly as
20 possible. It's important to note that
21 these identified efficiencies cannot be
22 counted on as spending cuts for FY11.

23 Of course, reducing expenses is
24 not the sole solution to balancing the
25 budget. We understand that this budget

1 5/13/10 - WHOLE - BILL 100115, etc.
2 requires shared sacrifices. While
3 revenue enhancements must be part of the
4 overall solution, we point out that no
5 tax increase is popular, particularly
6 during an economic slowdown such as we
7 are experiencing. Still, the Chamber has
8 supported the work of the Mayor's Task
9 Forces in both 2009 and 2003. Both
10 panels have recommended the need to move
11 from mobile taxes, such as the wage and
12 business privilege tax, to non-mobile
13 sources, such as the real estate tax.

14 Let there be no mistake. A
15 hike in the real estate tax affects the
16 business community just as it affects
17 residents in this great city. Some 45
18 percent of the revenue raised by the real
19 estate tax comes from levies on
20 commercial property. Even those
21 commercial establishments who do not own
22 their space will see this hike passed
23 through to them into their CAMs.
24 Nonetheless, this temporary, temporary
25 increase in real estate -- if there is an

1 5/13/10 - WHOLE - BILL 100115, etc.
2 increase in the real estate tax, we would
3 hope that it would be temporary and that
4 it is indeed preferable to the continued
5 reliance on wage and business privilege
6 taxes.

7 While we recognize the real
8 estate valuations are not perfect, we
9 believe this non-mobile tax approach
10 correctly addresses the broader
11 principals of the two task forces'
12 recommendations.

13 And a non-mobile tax reflects
14 this Chamber of Commerce's fundamental
15 support for macro tax policy that
16 supports free enterprise throughout the
17 City.

18 Now, we understand that the fee
19 on residential trash collection has
20 little support in this body, and based on
21 comments earlier today and other
22 conversations, we are concerned and would
23 oppose any additional proposals that
24 would increase the commercial fees on
25 trash.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 We'd like to express our
3 concern, we feel compelled to do so, to
4 express our concern, as it relates to the
5 proposed sugar tax. Now, impact to this
6 tax and the potential impact of this tax
7 will have on the beverage industry and
8 small retailers in the City. In this
9 particular case, the targeting of the
10 beverage industry alone is never to
11 address the objective outlined in the
12 budget address. That is, it's designed
13 to address childhood obesity. We are
14 concerned that this sugar tax will not
15 address that stated goal because of how
16 it is being proposed to be imposed;
17 namely, through the change in the
18 business privilege tax that may result in
19 different vendors levying the tax in
20 different ways.

21 For the record, we have heard
22 from several of our members who do not
23 support this proposal. Each has
24 indicated that they will reduce staff if
25 this levy is enacted. Also, and as you

1 5/13/10 - WHOLE - BILL 100115, etc.
2 know, the Chamber's mission is to
3 attract, retain and grow jobs. We have
4 launched a campaign to visit with every
5 Council District to discuss jobs and
6 economic development in this city. In
7 fact, we will be visiting the 7th Council
8 District later this evening.

9 The proposed tax on cigars and
10 chewing tobacco, if not preempted by the
11 State, is really a consumer tax and will
12 generate some additional revenue. This
13 Chamber of Commerce did support the
14 smoking ban in 2005, and this levy is one
15 that complements the effort of the
16 Commonwealth in taxing tobacco products.

17 Now, while every effort is
18 being made to identify each dollar that
19 can be saved to close the budget gap, we
20 think serious consideration should be
21 given to the recommendations of the
22 Committee of Seventy as identified in its
23 report, Tracking True Reform. These
24 recommendations include reducing the size
25 of government, elimination of row

1 5/13/10 - WHOLE - BILL 100115, etc.
2 offices, elimination of redundancies in
3 government, revamping the Board of
4 Revision of Taxes and et cetera. Some of
5 these recommendations are clearly
6 underway, and next week there will be a
7 question on the primary ballot to
8 eliminate the BRT.

9 The extreme challenges that the
10 City faces in this budget may not be
11 lessened by this time next year. The
12 economy has not yet turned a corner. We
13 hope to see new jobs being created and
14 consumer spending starting to increase,
15 but absence of solid evidence of a
16 substantial recovery, we urge this
17 Council to make realistic and even
18 conservative projects for FY11. Let's be
19 pleasantly surprised rather than face
20 draconian corrections at mid-year.

21 In closing, Madam President and
22 members of the Committee of the Whole, we
23 offer our congratulations and gratitude
24 to all the members of this Council and to
25 the Administration for working together

1 5/13/10 - WHOLE - BILL 100115, etc.
2 to address the needs of both residents
3 and businesses in what indeed has been a
4 very challenging year.

5 Thank you for this opportunity.

6 COUNCIL PRESIDENT VERNA: Thank
7 you.

8 The Chair recognizes Councilman
9 DiCicco.

10 COUNCILMAN DiCICCO: Thank you,
11 Madam Chair, and good afternoon,
12 Mr. Wonderling and panel. In your
13 testimony you talk about the temporary
14 increase in real estate tax would be more
15 preferable. I don't know if you were
16 here earlier when I went through my round
17 of questioning following Councilman
18 Goode's line of questioning about the
19 percentages. The bill that I withdrew,
20 the 12.10 percent, had some language in
21 there that basically said that Council
22 shall consider, in light of every year's
23 City budget, the need for total value
24 reassessment. It did not say -- it was
25 not spelled out as a sunset provision, so

1 5/13/10 - WHOLE - BILL 100115, etc.

2 I guess my question to you is -- I'm not
3 sure if you can answer it now or not. If
4 I were to reintroduce a bill or amend an
5 existing bill to the 12.10 percent with a
6 sunset provision of one year, is that
7 something that you think the Chamber
8 could get behind?

9 MR. WONDERLING: Well, first
10 let me restate our position on tax policy
11 as our support of the two commissions and
12 the most recent commission of 2009. We
13 are philosophically in support with you,
14 Councilman, the notion that we should
15 move from mobile -- to mobile sources,
16 but we believe first if we were to do so
17 in this budget year, it should be
18 temporary, and so we would acknowledge
19 any bill that had a sunset provision as
20 part of the language and must correlate
21 to ongoing reductions in expenditures as
22 well. So temporary, with a sunset
23 provision, combined with the appropriate
24 level of spending cuts, which has to be
25 agreed to with this body and the

1 5/13/10 - WHOLE - BILL 100115, etc.
2 Administration, if that is the proposal
3 and the wisdom of this Council where
4 discussions end up in lieu of other
5 proposals that target the mobile sources
6 on a precise basis, then on a
7 philosophical basis we would be
8 supportive.

9 COUNCILMAN DiCICCO: Thank you.
10 Thank you, Madam Chair.

11 COUNCIL PRESIDENT VERNA: Thank
12 you.

13 Councilman Green, you had your
14 light on. Did you want to be recognized?

15 COUNCILMAN GREEN: I have no
16 questions.

17 COUNCIL PRESIDENT VERNA: Thank
18 you.

19 Thank you so much. We
20 appreciate your coming in to testify.

21 MR. McPHERSON: Our next panel
22 consists of Curt Gasper and Reverend Ken
23 Metzner.

24 (Witnesses approached witness
25 table.)

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCIL PRESIDENT VERNA: Good
3 afternoon. Kindly identify yourself for
4 the record and proceed with your
5 testimony.

6 MR. GASPER: Thank you very
7 much. My name is Curt Gasper. I am
8 President of the Greater Philadelphia
9 Association of Realtors. I do want to
10 thank City Council for allowing me to
11 testify here today.

12 I'm not going to read this
13 script. I'm just going to go off my
14 memory here. I appreciate you if you
15 bear with me for a moment here.

16 COUNCIL PRESIDENT VERNA: Take
17 your time.

18 MR. GASPER: The Board of
19 Realtors opposes any real estate tax
20 increase, obviously. That's why we're
21 here today. We're very concerned on many
22 different aspects. Number one, the
23 homeowners. The homeowners right now,
24 there's a lot of them don't have jobs,
25 being laid off. Money is very tight

1 5/13/10 - WHOLE - BILL 100115, etc.
2 right now. To raise the real estate
3 taxes on the homeowners would be a
4 difficult time. There's a lot of
5 homeowners right now that are -- have
6 mortgages are what they call under water
7 or the mortgage is higher than the actual
8 sale price of their home.

9 We're concerned a tax increase
10 on the real estate taxes could also maybe
11 push some more homeowners into the fact
12 that just doing what they call short
13 sales or foreclosures or whatever and
14 adding to the problem. So that's a major
15 concern that we have.

16 We also have major concerns
17 with the real estate industry as far as
18 selling real estate. Right now it's very
19 difficult to get mortgages. There's a
20 lot of added expenses. FHA is increasing
21 their down payment. Seller assist is
22 being eliminated to half of what it was
23 last year. To increase real estate taxes
24 would be another problem that we would
25 have to deal with right now.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 We also want to remind City
3 Council -- I'm sure they know this --
4 that when we sell a home in Philadelphia,
5 the average income it generates for the
6 local economy is \$66,000 for an average
7 home that sells across the Delaware
8 Valley. If we raise real estate taxes,
9 that could actually slow our industry
10 down even more, and it actually affects
11 transfer tax and other items.

12 We're also concerned with
13 future buyers, future homeownership. I
14 have a buyer sitting on the fence right
15 now, and if he hears in the local
16 newspapers that the real estate taxes are
17 going up, I'm sure that's going to make
18 him even more nervous and sit on the
19 sideline once again. We need the buyers
20 to get off the fence, start buying these
21 homes and, therefore, would give
22 everybody and the City more transfer tax
23 and more income.

24 We have a large situation with
25 people wanting to leave the City rather

1 5/13/10 - WHOLE - BILL 100115, etc.
2 than move in. We don't want people
3 hearing about another real estate tax
4 increase and preventing people from
5 moving into the City or relocating to the
6 City. Of course, we know there's the
7 highest transfer tax -- one of the
8 highest transfer taxes in the country is
9 Philadelphia at four percent. Raising
10 the real estate taxes right now would not
11 be a good thing to do.

12 Unfortunately, I don't hear a
13 lot of talk about cutting spending. All
14 I hear about is tax increase, and this
15 has the real estate community very
16 concerned. We'd love to hear about
17 cutting taxes, not raising taxes. Right
18 now any taxes increased would definitely
19 stifle real estate sales and also would
20 hurt --

21 COUNCIL PRESIDENT VERNA: I
22 think we agree. We would also love to
23 cut taxes. I don't know of any city
24 that's doing that right now. Now, you're
25 suggesting that we not raise the property

1 5/13/10 - WHOLE - BILL 100115, etc.

2 tax. Would you prefer that we charge

3 \$300 a year for trash removal?

4 MR. GASPER: I think we need to

5 find other ways to deal with the

6 situation than raising any taxes right

7 now.

8 COUNCIL PRESIDENT VERNA: Do

9 you have any suggestions?

10 MR. GASPER: Of course, the

11 same thing I did in my business. Two

12 years ago, I had five secretaries. I got

13 two secretaries. Two years ago I was

14 buying lunch in the office, going out on

15 a regular basis. Everything is being cut

16 back right now.

17 (Someone yelling in the

18 audience.)

19 COUNCIL PRESIDENT VERNA: Who

20 is talking?

21 MR. GASPER: We ain't saying

22 cutting jobs. We're saying cutting

23 across the board. Look across the

24 country. Everybody is having a problem,

25 and raising taxes and raising expenses

1 5/13/10 - WHOLE - BILL 100115, etc.

2 right now on the citizens is a problem.

3 COUNCIL PRESIDENT VERNA: Thank
4 you.

5 Councilman Greenlee.

6 COUNCILMAN GREENLEE: Not to
7 belabor this point -- thank you, Madam
8 President.

9 Does it get to the point, sir,
10 though, if we don't have the proper
11 services, what's that say about the City
12 too?

13 MR. GASPER: Sir, the answer is
14 not always to raise taxes. I mean, that
15 seems to be the only answer we ever have.

16 COUNCILMAN GREENLEE: I'm not
17 saying that's true. But I think really,
18 with all due respect, if you're going to
19 come in here and say we don't want any
20 tax increase, you're not saying about a
21 little less, any tax --

22 MR. GASPER: We don't want any
23 real estate tax increase.

24 COUNCILMAN GREENLEE: All
25 right. And obviously that's a lot of

1 5/13/10 - WHOLE - BILL 100115, etc.
2 money we're talking about here. I think
3 in all fairness, you should have some
4 plan and not just say do something else.
5 That's real easy to say.

6 (Applause.)

7 MR. GASPER: One of the
8 situation we have, we have a situation
9 where one row house in one neighborhood,
10 the taxes are \$2,000. In another
11 neighborhood not that far away, that
12 maybe the taxes are \$500. It just seems
13 to be there's a lot of other things that
14 we could look at to make things more fair
15 than just raise real estate taxes.

16 COUNCILMAN GREENLEE: Well, we
17 agree with that, and that's one of the
18 reasons why there's a question on the
19 ballot about the Board of Revision of
20 Taxes. City Council put on, by the way.

21 MR. GASPER: I understand that,
22 sir. I'm not to --

23 COUNCILMAN GREENLEE: But what
24 I'm saying is, I think if you're going to
25 come in here and say don't do something,

1 5/13/10 - WHOLE - BILL 100115, etc.

2 then you have to tell us or make some
3 suggestion -- you don't think for three
4 months we've been thinking about stuff?

5 MR. GASPER: All I hear about
6 is raising taxes, sir. I just think we
7 have to --

8 COUNCILMAN GREENLEE: Well, you
9 haven't been listening to everything
10 then.

11 MR. GASPER: I'm trying to work
12 also.

13 COUNCILMAN GREENLEE: Thank
14 you.

15 COUNCIL PRESIDENT VERNA: Thank
16 you very much.

17 Sir, are you going to testify?
18 Please identify yourself for the record.

19 REVEREND METZNER: Good
20 afternoon, Council President Verna and
21 members of the Committee. I'm Reverend
22 Ken Metzner, and this is the third time
23 I've had the privilege of testifying
24 before you.

25 Since receiving a notice last

1 5/13/10 - WHOLE - BILL 100115, etc.
2 fall of a proposed 236 percent increase
3 in the property taxes on the home I share
4 with my life partner, I certainly
5 appreciate the very daunting task that
6 Council faces in attempting to close this
7 budget gap, but I feel that there are
8 compelling reasons why the property tax
9 increase being considered today is not
10 the appropriate way to do that.

11 First, a broken tax system
12 should not be used as the basis for
13 generating increased revenues. Doing so
14 only compounds the well-documented
15 regressivity of the current system, which
16 is a scheme that has caused tens of
17 thousands of Philadelphia property owners
18 to unwittingly pay too much in property
19 taxes over the course of many years, and
20 it is beyond good-faith dispute that it
21 is the poorest of our city that are being
22 hit the hardest.

23 I'm not going to speak at
24 length about that today, because that
25 particular manifest unfairness is

1 5/13/10 - WHOLE - BILL 100115, etc.
2 something that City Council has been
3 aware of since at least September of 2002
4 when Council's Finance Committee held
5 three days of hearing on the subject.
6 But if there ever had been any lingering
7 question as to just how bad the data and
8 methodology for assessing our properties
9 are, that certainly was laid to rest on
10 January 26th of this year when Mayor
11 Nutter issued the moratorium on routine
12 property tax increases going forward.

13 This Council not only embraced
14 the two-year forward-looking moratorium,
15 but went so far as to pass a resolution
16 in these Chambers by a vote of 16 to one
17 seeking to expand the moratorium backward
18 for the benefit of the 18,000 property
19 owners who had received tax increases
20 prior to January. That resolution said,
21 in part, quote, "As a matter of simple
22 fairness and common sense, the BRT should
23 not be defending assessment increases
24 issued under an admittedly broken and
25 unreliable assessment system."

1 5/13/10 - WHOLE - BILL 100115, etc.

2 I am mystified as to how one
3 can reconcile public statements made in
4 January and February that our assessment
5 methodology is so bad that we will need
6 at least two years to fix it with a
7 decision today that seeks to use the very
8 same methodology to extract more money
9 from Philadelphia's hard-working
10 citizens.

11 I also struggle to understand
12 how our City Council could consider
13 taking action that employs bogus numbers
14 to ruin people's credit ratings and
15 contribute to increased homelessness.

16 Now, how can I say that? Well,
17 if the data for generating the tax bills
18 is bad, that means that the data on which
19 tax liens and sheriff's sales are based
20 is also bad. It is, therefore,
21 appropriate to ask how many people have
22 already been forced out of their homes
23 due to an inability to pay their
24 improperly calculated taxes, and how many
25 more will be made homeless or have their

1 5/13/10 - WHOLE - BILL 100115, etc.
2 credit ruined if Council votes today to
3 increase these inaccurately calculated
4 taxes.

5 If consideration of these
6 questions were not enough to give pause,
7 I would submit as well that Philadelphia
8 simply cannot afford to implement another
9 tax increase. Philadelphia's overall tax
10 burden is already one of the highest of
11 any major city in the United States.
12 That is not a distinction of which many
13 Philadelphians are aware, nor is it one
14 to be proud of. At some point, you, our
15 leaders, must simply say no to more
16 taxes. I submit that that time is now.

17 In summary, please do not vote
18 in favor of a measure that will illegally
19 dispossess people of their homes. Please
20 do not vote in favor of a bill that will
21 ruin people's credit ratings without any
22 legitimate basis. And please do not vote
23 in favor of a measure that guarantees
24 that Philadelphia will be the most
25 overtaxed city in America.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 Thank you.

3 COUNCIL PRESIDENT Verna: Thank
4 you very much.

5 Are there any questions of the
6 witnesses?

7 (No response.)

8 COUNCIL PRESIDENT Verna:
9 Seeing none, thank you, gentlemen.

10 MR. Gasper: Thank you.

11 COUNCIL PRESIDENT Verna:
12 You're welcome.

13 Our next witness?

14 MR. McPherson: Pat Conway.

15 (Witness approached witness
16 table.)

17 COUNCIL PRESIDENT Verna: Good
18 afternoon. Kindly identify yourself for
19 the record and proceed with your
20 testimony.

21 MR. Conway: Yes. Good
22 afternoon, President Verna and members of
23 Philadelphia City Council. Thank you
24 very much for the opportunity to provide
25 testimony on Bill 100118 and our concern

1 5/13/10 - WHOLE - BILL 100115, etc.
2 and opposition to any sugary drink tax,
3 which would drive up the cost of a
4 variety of beverages, including soft
5 drinks, fruit juices and sport drinks in
6 the City of Philadelphia. We believe
7 this is a very regressive and onerous tax
8 proposal really at any level of taxation
9 and it would lead to job losses that we
10 simply cannot afford, especially during
11 these very difficult economic times.

12 My name is Patrick Conway and I
13 am speaking for the Pennsylvania
14 Restaurant Association today, as well as
15 our Philadelphia Delaware Valley Chapter.
16 Our association represents restaurants
17 all over the Commonwealth, but today
18 we're speaking for over 10,000 restaurant
19 units located in the City of
20 Philadelphia.

21 Restaurants have a significant
22 economic impact in the City. Each one
23 million in sales in Philadelphia eating
24 and drinking establishments provides for
25 43.3 jobs. In addition, nine out of ten

1 5/13/10 - WHOLE - BILL 100115, etc.
2 restaurants are involved in charitable
3 and philanthropic activities that improve
4 the quality of life in Philadelphia and
5 its neighborhoods. And our business
6 owners, their families and their
7 employees are your constituents.

8 Restaurants operate on slim
9 profit margins, averaging only three to
10 four percent even in very good economic
11 times, and today many restaurants are
12 fighting just to keep their doors open
13 for business, and many others have been
14 forced to close due to the tough economic
15 times.

16 In Philadelphia, restaurants
17 are now also burdened with a costly and
18 cumbersome new menu labeling law that has
19 forced many restaurants to spend
20 thousands of dollars to comply with what
21 is the nation's most extensive and
22 onerous menu labeling mandate. A sugary
23 drink tax on top of the menu labeling
24 mandate will only force more restaurants
25 to close their doors during these tough

1 5/13/10 - WHOLE - BILL 100115, etc.
2 times or to consider relocating outside
3 the City, costing the City even more jobs
4 and tax revenue.

5 In an industry where profit
6 margins are lower than many others,
7 rising costs and economic pressures are
8 especially challenging for restaurants.
9 A sugary drink tax at any level would be
10 another serious blow with a very negative
11 impact on our local restaurant community
12 in Philadelphia. If the sugary drink tax
13 is enacted, the new tax will certainly
14 lead to a significant loss of jobs and
15 economic fallout that will be felt
16 throughout the City and its
17 neighborhoods.

18 Philadelphia's unemployment
19 rate is already in double digits, over
20 ten percent, and a sugary drink tax would
21 also bring a devastating blow to many
22 local families who are already struggling
23 to make ends meet. Not only will local
24 families have to pay significantly more
25 for a broad range of beverage products in

1 5/13/10 - WHOLE - BILL 100115, etc.
2 Philadelphia stores and restaurants, but
3 these families will be hard hit by
4 additional job losses and the economic
5 ripple effect sure to be felt throughout
6 the City. This is simply not the time to
7 add another new tax on the backs of our
8 customers and your constituents.

9 In closing, we respectfully
10 urge you to oppose any sugary drink tax
11 and to fight for Philadelphia jobs. The
12 sugary drink tax proposal at any level is
13 a regressive and onerous tax proposal
14 that would hurt Philadelphia's
15 restaurants, retailers, workforce and
16 families.

17 Thank you again for the
18 opportunity to provide testimony today.

19 COUNCILWOMAN TASC0: Thank you
20 very much.

21 Are there any questions of this
22 witness?

23 (No response.)

24 COUNCILWOMAN TASC0: Thank you
25 very much for your testimony.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 MR. CONWAY: Thank you very
3 much.

4 MR. McPHERSON: Our next
5 witness is Lauren Huminski.

6 (No response.)

7 MR. McPHERSON: Andrew Weikert.

8 (Witnesses approached witness
9 table.)

10 MR. WEIKERT: Good afternoon.
11 Can you hear me?

12 COUNCILWOMAN TASCO: Sure.
13 Good afternoon.

14 MR. WEIKERT: I think there may
15 have been a slight discrepancy in the
16 schedule, because in the next grouping
17 that was to come up, I actually have two
18 of those people with me. With me today
19 is Michael Mercado -- first of all, my
20 name is Andrew Weikert. I'm the Director
21 of Government Affairs for Auntie Anne's
22 hand-rolled soft pretzels, and with me is
23 Michael Mercado, who the Manager of our
24 company-owned stores in the City of
25 Philadelphia, and also John Lyman is an

1 5/13/10 - WHOLE - BILL 100115, etc.
2 independent franchisee who owns the three
3 stores at 30th Street Station.

4 First, I just want to thank you
5 for the opportunity to be here today.
6 Again, my name is Andrew Weikert. I am
7 actually here speaking on behalf of a
8 total of 11 independently owned and
9 operated Auntie Anne's franchise
10 locations located in the City, including
11 the Gallery Mall, South Street,
12 Cheltenham Square, the Shoppes at Penn,
13 as I mentioned, 30th Street Station and
14 the Philadelphia International Airport.
15 These stores employ approximately 120
16 City residents who understand the danger
17 that the proposed sugary beverage tax
18 represents to their livelihoods.

19 As I've testified in the past
20 on this issue, I can't overstate enough
21 how devastating this tax would be to
22 Auntie Anne's locations located in the
23 City. It needs to be understood that
24 this tax poses a severe threat to our
25 stores' most valuable asset, the

1 5/13/10 - WHOLE - BILL 100115, etc.
2 employees who work in our stores every
3 day, day in and day out.

4 While Auntie Anne's locations
5 is indeed primarily a hand-rolled soft
6 pretzel store, we depend very heavily
7 also on the incremental sales that come
8 from beverages. In fact, a full 25
9 percent of our total sales mix is based
10 on beverage sales. So another way of
11 saying that is, even though we're a
12 pretzel concept, a full 25 percent of our
13 business is coming from the sale of
14 beverages. So it has an extraordinary
15 impact on us.

16 There's been a lot of
17 discussion about the beverage tax in
18 terms of the proposed tax on finished
19 product, but there's been less discussion
20 on the legislation as it concerns the tax
21 on beverage concentrate. At 18 cents an
22 ounce on beverage concentrate, that tax
23 adds \$115 to a five-gallon bag of
24 concentrate that only costs \$55 to the
25 business owner. So you have a \$55 bag of

1 5/13/10 - WHOLE - BILL 100115, etc.
2 concentrate that actually increases now
3 to a total of 170, and a \$20 box of
4 lemonade now jumps to \$70. Being that
5 there's no way for the small business
6 owner to absorb this cost, the cost is
7 actually going to be passed on to our
8 customers, City residents.

9 In the calculations we've done,
10 it actually adds 48 cents to a typical --
11 to our most -- our typical drink size is
12 a 21-ounce drink. It adds 48 cents to a
13 soda and an additional 72 cents to a
14 21-ounce lemonade. So your typical soda
15 is going to jump from \$1.79 and jump up
16 to \$2.27, and a 21-ounce lemonade is
17 going to go from an average price of 2.19
18 to 2.91.

19 So I just go through some of
20 these price points to point out that at
21 these price points, there's no question
22 that it's going to suppress consumption
23 and sales. And when 25 percent of our
24 business model is based on the sale of
25 beverages, we're very fearful on taking

1 5/13/10 - WHOLE - BILL 100115, etc.
2 that kind of sales hit, what it does to
3 our franchisees, who have invested
4 heavily into these businesses and even
5 more so in the livelihoods of the people
6 who work in these stores, the employees,
7 and I think John is going to touch on
8 that as well.

9 Now, I will -- to be honest, we
10 have every intention as opportunities
11 arise in this city, if we can find good
12 locations, we do intend to expand, open
13 more stores in the City of Philadelphia.
14 The challenge comes when we try to find
15 franchisees, people who are willing to
16 invest and buy into the franchise, when
17 they know they're going to be facing
18 these kinds -- this kind of inhibition on
19 their ability to sell drinks. It's going
20 to be tough to find people who want to
21 make that investment in the City.

22 So with that, thank you very
23 much for allowing me to be here today.
24 I'm going to pause and allow Mr. Mercado
25 to take over.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 MR. MERCADO: Thank you.

3 Members of Council, thank you
4 for this opportunity to discuss the
5 sugary beverage tax and the impact it
6 would have on our employees. As General
7 Manager of company-owned stores, my main
8 responsibility is to provide support to
9 over 120 employees who work in our
10 company-owned stores. I have come to you
11 today in direct support of the 25 City
12 residents who work in our two locations
13 within the Franklin Mills Mall.

14 Like many businesses, the
15 number of labor hours we can provide our
16 employees are directly affected by store
17 performance. The sugary beverage tax
18 would have a significant impact on about
19 25 percent of our business. This loss of
20 business, without question, would affect
21 our labor force. Some employees could
22 lose their jobs. Those that are lucky
23 enough to keep their positions would have
24 a significant reduction in hours.

25 We at Auntie Anne's have always

1 5/13/10 - WHOLE - BILL 100115, etc.
2 strived in making sure that business is
3 more than just turning a profit. It's
4 about caring for our employees. For
5 example, we have offered health coverage
6 to all of our company-owned store
7 employees, whether you're the store
8 manager or a crew member within your
9 first year of employment. This health
10 coverage is the same health coverage that
11 is provided to our corporate staff based
12 out of Lancaster, Pennsylvania. They
13 have the same opportunities as our
14 corporate employees.

15 Well, this tax, by cutting and
16 giving a reduction in hours, would not
17 provide enough hours for eligibility.
18 And this not only has an effect on that
19 individual, but their family as well. It
20 will trickle down to them, as many of our
21 employees opt for the family option.

22 You know, I realize this isn't
23 just an Auntie Anne's issue. This is an
24 issue for many similar businesses that
25 offer beverages. My fear is if we can no

1 5/13/10 - WHOLE - BILL 100115, etc.

2 longer employ our current employees,

3 where will they turn?

4 As you walk up and down a mall,

5 an enclosed mall, you'll find many

6 businesses that provide beverage

7 opportunities, and you're going to -- my

8 fear is that you will see many darkened

9 stores as they close for business.

10 So I just ask you again to

11 reconsider your position with the

12 beverage -- the sugary beverage tax.

13 Thank you.

14 COUNCILWOMAN TASC0: Thank you.

15 MR. LYMAN: Good afternoon. My

16 name is John Lyman and I'm an Auntie

17 Anne's franchisee, and I do -- I operate

18 three locations within the City of

19 Philadelphia.

20 I am sure at this point Council

21 has heard enough of, yes, I pay my

22 business privilege tax, I pay all the

23 licensing, use and occupancy taxes within

24 the City. I also can state unequivocally

25 I feel that the proposed tax will be

1 5/13/10 - WHOLE - BILL 100115, etc.

2 devastating to my own individual

3 businesses within the City.

4 I have no notes, so best I can

5 say, our hand-rolled pretzels and a cold

6 beverage, they go hand in hand. It's

7 almost like Abbott and Costello. And

8 with this proposed tax, it will not only

9 devastate my business -- my beverage

10 sales, but that will also affect my

11 pretzel sales, which affects my business.

12 And maybe I'm the first

13 person -- I will talk to Council this

14 afternoon. I want to appeal to the human

15 aspect of this. As a business person in

16 Philadelphia, I'm very proud to say 100

17 percent of my employees live in the City

18 of Philadelphia and pay Philadelphia wage

19 tax. I'm really proud to say almost 90

20 percent of my employees are single moms,

21 and I'm really proud to tell this Council

22 that 90 percent of my employees are

23 single moms who are recovered drug

24 addicts. I work with New Directions for

25 Women. I hire these women. They have

1 5/13/10 - WHOLE - BILL 100115, etc.
2 become great employees. They have become
3 good moms. They have become great people
4 for your City of Philadelphia. They give
5 back to the community.

6 I know, without a doubt, this
7 tax on beverages, I will either have to
8 eliminate some of my locations in the
9 City, which will eliminate jobs, or get
10 rid of some of these people.

11 Ladies and gentlemen, I can
12 just tell you this: These women live in
13 a very, very fragile environment. I want
14 to keep them employed. I don't know what
15 would happen to them without their jobs.

16 So thank you for listening to
17 me. It's a little different approach to
18 this, but I hope you will certainly take
19 that into consideration.

20 Thank you very much.

21 COUNCILWOMAN TASC0: Thank you
22 very much for your testimony. We
23 appreciate it.

24 (Applause.)

25 COUNCILWOMAN TASC0: We are

1 5/13/10 - WHOLE - BILL 100115, etc.
2 familiar with New Directions for Women.
3 That's good that you employ them. Thank
4 you for that.

5 MR. LYMAN: Thank you.

6 COUNCILWOMAN TASC0: Any
7 questions of these witnesses?

8 (No response.)

9 COUNCILWOMAN TASC0: Thank you
10 very much for taking time to come down
11 today.

12 MR. LYMAN: Thank you.

13 COUNCILWOMAN TASC0: Is
14 Mr. Lenny Francisco here?

15 MR. FRANCISCO: Yes.

16 (Witness approached witness
17 table.)

18 COUNCILWOMAN TASC0: The Chair
19 recognizes Councilman Green. You have a
20 question?

21 COUNCILMAN GREEN: I just
22 wanted to -- I just have one quick
23 question for Mr. Dubow. I know they were
24 somewhere around here. I'll wait until
25 after public testimony, but I just wanted

1 5/13/10 - WHOLE - BILL 100115, etc.
2 to let anybody from his staff know that
3 before the hearing ends, I have one quick
4 question.

5 COUNCILWOMAN TASCO: Thank you.

6 MR. FRANCISCO: Good afternoon.
7 My name is Lenny Francisco. I'm here
8 today to testify on behalf of the
9 Dominican Association of Business Owner
10 of Pennsylvania. I would like to thank
11 you for giving us the time.

12 I work with my father on his
13 grocery store, which is normally known as
14 a mom-and-pop store, and also we are a
15 member of Business Association, which has
16 approximately about 700 members; that is,
17 700 business owners, which includes
18 grocery stores, restaurants, accountants
19 and so on. We've been here in
20 Philadelphia for about five years now,
21 and throughout the time -- the
22 Association is quite new to us and it's
23 basically a baby to the community, the
24 Dominican community. However, this
25 Association has been working to help our

1 5/13/10 - WHOLE - BILL 100115, etc.
2 members and our community by providing
3 counseling to the business owners and
4 also offering free English classes to all
5 Dominican communities and instead try to
6 close the gap of culture, language
7 barriers.

8 Through this time, we have seen
9 many families and many business owner
10 having to leave Philadelphia because they
11 cannot sustain their business in here,
12 because as we already know, the situation
13 is tough enough. This is harsh time for
14 the whole country, especially here in
15 Philadelphia. As you all know, we are
16 already paying a high price on gas, and
17 many of our products have higher prices
18 than many other cities around, such as
19 Camden, Delaware and so on.

20 Today I'm here, as many other
21 people, to request that you, the
22 Councilmembers, say no to this proposal
23 on the tax on sugar beverage. Not just
24 because it will affect our customers and
25 our businesses directly, but because it

1 5/13/10 - WHOLE - BILL 100115, etc.
2 will affect every single person in
3 Philadelphia, because we can count -- I'm
4 quite sure it's a minimal group of
5 persons who doesn't drink any kind of
6 sugar beverage. So this tax will be
7 affecting every single family directly,
8 especially, as I say before, the business
9 owners who will be not able to keep on
10 doing business and they will have to
11 close their door, as many other have done
12 already.

13 As I spoke before in another
14 meeting at another hearing that we had,
15 tax is not a solution. I know that we
16 have a huge gap in our budget right now,
17 and I heard that you already asked many
18 people, But what other options do you
19 have. At this moment I may not have a
20 bunch of solutions for you or I may not
21 have every single solution. However, I
22 know that another tax will only hurt our
23 community. If we put another tax in our
24 products, especially in sugar beverage,
25 people still going to buy it, but instead

1 5/13/10 - WHOLE - BILL 100115, etc.
2 of buying it here in Philadelphia,
3 they're going to go to the surrounding
4 cities, and the money is not only going
5 to go away from the stores, but from the
6 City as well, which going to cause, as
7 many mentioned before, you're going to
8 cause job cuts and job losses. If
9 somebody lost their job, they're going to
10 have to go on unemployment, and then it's
11 going to be another person living on the
12 expenses of the City of Philadelphia. So
13 we're trying to get some revenue in one
14 part, which is actually going to be
15 hurting the people itself, and forcing
16 them to come and basically live at
17 everybody else's expenses or in
18 Philadelphia's expenses. Because as
19 everybody knows here, every time somebody
20 goes to take unemployment, it's every
21 single one of us paying for their
22 unemployment benefits.

23 As I mentioned before, this
24 already are harsh times on the economics.
25 Please do not put another tax on our

1 5/13/10 - WHOLE - BILL 100115, etc.
2 back. We cannot take any longer. We
3 already paying high wage taxes. We
4 already paying property taxes. We
5 already paying high prices on gas, as I
6 say before, and we do not need or we
7 cannot have another increase on the tax
8 on the beverages.

9 As everybody mentioned before,
10 increasing the taxes on this products
11 will cause job losses, will cause
12 families to lose their revenues, their
13 incomes, their wages to sustain themself.
14 Please, again, please do not vote in
15 favor of this proposal. Again, me, in
16 behalf of the Dominican Association of
17 Business Owner, want to thank you for the
18 time, and please again do not vote in
19 favor of this proposal.

20 COUNCILWOMAN TASC0: Thank you
21 very much.

22 (Applause.)

23 COUNCILWOMAN TASC0: Are there
24 any questions of this witness?

25 (No response.)

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILWOMAN TASC0: Thank you.

3 Mr. Eugene Naydovich.

4 (No response.)

5 COUNCILWOMAN TASC0: I hope I'm
6 saying it right. Naydovich.

7 (No response.)

8 COUNCILWOMAN TASC0: Is there
9 anybody else here to testify on these
10 bills?

11 Please come forward.

12 MR. DANIEL: Good afternoon,
13 Madam Chairperson and distinguished
14 members of City Council. My name is
15 Stanley Daniel. I am a property owner,
16 real estate investor and realtor with my
17 office and properties all located in
18 Philadelphia.

19 I support increasing the real
20 estate taxes. As I have testified at
21 past Council meetings, the real estate
22 taxes in Philadelphia are one-half to
23 one-third of what the same valued
24 property would be taxed if it was located
25 in the other counties of the Delaware

1 5/13/10 - WHOLE - BILL 100115, etc.

2 Valley and South Jersey.

3 Earlier Councilman Goode had
4 mentioned that the average real estate
5 tax in the City of Philadelphia is
6 \$1,046. Please correct me if I'm wrong.
7 The average valued house in this city is
8 about \$122,000. That property in the
9 counties would be taxed at \$2,000 to
10 \$3,500 compared to the thousand dollars
11 that's being taxed right now in
12 Philadelphia.

13 However, the tax increase is
14 not being done in the correct way.
15 Increasing the tax rate is just a quick
16 bandage to a wound that should be
17 stitched.

18 Changes are needed in tax Bill
19 100284. The correct and equitable way to
20 heal the real estate tax issue is to
21 reassess each property in the City at the
22 fair market value. Currently, there is
23 no rhyme or reason to how much money the
24 taxes are. Property owners living next
25 door to each other may find a 100 percent

1 5/13/10 - WHOLE - BILL 100115, etc.

2 difference in the taxes that they are
3 paying for virtually the same house.

4 Unless this inequity is
5 resolved, then property owners of
6 Philadelphia will always feel that they
7 are not being taxed fairly, and this
8 feeling would be justified, because they
9 are not being taxed fairly.

10 Earlier Councilman DiCicco had
11 mentioned that raising the real estate
12 tax would be a political hit. Well,
13 there are some suggestions I have here
14 that would politically make it a lot
15 easier and fair to everyone.

16 Number one, the taxpayer should
17 be educated as to just how low their
18 taxes are relative to not only
19 surrounding counties, but practically
20 every large city in the country.

21 Number two, all properties
22 should be reassessed at fair market
23 value. This is the only way that the
24 taxpayer will know that they are being
25 treated fairly.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 Number three, all abandoned and
3 boarded-up properties should be
4 identified and taxed or fined heavily,
5 with the intention of making them
6 productive properties once again. This
7 will not only increase values in the
8 respective neighborhoods, it will also
9 decrease crime and eliminate blight.

10 Number four, tax-delinquent
11 properties should be legally acted upon
12 in a prompt and swift manner. I know of
13 properties that are more than six years
14 delinquent in tax payments and the City
15 has not foreclosed on them. There is no
16 excuse for this. I know in Montgomery
17 County, if you're four months late on
18 your taxes, the sheriff comes knocking at
19 your door.

20 Number five, the amount of
21 money collected from eliminating these
22 ugly properties from our neighborhoods
23 should be publicized and those funds used
24 to reduce the tax burden of other
25 property holders.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 These suggestions can be
3 implemented in a reasonably short
4 timeframe of 12 months. I know that the
5 BRT has been trying to reassess
6 properties since 2004, but they are going
7 about it in the wrong way. I also know
8 that there is a power struggle going on
9 between the Mayor's Office and the BRT.
10 Whoever wins the battle very well may be
11 losing the war if they do not understand
12 how to cure these problems.

13 Thank you for your time this
14 afternoon. Are there any questions?

15 COUNCILWOMAN TASC0: Are there
16 any questions of this witness?

17 (No response.)

18 COUNCILWOMAN TASC0: Thank you
19 very much.

20 MR. DANIEL: Thank you.

21 COUNCILWOMAN TASC0: Is there
22 anyone else here to testify on these
23 bills?

24 (Applause.)

25 (Witness approached witness

1 5/13/10 - WHOLE - BILL 100115, etc.

2 table.)

3 COUNCILWOMAN TASC0: Good
4 afternoon. Would you state your name.

5 MR. PAZINSKI: My name is Walt
6 Pazinski and I'm very much -- I've been
7 involved with city and government affairs
8 for over 35 years here in Philadelphia,
9 and right now the City of Philadelphia
10 has a problem, okay, to me personally, as
11 I would look at -- it says \$1.5 million.
12 Okay? That's \$1,500,000 that it needs,
13 right?

14 Now, we're building a casino
15 down on this riverfront. All right? And
16 it's going to be done. Fine. Okay? And
17 it's going to be done by September of
18 this year. I would say that the Finance
19 Committee here in Philadelphia, before
20 they bring on the 9 percent increase on
21 the real estate taxes, go to up in Bucks
22 County for three months and look at the
23 revenue that they take in for three
24 months, six months from now. Okay? Then
25 go down to Chester down to that casino

1 5/13/10 - WHOLE - BILL 100115, etc.
2 and see how much that they take in, okay,
3 in revenue.

4 Now, we have here in
5 Philadelphia one of the -- I mean,
6 Philadelphia is the birth place of the
7 United States. We have tourists that
8 come in from all over the United States.
9 We have the Convention Center here in
10 Philadelphia that bring in people from
11 all over the world into Philadelphia.

12 Now, I would like to know,
13 okay, it's \$1.5 million this year that
14 the Mayor is stuck with. Okay? Now, you
15 pay nine point -- that 9 percent that you
16 want to increase on the property tax.
17 Now, let's forget about the casino and
18 everything. This next coming year, how
19 much will the increase go up again on the
20 property taxes or any taxes that City
21 Council or the Mayor would come up with?
22 Now, let's say it's not there.

23 So I would say before any taxes
24 are increased, that the City, what do you
25 call it, go down to there and look up for

1 5/13/10 - WHOLE - BILL 100115, etc.
2 six months how much is taken up up there
3 at the race track, and then go down to,
4 what do you call it, the other one, down
5 in Chester, down there, and take all of
6 that money and look in all that revenue.
7 Then take in the consideration that
8 Philadelphia, okay, with all the tourists
9 that come into the City -- and I'm going
10 to tell you, I go down to the Convention
11 Center and I talk with business people
12 that are all over the United States, that
13 I talk to people that are all over the
14 world coming to Philadelphia. Now, how
15 much money do you think is going to come
16 into this casino that they're building
17 down there within one year, maybe two
18 years. Okay?

19 All we're asking for, okay, the
20 Mayor, is \$1,500,000 and we're stuck, and
21 we're out trying to get it all. So why
22 not -- I would say before we go and raise
23 the taxes, go and get, okay, these
24 figures. I mean, it's just ridiculous,
25 because everything that everybody has

1 5/13/10 - WHOLE - BILL 100115, etc.
2 said here, you're driving business out of
3 the City with raising the property taxes.
4 There's poor people here that just can't
5 do it. The real estate people talked.
6 They're driving -- I mean, people won't
7 even come into the City. They're driving
8 people out of the City. People won't
9 come in, out.

10 But we have an opportunity
11 here, okay, of getting all this
12 millions -- I mean, I would say -- I
13 would love, you know, for the Treasury
14 Department here just to go up to the race
15 track and look for six months --

16 COUNCIL PRESIDENT VERNA:
17 Excuse me. I think you're being a little
18 repetitious at this point. You're
19 talking about the casinos.

20 MR. PAZINSKI: Yes, Ann.

21 COUNCIL PRESIDENT VERNA: And
22 it's my understanding that the
23 Administration has already estimated what
24 revenues will come in, and that figure is
25 in the budget.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 MR. PAZINSKI: How much?

3 COUNCIL PRESIDENT Verna: I

4 don't know off the top of my head --

5 MR. PAZINSKI: Well, this is

6 one thing --

7 COUNCIL PRESIDENT Verna: Wait

8 a minute. Wait a minute. You're talking

9 about us not raising property taxes.

10 MR. PAZINSKI: What's this?

11 COUNCIL PRESIDENT Verna:

12 You're saying we should not raise

13 property taxes.

14 MR. PAZINSKI: I'm not --

15 that's what I'm talking about.

16 COUNCIL PRESIDENT Verna:

17 That's what you're saying; is it not?

18 MR. PAZINSKI: Right.

19 COUNCIL PRESIDENT Verna: Okay.

20 MR. PAZINSKI: All the taxes.

21 COUNCIL PRESIDENT Verna: All

22 right. Wait a minute.

23 Would you prefer that we do

24 what the Mayor proposed, and, that is,

25 that you pay \$300 for your trash removal?

1 5/13/10 - WHOLE - BILL 100115, etc.

2 MR. PAZINSKI: I'm saying we
3 shouldn't even pay anything.

4 COUNCIL PRESIDENT VERNA: Which
5 would you prefer -- oh, we shouldn't pay
6 anything.

7 MR. PAZINSKI: No, and I'm
8 going to tell you why. Because if you go
9 and go up at the race track and figure
10 out what they take in for six months or a
11 year and go down the other one and then
12 take into consideration, like I've said,
13 all around the world, all the people that
14 come into Philadelphia and want to
15 really -- these people that I talk to
16 say, Well, where's a good place to go? I
17 send them down to Chinatown. They would
18 go down to that racetrack. How much do
19 you think they would pour in there?
20 Millions of dollars that would eat up
21 that 1.5 million that you want.

22 COUNCILWOMAN TASC0: Thank you.

23 MR. PAZINSKI: So next year my
24 question is, how much is it going to be
25 without that in there?

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILWOMAN TASC0: Thank you
3 very much.

4 MR. PAZINSKI: That's the
5 question that everybody wants.

6 COUNCILWOMAN TASC0: Thank you
7 very much.

8 MR. PAZINSKI: I mean, I can't
9 make it any simpler, because it's
10 really -- the people are really peeved.
11 I mean, it's really -- I mean, it just
12 got to the point that the people do not
13 want the taxes increased. Because it's
14 only 1.5 million. Even business people.

15 COUNCILWOMAN TASC0: Thank you.

16 MR. PAZINSKI: I mean, it's --

17 COUNCILWOMAN TASC0: Thank you.

18 COUNCIL PRESIDENT VERNA: Thank
19 you.

20 MR. PAZINSKI: I'm sorry the
21 way I'm talking to you, but I'm talking
22 down to earth. Okay? And I can't make
23 it any simpler. And what can I say? I
24 mean, take it all into consideration.
25 Get the Treasury Department and go up

1 5/13/10 - WHOLE - BILL 100115, etc.
2 there and get the figures. Because next
3 year, we want to know, is it going to be
4 again 1.5 million?

5 What can I say? You know,
6 Frank? I'm not, you know...

7 COUNCILWOMAN TASC0: Thank you,
8 sir. We appreciate your testimony.

9 MR. PAZINSKI: I mean, it's
10 simple as that. I mean, nobody wants to
11 talk about it. They just give -- but
12 after I sit here all day and listen to
13 everybody talking and they're saying,
14 well, they're going to move out of the
15 City, all the business -- they're all
16 moving out of the City. You say that the
17 City is going to gain. Well, if
18 businesses move out of the City, they
19 ain't never going to come back, and
20 they're going to take all the jobs with
21 them, and all these people are going to
22 go on the unemployment line.

23 COUNCILWOMAN TASC0: Thank you,
24 sir.

25 MR. PAZINSKI: So where is the

1 5/13/10 - WHOLE - BILL 100115, etc.

2 City going to get --

3 COUNCILWOMAN TASC0: Thank you,
4 sir. Thank you very much for your
5 testimony. We appreciate it.

6 MR. PAZINSKI: You know,
7 it's --

8 COUNCILWOMAN TASC0: Any
9 questions of this witness?

10 (No response.)

11 MR. PAZINSKI: But I'm sorry.

12 COUNCILWOMAN TASC0: That's all
13 right.

14 COUNCIL PRESIDENT VERNA: Thank
15 you for coming in.

16 MR. PAZINSKI: I just hope you
17 all take it into consideration.

18 COUNCILWOMAN TASC0: Sure.

19 (Applause.)

20 COUNCILWOMAN TASC0: Thank you.

21 Is there anybody else here to
22 testify?

23 (No response.)

24 COUNCIL PRESIDENT VERNA: Is
25 Mr. Dubow here? I understand that my

1 5/13/10 - WHOLE - BILL 100115, etc.

2 colleague would like to ask you a few
3 questions.

4 (Witness approached witness
5 table.)

6 MR. DUBOW: That's kind of a
7 hard act to follow.

8 COUNCIL PRESIDENT VERNA: The
9 Chair recognizes Councilman Green.

10 COUNCILMAN GREEN: Thank you,
11 Madam Chair.

12 Thank you for coming back over,
13 Mr. Dubow. I appreciate it.

14 MR. DUBOW: Sure.

15 COUNCILMAN GREEN: Just one
16 quick question. Could you for the record
17 go through the revenue raised from
18 each -- in your estimation, in each
19 revenue category that's before
20 consideration in Council today.

21 MR. DUBOW: Sure.

22 COUNCILMAN GREEN: So property
23 tax?

24 MR. DUBOW: Yeah. The property
25 tax at 9 percent is about 78 million. I

1 5/13/10 - WHOLE - BILL 100115, etc.
2 understand there's an amendment to take
3 that to 9.9. That would be about 86
4 million. The smokeless tobacco, the
5 estimate we have is about 4 million. The
6 commercial fee increase to --

7 COUNCILMAN GREEN: Is that 4
8 million taking out --

9 MR. DUBOW: That's without the
10 amendment. The amendment lowers that and
11 I don't have a calculation for what that
12 does.

13 COUNCILMAN GREEN: Thank you.

14 MR. DUBOW: The commercial
15 trash fee increase to \$300 would be 7
16 million. Sugary drinks at two pennies is
17 about 39 million in the first year, going
18 to 78 in the future years.

19 COUNCILMAN GREEN: And so at
20 one cent, it's 18 and a half, at half a
21 cent --

22 MR. DUBOW: Nineteen and 38,
23 correct.

24 COUNCILMAN GREEN: Right.
25 Okay. So the figure you gave of -- what

1 5/13/10 - WHOLE - BILL 100115, etc.

2 was it, the total amount raised?

3 MR. DUBOW: I don't think I
4 did. I gave you each component.

5 COUNCILMAN GREEN: Okay. So
6 how much is that in total?

7 MR. DUBOW: Let's see. I'd
8 have to add it up.

9 I'll assume the 9.9 percent.

10 COUNCILMAN GREEN: That's fine.

11 MR. DUBOW: It's about 137, in
12 that range.

13 COUNCILMAN GREEN: One
14 thirty-seven. So at that level of
15 spending, how much of that is going to
16 anything but the General Fund for sort of
17 regular services, City services?

18 MR. DUBOW: In FY11, that money
19 would all go to the General Fund. Maybe
20 talking about there's 2 million for
21 sanitation-related improvements that's
22 kind of an expansion. It's not tied to
23 any of these things.

24 COUNCILMAN GREEN: And there's
25 no other expansion in FY11 tied to any of

1 5/13/10 - WHOLE - BILL 100115, etc.

2 these monies?

3 MR. DUBOW: Correct.

4 COUNCILMAN GREEN: These are
5 all to raise revenue for the General
6 Fund.

7 MR. DUBOW: In FY11, that's
8 right.

9 COUNCILMAN GREEN: Thank you
10 very much for your testimony.

11 MR. DUBOW: Sure.

12 COUNCIL PRESIDENT VERNA: Thank
13 you. Thank you for coming back.

14 MR. DUBOW: A pleasure.

15 COUNCIL PRESIDENT VERNA: Do we
16 have anyone else that would like to
17 testify?

18 (No response.)

19 COUNCIL PRESIDENT VERNA: We're
20 going to recess for ten minutes, and I
21 would ask all members to be back in ten
22 minutes. Thank you.

23 (Short recess.)

24 COUNCIL PRESIDENT VERNA: This
25 concludes our public hearing. We will

1 5/13/10 - WHOLE - BILL 100115, etc.

2 now go into our public meeting.

3 The Chair now recognizes
4 Councilwoman Tasco regarding Bill No.
5 100115.

6 COUNCILWOMAN TASCO: Madam
7 President, I report out Bill 100115.

8 COUNCIL PRESIDENT VERNA: With
9 a favorable recommendation.

10 COUNCILWOMAN TASCO: With a
11 favorable recommendation.

12 COUNCILMAN DiCICCO: Point of
13 order, Madam President.

14 COUNCIL PRESIDENT VERNA: Yes,
15 sir.

16 COUNCILMAN DiCICCO: If voting
17 in the affirmative on this bill, does
18 that mean we're voting for -- no. It's
19 not the tax bill, right?

20 COUNCIL PRESIDENT VERNA: No.

21 COUNCILMAN DiCICCO: It's the
22 capital. I'm sorry. Thank you. Sorry
23 about that.

24 COUNCIL PRESIDENT VERNA:
25 Councilwoman Tasco, I will recognize you

1 5/13/10 - WHOLE - BILL 100115, etc.

2 again regarding Bill No. 100115.

3 COUNCILWOMAN TASC0: Madam
4 President, I move that Bill No. 100115 be
5 reported out of Committee with a
6 favorable recommendation and that the
7 rules of Council be suspended so this
8 bill can be heard at Council's next
9 session.

10 (Duly seconded.)

11 COUNCIL PRESIDENT VERNA: It
12 has been moved and seconded that Bill No.
13 100115 be reported out of Committee with
14 a favorable recommendation and that the
15 rules of Council be suspended so as to
16 permit first reading at our next session
17 of Council.

18 All in favor will indicate by
19 saying aye.

20 (Aye.)

21 COUNCIL PRESIDENT VERNA: Those
22 opposed?

23 (No response.)

24 COUNCIL PRESIDENT VERNA: The
25 ayes have it and the motion carries.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILWOMAN TASCO: Madam

3 President, I move that Bill --

4 COUNCIL PRESIDENT Verna: Just
5 a moment.

6 (Pause.)

7 COUNCIL PRESIDENT Verna: The
8 Chair recognizes Councilwoman Tasco
9 concerning Bill 100116.

10 COUNCILWOMAN TASCO: Madam
11 President, I move that Bill 100116 be
12 reported out of Committee with a
13 favorable recommendation and that the
14 rules of Council be suspended so as to
15 have this bill presented at the next
16 Council session.

17 (Duly seconded.)

18 COUNCIL PRESIDENT Verna: It
19 has been moved and properly seconded that
20 Bill No. 100116 be reported out of
21 Committee with a favorable
22 recommendation; further, that the rules
23 of Council be suspended so as to permit
24 first reading at our next session of
25 Council.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 All in favor will indicate by
3 saying aye.

4 (Aye.)

5 COUNCIL PRESIDENT Verna: Those
6 opposed?

7 (No response.)

8 COUNCIL PRESIDENT Verna: The
9 ayes have it and the motion carries.

10 Again, the Chair recognizes
11 Councilwoman Tasco regarding Bill 100117.

12 COUNCILWOMAN TASCO: Madam
13 President, I believe there's an amendment
14 for Bill 100117.

15 (Pause.)

16 COUNCIL PRESIDENT Verna: Back
17 in business.

18 The Chair recognizes
19 Councilwoman Tasco again regarding Bill
20 No. 100117.

21 COUNCILWOMAN TASCO: Madam
22 President, I offer an amendment to
23 Ordinance 100117.

24 COUNCIL PRESIDENT Verna: And
25 has the amendment been circulated?

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILWOMAN TASC0: The
3 amendment has been circulated.

4 COUNCIL PRESIDENT Verna: Is
5 there a second?

6 (Duly seconded.)

7 COUNCIL PRESIDENT Verna: It
8 has been moved and seconded that the
9 amendment be adopted.

10 All in favor will signify by
11 saying aye.

12 (Aye.)

13 COUNCIL PRESIDENT Verna: Those
14 opposed?

15 (No response.)

16 COUNCIL PRESIDENT Verna: The
17 ayes have it. The motion carries.

18 COUNCILMAN GREEN: No.

19 COUNCIL PRESIDENT Verna: Oh,
20 okay. Your light is not on and I didn't
21 see.

22 The Chair -- you're just voting
23 no.

24 COUNCILMAN GREEN: Yes.

25 COUNCIL PRESIDENT Verna: The

1 5/13/10 - WHOLE - BILL 100115, etc.
2 record will reflect that Councilman Green
3 is voting no.

4 COUNCILMAN O'NEILL: Madam
5 Chair, if you would add my name to that,
6 I would appreciate it.

7 COUNCILMAN KENNEY: Madam
8 President, is this amendment part of the
9 operating budget? So it's all cuts?

10 COUNCIL PRESIDENT Verna: Yes.

11 COUNCILMAN KENNEY: Thank you.

12 COUNCIL PRESIDENT Verna:

13 Anybody else voting no?

14 COUNCILMAN RIZZO: Madam
15 President?

16 COUNCIL PRESIDENT Verna: You
17 know, at the rate we're going, I think
18 we'd better have a roll call, please.

19 MR. AUERBACH: Councilwoman
20 Blackwell.

21 COUNCILWOMAN BLACKWELL: Aye.

22 MR. AUERBACH: Councilman
23 Clarke. This is the roll call vote on
24 the amendment to Bill 100117.

25 COUNCILMAN CLARKE: Aye.

1 5/13/10 - WHOLE - BILL 100115, etc.
2 MR. AUERBACH: Councilman
3 DiCicco.
4 COUNCILMAN DiCICCO: Aye.
5 MR. AUERBACH: Councilman
6 Goode.
7 COUNCILMAN GOODE: Aye.
8 MR. AUERBACH: Councilman
9 Green.
10 COUNCILMAN GREEN: No.
11 MR. AUERBACH: Councilman
12 Greenlee.
13 COUNCILMAN GREENLEE: Aye.
14 MR. AUERBACH: Councilman
15 Jones.
16 COUNCILMAN JONES: Aye.
17 MR. AUERBACH: Councilman
18 Kelly.
19 COUNCILMAN KELLY: Aye.
20 MR. AUERBACH: Councilman
21 Kenney.
22 COUNCILMAN KENNEY: Aye.
23 MR. AUERBACH: Councilwoman
24 Krajewski.
25 COUNCILWOMAN KRAJEWSKI: Aye.

1 5/13/10 - WHOLE - BILL 100115, etc.
2 MR. AUERBACH: Councilwoman
3 Miller.
4 COUNCILWOMAN MILLER: Aye.
5 MR. AUERBACH: Councilman
6 O'Neill.
7 COUNCILMAN O'NEILL: No.
8 MR. AUERBACH: Councilwoman
9 Reynolds Brown.
10 COUNCILWOMAN BROWN: Aye.
11 MR. AUERBACH: Councilman
12 Rizzo.
13 COUNCILMAN RIZZO: No.
14 MR. AUERBACH: Councilwoman
15 Sanchez.
16 COUNCILWOMAN SANCHEZ: Aye.
17 MR. AUERBACH: Councilwoman
18 Tasco.
19 COUNCILWOMAN TASCO: Aye.
20 MR. AUERBACH: Council
21 President Verna.
22 COUNCIL PRESIDENT VERNA: Aye.
23 MR. AUERBACH: The ayes are 14;
24 the nays are three.
25 COUNCIL PRESIDENT VERNA: The

1 5/13/10 - WHOLE - BILL 100115, etc.

2 amendment is adopted.

3 COUNCILMAN GREEN: Madam Chair?

4 COUNCIL PRESIDENT VERNA: Yes,
5 sir.

6 COUNCILMAN GREEN: Madam Chair,
7 I would like to offer an amendment that
8 would replace the amendments just adopted
9 and reduce the expenditures by a total of
10 43 million from the original
11 appropriation request. The amendment has
12 been circulated. I move my amendment.

13 (Duly seconded.)

14 COUNCIL PRESIDENT VERNA: I
15 don't believe we have copies.

16 Did anybody get a copy of --

17 COUNCILMAN GREEN: Yes. Madam
18 President, it was in everybody's chair
19 this morning.

20 COUNCIL PRESIDENT VERNA: Well,
21 it wasn't in mine.

22 Anyone that doesn't have a copy
23 of Councilman Green's amendment, just
24 raise your hand. Sharon will give you a
25 copy.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILMAN KENNEY: Madam

3 President, I'm not sure, because there's

4 no name. Is there a name on it or it

5 looks like every other one?

6 COUNCILMAN GREEN: It looks

7 like every other one, Councilman.

8 COUNCILMAN KENNEY: All right.

9 COUNCILMAN GREEN: The total

10 appropriation in the amendment is

11 3,827,299,753 in the Section 2.

12 Madam Chair?

13 COUNCIL PRESIDENT VERNA: Yes.

14 COUNCILMAN GREEN: While we are

15 waiting for those who didn't find it on

16 their chair this morning, I just would

17 like to say that this budget is built on

18 shifting sands. In a city that needs

19 jobs, it's a job killer. In a city that

20 needs to get more efficient, it's

21 wasteful. In a city that needs reliable

22 cash flow, most, if not all, of the

23 revenue measures will likely not survive

24 a court challenge. Passing these

25 amendments will increase the fund balance

1 5/13/10 - WHOLE - BILL 100115, etc.
2 and provide additional resources for a
3 rainy day in the amount of an additional
4 \$43 million.

5 COUNCIL PRESIDENT VERNA: Thank
6 you.

7 Are you making a motion?

8 COUNCILMAN GREEN: Yes. I'm
9 sorry, Madam Chair. I believe I have a
10 motion and a second on the floor to adopt
11 these amendments.

12 COUNCIL PRESIDENT VERNA: All
13 right. All in favor of --

14 COUNCILMAN KENNEY: Are you
15 going to roll call it?

16 COUNCIL PRESIDENT VERNA: Yes.
17 We will now have a roll call.

18 MR. AUERBACH: Councilwoman
19 Blackwell.

20 COUNCILWOMAN BLACKWELL: No.

21 MR. AUERBACH: Councilman
22 Clarke.

23 COUNCILMAN CLARKE: No.

24 MR. AUERBACH: Councilman
25 DiCicco.

1 5/13/10 - WHOLE - BILL 100115, etc.
2 COUNCILMAN DiCICCO: No.
3 MR. AUERBACH: Councilman
4 Goode.
5 COUNCILMAN GOODE: No.
6 MR. AUERBACH: Councilman
7 Green.
8 COUNCILMAN GREEN: Yes.
9 MR. AUERBACH: Councilman
10 Greenlee.
11 COUNCILMAN GREENLEE: No.
12 MR. AUERBACH: Councilman
13 Jones.
14 COUNCILMAN JONES: No.
15 MR. AUERBACH: Councilman
16 Kelly.
17 COUNCILMAN KELLY: No.
18 MR. AUERBACH: Councilman
19 Kenney.
20 COUNCILMAN KENNEY: No.
21 MR. AUERBACH: Councilwoman
22 Krajewski.
23 COUNCILWOMAN KRAJEWSKI: No.
24 MR. AUERBACH: Councilwoman
25 Miller.

1 5/13/10 - WHOLE - BILL 100115, etc.
2 COUNCILWOMAN MILLER: No.
3 MR. AUERBACH: Councilman
4 O'Neill.
5 COUNCILMAN O'NEILL: Aye.
6 MR. AUERBACH: Councilwoman
7 Reynolds Brown.
8 COUNCILWOMAN BROWN: No.
9 MR. AUERBACH: Councilman
10 Rizzo.
11 COUNCILMAN RIZZO: Aye.
12 MR. AUERBACH: Councilwoman
13 Sanchez.
14 COUNCILWOMAN SANCHEZ: No.
15 MR. AUERBACH: Councilwoman
16 Tasco.
17 COUNCILWOMAN TASCO: No.
18 MR. AUERBACH: Council
19 President Verna.
20 COUNCIL PRESIDENT VERNA: No.
21 MR. AUERBACH: The no's are 13;
22 the ayes are four (sic).
23 COUNCIL PRESIDENT VERNA: So
24 the motion fails.
25 We will now consider Bill No.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 100131.

3 I'm sorry. Councilwoman Tasco,
4 we need to report Bill No. 117 out of
5 Committee.

6 COUNCILWOMAN TASCO: Madam
7 President, I move for the adoption of --
8 I'd like to report Bill 100117, as
9 amended, out of Committee with a
10 favorable recommendation and that the
11 rules of Council be suspended so this
12 bill can be heard at Council's next
13 second.

14 (Duly seconded.)

15 COUNCIL PRESIDENT VERNA: It
16 has been moved and seconded that Bill No.
17 100117 be reported out of Committee with
18 a favorable recommendation, as amended;
19 further, that the rules of Council be
20 suspended so as to permit first reading
21 at our next session of Council.

22 All in favor will say aye.

23 (Aye.)

24 COUNCIL PRESIDENT VERNA: Those
25 opposed?

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILMAN GREEN: No.

3 COUNCILMAN RIZZO: No.

4 COUNCILMAN O'NEILL: No.

5 COUNCIL PRESIDENT VERNA:

6 That's, what, three?

7 MR. AUERBACH: I heard four.

8 COUNCIL PRESIDENT VERNA: You
9 heard four. Do we have to do a roll
10 call?

11 Why don't you just raise your
12 hands.

13 (Some Councilmembers raising
14 their hands.)

15 COUNCIL PRESIDENT VERNA: So
16 the record will reflect that Councilman
17 O'Neill, Councilman Rizzo and Councilman
18 Green voted in the negative. And the
19 motion carries.

20 We will now consider Bill No.
21 100131, and the Chair recognizes
22 Councilwoman Sanchez.

23 COUNCILWOMAN SANCHEZ: Thank
24 you, Madam Chair. I offer an amendment
25 to Bill 100118. It's been circulated.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCIL PRESIDENT VERNA: 131.

3 COUNCILWOMAN SANCHEZ: I'm

4 sorry; 131.

5 COUNCIL PRESIDENT VERNA: And

6 the amendment is presently being

7 circulated. Give everyone a moment to

8 look at the amendment.

9 Does everybody have a copy of

10 the amendment?

11 (Yes.)

12 COUNCIL PRESIDENT VERNA: The

13 Chair recognizes Councilwoman Sanchez.

14 COUNCILWOMAN SANCHEZ: Thank

15 you, Madam President. I move for the

16 adoption of the amendment to Bill 100131.

17 (Duly seconded.)

18 COUNCILMAN GOODE: Point of

19 order.

20 COUNCIL PRESIDENT VERNA: Yes.

21 The Chair recognizes Councilman Goode.

22 COUNCILMAN GOODE: Thank you,

23 Madam President. Could we simply explain

24 the amendment for the record?

25 COUNCIL PRESIDENT VERNA:

1 5/13/10 - WHOLE - BILL 100115, etc.

2 Certainly.

3 MR. AUERBACH: The amendment
4 includes -- puts back all of the
5 exemptions that are currently in The
6 Philadelphia Code. So basically what it
7 does is, it takes the current \$150 fee
8 for commercial pickup that's now on the
9 books, raises it to \$300, and adds the
10 language to make it clear that the fee,
11 in addition to being a fee for trash
12 pickup, is also a fee for neighborhood
13 cleaning services and related cleaning
14 services. But this amendment puts back
15 the exemptions that are currently in the
16 Code. So single-family dwellings, condos
17 and co-ops are now exempt from the fee,
18 and they would continue to be exempt from
19 the fee.

20 COUNCILWOMAN SANCHEZ: Madam
21 Chair, can I just add, this was the bill
22 that Councilman DiCicco worked on which
23 initially was proposed at \$500 from the
24 Administration and we took it down to 150
25 by adding multi-family units. So it's

1 5/13/10 - WHOLE - BILL 100115, etc.
2 similar to the bill that's already
3 adopted but just raises the fee to \$300.

4 Thank you, Madam Chair.

5 COUNCIL PRESIDENT VERNA:

6 You're welcome.

7 Again, the Chair recognizes
8 Councilwoman Sanchez.

9 COUNCILWOMAN SANCHEZ: I moved
10 already and I got a second. We didn't
11 vote.

12 COUNCIL PRESIDENT VERNA: It
13 was seconded?

14 (Duly seconded.)

15 COUNCIL PRESIDENT VERNA: All
16 those in favor of the adoption of the
17 amendment will say aye.

18 (Aye.)

19 COUNCIL PRESIDENT VERNA: Those
20 opposed?

21 COUNCILMAN GREEN: No.

22 COUNCILMAN O'NEILL: No.

23 COUNCILMAN DiCICCO: No.

24 COUNCILMAN RIZZO: No.

25 COUNCIL PRESIDENT VERNA: Roll

1 5/13/10 - WHOLE - BILL 100115, etc.
2 call.
3 MS. ORTIZ: Councilwoman
4 Blackwell.
5 COUNCILWOMAN BLACKWELL: Aye.
6 MS. ORTIZ: Councilman Clarke.
7 COUNCILMAN CLARKE: Aye.
8 MS. ORTIZ: Councilman DiCicco.
9 COUNCILMAN DiCICCO: No.
10 MS. ORTIZ: Councilman Goode.
11 COUNCILMAN GOODE: Aye.
12 MS. ORTIZ: Councilman Green.
13 COUNCILMAN GREEN: No.
14 MS. ORTIZ: Councilman
15 Greenlee.
16 COUNCILMAN GREENLEE: Aye.
17 MS. ORTIZ: Councilman Jones.
18 COUNCILMAN JONES: Aye.
19 MS. ORTIZ: Councilman Kelly.
20 COUNCILMAN KELLY: No.
21 MS. ORTIZ: Councilman Kenney.
22 COUNCILMAN KENNEY: Aye.
23 MS. ORTIZ: Councilwoman
24 Krajewski.
25 COUNCILWOMAN KRAJEWSKI: No.

1 5/13/10 - WHOLE - BILL 100115, etc.
2 MS. ORTIZ: Councilwoman
3 Miller.
4 COUNCILWOMAN MILLER: Aye.
5 MS. ORTIZ: Councilman O'Neill.
6 COUNCILMAN O'NEILL: No.
7 MS. ORTIZ: Councilwoman Brown.
8 COUNCILWOMAN BROWN: Aye.
9 MS. ORTIZ: Councilman Rizzo.
10 COUNCILMAN RIZZO: No.
11 MS. ORTIZ: Councilwoman
12 Sanchez.
13 COUNCILWOMAN SANCHEZ: Aye.
14 MS. ORTIZ: Councilwoman Tasco.
15 COUNCILWOMAN TASCO: Aye.
16 MS. ORTIZ: Council President
17 Verna.
18 COUNCIL PRESIDENT VERNA: Aye.
19 MS. ORTIZ: The no's are six
20 and the ayes are 12 -- 11. I apologize.
21 I'm sorry. Ayes are 11 and nays are six.
22 COUNCIL PRESIDENT VERNA: Thank
23 you. The amendment is adopted.
24 Again, the Chair recognizes
25 Councilwoman Sanchez.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILWOMAN SANCHEZ: Thank
3 you, Madam Chair. I move that Bill
4 100131, as amended, be moved out of the
5 Committee with a favorable recommendation
6 and that the rules of Council be
7 suspended to allow first reading at our
8 next public session.

9 (Duly seconded.)

10 COUNCIL PRESIDENT VERNA: It
11 has been moved and seconded that Bill No.
12 100131, as amended, be reported out of
13 Committee with a favorable
14 recommendation; further, that the rules
15 of Council be suspended so as to permit
16 first reading at our next session of
17 Council.

18 All in favor will indicate by
19 saying aye.

20 (Aye.)

21 COUNCIL PRESIDENT VERNA: Those
22 opposed?

23 COUNCILMAN GREEN: No.

24 COUNCILMAN O'NEILL: No.

25 COUNCILMAN RIZZO: No.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 COUNCILWOMAN SANCHEZ: It's
3 just the same no's.

4 COUNCIL PRESIDENT VERNA: The
5 record will reflect that Councilman
6 DiCicco, Councilman Goode -- I'm sorry;
7 Councilman Green, Councilman Rizzo
8 Councilman Kelly, Councilman O'Neill and
9 Councilwoman Krajewski have voted no.
10 All other members have voted in the
11 affirmative, and the motion passes.

12 The Chair now recognizes
13 Councilman Clarke regarding Bill No.
14 100254-A.

15 COUNCILMAN CLARKE: Thank you,
16 Madam President. Madam President, I'd
17 like to offer an amendment to Bill No.
18 100254. This amendment, as requested by
19 one of the industry members and agreed
20 upon, will actually delete Internet
21 purchases or other types of purchases
22 outside the City of Philadelphia for
23 retail products for tobacco, primarily
24 cigars.

25 I move for the adoption of this

1 5/13/10 - WHOLE - BILL 100115, etc.

2 amendment.

3 (Duly seconded.)

4 COUNCIL PRESIDENT VERNA: It

5 has been moved and seconded that the

6 amendment be adopted.

7 All in favor will say aye.

8 (Aye.)

9 COUNCIL PRESIDENT VERNA: Those

10 opposed?

11 COUNCILMAN GREEN: No.

12 COUNCIL PRESIDENT VERNA: One

13 no?

14 COUNCILMAN GREEN: No, ma'am.

15 I'm an aye on this one. Force of habit.

16 COUNCIL PRESIDENT VERNA: I'll

17 try that again. All in favor will say

18 aye.

19 (Aye.)

20 COUNCIL PRESIDENT VERNA: Those

21 opposed?

22 (No response.)

23 COUNCIL PRESIDENT VERNA: The

24 ayes have it and the motion carries.

25 Again, the Chair recognizes

1 5/13/10 - WHOLE - BILL 100115, etc.

2 Councilman Clarke.

3 COUNCILMAN KENNEY: Madam

4 President?

5 COUNCIL PRESIDENT VERNA: Yes,

6 sir.

7 COUNCILMAN KENNEY: What was

8 the vote for the tobacco amendment?

9 COUNCIL PRESIDENT VERNA: For

10 the adoption of the amendment?

11 COUNCILMAN KENNEY: Yes. How

12 many people voted no? Anyone?

13 COUNCIL PRESIDENT VERNA: No.

14 COUNCILMAN KENNEY: Okay.

15 Thank you.

16 COUNCIL PRESIDENT VERNA:

17 Again, the Chair recognizes Councilman

18 Clarke.

19 COUNCILMAN CLARKE: Thank you,

20 Madam President. Madam President, I move

21 that Bill No. 100254, as amended, be

22 reported out of Committee with a

23 favorable recommendation.

24 (Duly seconded.)

25 COUNCIL PRESIDENT VERNA: It

1 5/13/10 - WHOLE - BILL 100115, etc.
2 has been moved and seconded that Bill No.
3 100 -- suspend the rules, Mr. Clarke.

4 COUNCILMAN CLARKE: I'm sorry.
5 Request for rules suspension as to allow
6 reading at the next session of Council.

7 (Duly seconded.)

8 COUNCIL PRESIDENT Verna: It
9 has been moved and seconded that Bill No.
10 100254 be reported out of Committee with
11 a favorable recommendation, as amended;
12 further, that the rules of Council be
13 suspended so as to permit first reading
14 at our next session of Council.

15 All in favor will indicate by
16 saying aye.

17 (Aye.)

18 COUNCIL PRESIDENT Verna: Those
19 opposed?

20 COUNCILMAN GREEN: No.

21 COUNCIL PRESIDENT Verna: Is
22 that one no?

23 COUNCILMAN GOODE: Nay.

24 COUNCIL PRESIDENT Verna: I'm
25 sorry. It appears as though Councilman

1 5/13/10 - WHOLE - BILL 100115, etc.
2 Goode, Councilman O'Neill -- who else had
3 their hand up -- Councilman DiCicco are
4 voting no. All other members are voting
5 in the affirmative, and the motion
6 carries.

7 We will now consider --
8 Councilwoman Tasco.

9 COUNCILWOMAN TASCO: Madam
10 President, I offer an amendment on Bill
11 100284.

12 COUNCIL PRESIDENT VERNA: And
13 has that amendment been circulated?

14 COUNCILWOMAN TASCO: The
15 amendment has been circulated.

16 COUNCILMAN GREEN: Madam
17 President, I'm sorry. I don't have a
18 copy of that amendment.

19 Oh, it's right in front of me.
20 Without belaboring the point,
21 Madam President, I renew my point of
22 order that is already on the record with
23 respect to this bill.

24 COUNCIL PRESIDENT VERNA: As I
25 indicated to you earlier and I believe

1 5/13/10 - WHOLE - BILL 100115, etc.
2 that Rick Auerbach did in fact indicate
3 that we are in proper order and there is
4 no reason for us to even have further
5 discussion on it.

6 Okay. Where are we? Did
7 everybody get a copy of the amendment?

8 (Yes.)

9 COUNCILWOMAN TASCO: Madam
10 President, I move for the adoption of the
11 amendment.

12 (Duly seconded.)

13 COUNCIL PRESIDENT Verna: It
14 has been moved and seconded that the
15 amendment be adopted.

16 All in favor will say aye.

17 (Aye.)

18 COUNCIL PRESIDENT Verna: Those
19 opposed?

20 COUNCILMAN DiCicco: No.

21 COUNCILMAN Green: No.

22 COUNCILMAN O'Neill: No.

23 COUNCIL PRESIDENT Verna:

24 Hands, please. Councilman DiCicco,
25 Councilman O'Neill, Councilman Kelly,

1 5/13/10 - WHOLE - BILL 100115, etc.
2 Councilman Rizzo and Councilman Green and
3 Councilwoman -- oh, I think we'd better
4 take a roll call. Hands go up after you
5 take the count.

6 Roll call, please.

7 MS. ORTIZ: Councilwoman
8 Blackwell.

9 COUNCILWOMAN BLACKWELL: No.

10 MS. ORTIZ: Councilman Clarke.

11 COUNCILMAN CLARKE: Aye.

12 MS. ORTIZ: Councilman DiCicco.

13 COUNCILMAN DiCICCO: No.

14 MS. ORTIZ: Councilman Goode.

15 COUNCILMAN GOODE: Aye.

16 MS. ORTIZ: Councilman Green.

17 COUNCILMAN GREEN: No.

18 MS. ORTIZ: Councilman

19 Greenlee.

20 COUNCILMAN GREENLEE: Aye.

21 MS. ORTIZ: Councilman Jones.

22 COUNCILMAN JONES: Aye.

23 MS. ORTIZ: Councilman Kelly.

24 COUNCILMAN KELLY: No.

25 MS. ORTIZ: Councilman Kenney.

1 5/13/10 - WHOLE - BILL 100115, etc.
2 COUNCILMAN KENNEY: Aye.
3 MS. ORTIZ: Councilwoman
4 Krajewski.
5 COUNCILWOMAN KRAJEWSKI: No.
6 MS. ORTIZ: Councilwoman
7 Miller.
8 COUNCILWOMAN MILLER: Aye.
9 MS. ORTIZ: Councilman O'Neill.
10 COUNCILMAN O'NEILL: No.
11 MS. ORTIZ: Councilwoman Brown.
12 COUNCILWOMAN BROWN: Aye.
13 MS. ORTIZ: Councilman Rizzo.
14 COUNCILMAN RIZZO: No.
15 MS. ORTIZ: Councilwoman
16 Sanchez.
17 COUNCILWOMAN SANCHEZ: Aye.
18 MS. ORTIZ: Councilwoman Tasco.
19 COUNCILWOMAN TASCO: Aye.
20 MS. ORTIZ: Council President
21 Verna.
22 COUNCIL PRESIDENT VERNA: Aye.
23 MS. ORTIZ: The no's are seven
24 and the ayes are ten.
25 COUNCIL PRESIDENT VERNA: Okay.

1 5/13/10 - WHOLE - BILL 100115, etc.

2 And the amendment has been adopted.

3 Again, the Chair recognizes
4 Councilwoman Tasco.

5 COUNCILWOMAN TASCO: Madam
6 President, I move that Bill 100284 be
7 reported out of Committee, as amended,
8 with a favorable recommendation and that
9 the rules of Council be suspended so that
10 this bill can be heard at Council's next
11 session.

12 (Duly seconded.)

13 COUNCIL PRESIDENT VERNA: It
14 has been moved and seconded that Bill No.
15 100284 be reported out of Committee with
16 a favorable recommendation; further, that
17 the rules of Council be suspended so as
18 to permit first reading at our next
19 session of Council.

20 All in favor will say aye.

21 (Aye.)

22 COUNCIL PRESIDENT VERNA: Those
23 opposed?

24 (No.)

25 COUNCIL PRESIDENT VERNA: That

1 5/13/10 - WHOLE - BILL 100115, etc.

2 almost sounds like a song.

3 Is it still ten to seven?

4 MR. AUERBACH: I would take a
5 roll call.

6 COUNCIL PRESIDENT VERNA: I
7 wold take the roll call indeed.

8 M. ORTIZ: Councilwoman
9 Blackwell.

10 COUNCILWOMAN BLACKWELL: No.

11 MS. ORTIZ: Councilman Clarke.

12 COUNCILMAN CLARKE: Aye.

13 MS. ORTIZ: Councilman DiCicco.

14 COUNCILMAN DiCICCO: No.

15 MS. ORTIZ: Councilman Goode.

16 COUNCILMAN GOODE: Aye.

17 MS. ORTIZ: Councilman Green.

18 COUNCILMAN GREEN: No.

19 MS. ORTIZ: Councilman

20 Greenlee.

21 COUNCILMAN GREENLEE: Aye.

22 MS. ORTIZ: Councilman Jones.

23 COUNCILMAN JONES: Aye.

24 MS. ORTIZ: Councilman Kelly.

25 COUNCILMAN KELLY: No.

1 5/13/10 - WHOLE - BILL 100115, etc.
2 MS. ORTIZ: Councilman Kenney.
3 COUNCILMAN KENNEY: Aye.
4 MS. ORTIZ: Councilwoman
5 Krajewski.
6 COUNCILWOMAN KRAJEWSKI: No.
7 MS. ORTIZ: Councilwoman
8 Miller.
9 COUNCILWOMAN MILLER: Aye.
10 MS. ORTIZ: Councilman O'Neill.
11 COUNCILMAN O'NEILL: No.
12 MS. ORTIZ: Councilwoman Brown.
13 COUNCILWOMAN BROWN: Aye.
14 MS. ORTIZ: Councilman Rizzo.
15 COUNCILMAN RIZZO: No.
16 MS. ORTIZ: Councilwoman
17 Sanchez.
18 COUNCILWOMAN SANCHEZ: Aye.
19 MS. ORTIZ: Councilwoman Tasco.
20 COUNCILWOMAN TASCO: Aye.
21 MS. ORTIZ: Council President
22 Verna.
23 COUNCIL PRESIDENT VERNA: Aye.
24 The ayes are ten --
25 MS. ORTIZ: The ayes are ten;

1 5/13/10 - WHOLE - BILL 100115, etc.

2 the nays are seven.

3 COUNCIL PRESIDENT VERNA: --

4 the nays are seven, and the bill is

5 reported out with a favorable

6 recommendation and the motion has been

7 carried.

8 Resolution No. 100141 will be

9 held.

10 Councilwoman Tasco -- I'm

11 sorry. Councilwoman Blackwell.

12 COUNCILWOMAN BLACKWELL: Thank

13 you, Madam President. I move that Bill

14 No. 100119 be reported out of Committee

15 with a favorable recommendation and also

16 a recommendation for a suspension of the

17 rules so as to permit first reading at

18 our next session of Council.

19 (Duly seconded.)

20 COUNCIL PRESIDENT VERNA: It

21 has been moved and seconded that Bill No.

22 100119 be reported out of Committee with

23 a favorable recommendation; further, that

24 the rules of Council be suspended so as

25 to permit first reading at our next

1 5/13/10 - WHOLE - BILL 100115, etc.

2 session of Council.

3 All in favor will say aye.

4 (Aye.)

5 COUNCIL PRESIDENT Verna: Those
6 opposed?

7 (No response.)

8 COUNCIL PRESIDENT Verna: The
9 ayes have it and the motion carries.

10 Again, the Chair recognizes
11 Councilwoman Blackwell regarding Bill No.
12 100120.

13 COUNCILWOMAN BLACKWELL: Thank
14 you, Madam President. I move that Bill
15 No. 100120 be reported out of Committee
16 with a favorable recommendation and also
17 that the rules of Council be suspended so
18 as to permit first reading at our next
19 session.

20 (Duly seconded.)

21 COUNCIL PRESIDENT Verna: It
22 has been moved and properly seconded that
23 Bill No. 100120 be reported out of
24 Committee with a favorable
25 recommendation; further, that the rules

1 5/13/10 - WHOLE - BILL 100115, etc.
2 of Council be suspended so as to permit
3 first reading at our next session of
4 Council.

5 At this time, I would
6 announce -- I'm sorry. All in favor?

7 (Aye.)

8 COUNCIL PRESIDENT VERNA: Those
9 opposed?

10 (No response.)

11 COUNCIL PRESIDENT VERNA: The
12 ayes have it and the motion carries.

13 At this time, I would like to
14 announce that Bill No. 100118 is being
15 held.

16 The Committee will recess until
17 May 20th at 9:00 a.m.

18 Thank you all very much.
19 Please remain in your seats, because we
20 will then continue.

21 (Committee of the Whole
22 concluded at 5:50 p.m.)

23 - - -

24

25

1

2

CERTIFICATE

3

I HEREBY CERTIFY that the

4

proceedings, evidence and objections are

5

contained fully and accurately in the

6

stenographic notes taken by me upon the

7

foregoing matter on May 13, 2010, and that

8

this is a true and correct transcript of same.

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MICHELE L. MURPHY

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RPR-Notary Public

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