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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON LABOR AND CIVIL SERVICE

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Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, March 27, 2008
2:25 p.m.

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PRESENT:

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COUNCILMAN BILL GREEN, CHAIR

COUNCILMAN FRANK DiCICCO

11

COUNCILMAN W. WILSON GOODE, JR.

COUNCILMAN WILLIAM GREENLEE

12

COUNCILMAN CURTIS JONES, JR.

COUNCILMAN JAMES F. KENNEY

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COUNCILWOMAN MARIA QUINONES-SANCHEZ

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BILL 080003 - An ordinance amending Section
20-101 of The Philadelphia Code, entitled
"Residence Requirements," by providing that
certain employees in the civil service...

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BILL 080148 - An ordinance amending Section
17-107 of The Philadelphia Code, entitled
"Contractors: Labor-Management
Relationships," to change the method by which
the prevailing wage and prevailing working
conditions are calculated...

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COUNCILMAN GREEN: A quorum is present for the Committee on Labor and Civil Service. Committee members DiCicco, Greenlee, Quinones-Sanchez, Vice-Chairman Goode and Kenney are all present.

Ms. Vidas will please read the bills and resolutions into the record.

THE CLERK: Bill No. 080003, an ordinance amending Section 20-101 of The Philadelphia Code, entitled "Residence Requirements," by providing that certain employees in the civil service need not be a bona fide resident of the City when appointed, but must establish and maintain bona fide residence in the City within six months after appointment.

Bill No. 080148, an ordinance amending Section 17-107 of The Philadelphia Code, entitled "Contractors: Labor-Management Relationships," to change the method by which the prevailing wage and prevailing working conditions are calculated for certain occupational

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2 classifications, all under certain terms
3 and conditions.

4 COUNCILMAN GREEN: Good
5 morning. Thank you for joining us -- or
6 good afternoon. Thank you for joining
7 us. My name is Bill Green, Chair of the
8 Committee on Labor and Civil Service. We
9 will now begin to accept testimony on
10 Bill 080003.

11 Is anyone here to testify on
12 Bill 080003?

13 (Witnesses approached witness
14 table.)

15 COUNCILMAN GREEN: Please state
16 your name for the record.

17 MR. HARRIS: Good afternoon.
18 Sherman Harris, assistant to the
19 President, Pete Matthews, District
20 Council 33.

21 MR. DAVIS: Good afternoon. My
22 name is Bobby Davis. I'm Vice-President
23 of District Council 33.

24 COUNCILMAN GREEN: Thank you.
25 Proceed.

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2 MR. HARRIS: Before we proceed,
3 there was a question, I guess, for
4 Councilman Goode. There was an amendment
5 supplied today or introduced today that
6 we didn't...

7 COUNCILMAN GOODE: Actually, it
8 was separate legislation introduced today
9 that we think resolves some of the
10 concerns that members of the Committee
11 and others had. Two things we believe
12 can be accomplished through the two
13 separate pieces of legislation. One,
14 there is a need to broaden the pool of
15 applicants to the City, but we believe
16 that we can do that while also providing
17 a preference in the form of a tie-breaker
18 for residents over non-residents. But
19 that has to be done through a separate
20 Charter change, and so that will occur
21 through separate legislation that was
22 introduced today and supported by all
23 members of Council.

24 MR. HARRIS: So we'll just meet
25 with you and talk about it after this?

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2 COUNCILMAN GOODE: That's fine.

3 COUNCILMAN GREEN: Proceed with
4 your testimony on this bill, please.

5 MR. DAVIS: Mr. Matthews
6 couldn't be with us this evening due to
7 some medical issues, so I will be reading
8 his statement for him.

9 Chairman Green, members of the
10 Committee on Labor and Civil Service,
11 thank you for the opportunity to testify
12 on behalf of Bill No. 080003, which would
13 amend the residency requirements for new
14 hires of municipal employees.

15 My name is Bobby Davis. I'm
16 Vice-President of District Council 33,
17 for which we represent over 13,000 City
18 employees, all of whom reside in
19 Philadelphia.

20 I am here today because I have
21 concerns about the effects that this bill
22 would have on our union and its members.
23 Although our union understands that there
24 are challenges that the City may face in
25 recruiting certain positions within City

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2 government, we believe that this bill
3 will be more detrimental than helpful if
4 expanded to cover positions within our
5 bargaining unit.

6 We believe this bill in its
7 present form is offensive to all the
8 loyal and dedicated employees and
9 tax-paying residents who have resided and
10 worked for this great City, some for all
11 of their employment careers.

12 Every day we encounter members
13 of our union who want the opportunity to
14 promote into some of the job positions
15 that will become unfairly competitive if
16 this bill gets passed.

17 Many of our members take
18 promotional tests year after year, only
19 to be denied promotions due to job
20 freezes and budget deficits or lack of
21 training. Our members want fair
22 opportunities.

23 I can't tell you how many times
24 a day I meet residents of this City who
25 ask me how they become employees of the

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2 City. This is why we find it hard to
3 believe that there aren't enough
4 qualified people that can work or live in
5 this City to help fill the vacancies the
6 City says can't be filled.

7 We understand that there may be
8 some positions where the City may have
9 recruitment hardships, but we believe
10 that the answer lies within the City of
11 Philadelphia's existing workforce and
12 current resident pool.

13 At District Council 33, we
14 believe that instead of going outside of
15 the current workforce, the City needs to
16 invest in workforce development,
17 reconsider departmental restrictions and
18 certain pay scales.

19 We believe that through joint
20 partnerships we can find solutions to the
21 staffing needs of the City. We have
22 always been concerned about the
23 understaffing within the City workforce.

24 District Council 33 has worked
25 with various departments such as the

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2 Water Department, Fleet Maintenance, our
3 Police and Fire Departments to develop
4 training programs that would allow our
5 members to qualify for positions that the
6 City has problems recruiting.

7 We have helped to create
8 apprentice programs that allow high
9 school students to learn various trades
10 and become productive City employees who
11 have a vested interest in this City.

12 We offer computer training to
13 our members through our Comparable Worth
14 Program to help our members with upward
15 mobility. We have offered free Basic
16 Computer Classes to our members who have
17 never had the opportunity to learn on
18 their own.

19 We offer training classes to
20 some of our members in various trades to
21 help with promotional opportunities. We
22 have partnered with the City in offering
23 Construction Trades college courses to
24 our members. We have offered math and
25 reading classes.

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2 Just this month we partnered
3 with Graduate Philadelphia and at least
4 18 colleges and universities to offer our
5 members a Returning to Learning Adult
6 College Fair. The fair received such an
7 overwhelming response that we had to turn
8 people away. We are in the process of
9 planning another college fair.

10 These are just a few of the
11 things that will help the City in
12 recruiting a qualified, proud, invested
13 workforce.

14 Unfortunately, this bill
15 circumvents these kinds of programs and
16 opportunities. The bill puts our
17 members, your employees, and the City of
18 Philadelphia residents at an unfair
19 disadvantage.

20 Passage of this bill sends the
21 wrong message to those who have been
22 loyal and dedicated to this great City.
23 This bill says that you have no
24 confidence in your employees and
25 residents of this City.

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2 This bill takes away a great
3 opportunity for this new Administration
4 to bring forth part of the change that
5 the people of this City overwhelmingly
6 mandated last November.

7 I urge you not to pass Bill No.
8 080003. Instead, let's partner in
9 developing real solutions.

10 Thank you for the opportunity
11 to testify on this bill.

12 COUNCILMAN GREEN: Thank you
13 for your testimony.

14 Any questions for this witness?
15 Councilman Greenlee.

16 COUNCILMAN GREENLEE: Thank
17 you, Mr. Chairman.

18 Good afternoon, Mr. Davis.

19 MR. DAVIS: Good afternoon.

20 COUNCILMAN GREENLEE: I
21 appreciate your testimony. I guess I
22 just had a question when you talk about
23 that it will hurt -- I think part of this
24 you say it will hurt promotion. It will
25 hurt promotion of your members. I guess

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2 I don't see how that factors in here.

3 MR. DAVIS: We have employees
4 who have been working for the City of
5 Philadelphia for 20, maybe 25, in some
6 cases 30 or more years. What you're
7 saying is that you have forced us to live
8 in this City for 20, 30, however many
9 years that our career have allowed us to
10 work for the City, and now you're saying
11 that someone can come in that qualifies
12 from outside the City of Philadelphia and
13 perhaps even score higher on that test,
14 and we'll watch a whole flow of people
15 come in from outside the City who have
16 not put in the kind of taxes and the kind
17 of responsibilities of keeping this City
18 running and may take that position away
19 from that individual.

20 COUNCILMAN GREENLEE: But
21 that's not a promotional position maybe.

22 MR. DAVIS: Oh, yes, it can be.
23 It can be for that particular employee.
24 Even though in some cases the City says,
25 Okay, these are open, competitive tests,

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2 but in some cases, some of these members
3 are clerk I's, clerk II's who now qualify
4 for these positions. So for them, it's a
5 promotion. For an individual coming out
6 to the City for the first time, it could
7 be an open and competitive test, but for
8 a lot of our members, they're promotions.

9 MR. HARRIS: May I, Councilman?

10 COUNCILMAN GREEN: Yes. Please
11 identify yourself for the record.

12 MR. HARRIS: Sherman Harris,
13 District Council 33.

14 Concerning promotions, what
15 happens, just to take a particular
16 position in the Water Department, we have
17 problems hiring industrial electricians.
18 We had problems. So what we did, we
19 worked with the Water Department and
20 developed an apprentice program to allow
21 regular electricians to bridge that gap,
22 which becomes a promotion for them. So
23 that's why we say promotional
24 opportunities. You have the same thing a
25 lot in the trades units. You have

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2 mechanics at the Water Department, they
3 have industrial process mechanics. At
4 one time there was no way to bridge from
5 that position to the new positions that
6 were created that the City needed.

7 So that's what we talk about
8 when we need to have opportunities for
9 promotional opportunities through
10 workforce development, and these are the
11 things that I think the testimony is
12 referring to.

13 COUNCILMAN GREENLEE: You would
14 still have those opportunities, though.

15 MR. HARRIS: You still have
16 some of those opportunities. If you
17 bring outsiders in that have an
18 opportunity to come right to that
19 position -- say the industrial
20 electrician was created particularly for
21 the Sludge Processing Plant. If you were
22 to bring outsiders in who were already
23 qualified, the people who are
24 electricians have had no opportunity to
25 bridge that gap and to take that job. So

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2 you eliminate some of them. You still
3 want to have promotion opportunities, but
4 you still eliminate some by bringing
5 outsiders in.

6 COUNCILMAN GREENLEE: I guess
7 I'm still not totally following that, but
8 I understand.

9 COUNCILMAN GREEN: Are you
10 finished, Councilman?

11 COUNCILMAN GREENLEE: Go ahead.
12 I'm finished. I'm sorry.

13 COUNCILMAN GREEN: Councilman
14 Goode.

15 COUNCILMAN GOODE: Without
16 talking specifically about the
17 legislation, while at the same time I
18 will be talking about the legislation in
19 terms of how we propose it to work, the
20 only way to examine this issue is to look
21 at past data, and we actually have some
22 data so far in terms of specifically a
23 water tech assistant position.

24 In 2006, there was no resident
25 waiver. In 2008, there was a resident

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2 waiver. And let's say, for instance, for
3 that position we want to hire someone
4 that scored a 91. When there was no
5 waiver, 30.43 percent of the people would
6 have scored 91. When there was a waiver,
7 interesting enough, 30 percent of the
8 people scored a 91.

9 Now, all the numbers are not
10 that comparable, but what we found from
11 the data so far is that it's not so much
12 that non-residents are scoring better
13 than residents, but then by simply
14 opening the pool, you have more people.
15 So, in other words, if you have 100
16 applicants, then you may have 80 percent
17 of the people that score where you want
18 them to score. If you have 200
19 applicants, you may still have only 80
20 percent of the people scoring where you
21 want them to score.

22 And so what we're trying to do
23 through the new proposal is simply say
24 that if you are a resident a year before
25 you take the test and you score the same,

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2 then you get placed higher on the list.

3 So that is the proposal in terms of how
4 we're trying to address both the broader
5 pool of applicants, but also making sure
6 that we have a Philadelphia first civil
7 service regulation.

8 MR. DAVIS: Again, I go back to
9 the original example that I gave you when
10 we look at promotional opportunities.
11 And I do hear what you're saying in terms
12 of --

13 COUNCILMAN GOODE: This is for
14 hires and promotions. When the list is
15 created for hires or promotions, it's
16 based upon the test score. And their
17 resident test scores will be separated
18 from non-resident test scores, and if a
19 resident scores the same, that resident
20 will be placed higher on the list for
21 hire and promotion.

22 MR. HARRIS: Reading the
23 proposal and hearing what you're saying,
24 of course, that evens the playing field
25 some, which is fine. This is different

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2 than what we saw last, like I said, when
3 I came in.

4 COUNCILMAN GOODE: It's two
5 separate pieces of legislation. So what
6 we've done is try to address the concerns
7 through a Charter change, and they have
8 to be addressed through a Charter change
9 one way or the other. And so I think
10 we've addressed some of the concerns from
11 the last hearing.

12 MR. HARRIS: This resolution
13 addresses our problems. Thank you.

14 COUNCILMAN GREEN: Any other
15 questions for these witnesses?

16 (No response.)

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

19 MR. HARRIS: Thank you very
20 much.

21 MR. DAVIS: Thanks for having
22 us.

23 COUNCILMAN GREEN: Is there
24 anyone else here to testify? I believe
25 Joe McCool.

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2 (Witness approached witness
3 table.)

4 COUNCILMAN GREEN: Mr. McCool,
5 please state your name for the record and
6 go ahead.

7 MR. MCCOOL: Thanks, Chairman
8 Green and other members of Council and
9 the Committee for allowing me to speak
10 here today.

11 By background, I for 50 years
12 was a proud resident of the City of
13 Philadelphia. Five years ago I made a
14 decision to move into a neighborhood.
15 Unfortunately, that neighborhood
16 straddles the City line. I now live in
17 Feasterville. My rear property line is
18 the county line. Everyone that lives
19 behind me lives inside the City.
20 Majority, four out of five, are
21 firefighters or paramedics. So I haven't
22 moved far from the City, but
23 unfortunately, I've moved out of the
24 City.

25 I was a 25-year member of the

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2 Philadelphia Fire Department. I retired
3 nine years ago as a Captain.

4 The residency bill for the City
5 of Philadelphia addresses everyone from
6 my brothers in District Council 33, my
7 brother union members in the Firefighters
8 Union, which I'm a proud member for 34
9 years of and still am, was a former Board
10 member of. It applies to police
11 officers, clerical workers, obviously
12 City Council, but that's an exception,
13 but the high-ranking official within the
14 City. So it applies across the board.
15 It's not addressed, geared towards any
16 particular segment of the employment
17 population.

18 This bill has had a long
19 history in City Council. I know
20 Councilman Kenney has brought it up
21 repeatedly through the years. I have in
22 my bag some clippings and things like
23 that. So this has been a controversial
24 issue, but the bottom line is, it's
25 against the law.

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2 I've passed out a publication,
3 a copy of an article that appeared in a
4 publication, a fire service publication,
5 some years ago.

6 This has been repeatedly
7 declared unconstitutional. The case here
8 involved Detroit, but it also applied in
9 Chicago, New York and other cities.

10 Employee residency once you're
11 hired is indisputable. The McCarthy case
12 in 1976, a Philadelphia Fire Lieutenant,
13 took it to the U.S. Supreme Court and
14 lost. So that forms the legal basis, if
15 you would, for residency for employees.

16 Durational residency; that is,
17 residency before you're hired, the U.S.
18 Supreme Court has repeatedly rejected as
19 restrictions on the right to travel.
20 That's a fundamental constitutional right
21 that can't be conditioned.

22 Under -- I'm sorry. There's no
23 compelling state interest. In the
24 Detroit case, they cited three reasons
25 why having durational residency. Ease of

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2 recruitment. Can you imagine that today
3 with the Internet? Look at the Inquirer.
4 The Help Wanted section keeps shrinking
5 each week.

6 A workforce representative of
7 the racial and gender composition of the
8 city. We probably have a million and a
9 half residents. I don't know what the
10 current residency rate is. Approximately
11 50 percent minority. So you have 750,000
12 minority residents. If you open it up,
13 you open it up to, I don't know, seven
14 million applicants. So that argument
15 doesn't hold water.

16 And to address our employment
17 and underemployment in the City. Well,
18 there's a simple solution to that, and
19 Councilman -- I'm sorry. I don't know
20 his name, but Jones, I believe it is --
21 referred to that earlier, and it's
22 basically what New Jersey does.

23 COUNCILMAN KENNEY: Councilman
24 Goode.

25 MR. MCCOOL: I'm sorry. But

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2 what New Jersey does. And New Jersey, I
3 believe, has a four-tiered system. If
4 you're a resident of the town or the
5 township, you get first preference. If
6 you're a resident of the county, you get
7 second preference. If you're a resident
8 of the state, you get third preference.
9 And then all others are in the fourth
10 preference.

11 So it's a simple solution, but
12 the law -- and as I'm sure Councilman
13 Green is aware and probably everyone
14 else, I have a case that will be heard in
15 U.S. District Court now in July
16 challenging this, because when I left
17 City employment, I made a decision, and I
18 made a wrong decision. I made a decision
19 to take another position in the hopes of
20 helping me provide for my children's
21 education. I realize that the decision
22 was wrong. As the law reads now -- and I
23 hope the Committee and Council will
24 consider this strongly -- you have one
25 year to come back. It's not a guaranteed

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2 right, though. That's the discretion of
3 the appointing authorities. In my case,
4 the Fire Commissioner and the Personnel
5 Director. They choose not to bring me
6 back. They told me, Take the test. I
7 took the test. Unfortunately, I made a
8 decision to move. They reached me on
9 that list.

10 Why, first of all, is a
11 discretionary decision? Second of all,
12 why is it one year? I had 25 years'
13 experience. I have a Bachelor's degree
14 in accounting, I have an Associate's
15 degree in fire science, and I have a
16 Master's degree in public safety and
17 environmental protection and safety. Why
18 wouldn't you want me back?

19 Mayor Nutter is on record that
20 you want the best and the brightest to
21 make it easy to recruit them and retain
22 them.

23 COUNCILMAN GREEN: Mr. McCool,
24 just for the record and for your
25 information, at the last hearing, I did

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2 specifically mention your case, said that
3 I thought you were probably likely to
4 win, and that by passing this
5 legislation, we could perhaps avoid the
6 whole thing.

7 So just for your information,
8 we are aware of your situation, and I
9 thank you for your 25 years of service in
10 the Philadelphia Fire Department, and if
11 we pass this out of here today, then
12 hopefully -- of course, you would have to
13 move back into the City.

14 COUNCILMAN GOODE: That's what
15 I was going to ask.

16 COUNCILMAN GREEN: You would
17 have to move back into the City, but --

18 MR. McCOOL: I've never really
19 left. I have to go into the City to buy
20 a newspaper so I can get the Philadelphia
21 edition rather than the suburban edition.

22 COUNCILMAN GREEN: Okay. Well,
23 do you have anything you'd like to add or
24 is that your testimony for the day?

25 MR. McCOOL: That's my

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2 testimony today. Thank you for your
3 time.

4 COUNCILMAN GREEN: Thank you
5 very much for coming in.

6 Any questions for this witness?

7 COUNCILMAN GOODE: Absolutely.

8 Within your testimony I'm not
9 sure at any point whether you said you
10 were in favor or not in favor of the
11 bill. Are you in favor of the bill or
12 not in favor of the bill?

13 MR. McCOOL: I'm sorry. Can
14 you speak into the microphone, sir?

15 COUNCILMAN GOODE: Are you in
16 favor of the legislation or not in favor
17 of the legislation?

18 MR. McCOOL: I'm still not --

19 COUNCILMAN GOODE: Are you in
20 favor of the legislation or not in favor
21 of the legislation?

22 MR. McCOOL: Oh, I'm in favor
23 of the legislation. I believe that it
24 should be changed to, like I said, a
25 tiered system where preference would be

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2 given to City applicants as a city --

3 COUNCILMAN GOODE: I'm talking
4 about the legislation as it's written
5 right now, are you in favor of it or not
6 in favor of it?

7 MR. McCOOL: I haven't seen the
8 bill, to be honest with you.

9 COUNCILMAN GOODE: Okay.

10 COUNCILMAN GREEN: Councilman
11 Kenney's legislation.

12 MR. McCOOL: Yes, and I haven't
13 seen the exact wording of the bill.

14 COUNCILMAN GREEN: Okay. It
15 would permit you to take the test when
16 you're not a City resident, and assuming
17 you have the highest score, you would be
18 able to move in after you're hired.

19 MR. McCOOL: Yes. That's what
20 I'm in favor of, but I also would favor a
21 preference system, if you would.

22 COUNCILMAN GREEN: You mean
23 Councilman Goode's bill? Yes.

24 MR. McCOOL: Yes.

25 COUNCILMAN GREEN: Okay. Thank

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2 you, Mr. McCool.

3 MR. MCCOOL: Thank you.

4 COUNCILMAN GREEN: Would
5 anybody else like to testify?

6 (No response.)

7 COUNCILMAN GREEN: Seeing no
8 one, we are holding Bill 080148 to the
9 call of the Chair.

10 We will continue for a couple
11 of minutes before we go into our public
12 meeting.

13 (Pause.)

14 COUNCILMAN GREEN: That
15 concludes the hearing on Bills 080003 and
16 080148. We will now go into our public
17 meeting.

18 This is a public meeting on
19 Bill 080003. Present are Councilman
20 DiCicco, Councilman Greenlee,
21 Councilwoman Quinones-Sanchez, Vice
22 Chairman Goode, Councilman Kenney and
23 Councilman Jones.

24 Do you have a motion,
25 Councilman Kenney?

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2 COUNCILMAN KENNEY: Thank you
3 very much. Before I make the motion, I
4 would like to thank Councilman Goode for
5 his interest and work and idea in his
6 legislation leveling the playing field so
7 that when there is a tie, the tie-breaker
8 falls to the side of the City resident,
9 and I think that his efforts have helped
10 to move this piece of legislation
11 forward, so I thank him for his work.

12 I move that Bill 080003 be
13 reported out of this Committee with a
14 favorable recommendation and a request
15 made for rules suspension to allow first
16 reading at our next Council session.

17 (Duly seconded.)

18 COUNCILMAN GREEN: It has been
19 moved and properly seconded that Bill No.
20 080003 be reported out of Committee on
21 Labor and Civil Service with a favorable
22 recommendation and with a suspension of
23 the rules to allow first reading at
24 Council at the next session.

25 All in favor?

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2 (Aye.)
3 COUNCILMAN GREEN: All opposed?
4 (No response.)
5 COUNCILMAN GREEN: The ayes
6 have it. The motion is carried.
7 This will conclude the meeting
8 of the Committee on Labor and Civil
9 Service.
10 Thank you to everybody who
11 attended and testified.
12 (Committee on Labor and Civil
13 Service adjourned at 2:55 p.m.)
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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on March 27, 2008, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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