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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
Monday, June 2, 2008
1:10 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 JAMES F. KENNEY

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BILL 080148 - An ordinance amending Section
17-107 of The Philadelphia Code, entitled

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"Contractors: Labor-Management

16

Relationships," to change the method by which

17

the prevailing wage and prevailing working

conditions are calculated for certain

occupational classifications...

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COUNCILMAN GREEN: A quorum

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being present, I'm going to call this

4

hearing to order. Present are Councilman

5

Frank DiCicco, Councilman James Kenney,

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Vice-Chair Wilson Goode, Councilman Bill

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Greenlee.

8

Good morning. My name is Bill

9

Green, Chair of the Committee on Labor

10

and Civil Service.

11

We have people's written

12

testimony, so if you would like to

13

paraphrase rather than read directly from

14

it, that would be fine with us.

15

So I guess we should call the

16

first witness.

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Sorry. Lauren, please read the

18

title and name of the bill.

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THE CLERK: Bill No. 080148, an

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ordinance amending Section 17-107 of The

21

Philadelphia Code, entitled "Contractors:

22

Labor-Management Relationships," to

23

change the method by which the prevailing

24

wage and prevailing working conditions

25

are calculated for certain occupational

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2 classifications, all under certain terms
3 and conditions.

4 COUNCILMAN GREEN: Thank you.
5 The first witness is Perri
6 DiVirgilio from the Labor Standards Unit.
7 (Witnesses approached witness
8 table.)

9 MR. DiVIRGILIO: Good
10 afternoon, Councilman Green and members
11 of the Committee on Labor and Civil
12 Service. I am Perritti DiVirgilio, the
13 Director of Labor Standards. I'm
14 prepared to give testimony in support of
15 Bill 080148, which, if enacted, will
16 amend provisions of the Chapter 17-107 of
17 The Philadelphia Code by changing the
18 method in which the prevailing wage and
19 prevailing working conditions are
20 calculated for certain occupational
21 classifications.

22 Currently, the City of
23 Philadelphia bids out prevailing wage
24 contracts in which the wages are set ten
25 days prior to the bid opening and are

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2 frozen for the duration of the contract.

3 This creates an unfair advantage in the

4 bidding process. Contractors that are

5 signed to a collective bargaining

6 agreement have to increase wages paid to

7 an employee when the prevailing wage

8 changes. Contractors not signatory to

9 any collective bargaining agreement are

10 able to bid lower for a City contract

11 because they can pay the same wages for

12 the life of the contract without the risk

13 of the prevailing wage escalating. It

14 should be noted that the wages for

15 employees working for the non-signatory

16 contractors are less than for the

17 employees who work for signatory

18 contractors.

19 This bill, if amended, will

20 mirror the provisions of the Pennsylvania

21 Prevailing Wage Act, which mandates that

22 prevailing wages shall escalate during

23 the duration of the contract as opposed

24 to staying stagnant. Thus, union and

25 non-union employees will get the same

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2 prevailing wage on city work contracts.

3 Here in the City, the majority of the
4 contractors doing prevailing wage work
5 are union workers, are union contractors
6 of union workers. Because the signatory
7 contractors are contractually bound to
8 pay their employees the prevailing wages,
9 the wages are based on their rates. The
10 prevailing wages usually change once a
11 year.

12 This amendment would require
13 that all public work contracts shall
14 contain a provision mandating that the
15 contractor and each subcontractor shall
16 pay each affected worker any new
17 prevailing wage rates on the first day on
18 which the new prevailing wage rate is
19 effective. This amendment levels the
20 playing field for union and non-union
21 employees and would benefit contractors
22 as well. When the prevailing wage
23 changes, the wages in the contract would
24 also change.

25 In preparation for this

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2 hearing, I spoke to several contractors
3 who support this bill. This amendment
4 should not cause contractors to bid
5 higher in that the potential for increase
6 of the wage will be built into the
7 contract. Also, I do not foresee that
8 the City will get less bidders due to
9 this bill.

10 Thank you for the opportunity
11 to provide testimony in support of Bill
12 080148. I will be happy to answer any
13 questions that you may have.

14 COUNCILMAN GREEN: Anyone have
15 any questions?

16 Councilman Goode.

17 COUNCILMAN GOODE: Good
18 afternoon.

19 MR. DiVIRGILIO: Good
20 afternoon.

21 COUNCILMAN GOODE: Thank you
22 for your testimony. I guess you knew I
23 would have questions for you.

24 MR. DiVIRGILIO: Of course.

25 COUNCILMAN GOODE: Is your

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2 office now taking responsibility for
3 implementation of the minimum wage
4 ordinance?

5 MR. DiVIRGILIO: That's
6 correct.

7 COUNCILMAN GOODE: And has the
8 Mayor's Office talked to your office
9 about convening a Living Wage Advisory
10 Committee?

11 MR. DiVIRGILIO: Not the new
12 Administration, no, not at all.

13 COUNCILMAN GOODE: I sent a
14 letter to the Chief of Staff, an e-mail
15 to the Chief of Staff several months ago.
16 This body passed another resolution
17 unanimously asking that the Living Wage
18 Advisory Committee be created pursuant to
19 the minimum wage ordinance. I've been a
20 little bit patient with the
21 Administration because they were new, but
22 you are not new and I made that request
23 to you several times to convene the
24 Living Wage Advisory Committee. It's
25 something that should happen and it's

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2 something I've become a lot more
3 aggressive about under this new
4 Administration. And while I've given
5 them some time, you've had enough time to
6 do it already.

7 MR. DiVIRGILIO: Okay. Well,
8 as we talked before, under the prior
9 Administration, I was basically told not
10 to do it. Basically what they told me
11 was I work for the Administration, I
12 don't work for the Council, and they
13 asked me that anybody that called, to
14 refer it to them.

15 COUNCILMAN GOODE: Thank you
16 for putting it on the record.

17 MR. DiVIRGILIO: Right. Right.
18 This is the first I'm hearing this, so
19 it's not a problem.

20 COUNCILMAN GOODE: We will talk
21 about it.

22 MR. DiVIRGILIO: Okay. Not a
23 problem.

24 COUNCILMAN GREEN: Any other
25 questions?

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2 (No response.)

3 COUNCILMAN GREEN: Thank you.

4 The next witnesses, Tom Breslin
5 and Guy Pigliacelli from the Carpenters
6 Union.

7 MR. DiVIRGILIO: Thank you.

8 (Witnesses approached witness
9 table.)

10 MR. BRESLIN: Good afternoon.

11 COUNCILMAN GREEN: Good
12 afternoon. Please state your names for
13 the record and begin with your testimony.

14 MR. BRESLIN: My name is Thomas
15 A. Breslin. I'm a Council Representative
16 with the Philadelphia Metropolitan
17 Regional Council of Carpenters, and we
18 are also in support of this amendment.

19 On behalf of the MRC, I'd like
20 to thank City Council for letting us
21 speak today on this amendment, Title
22 17-107 of The Philadelphia Code, Contract
23 and Procurement. The premise of Title
24 17-107 was to ensure that any workman or
25 mechanic that worked on a public works

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2 project for the City of Philadelphia
3 would receive no less than a prevailing
4 wage. On March 31, 1931, President
5 Hoover signed the Davis-Bacon Act into
6 the law requiring that all private
7 contractors pay workers the prevailing
8 wage of the area for projects exceeding
9 \$2,000 for construction, alteration,
10 repairs of public buildings or public
11 works to ensure that public works
12 projects would be bid at an even and
13 competitive playing field, of which the
14 City of Philadelphia follows what is
15 referred to as Little Davis-Bacon, which
16 can differ in statute as to the scope of
17 the regulation, but still follows
18 prevailing wage determination.

19 Through these wages can be set
20 by area collective bargaining agreements
21 by federal or state rates, depending on
22 which is higher, but is still set a
23 minimum wage rate for public works. For
24 many years, the City of Philadelphia City
25 Code, Title 17-107, Contracts and

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2 Procurement, definition for city works is
3 all building or construction under
4 contract with the City for compensation
5 that exceeds \$2,000, including repairs,
6 alterations and remodeling done on behalf
7 of the City under a contract awarded by
8 the City. As you can gather, this Code
9 should provide a win-win scenario for all
10 involved. Workers receive wages and
11 benefits, which would allow them to enjoy
12 a decent standard of living, and the City
13 benefits from increased tax revenue,
14 which comes from increased wages.
15 Unfortunately, experience has shown that
16 none of the parties who are to benefit
17 from this ordinance would garner its full
18 benefit.

19 Simply stated, too many
20 contractors that are bidding city works
21 are at a disadvantage due to the use of
22 the Little Davis-Bacon without this
23 amendment to City Code Title 17-107.

24 As of now, the City Code Title
25 17-107, Contract and Procurement, when a

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2 project is bid and a wage determination
3 is given, the wage determination is for
4 the life of the project with no wage
5 escalator. Under these guidelines, City
6 projects can be bid out with an
7 out-of-date prevailing wage rate, and
8 sometimes they can be one to two years
9 behind the current prevailing wage
10 because there is no wage escalator for
11 current prevailing rates -- because of
12 not having current prevailing wage rates.
13 The Pennsylvania Secretary of Labor may
14 ascertain and consider wage rates and
15 employees' benefits established by a
16 collective bargaining agreement or obtain
17 information by the federal agency with
18 the U.S. Department of Labor. The
19 Pennsylvania Prevailing Wage Act of 1961
20 has an escalator component in the Act to
21 ensure that the workers are being paid
22 the current prevailing wage rate for the
23 project and the classification. As it
24 stands right now, the public works
25 projects that fall under City Code Title

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2 17-107, Contracts and Procurement, that
3 utilizes federal Davis-Bacon rates has no
4 escalator. This amendment would allow
5 the Director of City contracts and
6 procurement to set multiple wage rates
7 per classification to ensure the true
8 meaning of prevailing wage.

9 The Philadelphia School
10 District utilizes the Pennsylvania
11 Prevailing Wage Act, which has an
12 escalator. Amending this City ordinance
13 would bring the City of Philadelphia
14 united under a current wage rate for all
15 public works, and we feel that it is a
16 win-win scenario for City residents, a
17 current living wage, you get a better
18 skilled labor pool, even bidding
19 processes, bigger contractor base,
20 current wage determination for all
21 crafts.

22 In closing, I'd like to thank
23 City Council for the opportunity to
24 testify today, and I'd be happy to answer
25 any questions you may have.

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2 COUNCILMAN GREEN: Thank you
3 for your testimony.

4 Any questions?

5 (No response.)

6 COUNCILMAN GREEN: Thank you
7 very much.

8 MR. BRESLIN: Thank you.

9 MR. PIGLIACELLI: Thank you.

10 COUNCILMAN GREEN: The next
11 witness is James White from PACDC.

12 (Witness approached witness
13 table.)

14 MR. WHITE: Good afternoon,
15 Councilman Green and distinguished
16 members of the Committee. My name is
17 James White and I am the Policy
18 Coordinator of the Philadelphia
19 Association of Community Development
20 Corporations. PACDC is a citywide
21 association of more than 80 community
22 development corporations and other
23 organizations that have extensive
24 experience developing affordable homes
25 and undertaking other community

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2 development activities.

3 Since the enactment of the
4 federal prevailing wage law, the
5 Davis-Bacon Act in 1931, there has been
6 an ongoing debate regarding prevailing
7 wage laws at every level of government in
8 every state. The stated intent of this
9 proposed ordinance is to protect the
10 local wage rates in the construction
11 industry.

12 We do not disagree with the
13 goal of ensuring livable wages for
14 workers, but we are concerned about the
15 high cost of development in Philadelphia,
16 third highest in the country, and its
17 impact on developing affordable homes for
18 lower income families, seniors and
19 individuals with special needs.
20 Philadelphia's CDCs have faced many
21 challenges trying to balance the City's
22 building regulations and available
23 funding, while providing high-quality and
24 affordable homes to lower income
25 residents in our city.

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2 Despite the recently agreed to
3 \$3 million annual appropriation in the
4 supplemental funding from the City's
5 General Fund to the Philadelphia Housing
6 Trust Fund for each of the next five
7 years, funding for affordable housing in
8 Philadelphia has been on the decline
9 while the need for new affordable homes,
10 home repair and homeless prevention
11 grows. We encourage Council to amend the
12 proposed ordinance to exempt affordable
13 housing developments, because it would
14 negatively impact the number of
15 high-quality affordable homes that would
16 be produced using City funds.

17 I thank you for your time.

18 COUNCILMAN GREEN: Thank you
19 for your testimony.

20 Any questions for this witness?

21 (No response.)

22 COUNCILMAN GREEN: Seeing none,
23 thank you.

24 Is anyone else here to testify
25 on Bill No. 080148?

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2 (No response.)

3 COUNCILMAN GREEN: Seeing no
4 other witnesses, we will adjourn the
5 hearing and go into a public meeting on
6 Bill 080148.

7 Does anyone have a motion?

8 COUNCILMAN KENNEY:

9 Mr. Chairman, I move that the amendment
10 to Bill No. 080148 as presented to the
11 members of the Committee and circulated
12 prior be approved.

13 (Duly seconded.)

14 COUNCILMAN GREEN: It has been
15 moved and properly seconded that an
16 amendment to Bill 080148 circulated to
17 members of the Committee be approved.

18 All in favor?

19 (Aye.)

20 COUNCILMAN GREEN: All opposed?

21 (No response.)

22 COUNCILMAN GREEN: It is
23 unanimously approved.

24 I recognize Councilman Kenney
25 for a motion.

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2 COUNCILMAN KENNEY: Thank you,
3 Mr. Chairman. I move that Bill No.
4 080148, as amended, be reported out of
5 this Committee with a favorable
6 recommendation and a request made for
7 rules suspension to allow for first
8 reading at our next Council session.

9 (Duly seconded.)

10 COUNCILMAN GREEN: It has been
11 moved and properly seconded that Bill No.
12 080148 be reported out of the Committee
13 on Labor and Civil Service with a
14 favorable recommendation and with a
15 suspension of the rules.

16 All in favor?

17 (Aye.)

18 COUNCILMAN GREEN: All opposed?

19 (No response.)

20 COUNCILMAN GREEN: The ayes
21 have it. It's been reported out
22 unanimously.

23 That adjourns the meeting.

24 (Committee on Labor and Civil
25 Service adjourned at 1:20 p.m.)

1

2

CERTIFICATE

3

I HEREBY CERTIFY that the

4

proceedings, evidence and objections are

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contained fully and accurately in the

6

stenographic notes taken by me upon the

7

foregoing matter on June 2, 2008, 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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