

**Commissioners:**

**John Binswanger**, Greater Philadelphia Chamber of Commerce  
**Lynette Brown-Sow**, Zoning Board of Adjustment  
**Frances Burns**, Department of Licenses and Inspections  
**Will Carter**, Office of Councilman Darrell Clarke  
**Graciela Cavicchia**, The Reinvestment Fund  
**Councilman Frank DiCicco**, City Council  
**Denise Earley**, Philadelphia Chamber of Commerce  
**Varsovia Fernandez**, Greater Philadelphia Hispanic Chamber of Commerce  
**Wendella Fox**, Former Chair of the Zoning Board of Adjustment  
**Councilman Bill Green**, City Council  
**Michael Hnatkowsky**, Electrical Workers, IBEW Local 98  
**Ann Hoskins-Brown**, St. Christopher's Foundation for Children  
**Gary Jastrzab**, Philadelphia City Planning Commission  
**Michael Johns**, Philadelphia Housing Authority  
**Marion Johnson**, Office of Councilwoman Tasco  
**Emanuel Kelly**, Kelly Maiello Architects  
**Peter Kelsen**, Blank Rome LLP  
**Councilman Brian O'Neill**, City Council  
**Anne Papageorge**, University of Pennsylvania  
**Greg Pastore**, Bella Vista Town Watch  
**Guy Pigliacelli**, Local 1050 Carpenters and Joiners Union  
**Glenn Romano**, Northeast Philadelphia Chamber of Commerce  
**Bill Salas**, Hispanic Association of Contractors and Enterprises (HACE)  
**Eleanor Sharpe**, City of New Rochelle Planning Department  
**Nick Shenoy**, Greater Philadelphia Asian American Chamber of Commerce  
**Samuel Staten, Jr.**, Laborers' Local 332  
**Sherman Toppin**, African-American Chamber of Commerce  
**Stella Tsai**, Archer & Greiner, PC  
**Daniela Holt Voith**, Voith & Mactavish Architects LLP  
**John Westrum**, Westrum Development

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**Agenda Item: Call to Order**

- Chairman Alan Greenberger called the meeting to order at 8:15 am.

**Agenda Item: Adoption of Minutes**

- The Commission adopted the minutes of the April 13, 2011 meeting.

**Agenda Item: Opening Remarks (Alan Greenberger)**

- Chairman Greenberger announced that the ZCC will vote at this meeting on a *Preliminary Report*, which, if passed, will be sent to City Council. He added that the ZCC will continue to discuss issues while the report is being reviewed by Council.
- He emphasized one very recent and significant change, the creation of a two-family district, analogous to the current R5A district. The ZCC's consultant team is drafting text that the ZCC will review and include in the materials sent to City Council.
  - Two other issues are also subject to further consideration. First, the ZCC will discuss whether certain non-residential uses (for example, schools, bed and breakfasts, home occupations, and churches) should be permitted in low density residential districts. Second, the ZCC will consider whether the current building heights in lower density residential districts discourage investment in blighted areas.
- Chairman Greenberger concluded by laying out the agenda for the meeting: Eva Gladstein, Stella Tsai, and Peter Kelsen will deliver their reports; Kirk Bishop, of Duncan Associates, will review key changes made between the *Draft Preliminary Report* and

*Preliminary Report*; and, finally, the ZCC will vote on the resolution and any amendments that arise.

**Agenda Item: Executive Director's Report (Eva Gladstein)**

- Eva Gladstein outlined the contents of the commissioners' binders. Included are the Preliminary Report (proposed changes to the text of the zoning code), draft legislation that City Council would need to adopt the new code, and the Zoning Map Revision Plan.
  - As a reminder, Ms. Gladstein noted that the Planning Commission (PCPC) approves and implements the Zoning Map Revision Plan.
  - The packet also includes: 1) a template for the Zoning Administrative Manual, 2) a Table of Contents of regulations necessary to implement portions of the new zoning code, 3) a detailed memo highlighting the ZCC's public outreach, change memo, and 4) input from members of the public.
- Lastly, Ms. Gladstein added that the consultants will proofread the document and add an index before it is sent to Council for review.

**Agenda Item: Civic Engagement Committee Report (Stella Tsai)**

- Commission Tsai called attention to the public outreach handout included in the commissioners' binders and available to the public. The document shows the number and location of neighborhood meetings held by the ZCC.
- Since the March 2<sup>nd</sup> meeting of the ZCC, it has held seven Stakeholder X-Changes and meetings with the "Next Great City," Wister NAC, East Torredale, Somerton Civic, Millbrook Civic, the City's Sustainability Working Group, Greater Bustleton, Ashton Square Civic, civic leaders from Rhawnhurst, and civic leaders from Oxford Circle, Upper Northwood, and Lawncrest in the Lower Northeast.
- The ZCC has meetings scheduled with the Chinatown CDC, Fox Chase Homeowners' Association, Burholme Civic, and Normandy Civic Association.

**Agenda Item: Work Plan Committee Report (Peter Kelsen)**

- Commissioner Kelsen reported that the Work Plan Committee has met five times since the March 2<sup>nd</sup> meeting. Members of the Committee have also attended a meeting with civic associations and developers regarding the /CTR overlay, two meetings with the Philadelphia Bar Association, and a meeting with representatives of the BIA regarding building heights.
- Commissioner Kelsen encouraged everyone to review the minutes of the Work Plan Committee which are posted on the ZCC's website and called attention to a recent article about the minutes on PlanPhilly.org.
  - He and Chairman Greenberger thanked the seven to nine commissioners and their representatives on the committee with stellar attendance records, as shown in the article.

**Agenda Item: Review of Proposed Changes to Draft Preliminary Report Based on Public Comments and Other Input (Kirk Bishop)**

- Mr. Bishop reviewed proposed changes to the *Draft Preliminary Report* based on the recommendations of stakeholders, Work Plan Committee, and internal review.
- Chapter 14-300: Administration and Procedures
  - 14-303(5), Code Interpretations
    - The code has been revised to state that L&I is responsible for accepting and issuing code interpretations.
  - 14-303(12), Neighborhood Notice and Meeting
    - The requirement for notice to RCOs has been moved to this section from 14-303(8), Public Notice.
    - Also, an applicant must include the contact information of all other RCOs whose registered geographical boundaries include the applicant's subject property when giving notice to any RCO.

- 14-303(15), Appeals to the ZBA
  - The provision that permitted the ZBA to make decisions based only on written testimony was removed due to concerns about sufficient notification of all potential protestants prior to a hearing.
- 14-305(5)(b), Replacement of Discontinued Uses
  - The code now explicitly prohibits the replacement of a nonconforming regulated use with another regulated use.
- Chapter 14-400: Base Districts
  - 14-401, Residential Districts
    - Existing R5A will be converting into a new one- and two-family district called “RTA-1, Residential Two-Family Attached-1.”
- Chapter 14-500: Overlay Districts
  - 14-502(6), /CTR Supplemental Use Controls
    - The supplemental use table has been amended to permit Prepared Food Shops and Take-Out Restaurants by special exception in the portion of the Old City Residential Area between Callowhill and Spring Garden Streets.
  - 14-502(7), /CTR Parking Garage Ground Floor Uses
    - The requirement for the ground floor of parking garages to contain active uses has been expanded to streets from Arch to South Streets (inclusive) from river to river and Broad Street between South Penn Square and Washington Avenue.
- Chapter 14-600: Use Regulations
  - 14-601, Use Categories
    - As noted previously, the ZCC will refer to the treatment of certain uses in lower density residential districts to City Council for further guidance.
    - A new use subcategory called “Re-Entry Facility” has been created in the Public Civic, and Institutional Use Category to differentiate from Detention and Correctional Facilities. Re-Entry facilities are permitted by special exception in ICMX, I-1, I-2, and I-P and by right in I-3.
  - 14-601(4)(c), Day Care
    - This subcategory has been transferred into the Public, Civic, and Institutional use category from the Commercial Services Use Category. All use regulations have been retained.
  - 14-601(6)(a) and (7), Adult Uses
    - The floor area on stock-in-trade threshold for an establishment to be considered an adult merchandise store, adult modeling or photography studio, or adult spa or health club has been lowered from 33 percent to 20 percent.
  - 14-604(6), Solar Collectors
    - The standards for roof-mounted solar collectors have been deleted for consistency with current L&I regulations that exempt roof-mounted collectors from obtaining zoning permits.
    - The standards for ground-mounted and freestanding solar collectors have been retained.
  - 14-604(8), Home Occupations
    - The list of prohibited home occupations has been reorganized and expanded to reference subcategories, not individual uses.
    - In terms of regulation, each home occupation is now limited to no more than one off-street parking space.
- Chapter 14-700: Development Standards
  - 14-701, Building Heights
    - As noted previously, the ZCC will continue to discuss whether the proposed residential building height limit of 38 feet should be adjusted to promote infill and redevelopment projects in blighted areas.

**Agenda Item: Introduction and Discussion of Resolution**

- Chairman Greenberger introduced a new commissioner, Will Carter of Councilman Darrell Clarke's office, to the seat vacated by Andy Toy. He also introduced John Mondlak from the Law Department, who was available to provide legal advice during the voting process.
- Hearing no comments from commissioners or the public, Chairman Greenberger called on Councilman DiCicco to introduce the resolution. Commissioner Greg Pastore seconded the motion, and discussion on the resolution began.
- Councilman O'Neill noted that the draft code has many good aspects, but also many negative ones. He added that the ZCC's Charter-mandated task was to rewrite the code, not remap the City.
  - Councilman O'Neill feels that the expansion of uses in many zoning districts is a de facto remapping, since properties in these new zoning districts would be entitled to support certain uses that would otherwise be illegal under the current code. This backhanded remapping violates the spirit, if not the letter, of the law.
  - Lastly, Councilman O'Neill noted that some areas of the City, like Center City, are in desperate need of a more permissive zoning code with respect to uses and dimensional standards, but this does not apply to other areas of the City that are already built up appropriately.
  - For the foregoing reasons, Councilman O'Neill will be abstaining from the vote.
- Commissioner Emmanuel Kelly was disappointed to hear Councilman O'Neill's comments. He felt that the process has been very transparent to the public and City Council. There have been over 40 neighborhood meetings. In addition, the ZCC has briefed City Council on the general principles of the new code and provided each Council district individualized packets that highlight the most impactful use changes, and 18 of the 31 ZCC commissioners are Council appointees.
- Commissioner Marion Johnson informed the ZCC that she will also be abstaining from the vote because her appointee, Councilwoman Tasco, does not feel that the code is ready.
- Commissioner Glenn Romano noted that the zoning code must balance the need for development with the preservation of neighborhoods. Commissioner Romano would like to see the code advanced to City Council in order to gain feedback on whether the code strikes this balance and so that it does not becoming lost in the "legislative shuffle."
  - However, Commissioner Romano will be abstaining from the vote due to political considerations.
- Commissioner Pastore said that the new zoning code should give the PCPC tools to complete the remapping of the City, but also that some provisions in the code represent distinct policy decisions that remapping cannot address.
  - For example, religious assembly uses are permitted by right or by special exception in every residential district. If the constituents of a given area are opposed to this type of use, they should lobby to be placed in the less permissive district. However, the fact that they will not be able to live in a district that prohibits religious assembly uses is a policy decision made by the ZCC.
  - Commissioner Pastore urged the ZCC to move the report along to City Council, since remapping will not address every issue that stakeholders have with the code.
- Commissioner Anne Papageorge noted that the two-step process (passage of the code and then remapping) has been clear to everyone involved from the beginning of the process. The ZCC, through guidance of its commissioners, has chosen this path, and the consultants and staff have worked with this approach in mind for the entirety of the project. Commissioner Papageorge also added that other municipalities approach zoning reform in this same two-step process.

- Councilman O'Neill responded that Chicago was in its fourth year of remapping once its code was passed and that there were no changes in uses before remapping.
- Commissioner John Westrum said that his reason for serving on the ZCC was to make the code more predictable to developers and investors. In development, one cannot control the sale price or, to some extent, costs, but a good zoning code can control the transparency of the process. He feels that the lack of transparency in the current zoning code is a major reason that large scale development does not occur in the City.
  - He acknowledged that issues still exist, but there is plenty of good in the code.
  - Commissioner Westrum concluded by reminding the ZCC that over 80 percent of voters passed the referendum calling for zoning reform.
- Commissioner Binswanger seconded Commissioner Westrum's point about the code's positive effect on development. He then asked Councilman O'Neill why he objects to the draft code.
  - Councilman O'Neill responded that many of his outstanding issues are unrelated and unnecessary to the portions of the code that govern development.
- Commissioner Eleanor Sharpe asked what more could be done to improve the draft and when will the ZCC send the draft to City Council if it fails to do so at this meeting.
- Commissioner Salas added that the ZCC has a mandate to send a report to City Council by June 30<sup>th</sup>, and he felt that it is time for the debate in Council to begin.
- Commissioner Johnson responded to Commissioner Binswanger by noting that her appointee, Councilwoman Tasco, is exercising her right to abstain for voting on the *Preliminary Report*. In response to Commissioner Westrum's point about the flaws in the code, she suggested that the ZCC continue work on them since the ZCC is not at its June 30<sup>th</sup> deadline.
- Councilman DiCicco added that it is not possible to draft a code that has no flaws. Stakeholder groups have different interests, so a flaw to one may be seen as a merit to another.
  - He also noted that City Council and developers enter into agreements that have "flaws" in an effort to balance development and neighborhood interests.
- Councilman DiCicco urged Councilman O'Neill to take into consideration the effect that City Council redistricting will have on his district. It may be possible that some new areas will need a more permissive code to encourage development.
  - Councilman O'Neill responded that his district will never stretch into Northern Liberties and that his concerns apply to 80 percent of the City, not simply his district.
  - Councilman DiCicco concluded by thanking the public and commissioners for their dedication to the ZCC and reminded them that there will never be 100 percent support for the new code in any forum.
- Councilman Green supports the resolution before the ZCC, but with his amendment that delays the effective date of the new code for each planning district until the PCPC has remapped the planning district.
  - He cited a comment from a community representative, that the communities have no sense of the effects of changes in uses and dimensional standards. The conversion of old zoning districts into new ones is tantamount to a remapping since there will be an expansion of uses and dimensional standards.
  - Councilman O'Neill added that remapping can occur faster in planning districts that need a new code (Center City, for example).
  - He also cited Denver, CO and Miami, FL, whose zoning codes were adopted simultaneously or after remapping.
    - In Miami, the zoning reform process nearly ground to a halt in 2008 because of concerns about remapping.
    - In Denver, its code was adopted in 2008 simultaneously with remapping.

- Councilman Green continued that the most catastrophic result for communities is the presence of vested rights, which cannot be removed from a landowner after the PCPC remaps an area.
- He then presented an example of the unintended consequences of conversion before remapping. One of his staff members lives on and is bordered by four R-4 lots in East Roxborough. Under the new code, the lots would convert to RSA-2, which could double the number of homes allowed by right and expand the number of home occupations. It is possible that these five parcels could house 11 units and 11 home occupations. This by right expansion does not require any investigation into the effects on traffic or sewer impacts.
- He also added that the proposed CA-1 district, which combines C7, a neighborhood commercial district, and ASC, an auto-oriented commercial district, improperly merges these two incompatible districts.
- Finally, Councilman Green mentioned that Raleigh, NC intends to remap before drafting its zoning code and Baltimore, MD, which is in the process of rewriting its code, may not adopt a conversion map in some areas.
- Commissioner Fox had several questions for ZCC staff:
  - First, what happens if the ZCC passes the resolution today?
    - Chairman Greenberger responded that City Council must start hearings within 45 days of the zoning code proposals being issued, and there is no end date. Upon conclusion of the hearings, Council may send a report with comments to the ZCC within 30 days, and the ZCC has 60 days to issue a final report, which the ZCC will vote on.
  - Second, what is the status of the PCPC's remapping?
    - Chairman Greenberger responded that the citywide framework will be approved in June, but this plan is not at the neighborhood level yet. Neighborhood remapping will take five to seven years. He cautioned against "lightning remapping," which Denver did and for which it is now facing negative implications.
  - Third, how much of the City will need to be remapped?
    - Chairman Greenberger responded that he does not have a number in mind. Although the City's faded industrial legacy will need to be addressed in the remapping process, a large portion of the City will not need to be remapped,
- Councilman DiCicco felt that Councilman Green's amendment was a reasonable request and that Council should discuss it.
  - He added that some Councilmembers may not mind conversion before remapping.
- Commissioner Tsai returned to the discussion of the word "flaws," which she felt is being used improperly. Sometimes when someone mentions a "flaw," the provision is actually a policy choice that the ZCC has decided to adopt.
  - Commissioner Tsai read aloud the Charter amendment and added that the report before the ZCC is consistent with this amendment.
- Commissioner Sharpe asked Mr. Bishop to discuss the implications of the failure to remap before converting.
  - Mr. Bishop stated that Chicago, where he served as program director, used the same process that is being proposed in the ZCC's report.
    - He added that that the provisions of every chapter, with the exception of 14-300, could fit the definition of "remapping" to some.
    - Every municipality where he has worked has had this same discussion and recommended that the ZCC see what its elected officials think of the draft code.
    - Mr. Bishop said that this two-step process is the standard approach that he has seen in his 25 years of experience.
- Councilman Green added that the conversion map does not protect the character of the City's neighborhoods.

- Commissioner Voith noted that her main objection to delaying the effective date of the code until remapping is that the City will have two zoning codes, which may not be consistent with the Charter.
- Commissioner Pastore mentioned that Councilman Green's R-4 to RSA-2 conversion example was not a result of changes in the new zoning code, because the same exact lot size, building type, and lot width standards were carried over from R-4 into RSA-2. The amount of density permitted by the new code (11 units as characterized by Councilman Green) is the same as the existing code.
- Commissioner Kelsen suggested placing the proposed amendment at the Council level since Councilmembers know their districts and constituents best.
  - He also added that the proposed amendment has serious implications. For example, if a district does not choose to remap, then the City will have two zoning codes forever. Such a process would not benefit a city of Philadelphia's type.
  - Commissioner Kelsen concluded by saying that Council should and will perform its Charter-mandated task upon receiving the *Preliminary Report* from the ZCC.
- The ZCC opened the floor to comments from members of the public:
  - Kiki Bolender expressed disappointment in the lack of leadership on City Council. She also took exception to Councilman Green's characterization of the amendment as "small" since the "small amendment will delay the code for five to ten years."
  - Craig Schelter noted that the Development Workshop will continue its involvement in the zoning reform process in City Council.
    - He urged everyone to look at the conversion map and consider whether there will be problems with use expansions because the conversion map will be law.

**Agenda Item: Vote**

- Chairman Greenberger reminded the ZCC that it requires a two-thirds vote of the entire commission (21 votes) to pass the resolution. There were 29 commissioners present.
- Vote on the Resolution before the ZCC:
  - Voting Yes (22 commissioners): Councilman DiCicco and Commissioners Binswanger, Brown-Sow, Burns, Cavicchia, Fernandez, Fox, Hoskins-Brown, Jastrzab, Johns, Kelly, Kelsen, Papageorge, Pastore, Salas, Sharpe, Shenoy, Staten, Jr., Toppin, Tsai, Voith, and Westrum.
  - Voting No (0 commissioners)
  - Abstaining (7 commissioners): Councilmen Green and O'Neill and Commissioners Carter, Hnatkowsky, Johnson, Piglicelli, and Romano.
- Councilman Green made a motion to adopt a minority report, which includes the majority report with his amendment. The motion was seconded. John Mondlak of the City Law Department reminded the ZCC that the minority report requires seven votes.
- Vote on the Minority Report:
  - Voting Yes (9 commissioners): Councilmen Green and O'Neill and Commissioners Carter, Hnatkowsky, Johns, Johnson, Piglicelli, Shenoy, and Romano.
  - Voting No (20 commissioners): Councilman DiCicco and Commissioners Binswanger, Brown-Sow, Burns, Cavicchia, Fernandez, Fox, Hoskins-Brown, Jastrzab, Kelly, Kelsen, Papageorge, Pastore, Salas, Sharpe, Staten, Toppin, Tsai, Voith, and Westrum.
  - Abstaining (0 commissioners)

**Agenda Item: Adjourn**

- The meeting was adjourned at 10:15 AM.