

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FINANCE

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City Hall

B E F O R E: DOMENIC M. RECCHIA, JR.
Chairperson

COUNCIL MEMBERS:
Domenic M. Recchia, Jr.
Leroy G. Comrie, Jr.
Lewis A. Fidler
G. Oliver Koppell
Joel Rivera
Albert Vann
Fernando Cabrera
Karen Koslowitz
James G. Van Bramer
Vincent M. Ignizio
James S. Oddo
James Vacca

A P P E A R A N C E S

Richard Tobin
Assistant Chief of Fire Prevention
FDNY

Thomas Jensen
Chief of Fire Prevention
FDNY

Richard Brennan
Revenue Director
FDNY

Caroline Kretz
Association Commissioner for Intergovernmental Affairs
FDNY

Fred Hinkston
Associate of Lyndon LaRouche

CHAIRPERSON RECCHIA: Good

afternoon and welcome to today's Finance Committee. My name is Domenic M. Recchia, Jr. I'm the chair of the Finance Committee. I welcome you all to the City Council Chambers today.

We have one item on our agenda today, Intro 172 which would repeal Local Law 41 of 2009. To understand Intro 172, we first have to understand the impact of Local Law 41, after it was passed by the council on June 19, 2009, the day we adopted last year's budget. Does everybody understand those laws? I'm only joking.

For the benefit of the public and my colleagues, I will give you a brief explanation on Local Law 41 and the impact it has on the nonprofit community. I thought there would be more nonprofits here. Prior to the enactment of Local Law 41, all not-for-profit organizations were exempt from certain fire department fees such as fees for inspections, permits, and witnessing of required performance tests for equipment.

However, because of the fiscal crisis, the administration proposed Local Law 41 to raise more revenue for the Fire Department and

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2 tried to minimize reduction in Fire Department
3 operations. Local Law 41 narrowed the exemption
4 to only a few not-for-profit organizations meeting
5 certain criteria.

6 Under Local Law 41, in order to be
7 fully exempt from the fees, not-for-profit
8 organizations had to either operate predominately
9 as a religious institution or provide housing to
10 members of the religious institution, clergy, or
11 be an education institution accredited by New York
12 State providing kindergarten through 12th grade
13 education. All other not-for-profit organizations
14 had to pay the full fee, which the administration
15 estimated to be an average of \$325 per inspection.

16 After the passage of Local Law 41,
17 several not-for-profit organizations raised
18 concerns about the law. Some not-for-profits have
19 told the council that the bills they have been
20 receiving from these fees are a significant
21 financial burden for them. Other not-for-profits
22 have expressed to the council that the law does
23 not treat all not-for-profits equally and that
24 they feel they are being disproportionately
25 impacted.

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For instance, educational institutions accredited by New York State are exempt from the fees while non-accredited schools or schools accredited by entities other than New York State are not. As a result of these considerations, we are holding today's hearing on Intro 172 to determine whether to repeal Local Law 41. If Intro 172 is enacted, all charitable organizations will once again be exempt from Fire Department inspection fees.

I want to thank you all for coming. Before we turn it over to the Fire Department, I want to recognize all of my colleagues who have joined us. To my left we have Jimmy Vacca from the Bronx. We have Joel Rivera from the Bronx. To my right we have Jimmy Oddo from Staten Island. We have Vincent Ignizio.

COUNCIL MEMBER IGNIZIO: Who voted no on the bill by the way.

CHAIRPERSON RECCHIA: We have Jimmy Van Bramer. We have Karen Koslowitz. We have Oliver Koppell and we have Councilman Cabrera.

We are not voting on this bill today. Repeat, we are not voting on this bill

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today. Just so everyone knows for the record.

Good afternoon, gentlemen.

COMMISSIONER: Good afternoon,
Councilman Recchia.

CHAIRPERSON RECCHIA: You want to
turn.

COMMISSIONER: I'm joined by
Assistant Chief of Fire Prevention Richard Tobin,
Chief of Fire Prevention Tom Jensen, my Revenue
Director Rich Brennan and Association Commissioner
for Intergovernmental Affairs Caroline Kretz.

Thank you for the opportunity to
speak with regard to Intro 172 which proposes to
repeal Local Law 41 of 2009. A law that the New
York City Fire Department strongly supported at
this time last year as an important much needed
revenue measure.

Local Law 41 of 2009 narrowed the
category of organizations that are granted an
exemption from the FDNY inspections and permit
fees. At the time of its approval by the council
as part of the Fiscal 2010 budget, we forecasted
that the measure would generate approximately \$3
million in revenue. Given the city's financial

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2 condition, Local Law 41 has enabled FDNY to
3 achieve savings by recovering the costs of our
4 services to these organizations. Our inspectors
5 conduct mandated fire code inspections and issue
6 permits that generate fees to cover the costs of
7 these services. Our inspections significantly
8 enhance fire safety in the city.

9 Just for a little background on
10 last year's budget, we were forced to cut our
11 training budget. We cut our fire marshal budget.
12 We cut EMS tours. We cut civilian headcount. We
13 closed the Governor's Island fire unit and 16 fire
14 companies were under consideration until the final
15 days of budget negotiations when they were
16 restored by an agreement with the mayor and the
17 City Council. So that's the backdrop for what we
18 were faced with. We were faced with a budget
19 target of \$95 million from OMB that we had to come
20 up with ideas to raise revenue.

21 Charitable organizations are not
22 legally entitled to an exemption from fees that
23 are generally applicable to the public. The prior
24 Administrative Code provision provided for the
25 favorable treatment of these organizations, many

1
2 of which are large operations with many facilities
3 that require the same inspections by the Fire
4 Department that for-profit enterprises require.

5 The elimination of that exemption
6 results in such organizations being treated in the
7 same manner as all other priority owners with the
8 exception of houses of worship, attached clergy
9 housing and k through 12 schools which have
10 remained eligible for the fee exemptions.

11 In cooperation with the Mayor's
12 Office, last fall we had several meetings at City
13 Hall with many of the affected groups who wanted
14 more information about what the new law would mean
15 for them. We've kept the lines of communications
16 open with these groups over this year and did not
17 impose any of the usual late fees or penalties for
18 nonpayment for the affected organizations in this
19 first year of implementation.

20 We recognize and appreciate the
21 critical role of the nonprofits and schools and
22 the impact that the policy revision may have on
23 them. Nonetheless, FDNY can no longer bear the
24 cost of the waiver these institutions previously
25 enjoyed given our mandate to achieve significant

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2 budget savings for the city. In light of the
3 financial challenges the city continues to face,
4 reinstating the waiver is even more untenable.

5 Over the last several years we have
6 exhausted our options for cutting costs and
7 generating revenue, forcing us to focus largely on
8 operational cutbacks to meet even more significant
9 budget reduction targets. As you know, we're
10 currently facing the option of closing 20 fire
11 companies in FY 11. That will mandate 505
12 firefighter positions. We're also considering
13 reduction of staffing on engine companies. That
14 would save another 300 firefighter positions.

15 So not since the 1970s fiscal
16 crisis have we been faced with such measures at
17 FDNY. So the challenges for 2011 and beyond
18 remain and with the state's continued delay in
19 formulating its own budget, our planning is much
20 more difficult and uncertain.

21 So suffice to say, we're not in
22 favor of this bill which would reverse the policy
23 change enacted just last year to help us meet our
24 budget targets. Thanks for you time and any
25 questions we're now available to answer.

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2 CHAIRPERSON RECCHIA: Thank you
3 very much. Before I start questions, do any of my
4 colleagues have any questions to begin this
5 hearing? We recognize Councilman Koppell from the
6 Bronx.

7 COUNCIL MEMBER KOPPELL: Do we have
8 a number of what this bill would cost; to what
9 degree it would deprive the city of revenue?

10 COMMISSIONER: \$3 million.

11 COUNCIL MEMBER KOPPELL: How much
12 is the exemption that we have foregone by the
13 bill?

14 COMMISSIONER: It's \$3 million.

15 COUNCIL MEMBER KOPPELL: I see. So
16 if this bill takes away the exemption, it will
17 cost \$3 million?

18 COMMISSIONER: Our revenue will
19 decline by approximately \$3 million.

20 COUNCIL MEMBER KOPPELL: I guess I
21 didn't state it clearly. How much are we
22 exempting right now?

23 COMMISSIONER: The only
24 institutions being exempted are houses of worship
25 and the housing for the clergy and schools k

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2 through 12.

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COUNCIL MEMBER KOPPELL: How much
is that costing?

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COMMISSIONER: I don't have that
number with us.

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COUNCIL MEMBER KOPPELL: You don't
know.

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COMMISSIONER: We can certainly get
that number for you.

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COUNCIL MEMBER KOPPELL: You said
that in terms of the institutions that do have to
pay now, you said you waived penalties?

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COMMISSIONER: Normally we give you
up to 90 days I believe before inspection
penalties kick in. Given that this was a startup
year, a lot of the nonprofits were caught off
guard, although we did send a notice letter to all
of them. We made it clear that through fiscal
year 2010 we would waive any late penalty fees for
not paying timely.

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COUNCIL MEMBER KOPPELL: Do you
think most paid or most people didn't pay?

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COMMISSIONER: The payments are
coming in. We project at this rate we should be

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2 around \$2.7 or \$2.8 million, so close to our
3 estimate that we originally came up with.

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COUNCIL MEMBER KOPPELL: So you
5 actually did raise the \$3 million. It's not like
6 it was just theoretical.

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COMMISSIONER: It's incoming as we
8 speak. We haven't raised all of it as of yet.

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COUNCIL MEMBER KOPPELL: But \$3
10 million you think is realistic to be raised?

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COMMISSIONER: It's a safe number,
12 yes.

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COUNCIL MEMBER KOPPELL: I see.
14 Thank you. Thank you, Mr. Chairman.

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CHAIRPERSON RECCHIA: Do you have
16 any more questions, Councilman?

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COUNCIL MEMBER KOPPELL: No.

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CHAIRPERSON RECCHIA: As of right
19 now, so far it's brought in \$2.8 million?

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COMMISSIONER: No. As of right now
21 we've collected about \$1.6 million. When all of
22 the billings are totaled up, because there are
23 still some months that are behind, we project
24 we'll be around \$2.7 or \$2.8 million.

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CHAIRPERSON RECCHIA: According to

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2 your testimony, you have not included any
3 penalties or late fees.

4 COMMISSIONER: That's correct.

5 CHAIRPERSON RECCHIA: Explain why
6 you did that.

7 COMMISSIONER: Again, because of
8 the fact that this was a new Local Law and these
9 institutions were previously exempt. We wanted to
10 give them time to come into compliance. Some of
11 the smaller institutions, obviously they didn't
12 budget for this in their fiscal year plans, so
13 they needed to raise money to address those kinds
14 of needs. So in concert with the Mayor's Office,
15 we decided to forgo the fees for this year.

16 CHAIRPERSON RECCHIA: I wish other
17 agencies thought like you. I recognize the
18 gentleman from Staten Island, Vincent Ignizio.

19 COUNCIL MEMBER IGNIZIO: Thank you
20 very much, Mr. Chairman.

21 CHAIRPERSON RECCHIA: Councilman,
22 before you ask your questions, I want to recognize
23 we've been joined by Council Member Al Vann and
24 Council Member Leroy Comrie. Welcome, gentlemen.

25 COUNCIL MEMBER IGNIZIO: Thank you

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2 very much. Sir, what is the fee that are imposed
3 upon the nonprofits?

4 COMMISSIONER: The fee will vary
5 depending on the type of inspection. The basic
6 fee that has been in use since 1988 for fire
7 prevention is \$210 per hour for an inspection. So
8 depending on the type of inspection that's going
9 on in your premise, and you may have more than one
10 account that needs to be inspected, the fee will
11 vary. But the basic unit that has been
12 established many, many years is \$210 an hour.

13 COUNCIL MEMBER IGNIZIO: Is there
14 an average of what it is for a midsize nonprofit
15 or a large nonprofit or a small nonprofit? Just
16 so I have and understanding of what bill some
17 might get.

18 COMMISSIONER: For example, if you
19 just had a fuel burner account on your premises
20 that would be \$105. If you had a fuel burner and
21 an air conditioning system now you're talking
22 probably close to \$400. So I mean it's going to
23 vary account by account.

24 COUNCIL MEMBER IGNIZIO: I
25 understand. I'm just trying to get a feel.

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2 COMMISSIONER: We estimated it
3 would be in the range of 300 plus dollars per
4 account. We're working with a legacy system for
5 our billing and tying all that information in is
6 very difficult, but that was our estimate, in the
7 mid 300s.

8 COUNCIL MEMBER IGNIZIO:

9 Understood. I mean I originally opposed this
10 bill. I was one of the seven no votes on it. But
11 just in talking with my friend and colleague Jimmy
12 Oddo over here, we're fighting to keep firehouses
13 open. \$47 million I think is the number. \$37?

14 COUNCIL MEMBER: 40.

15 COUNCIL MEMBER IGNIZIO: I heard
16 three numbers just now. It's roughly \$40 million
17 to save firehouses. Now, of all times, to repeal
18 a bill that ultimately would make the number \$43
19 million from \$40 million. I believed it was a bad
20 way to go but now we're facing the real decision
21 of is it going to be an additional \$3 million from
22 the council to save firehouses or not. I'm kind
23 of thinking out loud with you more so than asking
24 a question and making a statement more than
25 anything else.

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The overall scheme I think my colleagues have to think of is in the context of budget negotiations, we barely have enough to cover saving the firehouses we have and now ultimately we're going to put ourselves \$3 million further in the hole. So that's a concern I think we should all have when speaking about this bill. I recognize we're not voting today. I need to hear more before I would take a position on the bill.

COMMISSIONER: We certainly agree with that position given the fact that we're providing a service to all of these institutions. We're coming in there and doing Fire Code mandated inspections. If you think about why fires are down and fatalities are down, a lot of credit really needs to go to the Bureau of Fire Prevention because they're the ones that are doing the inspections. Along with the Buildings Department they're helping to keep the city safe by a tough buildings code and a tough fire code.

COUNCIL MEMBER IGNIZIO: I get. I understand. I see the bill. Those are the conversations that are coming up particularly in

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2 the context of yesterday being delegations for
3 what our priorities are in the budget. Thank you
4 very much. Thank you, Mr. Chairman.

5 CHAIRPERSON RECCHIA: Thank you,
6 Vincent. We also recognize Lew Fidler from
7 Brooklyn who has joined us. Welcome, Lew. At
8 this time we recognize Councilman Cabrera.

9 COUNCIL MEMBER CABRERA: Thank you,
10 Mr. Chair. I just have one question. Can you
11 give me a quick breakdown of the \$3 million per
12 borough?

13 COMMISSIONER: I don't have that
14 with me. We'll see if we can get that for you but
15 I don't have that with us now.

16 COUNCIL MEMBER CABRERA: Okay.
17 Thank you so much.

18 CHAIRPERSON RECCHIA: Do any other
19 Council Members have any questions? We recognize
20 Leroy Comrie from Queens.

21 COUNCIL MEMBER COMRIE: I'm sorry;
22 I came late. Maybe you said this already. You
23 did mention that you're creating some leniency
24 with first inspections. You did say that?

25 COMMISSIONER: Leniency in terms of

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finest that would occur if you did not pay timely.

COUNCIL MEMBER COMRIE: Also, for those locations that just are out of compliance, like if you go in a basement and you see that they have no idea what they've done down there, are you giving them a roadmap so that they can be compliant?

COMMISSIONER: Certainly if there is a violation, we issue a violation and depending on the type of violation it may go to a summons down the road or it could turn into a notice of violation which is adjudicated by the Environmental Control Board. There can be penalties attached to that. That does give you time to comply as well to correct your conditions.

COUNCIL MEMBER COMRIE: But I mean as far as are you training people so that they can understand what compliance is so that they're not going to incorrect sources?

COMMISSIONER: We've been visiting these accounts for many, many years. So it's not that they're new accounts. They basically know the drill. But essentially now we're charging them for that service.

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COUNCIL MEMBER COMRIE: So they have been getting inspected over the years it's just now they're getting charged.

COMMISSIONER: That's correct.

COUNCIL MEMBER COMRIE: Sorry, like I said, I came late. I just wanted to double check that they're getting every opportunity they can to clean up a violation before it's being issued since it's new. But I appreciate that. I just want to compliment the Fire Department for the safety inspections. I think that they are a critical component and it's another reason why we need to keep the force intact and not lose any personnel at this time.

Because as well as fighting fires a lot of your day is taken up in doing the fire inspections and the building inspections. I think we need to make sure that we do everything we can to allow you to have even more personnel to do that and not less and to continue to have all of the houses in place that are in now because density in the buildings are changing and even the usage of buildings are changing. It's important that the inspection levels are kept up as well.

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2 Thank you. Thank you, Mr. Chair.

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CHAIRPERSON RECCHIA: Thank you, Council Member. Does any other Council Member have any questions? Certain not-for-profits feel that this law is not fair because it exempts certain not-for-profit organizations. I think I spoke in my opening statement that certain educational institutions accredited by New York State are exempt from the fees while non-accredited schools or schools accredited by other entities other than New York State are not.

According to your records, do you keep track of like different sections, different sectors of not-for-profit like schools, community centers?

COMMISSIONER: We can identify information on schools based on the name.

CHAIRPERSON RECCHIA: How about like medical institutions?

COMMISSIONER: If you're talking about like NYU Medical School or something like that, the account name basically gives us the basic information on which we make our judgments. Then we've also asked the inspection workforce when they go to these premises to actually to

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2 provide some identifying information. We don't
3 have the specifics on a lot of details like, for
4 example, an accredited school versus a non-
5 accredited school. We don't really have that kind
6 of detail.

7 CHAIRPERSON RECCHIA: I know you
8 said that you haven't been charging late fees and
9 penalties and so forth. When do you expect that
10 to change?

11 COMMISSIONER: We recently sent out
12 a notice to all of the account holders saying
13 effective June 30th the late fee exemption would
14 end. So we've given them approximately nine
15 months to come into compliance. As their accounts
16 expire, some accounts expired just recently and
17 have been renewed, but generally speaking, we
18 started this back in September.

19 CHAIRPERSON RECCHIA: Do any other
20 Council Members have any questions? With no other
21 questions, I want to thank you gentlemen. We'll
22 hear from the public now. I believe we have one
23 person to testify. If you could just leave behind
24 someone just to hear what the public has to say
25 about this bill, I would greatly appreciate it.

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All we have is one person to testify. Fred

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Hinkston [phonetic]. All right, Fred, come on up.

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And there's only one person testifying?

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[Pause]

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FRED HINKSTON: Good afternoon to

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everyone here.

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CHAIRPERSON RECCHIA: Just state

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your name for the record.

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FRED HINKSTON: My name is Fred

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Hinkston. I'm an associate of Lyndon Larouche

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[phonetic]. I'm here today to urge the council to

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support a push for a return to the 1933 Glass-

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Steagall law that was pushed by President Franklin

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Delano Roosevelt. Real quick, in 1933 the Glass-

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Steagall was signed into law by President Franklin

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Delano Roosevelt.

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CHAIRPERSON RECCHIA: Excuse me?

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FRED HINKSTON: Yes.

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CHAIRPERSON RECCHIA: This hearing

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is about Intro 172, fire inspections.

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FRED HINKSTON: Okay.

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CHAIRPERSON RECCHIA: Are you here

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to talk about this bill and whether you support it

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or don't support it?

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FRED HINKSTON: No. I was told
that I could speak on this today, that's why.

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CHAIRPERSON RECCHIA: No, this
hearing is just about Intro 172.

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FRED HINKSTON: Okay.

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CHAIRPERSON RECCHIA: It's about
changing the inspections.

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FRED HINKSTON: Okay, I apologize.

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CHAIRPERSON RECCHIA: That's all
right. But if you want, we will talk to you after
this, if you had an issue that you'd like to talk
to us about.

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FRED HINKSTON: Yes.

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CHAIRPERSON RECCHIA: We'll talk to
you right after this hearing.

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FRED HINKSTON: Thank you very
much.

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CHAIRPERSON RECCHIA: So you didn't
waste your time coming down here today.

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FRED HINKSTON: I understand.
Thank you.

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CHAIRPERSON RECCHIA: We'll talk to
you. Yes?

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MALE VOICE: [off mic]

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2 CHAIRPERSON RECCHIA: You can sign
3 up with the sergeant-at-arms. Anyone wishing to
4 speak, sign up with the sergeant-at-arms right now
5 and we'll give you an opportunity to say a few
6 words. All questions have to deal with Intro 172.
7 That's what this hearing is about.

8 SERGEANT-AT-ARMS: He has the same
9 topic.

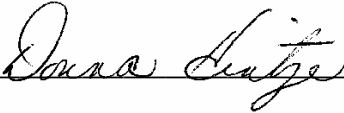
10 CHAIRPERSON RECCHIA: No. Do you
11 want to testify on Intro 172?

12 MALE VOICE: No, I don't.

13 CHAIRPERSON RECCHIA: Does anyone
14 from the public wish to testify on Intro 172?
15 Without hearing anybody, this hearing is closed.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature 

Date July 7, 2010