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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING AND PUBLIC MEETING
BEFORE THE COMMITTEE OF THE WHOLE

- - -
Room 400, City Hall
Philadelphia, Pennsylvania
Tues., 6/8/99, 10:27 a.m.
- - -

BILL 990221 - Amending Title 17 of Philadelphia
Code entitled "Contracts and Procurement" by
amending Section 17-107 entitled "Contractors,
Labor Management Relationships". . .
BILL 990288 - Amending Title 22 of Philadelphia
Code on "Public Employees Retirement Code". . .
RES. 990391, 392, 393, 394, 395 - Appointing
Lynn Martin-Haskin, Kenneth Kaiserman,
Josh Grimes, Arthur Holst, and Curtis Silva,
respectively, to the Board of Directors of the Old
City Special Services District.

(Full text of all bills and resolutions contained
herein.)

- PRESENT: COUNCIL PRESIDENT ANNA C. VERNA, Chair
COUNCILMAN DARRYL CLARKE
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN DAVID COHEN
COUNCILWOMAN JOAN L. KRAJEWSKI
COUNCILMAN JAMES F. KENNEY
COUNCILMAN MICHAEL A. NUTTER
COUNCILWOMAN MARIAN B. TASCO
COUNCILMAN ANGEL L. ORTIZ
COUNCILMAN FRANK DICICCO
COUNCILMAN BRIAN J. O'NEILL
COUNCILMAN RICHARD T. MARIANO
COUNCILMAN FRANK RIZZO

CHARLES MCPHERSON, Chief Financial
Officer

- - -
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2 P R O C E E D I N G S

3 COUNCIL PRESIDENT VERNA: Good morning,
4 good morning. This is the public hearing of the
5 Committee of the Whole. I would ask Mr. McPherson
6 to please read Resolutions 990391, 990392, 990393,
7 990394, and 990395.

8 MR. MCPHERSON: Resolution No. 990391,
9 a resolution appointing Lynn Martin-Haskin to the
10 Board of Directors of the Old City Special
11 Services District of Philadelphia.

12 Resolution No. 990392, a resolution
13 appointing Kenneth Kaiserman to the Board of
14 Directors of the Old City Special Services
15 District of Philadelphia.

16 Resolution No. 990393, a resolution
17 appointing Josh Grimes to the Board of Directors
18 of the Old City Special Services District of
19 Philadelphia.

20 Resolution No. 990394, a resolution
21 appointing Arthur Holst to the Board of Directors
22 of the Old City Special Services District of
23 Philadelphia.

24 Resolution No. 990395, a resolution
25 appointing Curtis Silva to the Board of Directors

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2 of the Old City Special Services District of
3 Philadelphia.

4 COUNCIL PRESIDENT VERNA: Good
5 morning. Please identify yourselves for the
6 record please.

7 MS. FILO: Good morning, Madam
8 President. My name is Cynthia Filo (ph.), and I
9 am the Executive Director of the Old City Special
10 Services District.

11 MR. TAXIN: Good morning. John Taxin,
12 President, Old Original Bookbinders Restaurant and
13 Chairman of the Old City Special Services
14 District.

15 COUNCIL PRESIDENT VERNA: Good morning.

16 MR. GRIMES: Good morning, Madam
17 Chairwoman. My name is Joshua Grimes. I am a
18 Board Member of the Old City Special Services
19 District and a nominee for reappointment.

20 COUNCIL PRESIDENT VERNA: Fine. And
21 the other candidates are not present?

22 MS. FILO: Yes. The candidates of
23 Arthur Holst, Dr. Lynn Martin-Haskin, Curtis
24 Silva, Kenneth Kaiserman were unable to attend
25 today as they are out of town on business. They

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2 are the only candidates that are here today, that
3 we are going to be discussing.

4 COUNCIL PRESIDENT VERNA: Thank you.
5 If you have a statement to make, I would
6 appreciate your proceeding.

7 MS. FILO: Thank you.

8 Just briefly, I'm very excited about
9 being here today to place before the committee the
10 following names for the Board of Directors for the
11 Old City Special Services District. Each of these
12 individuals have a diverse background that will
13 serve to enhance the District in its mission to
14 keep Old City, Philadelphia, clean, safe, and a
15 wonderful place to do business, eat, shop, and
16 visit.

17 In July of '98, in response to the Old
18 City business community, the Old City Special
19 Services District began fulfilling its mission to
20 make Old City clean and safe. Sidewalk cleaning
21 and maintenance, along with graffiti removal from
22 sidewalks, furniture, lighting fixtures, building
23 facades occur seven days a week. And I'm pleased
24 to announce today that we've just started
25 high-pressure power-washing of all the sidewalks

1 6/8/99 WHOLE COM. - Res. 990391, 2, 3, 4, 5
2 within the District. That's going to be going
3 through November.

4 Each of the nominees today for the
5 Board have special backgrounds that will serve to
6 enhance our Board of Directors. Arthur Holst is
7 the Government Affairs Manager for the
8 Philadelphia Water Department and has been
9 involved in various activities, community and
10 business relations. He has a bachelor's degree in
11 business administration, a master's degree in
12 public administration, and a Ph.D. In political
13 science, all from Temple University.

14 Curt Silva has been involved with the
15 real-estate business for the past eight years.
16 Presently, he serves as the vice president of
17 Lincoln Property Company, which is located in the
18 Penn Mutual Building at Fifth and Walnut. His
19 prior involvement placed him in Washington, D.C.
20 as a financial analyst, and he also was involved
21 with the Georgetown Business Improvement
22 District. So he has direct background.

23 Kenneth Kaiserman is the President of
24 Kaiserman Company Incorporated, a real-estate
25 development firm. He has been involved in many

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2 civic and cultural organizations, ranging from the
3 Friends of Rittenhouse Square to Pennsylvanians
4 Against Handgun Violence. He was an original
5 member of the Board of Directors and he is being
6 reappointed today. His prior service has been
7 valuable to the start-up of the District.

8 Lynn Martin-Haskin most recently was
9 the Associate Director of Greater Philadelphia
10 First. Just last week, she left that position to
11 begin a position with Development Counselors
12 International, an economic-development company
13 located in New York City. However, she will be
14 heading up the Philadelphia office right in the
15 Old City District, so we're excited to have her on
16 the Board. She has been involved in Old City as
17 the Chairman of the Historic East Market Street,
18 which is HEMS, which is a historic development and
19 a historic preservation organization. She's also
20 been involved with the Old City Civic Association.
21 Her work with HEMS was instrumental in creating
22 the Old City Special Services District.

23 And lastly, we have Joshua Grimes,
24 Esquire, who is here today. He too was an
25 original member of the Board of Directors and is

1 6/8/99 WHOLE COM. - Res. 990391, 2, 3, 4, 5
2 here for reappointment. He also served as the
3 co-interim Executive Director of the District.
4 He's an attorney in private practice here in
5 Philadelphia, Incorporated and the Lights of
6 Liberty, Incorporated, two hospitality
7 organizations which are very active in Old City.
8 Mr. Grimes is also the trustee of the American
9 Flag House and the Betsy Ross Memorial. He is
10 also a lawyer for several real-estate developers
11 with holdings in Old City.

12 I wanted to thank Councilman DiCicco
13 for his continued leadership in making the Old
14 City District a reality. I also wanted to thank
15 the other members of Council for their support of
16 the ordinance bringing the Old City District to
17 light. Each of you should be proud of your work,
18 and when you come to the streets of Old City, you
19 will see what a wonderful place it is to do
20 business, eat and shop.

21 Madam President, I would ask for the
22 suspension of the rules in this matter, and my
23 colleagues and I are pleased to answer any
24 questions you may have.

25 COUNCIL PRESIDENT VERNA: Thank you.

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2 Are there any questions from members of
3 the committee?

4 (No questions.)

5 COUNCIL PRESIDENT VERNA: Thank you all
6 very much.

7 MS. FILO: Thank you.

8 MR. GRIMES: Thank you.

9 MR. TAXIN: Thank you.

10 COUNCIL PRESIDENT VERNA: Thank you.

11 I would like Mr. McPherson to please
12 read the title of Bill No. 990288.

13 MR. MCPHERSON: Bill No. 990288, an
14 ordinance amending Title 22 of The Philadelphia
15 Code entitled "Public Employees Retirement Code"
16 by amending certain provisions, including Section
17 22-310, entitled "Deferred Retirement Option Plan
18 (DROP)," to provide for at least test DROP
19 Program, under certain terms and conditions.

20 COUNCIL PRESIDENT VERNA: Thank you.
21 Good morning.

22 MR. HAYLLAR: Good morning.

23 COUNCIL PRESIDENT VERNA: Please
24 identify yourself for the record and proceed with
25 your testimony.

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2 MR. HAYLLAR: I'm Ben Hayllar, Director
3 of Finance. I serve as Chairman of the Pension
4 Board. With me is Joseph Herkness, the Executive
5 Director of the Board of Pensions and Retirement.
6 Also with us are the elected employee members of
7 the Pension Board: Carol Stukes, John Reilly,
8 Sarina Tenant, and Charles Johnson. I'm also
9 pleased to report that also with us in support of
10 this bill is Les Yost, the President of the
11 Firefighters.

12 We are here at a testify in favor of
13 Bill 990288. This bill would create a new option
14 for our employees contemplating retirement.
15 Essentially, a DROP Program means a "Deferred
16 Retirement Option Plan" that allows an employee
17 the option of accumulating a lump-sum pension
18 payment that is awarded to them at the time they
19 take their retirement or take their pension.

20 An employee who chooses to enter the
21 DROP Program would declare that he or she would
22 retire on a specific date three years in the
23 future. At the time of the declaration, the
24 employee's pension credit is frozen, even though
25 they work an additional three years and even

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2 though they would receive any salary increases,
3 longevity, pay, and other benefits that may come
4 their way. For pension purposes, at the time of
5 retirement, the pension is calculated on the years
6 of service and salary level they had at the time
7 of declaration.

8 During the three years between time of
9 declaration and the time they retire, the Pension
10 Fund pays their monthly pension amount into an
11 escrow account. During this time, the City ceases
12 to make payments to the pension on their behalf,
13 and the employee ceases to make contributions to
14 the Pension.

15 Three years after declaration, when the
16 employee retires, they receive their monthly
17 pension in addition to the accumulated amount of
18 three years of pension payments, plus interest
19 that is in their escrow account.

20 There are certain disadvantages to this
21 plan that we recognize. One, once an employee has
22 declared, they must retire after the period.
23 Secondly, the lump-sum payment is taxable unless
24 rolled over into an IRA.

25 This plan has been carefully designed

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2 so that it will not incur any additional cost to
3 the fund. However, because DROP plans are
4 somewhat new in the pension business. As a
5 precaution, we have set up this program as a
6 three-year test period. If after three years, the
7 Pension Board and its actuary find that the DROP
8 pilot program has in fact cost the pension a
9 substantial amount of money, it will retire the
10 plan, leaving those who are still in the plan to
11 complete the program but not allowing new
12 employees to enter. If it is determined that the
13 plan has not cost the pension plan money, it would
14 simply continue accepting new applicants.

15 An employee must be of normal
16 retirement age and must have ten years of credited
17 pension service to be eligible for participation
18 in the DROP.

19 In the event that an employee sustains
20 a disability that is service-connected, the
21 employee will receive a service-connected
22 disability benefit plus the accumulated benefit in
23 the DROP Program. If an employee becomes disabled
24 for non-service-related disability, the employee
25 at separation will receive the DROP benefit at the

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2 start of their normal monthly benefit.

3 If an employee dies while in the DROP
4 Program, the employee's designated beneficiary
5 will receive the death benefit as provided by law,
6 plus the accumulated funds in the DROP account.

7 Although service credit for pension
8 purposes is no longer earned and the employee's
9 pension earnings are already established, the
10 employee is still considered a regular employee
11 for all other purposes. They will continue to
12 accrue sick leave, vacation time, and any pay
13 increases taking place during three-year period.

14 While the accumulated balance of the
15 DROP Program is taxable, the employee may elect to
16 roll the balance into an IRA. If the employee
17 elects to receive the balance directly, 20 percent
18 will be withheld for federal taxes. If the
19 employee rolls it into an IRA, no federal tax will
20 be withheld.

21 The Pension Board will set the rate of
22 interest earned on the escrow account while the
23 participant is in the DROP Program. At this time,
24 the rate is set at 4.5 percent but shall be
25 reviewed annually by the Board at the beginning of

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2 the plan year.

3 During discussions with Councilmembers
4 earlier, we determined that a technical amendment
5 will be made that would allow the Board to
6 prospectively and retrospectively adjust the
7 interest rates, depending on how the pension had
8 performed. At any rate, the Board would adjust
9 the interest rate following the review at any
10 level between 3.5 percent to 9 percent.

11 Mr. Herkness and I would be happy to
12 answer any questions.

13 COUNCIL PRESIDENT VERNA: Thank you.

14 Mr. Hayllar, how many employees are
15 eligible for the DROP Program?

16 MR. HAYLLAR: This is why Mr. Herkness
17 comes to these meetings.

18 COUNCIL PRESIDENT VERNA: Wonderful
19 Mr. Herkness.

20 MR. HERKNESS: Joe Herkness, Executive
21 Director of the Board of Pensions and Retirement.

22 There is approximately 5600 employees
23 who are eligible by being normal retirement age or
24 older across the entire City employment.

25 COUNCIL PRESIDENT VERNA: Mr. Hayllar,

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2 on Page 2 of your testimony, you indicate that the
3 lump-sum payment that the employee receives after
4 retirement is taxable. Does the employee have an
5 option to roll over his or her payment into a
6 retirement account so as to avoid the tax hit?

7 MR. HAYLLAR: Absolutely.
8 Historically, in other cities where these people
9 enter DROP programs, they're looking for the
10 benefit so they can buy something that would be of
11 benefit to them during retirement. That's why
12 they're often called "Winnebago" or "Boat Plans."
13 But if the employee did not want to do that but
14 just simply wanted to increase their estate or
15 have money for later years of retirement, they can
16 put it into an IRA and avoid federal taxes.

17 COUNCIL PRESIDENT VERNA: Mr. Hayllar,
18 you also state that the plan has been carefully
19 designed so that it will not incur any additional
20 cost to the fund. Will you identify what are the
21 potential cost components of the DROP plan.

22 MR. HAYLLAR: The biggest problem is
23 that the existence of the DROP Program changed the
24 average age of retirement of our employees. Right
25 now on average, our employees retire at age 61.

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2 If that age is substantially reduced, the Pension
3 Fund will be making additional years' payments,
4 therefore costing it money.

5 We believe that in the end with the
6 DROP Program, that basically, the 61-year average
7 retirement age will be withheld, but that's our
8 fundamental concern. It could alter the
9 retirement pattern. We don't think so but we want
10 to be cautious about this.

11 COUNCIL PRESIDENT VERNA: What is the
12 difference in cost to the Pension Fund if a person
13 elects to retire at age 55 versus entering the
14 DROP plan?

15 MR. HERKNESS: The difference in cost
16 to the fund if the person enters the DROP plan
17 versus staying as a regular employee, is that what
18 the --

19 COUNCIL PRESIDENT VERNA: If a person
20 elects to retire at the age of 55 versus entering
21 the DROP plan. They don't enter into the DROP
22 plan.

23 MR. HERKNESS: I'm not sure if there
24 would be a cost to the fund. The benefit payment
25 would have to be paid. And if the person went out

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2 at 55, there would be -- as that individual, there
3 would be an actuarial loss in the experience since
4 the estimate is that they would go out at 61 on
5 average.

6 The issue is the history of the fund is
7 that non-uniform are retiring at 61. If the next
8 time we do an experience study and that average
9 changes to 60, 59, or 58, then that creates an
10 experience loss to the fund, to the city's General
11 Fund. So that that experience loss is then
12 amortized over 15 years and paid into the fund.

13 So if everyone who is eligible to
14 retire at 55 retired and went out, there would be
15 an increased cost to the City's General Fund
16 because the average age of retirement would begin
17 to drop, and then there would be a loss. And then
18 they amortize that loss over a 15-year period.

19 So it's kind of a long-winded -- there
20 would be a loss for that individual, but if it
21 didn't affect the average, then there would be no
22 change in the City's contribution to the fund.

23 COUNCIL PRESIDENT VERNA: Can you tell
24 us what the Pension Fund's assumed rate of return
25 is.

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2 MR. HAYLLAR: It's 9 percent.

3 COUNCIL PRESIDENT VERNA: If the fund
4 is expected to earn 9 percent, why is fund only
5 paying 4.5 percent on the funds in the DROP
6 Program?

7 MR. HAYLLAR: Well, 4.5 was a happy
8 medium between the ranges that we set. There is
9 an administrative cost that the rate of interest
10 does help offset, and this is something that the
11 Board -- the Board's interest would clearly be to
12 keep the interest rate as high as possible. But
13 because we are simply starting off on a very
14 cautious foot, we thought 4.5 was a cautious and
15 prudent step.

16 If after a year we discovered that
17 4.5 percent was way low, with an amendment that I
18 discussed a minute ago, we can retrospectively as
19 well as prospectively increase the rate on the
20 escrow accounts.

21 MR. HERKNESS: Right.

22 COUNCIL PRESIDENT VERNA: Can you tell
23 us why the length of time a person could
24 participate in the DROP plan is limited to three
25 years. Why not five or seven? How did you select

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2 three years?

3 MR. HAYLLAR: There is no real empiric
4 answer. It was felt that three years was an
5 appropriate period for people to make a decision
6 as whether they're going to retire. It's somewhat
7 unfair to ask somebody to commit, Well, I will
8 retire in five years. Three years seemed a little
9 bit more human, that the person may decide I'm
10 going to retire, and then if they declared for
11 five years, they may be working years they don't
12 want to work at that age.

13 It's a personal decision. We felt that
14 three years was a little bit easier for a person
15 to project when they actually wanted to go out.
16 It's not an empiric answer. It was just our sense
17 of --

18 COUNCIL PRESIDENT VERNA: Well, if an
19 employee decides to enter into three-year DROP
20 plan and then maybe in the second year decides, "I
21 have had it, I'm going to resign or retire," what
22 happens in a case like that?

23 MR. HERKNESS: They can separate
24 retirement -- you don't have to stay to three
25 years. You can stay any time between zero and

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2 three years. The 36 months is the maximum amount
3 of time. That's what's irrevocable. You can't
4 return to employment. You could leave after 2
5 years or 1 year, any time between 0 and 36 months.

6 COUNCIL PRESIDENT VERNA: If an
7 employee enters into the DROP Program and then
8 retires, may such an employee later re-enter City
9 service and resume making contributions and
10 acquire additional service credits?

11 MR. HERKNESS: Returning to employment
12 is covered in the ordinance -- in the red
13 ordinance. This is pre-DROP. There is a specific
14 ordinance section that deals with return from
15 retirement.

16 In the particular case in the existence
17 of a DROP plan, at this time and under the present
18 language of the ordinance, there would be no
19 prohibition to entering a DROP upon return from
20 retirement. There is no language in the bill that
21 prevents this. We've been kicking this around in
22 the last month on a what-if basis, what happens if
23 somebody is rehired after being retired. I don't
24 mean retired after being in the DROP. If you're
25 in the DROP, you can't get back in and get in in a

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2 second DROP, we're not talking about that.

3 COUNCIL PRESIDENT VERNA: Right.

4 MR. HERKNESS: We're talking about
5 somebody who's maybe retired now and then becomes
6 next year, reemployed by the City. Under the
7 present situation, their pension is suspended and
8 then they work with the City and then return to
9 retirement at some other time.

10 If someone returned to employment and
11 made application for the DROP, under the present
12 language of the bill, there's no bar to that at
13 this point. So once again, it's kind of
14 long-winded yes, they can get into the DROP.

15 COUNCIL PRESIDENT VERNA: Thank you.

16 Mr. Hayllar, you indicated that once a
17 person enters the DROP Program, his or her pension
18 is frozen at that point. Does entering the DROP
19 Program impact the employee's health and welfare
20 benefits or lump-sum payments at his or her point
21 of separation from City service?

22 MR. HAYLLAR: Thank you for asking that
23 question. The answer is no. And our Law
24 Department and Labor Relations have so stated in
25 writing.

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2 COUNCIL PRESIDENT VERNA: We want to
3 make sure that we want to have it on the record.

4 MR. HAYLLAR: The clock does not start.

5 COUNCIL PRESIDENT VERNA: Thank you.

6 At this time, the Chair recognizes
7 Councilman Nutter.

8 COUNCILMAN NUTTER: Thank you, Madam
9 Chair. Good morning.

10 MR. HAYLLAR: Good morning.

11 COUNCILMAN NUTTER: On Page 5, No. 5,
12 this is in Section 22-310, small letter a., it
13 reads: "Except as otherwise provided by this
14 section, an election to participate in a DROP is
15 irrevocable."

16 Can you tell me what other section of
17 the bill makes any reference to the irrevocability
18 or the revocability of DROP participation?

19 MR. HERKNESS: Councilman, on Page 4 of
20 the -- actually of the pink cover, Section 310 --
21 I need a vision plan here. Section 310-2 entitled
22 "Basic Concept of a DROP," it says, "Eligible
23 employees who elect to participate in the DROP
24 make an irrevocable commitment to separate from
25 City service. . ."

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2 COUNCILMAN NUTTER: I understand that,
3 I saw that. The question is, the sentence reads,
4 "Except as otherwise provided by this section."
5 And what I'm asking is, is there some other
6 provision in another section that makes reference
7 to the ability to revoke DROP participation?

8 MR. HERKNESS: I'm not an attorney. I
9 don't know why that says "except as otherwise
10 provided." They would have to --

11 COUNCILMAN NUTTER: Well, it may have
12 been written with the anticipation that in future,
13 if there are amendments, it would allow for it.

14 MR. HERKNESS: Right.

15 COUNCILMAN NUTTER: What I'm asking is,
16 right now, is there any provision in this
17 particular bill that allows for revocability in
18 the context of that particular sentence?

19 MR. HERKNESS: No, sir.

20 COUNCILMAN NUTTER: Okay. That having
21 been said, is there no opportunity if a person
22 goes, I guess, over to the Board of Pensions and
23 Retirement, you know, I've been thinking about
24 this and I think I'd like to enter the DROP
25 Program. And by the end of the week after various

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2 conversations at home, the person decides on
3 Friday, you know, I think I really want to
4 reevaluate that decision I made on Monday.

5 Is there any period of time in which
6 there is actual revocability?

7 MR. HERKNESS: The irrevocability would
8 take place when the individual employee signs what
9 will probably be a series of forms and
10 declarations to make sure that they clearly
11 understand what they're doing.

12 COUNCILMAN NUTTER: Right.

13 MR. HERKNESS: The reality is, if we
14 have, you know, several hundred people who are
15 interested in this, they will sign a paper just
16 basically saying "I'm interested." That would be
17 their ticket, so to speak.

18 COUNCILMAN NUTTER: Right.

19 MR. HERKNESS: We will then interview
20 them 'cause it's going to take a retirement type
21 interview.

22 COUNCILMAN NUTTER: Right.

23 MR. HERKNESS: We would then interview
24 them, and by that time, that could take several,
25 several weeks, maybe a few months if there's a

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2 thousand people who are interested. We will get
3 to them, it's not a problem, 'cause we can go
4 back. And when they do join, we can set the
5 interest rate, and the payment per month is
6 permanent, and we can return their contribution.
7 So administratively, that's not a particular
8 problem.

9 If they're interested, they will have
10 plenty of time to go over what the ramifications
11 are of that decision, and we can certainly help on
12 the numbers because the benefit will be
13 calculated, it will frozen. They could do some
14 estimates on what they think they might earn in
15 raises over the period of the DROP, and they'd
16 have an idea.

17 COUNCILMAN NUTTER: I understand that.

18 MR. HERKNESS: But once they sign that
19 paper --

20 COUNCILMAN NUTTER: So they sign the
21 paper, and then subsequent to that, based on how
22 many people are participating in the program, at
23 some subsequent point in time, they would have an
24 interview and go over all of the materials.

25 MR. HERKNESS: That's right. Just like

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2 when --

3 COUNCILMAN NUTTER: But you're saying
4 the day they first sign, prior to interview and
5 discussion about the future, they are --

6 MR. HERKNESS: Yeah, that just says
7 "I'm interested." You know, and take a ticket.
8 You know, here's a line.

9 COUNCILMAN NUTTER: Okay.

10 MR. HERKNESS: It's going to take us at
11 least -- let's say for the sake of argument that a
12 thousand people signed the form and said, "I'm
13 interested in the DROP Plan and put me in for the
14 interview."

15 COUNCILMAN NUTTER: I understand that.

16 MR. HERKNESS: That would take us
17 several months to catch up with a thousand.

18 COUNCILMAN NUTTER: The day you sign
19 the interest form is not the day that you are
20 technically signed up for the DROP, is it?

21 MR. HERKNESS: Absolutely correct.

22 COUNCILMAN NUTTER: That just gets you
23 to the point of being able to schedule an
24 interview.

25 MR. HERKNESS: That's correct.

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2 COUNCILMAN NUTTER: Your interview
3 might be a month from now.

4 MR. HERKNESS: That's correct.

5 COUNCILMAN NUTTER: And the day you
6 sign those forms, the more serious forms, then you
7 are signed and you are locked in. Is that --

8 MR. HERKNESS: That is correct.

9 COUNCILMAN NUTTER: Okay. From reading
10 the bill, it indicates that the employees --
11 you're going to hold their sum funds between the
12 time they sign up and up to three years that they
13 are then supposed to retire. Is that correct?

14 MR. HAYLLAR: If I understand the
15 question, the concept is that while they are
16 working for the City and enjoying any pay raises,
17 longevity raises, the Pension Fund is
18 simultaneously paying their pension -- not to them
19 but to an escrow account that waits for them on
20 the time of separation.

21 COUNCILMAN NUTTER: Right, right. So
22 it's almost as if they had retired, but there are
23 no payouts to them. The dollars are going to this
24 escrow account.

25 MR. HAYLLAR: That is correct.

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2 COUNCILMAN NUTTER: And according to
3 Section d. on Page 6, those funds, though, are not
4 going to be segregated from the other assets of
5 the retirement system.

6 MR. HAYLLAR: That's correct.

7 COUNCILMAN NUTTER: Now our actuarial
8 assumption continues to be a 9 percent return.

9 MR. HAYLLAR: That's correct.

10 COUNCILMAN NUTTER: And I think the
11 Chair touched on this issue earlier, but I'd like
12 to go back to it.

13 Let's say that the Pension Fund made a
14 9 percent return next year and someone signed up
15 for this particular program -- I'm sorry, signed
16 up for this particular option. The payout is
17 4.5 percent, funds have not been segregated from
18 the pension system, so the pension system earned
19 9 percent.

20 MR. HAYLLAR: Mm-hmm.

21 COUNCILMAN NUTTER: The person is
22 earning 4.5 percent. What happens to the other
23 4.5 percent?

24 MR. HAYLLAR: It remains with the
25 fund. But if you have that big a spread, the

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2 Board would move the interest rate up to try to
3 reduce the difference between what the fund
4 actually earned and what the escrow account
5 earned.

6 COUNCILMAN NUTTER: But I assume the
7 move on the interest rate is prospective, not
8 retroactive, isn't it?

9 MR. HAYLLAR: In the bill, it is
10 prospective. In our conversations with Council
11 some weeks ago, this issue was raised, and we have
12 a technical amendment that --

13 COUNCILMAN NUTTER: Council as in "this
14 Council" or counsel as in "your counsel"?

15 MR. HAYLLAR: City Council.

16 COUNCILMAN NUTTER: All right. I'm
17 sorry. I must have missed that meeting.

18 MR. HAYLLAR: That was raised, and so
19 we will have it prospectively and retrospectively.

20 COUNCILMAN NUTTER: That's on an annual
21 basis, though, right?

22 MR. HAYLLAR: Right.

23 COUNCILMAN NUTTER: So let's say the
24 person does 3 years, the Pension Fund earns
25 9 percent those 3 years, they get their 4.5

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2 percent each year they retire. Are you saying
3 that -- and then the Board then subsequently
4 decides to move the 4.5 rate to 7.

5 Are you saying that you're going to go
6 back and make them whole for 2.5 percent for each
7 of the three years? Is that what you're saying?

8 MR. HAYLLAR: On an annual basis, if
9 the Pension Board misses the mark on what they
10 projected the earnings would be, the funding --

11 COUNCILMAN NUTTER: I didn't say they
12 missed the mark. My example was they got 9 every
13 year.

14 MR. HERKNESS: If they wanted to, yeah.

15 MR. HAYLLAR: I think the answer is
16 yes, but I'm having a little trouble understanding
17 your question, which is my fault.

18 COUNCILMAN NUTTER: Okay, I'll go back.
19 Pension Fund makes its 9 percent return every year
20 for 3 years in a row.

21 MR. HAYLLAR: Mm-hmm.

22 COUNCILMAN NUTTER: The employee has
23 signed up 3 years ago and they earned 4.5 percent
24 every year for those 3 years. They then retire.
25 The Pension Board makes a decision at a later

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2 point in time to raise the 4.5 rate to 7 percent.
3 That employee -- if you're saying that you're
4 going to go back and retroactively make them
5 whole, that person is 2.5 percent short a year for
6 3 years.

7 Are you saying that you're going to go
8 back and give them 2.5 percent for those three
9 years when the rate was at 4.5 percent, although
10 you have now subsequently raised it to
11 7 percent?

12 MR. HAYLLAR: Yes, but that's done on
13 an annual basis. You don't wait for the three
14 years to pass.

15 COUNCILMAN NUTTER: All right, so
16 you're going to go back in the first year after
17 you're going to give 'em 2.5 percent.

18 MR. HAYLLAR: Yes.

19 COUNCILMAN NUTTER: And the next year
20 after, you're going to give them another -- well,
21 maybe you're at that 7.

22 MR. HAYLLAR: Okay. The Board would
23 try to retroactively correct any reduced interest
24 that may have occurred because they initially set
25 the escrow account interest rate too low.

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2 COUNCILMAN NUTTER: Why didn't you do
3 the escrow rate at 9?

4 MR. HAYLLAR: I'm sorry?

5 COUNCILMAN NUTTER: Why didn't you do
6 the escrow rate at the same rate of return that we
7 anticipate for the Pension Fund if all the dollars
8 are still in the pension system and not being
9 segregated?

10 MR. HAYLLAR: I think Joe may have a
11 more specific answer, but it is the way of
12 negotiating with the employee members, the Board,
13 and our thinking through the system that you
14 wanted to have some control over what those
15 accounts earned. And because there is an
16 administrative cost to it, it didn't necessarily
17 want to have the earnings be the same.

18 COUNCILMAN NUTTER: What's the
19 advantage to -- I mean, what possible kind of
20 additional administrative costs would we be
21 talking about?

22 MR. HAYLLAR: We have to set up escrow
23 accounts for each participant. The Pension
24 Board's staff has to monitor that, they have to
25 counsel these people in detail when they sign up

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2 for the escrow account. So there is additional
3 work to be done.

4 MR. HERKNESS: Councilman, in addition
5 to that, when we requested from our actuary a plan
6 that would be, quote -- although I don't really
7 like the term -- "revenue-neutral," but it would
8 be a plan that would not change the projected
9 costs, the projected contribution of the City's
10 General Fund and put a frame of the plan for
11 Council, which had to be delivered to Council.

12 Council could amend that plan at
13 hearings such as this, but we were charged with
14 sending a plan over that was basically
15 revenue-neutral. The actuary's position was that
16 this would be one way of handling it. The other
17 recommendation was that the employee
18 contributions, if they continued to be taken out,
19 then that would clearly offset any potential
20 actuarial loss, but we rejected it, the Board
21 rejected that.

22 MR. HAYLLAR: Let me try it another
23 way.

24 COUNCILMAN NUTTER: Let me finish with
25 this.

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2 Your potential additional costs, I
3 guess, based on what you're saying, Joe, is that
4 the pension system is paying out dollars
5 essentially three years early to an escrow account
6 because a person is really, for your internal
7 purposes, technically, untechnically, is
8 considered retired as it relates to the fund.
9 They are not paying in any additional money.

10 MR. HERKNESS: Right.

11 COUNCILMAN NUTTER: The difference
12 between your having to pay out and their not
13 paying in any money is what you're looking at as a
14 potential cost to the fund because there are no
15 dollars coming in from the public employee,
16 right?

17 MR. HERKNESS: That's one component of
18 it. It's a potential change in the City's
19 contribution based on the potential experience
20 loss. Now, experience losses are absorbed, normal
21 experience losses, on an ongoing basis, are
22 absorbed by the City's General Fund. For
23 instance, if people continue to live longer, that
24 costs the Pension Fund -- the cost to the Pension
25 Fund goes up. That's an actuarial loss. The City

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2 is on the hook for that.

3 In this case, we're putting in a new
4 option. So the charge to the actuary was, give us
5 an option that today will not guarantee an
6 increase in the City's expected contribution three
7 or four years down the road. He used the
8 components of what generates the actuarial loss or
9 gain, and this is where we ended up with the 4.5.
10 And if that shows that there is not a loss, then
11 that 4.5 percent can be increased, and it can be
12 increased retrospectively to the employees who
13 entered the plan from day one. That's the
14 technical amendment that the Finance Director was
15 alluding to.

16 MR. HAYLLAR: Can I try it another way?
17 'Cause I think I finally understand your
18 question, and it's the correct one, and my answers
19 weren't on point.

20 If you recall, the one thing that we're
21 most concerned about is dropping the average age
22 of retirement 'cause that will cost the fund the
23 most amount of money. This setting of the
24 interest rate of the escrow account is the only
25 control we have to offset that if we're watching

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2 that rate go down.

3 The only other mechanism we have to
4 control that cost from keeping the fund from being
5 drained is to terminate the plan. That's the
6 thing we don't want to do. So this gives us some
7 control over costs.

8 If we're seeing the retirement age come
9 down, and if the rate on the escrow account is low
10 to offset that, the individual will get it back by
11 the increased pensions they get by the additional
12 years of retirement that they have.

13 COUNCILMAN NUTTER: All right. Lastly,
14 what's the impact of the five-year smoothing
15 method that we used with regard to the pension
16 system on the DROP?

17 MR. HERKNESS: The impact on the DROP
18 plan would be an experience loss. If there was an
19 experience loss --

20 COUNCILMAN NUTTER: What does that
21 mean?

22 MR. HERKNESS: If the experience in the
23 fund, if the average age of the non-uniform
24 employees went from 61 to 59, right?

25 COUNCILMAN NUTTER: Mm-hmm.

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2 MR. HERKNESS: That creates an
3 experience loss because people are going out
4 earlier so that the General Fund would be expected
5 to pay more. There's no question, I don't think
6 there's any argument about that, if your
7 retirement age drops, your fund contribution would
8 have to increase.

9 COUNCILMAN NUTTER: Right.

10 MR. HERKNESS: That cost is then
11 amortized over a 15-year period, very similar like
12 to a mortgage. And then there's an interest
13 assumption applied to it, and then the City's
14 General Fund is given a bill every year that says
15 this experience loss is costing you, for the sake
16 of argument, you know, \$150, and you can pay
17 X-amount a year for 15 years. That would then go
18 in when we make that calculation.

19 Smoothing is the interest assumption on
20 the investments-- that's the other side of the
21 actuarial equation when we talk about funding.
22 The investment earnings are smoothed over a
23 five-year period to avoid the large deviations of
24 the capital markets, the ups and downs. They
25 would like to have it generally rolling. And

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2 that's in place now. This would all go into one
3 pot.

4 But the DROP plan's costs would be
5 basically, does this affect the expected payout of
6 the individuals who elect to go in the DROP? And
7 that's the only place there is, and that's an
8 experience, you know, loss, which is then
9 amortized over 15 years. In the original language
10 of the DROP that -- I imagine it -- I can't speak
11 for the General Fund people, but it puts a little
12 bit of pressure, is that let's not put something
13 in that would almost guarantee a material increase
14 in the City's contribution and that someone in the
15 future could point to and say the DROP must cease.
16 You know, we wanted to avoid that, and that's what
17 the charge to the actuary was.

18 COUNCILMAN NUTTER: Okay. I'd like to
19 ask you, through the Chair, if you could get us
20 information on what you anticipate the
21 administrative costs to be to administer this
22 particular program.

23 MR. HERKNESS: We could do that, you
24 know, if there's an X-number of people we think we
25 would absolutely need on a permanent basis. We've

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2 been talking about that. It's very difficult on a
3 permanent basis. Some experience in other plans,
4 the level of participation is over 60 percent in
5 the city of Dallas, it's between 70 and 80 percent
6 of the eligibles. But these are mature DROP
7 plans, if there's such a thing. It takes a while
8 for it to -- people talk about it. Do we like it,
9 is it a good experience?

10 But we think if we can have 30 percent
11 out of the box.

12 COUNCILMAN NUTTER: What's the pool of
13 eligible people that we're talking about?

14 MR. HERKNESS: It's over 5600 that are
15 eligible based solely on their normal retirement
16 age -- that's right now. Now, this continues to
17 roll. If of it, 5600, we get 30 percent. If 30
18 percent says, "I think I'll check this out," and
19 they say, "Put me in, I'll take a ticket" well,
20 that's going to take us several months to get to
21 the interview before they make their final
22 decision.

23 It's not an administrative problem,
24 that particular issue, because we can
25 retroactively apply the interest and the monthly

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2 payments, and we can retroactively give them their
3 contributions back.

4 But after the initial rush, would we
5 need a, quote, DROP unit that would become, you
6 know, expert in the advice and be able to give
7 people information. Probably the answer to that
8 is sensibly yeah. And what would that be? You
9 know, maybe two people, two counselors, you know,
10 all the time, plus answering questions and
11 information.

12 You know, we could put some sort of an
13 estimate together. But, you know, I don't know in
14 the size of the City's contribution, which is
15 several hundred million, I don't know that it
16 would impact that contribution.

17 COUNCILMAN NUTTER: I don't think so.

18 MR. HERKNESS: Right, I doubt it.

19 COUNCILMAN NUTTER: I do have some
20 concerns that may not rise to the level of
21 reservation about the bill, but I will at least
22 express the concern about the issue that I raised
23 earlier with regard to the escrow interest rate
24 versus the Pension Fund's anticipated or
25 looked-for rate of return.

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2 And to the extent that the employees
3 can get as high an interest rate on their escrow
4 dollars as possible, short of covering, you know,
5 any extraordinary administrative costs that go
6 with this particular program, I think that if
7 they're going to enter into this, we should do our
8 best, quite honestly, not to skim off the top of
9 their money that is going to be returned to them
10 three years after they sign up for this particular
11 program.

12 MR. HAYLLAR: Understood.

13 COUNCILMAN NUTTER: Thank you.

14 Thank you, Madam Chair.

15 COUNCIL PRESIDENT VERNA: You're
16 welcome.

17 The Chair recognizes Councilwoman
18 Tasco.

19 COUNCILWOMAN TASCO: Thank you very
20 much.

21 While the employees are working for the
22 three years, they don't receive any pension
23 benefit, that money is put in the escrow account.

24 MR. HAYLLAR: That is correct.

25 COUNCILWOMAN TASCO: I guess my

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2 question is somewhat along the lines that
3 Councilman Nutter had, and he may have answered
4 it, it's a little more complicated for those of us
5 who are not investment bankers to understand.

6 MR. HAYLLAR: Well, he was getting
7 complicated answers. I think our answers were
8 getting better as he kept asking them.

9 COUNCILWOMAN TASCO: Now, if this
10 monthly pension is placed in an escrow account, it
11 is not reinvested with the other pension money?

12 MR. HAYLLAR: It stays in there. It's
13 like -- it's like a --

14 COUNCILWOMAN TASCO: It stays in there,
15 all right.

16 MR. HAYLLAR: It's like a mutual fund.

17 COUNCILWOMAN TASCO: So there is no
18 other account set up for this money; it's all a
19 part of the Pension Fund.

20 MR. HAYLLAR: It's a ledger item that
21 Marian Tasco has this account, which is running at
22 this date.

23 COUNCILWOMAN TASCO: So all of this
24 money is a lump sum, and we are investing the
25 money, and the rate of return is supposed to be

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2 9 percent. And of the greater return, you are
3 saying you will set aside 4 percent for the
4 pension money that's in there.

5 MR. HAYLLAR: It starts at 4.5. And at
6 the beginning of each plan year, the Pension Board
7 adjusts that rate of return for the escrow
8 accounts. It can be between 3.5 to 9 percent, but
9 it starts at 4.5.

10 The dynamic of the Board -- because
11 there are four employee members and the controller
12 and then four administration members -- is to
13 probably keep that number as high as possible.
14 But as I finally got around to trying to explain
15 to the Councilman, the big dynamic is the fear of
16 reducing the retirement age and causing the fund
17 to put out more money because now you have more
18 years of retirement to pay.

19 This becomes the only lever we have to
20 adjust for that. So if that seems to be
21 happening, the Board can reduce interest rate so
22 that the fund is kept whole.

23 COUNCILWOMAN TASCO: Mr. Herkness, why
24 would anyone want to participate -- I mean, what
25 is the advantage of this DROP Program to anyone?

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2 Could you explain that to me.

3 MR. HERKNESS: Why would an employee
4 what to go into the DROP as opposed to continue
5 working?

6 COUNCILWOMAN TASCO: Suppose an
7 employee -- I guess I can figure it out by myself,
8 but you have to be at least 61 to get into the
9 program.

10 MR. HERKNESS: No. Normal retirement
11 age in the old pension plan, Plan J, is 55 for
12 non-uniform employees. For the police and fire,
13 it's 45. In the new pension plan, Plan 87, it's
14 50 for police and fire, and 60 for non-uniform.
15 So there's tiers of eligibility.

16 But the 5600 people that are eligible
17 are all normal retirement age in the plan that
18 they're in. So technically, if this plan was
19 passed, the next day, there's 5600 people that
20 basically could take advantage of it if they so
21 chose.

22 COUNCILWOMAN TASCO: How many of them
23 being policemen?

24 MR. HERKNESS: How many of them will do
25 it?

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2 COUNCILWOMAN TASCO: Being policemen.

3 MR. HERKNESS: How many of 'em are
4 police?

5 COUNCILWOMAN TASCO: Mm-hmm.

6 MR. HERKNESS: There's about -- I think
7 there's 1100 firefighters, that's ball park. And
8 there's about 1700 police officers of that 5500.

9 COUNCILWOMAN TASCO: Mm-hmm, mm-hmm.
10 So my question was, why would anyone want to --

11 MR. HERKNESS: Why would someone want
12 to go in?

13 COUNCILWOMAN TASCO: Mm-hmm.

14 MR. HERKNESS: Let's say that they were
15 thinking about retiring in the next year or two.
16 And let's say for the sake the argument that their
17 pension was \$30,000 presently. And they say,
18 Well, I might get a 3 percent raise next year,
19 I'll get another 2.5 percent accrual, so my
20 pension might go up 6 or 7 percent. But if I go
21 into the DROP plan, I work for 2 years, I get a
22 credit of \$30,000 per year plus the 4.5 interest,
23 if it doesn't change, which is tax-free.

24 COUNCILWOMAN TASCO: Wait a minute,
25 back up, back up. They get credit for 30,000.

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2 What is 30,000?

3 MR. HERKNESS: The 30,000 is your
4 pension payment per year.

5 COUNCILWOMAN TASCO: Mm-hmm, okay.

6 MR. HERKNESS: So after one year, you
7 have 30,000, plus 4.5 percent, which is tax-free,
8 which is probably equivalent to at least
9 5.5 percent if you had 30,000 that you were
10 getting taxed on. So the next year, you have
11 another 30,000, plus the growth of 4.5 percent on
12 the original 30. So it ends up at about 62,
13 63,000, ball park.

14 You then say, Okay, I'm going to
15 retire. You leave and you now have 63 or so
16 thousand dollars that we will pay you in a check,
17 and you begin to collect your \$30,000 pension,
18 which doesn't grow at all, that stays, that
19 freezes. So you then go to your \$30,000 annual
20 pension, plus you have a lump sum of \$60,000. If
21 we take 20 percent right off for taxes, then
22 you'll still have that large figure, which is
23 about 13,000 from that. And you have about
24 \$50,000.

25 You know, your average employee in the

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2 City of Philadelphia doesn't get rich working.
3 They have long careers, they have excellent
4 pensions when they leave. But my perception is,
5 they don't have large sums of accumulated dollars.
6 We have college loans, we have home equity loans,
7 and everybody has our individual bills. This is a
8 financial planning tool.

9 You know, I was asked that question
10 about why the police should go into this. Well,
11 it's an optional plan, you don't have to go into
12 it. It just gives you a leg up, gives you a lump
13 sum going into retirement or whatever you want to
14 do. I think at least it's a solid option
15 specially structured so that it doesn't cost the
16 City's General Fund contribution anything.

17 Somebody says, How do you do this? I
18 say, Well, we're magicians. You know, the City
19 doesn't make the contribution of between 6 and 8
20 percent of a payroll that size, so the City's
21 General Fund all goes into the savings pot. So
22 this balance -- what's in it for the City is they
23 stop making between 6 and 8 percent of payroll
24 contributions on behalf of the employee. The
25 employee then receives a raise equal to his or her

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2 pension contributions, which in the old plan was
3 6 percent for police and fire. On a tax basis,
4 they would probably net about 4.8, but the
5 employee has an immediate 4.8 net increase in
6 salary, and then knows that he or she will be
7 retiring at least in 36 months and will have a
8 lump sum plus possibly a separation check which
9 is, if there's time and if there's vacation time
10 is sizeable. So it's a pretty decent financial
11 planning tool in.

12 COUNCILWOMAN TASCO: Especially for
13 elected officials like Councilman David Cohen.

14 (Laughter.)

15 MR. HAYLLAR: But he would have to
16 announce his retirement. And then in the end of
17 the first year -- at the end of the first year of
18 last term, he could declare, but he had to go.

19 Now, a mayor would obviously want to
20 think about this because they know after the
21 beginning of their second term, they know.

22 COUNCILMAN DICICCO: The Councilman
23 announced his retirement yesterday. In the year
24 2023.

25 COUNCILWOMAN TASCO: 2023, okay.

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2 (Laughter.)

3 MR. HERKNESS: You'd have to wait till
4 the next term since you voted on the legislation.
5 You know about that.

6 COUNCILWOMAN TASCO: So we couldn't do
7 it until the next term.

8 MR. HERKNESS: If you vote on the
9 legislation, it's your next term, which would be
10 January.

11 COUNCILWOMAN TASCO: So in January, you
12 can announce you're going to retire in three
13 years, and you get your --

14 MR. HERKNESS: Yes.

15 COUNCILWOMAN TASCO: Okay. All right,
16 David?

17 Thank you very much.

18 MR. HERKNESS: Right.

19 COUNCIL PRESIDENT VERNA: The Chair
20 recognizes Councilman Cohen.

21 COUNCILMAN COHEN: Thank you.

22 COUNCIL PRESIDENT VERNA: You don't
23 have to decide today.

24 COUNCILMAN COHEN: Do I repeat again
25 about all stories about my retirement are not to

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2 be believed. Even in 2023. I'll probably change
3 my mind about 2020.

4 With respect to one of the questions
5 that Councilman Nutter asked, you stated that the
6 Board, when they change an interest rate, if they
7 so decided to, they could do it retroactively as
8 well as prospectively. Could you tell me where in
9 the Act that's provided for.

10 MR. HAYLLAR: It's not. In our
11 conversation with Council earlier, this issue was
12 raised, so we have an amendment that will allow
13 for the retrospective as well as the prospective.
14 Right now, the bill says "prospective."

15 COUNCILMAN COHEN: Okay, 'cause I was
16 looking for it since it was a subject of
17 discussion, and couldn't find it.

18 Second question. On Page 6 of the
19 bill, under subparagraph g. entitled "Rehire,"
20 there's a flat statement that there is no return
21 to regular employment from a DROP, that's clear.
22 Once a person participates in a DROP, they can
23 never be reemployed by the City.

24 And then in the same paragraph, it says
25 that a retiree may be rehired by the City subject

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2 to the provisions of this title, but no former
3 DROP participant who is rehired by the City may be
4 eligible to participate again in the DROP.

5 So the first line says there is no such
6 thing as a rehire, and the last line says, But if
7 he is rehired anyhow -- and I don't know how he
8 gets to be rehired -- he's not eligible to
9 participate in a DROP again.

10 I -- you have to be more than a
11 Philadelphia lawyer, I think, to understand that.

12 MR. HERKNESS: Yeah, we're neither.

13 COUNCILMAN COHEN: How does a DROP
14 participant who cannot be rehired by the City
15 manage to get rehired by the City so that he or
16 she is forbidden from participating the second
17 time in a DROP Program?

18 MR. HERKNESS: We might have to go to
19 staff for the answer, but I'll take a crack at
20 it. You can be rehired. Under the present
21 pension system, you can be rehired.

22 COUNCILMAN COHEN: Right.

23 MR. HERKNESS: And there's a section in
24 the ordinance that deals with how your pension
25 will accrue if you are rehired -- first year,

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2 second year, and if you stay three years, we
3 recalculate the entire pension based on all your
4 years of service.

5 What I think that is saying is that if
6 you are a DROP participant and you retire, you
7 formally retire, you take your lump sum, and three
8 years later, you are rehired by the City for some
9 particular reason, you cannot re-enter a DROP
10 Program.

11 COUNCILMAN COHEN: But the law says you
12 cannot be rehired if you participate in a DROP.

13 MR. HERKNESS: I don't think that you
14 could prevent the City of Philadelphia or any
15 organization from hiring somebody just because
16 they took advantage of the DROP. You know, they
17 can't get in the second DROP. I think we were
18 talking about that earlier.

19 COUNCILMAN COHEN: Well, then shouldn't
20 we eliminate that first sentence that says there
21 is no return to regular employment from a DROP
22 when, in fact, there is?

23 MR. HERKNESS: When you're in the DROP,
24 you cannot come back -- you can't return to normal
25 employment. You can only retire, you can only

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2 separate once you get in the DROP. You're still
3 an active employee, right, follow me? You're
4 still an active employee, you're a participant in
5 the DROP plan. Then the only option you have is
6 to separate employment.

7 COUNCILMAN COHEN: Well, that's --

8 MR. HERKNESS: Between zero and three
9 years. If you separate and you return to
10 employment in the future --

11 COUNCILMAN COHEN: Well, how do you do
12 that? Doesn't this language prevent that?

13 MR. HERKNESS: Councilman, it's two
14 different situations. One is a return from
15 retirement, an employment return from retirement.
16 The other one is discussing coming back into
17 employment while you're in the DROP. You haven't
18 retired yet. You cannot do that. That's what's
19 irrevocable.

20 COUNCILMAN COHEN: Councilman Nutter, I
21 cannot follow that. That may be my inability to
22 -- but I cannot --

23 COUNCILMAN NUTTER: I think it's in the
24 -- it's probably more in the language,
25 Councilman.

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2 Mr. Herkness, the sentence that the
3 Councilman is talking about specifically says that
4 there is no return to regular employment from a
5 DROP.

6 MR. HERKNESS: Correct.

7 COUNCILMAN NUTTER: Don't you really
8 mean that while you are in the DROP, you cannot
9 come back to whatever you call "regular
10 employment"? Isn't that what you are really
11 saying?

12 MR. HERKNESS: Yes, yes, that's right.

13 COUNCILMAN NUTTER: Because if you read
14 it the way sentence is written, the Councilman is
15 absolutely correct. In the first sentence you're
16 saying that there is no return to regular
17 employment from a DROP. Now, someone could take
18 that to mean that once you have ever participated
19 in a DROP, you could never come back to regular
20 employment.

21 And then a sentence or two later, it
22 says that a retiree may be rehired by the City.
23 You're talking about after the three-year period
24 and when they have actually separated, retired,
25 started receiving pension payments.

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2 MR. HERKNESS: Correct.

3 COUNCILMAN NUTTER: Would it make it
4 clearer if the sentence said, "There is no return
5 to regular employment while a person participates
6 in a DROP"? Isn't that what you're trying to
7 accomplish? You're saying that once you sign up,
8 you can't go back to regular employment during
9 your three-year period?

10 MR. HERKNESS: We believe that's what
11 it says. Is it possible to make it even more
12 clear? Yes, that makes it even more clear.

13 COUNCILMAN NUTTER: Councilman, is that
14 the point that you were trying to make?

15 COUNCILMAN COHEN: I was just trying to
16 find out what it meant. So I had assumed from the
17 clear language from that first sentence that it
18 meant that the City would not be able to hire --
19 rehire any person who had retired and who had gone
20 through a DROP proceeding.

21 Well, then I think that language has to
22 be changed drastically in that first sentence.
23 It's paragraph g. of Page 6. I'm only thinking of
24 clarity. I couldn't under -- I was going to ask
25 you, why do you forbid the hire? There may be

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2 circumstances where the City may be anxious to
3 rehire somebody, you know, for a special project,
4 and I couldn't understand why this is forbidding.

5 MR. HERKNESS: Councilman, I think if
6 you read g., it does say in the second sentence,
7 Once entering a DROP, the employee is in the DROP
8 until separation from City service, at which
9 point, the member is retired. A retiree may be
10 rehired by the City subject to the provisions of
11 Section 22-204, but no former DROP participant who
12 is rehired by the City may be eligible to again
13 participate in the DROP."

14 So that's like no second DROP, but if
15 you're rehired -- so if you're in the DROP and you
16 separate, you retire, and you're out for three
17 years, and you come back as Council staff, then
18 you come over to the Pension Board and say, "I
19 want to get in the DROP plan."

20 COUNCILMAN COHEN: Well, why don't we
21 say that instead of some --

22 MR. HERKNESS: We say no --

23 COUNCILMAN COHEN: Why don't we say
24 that in the bill and make it clear?

25 MR. HERKNESS: Yeah, we say no because

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2 Section g. says if you are retired, no former DROP
3 participant who is rehired may be eligible to
4 again participate in the DROP so. The Pension
5 Board staff would say you're not eligible as a
6 rehire from retirement employee for a second DROP.

7 COUNCILMAN COHEN: Well, I understand
8 that, that's clear, there's never been any
9 question on that. What is unclear in the language
10 is whether or not somebody who participates in the
11 DROP may at any time return to employment by the
12 City. The answer seems to be yes, once you finish
13 the DROP, you're like every other retiree and can
14 be rehired, and I expect that will happen. That
15 is, that assumes the three-year period is ended,
16 the person may be rehired on the very next day.
17 That happens currently now, I understand.

18 MR. HERKNESS: Yes, sir.

19 COUNCILMAN COHEN: 'Cause I remember
20 one time there were a lot of retirements from the
21 Police Department, but the City felt they lost too
22 much talent and they hired a whole host of people
23 at the end of the early retirement.

24 But I think the language ought to be
25 cleaned up. I don't think the language ought to

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2 remain in its present form.

3 COUNCILMAN NUTTER: Councilman Cohen,
4 would language like this help to clarify? "There
5 is no return to regular employment for a person
6 during their participation in a DROP"?

7 COUNCILMAN COHEN: That would that
8 would be an improvement. I can't say whether it
9 would --

10 COUNCILMAN NUTTER: He's so tough with
11 the compliments.

12 COUNCILMAN COHEN: It's difficult but
13 it's certainly a vast improvement over what exists
14 now. All I think we ought to do is to pass a law
15 that's clear.

16 COUNCILMAN NUTTER: Right.

17 COUNCILMAN COHEN: And that if people
18 read it, they ought to be able to understand it.

19 COUNCILMAN NUTTER: Right.

20 COUNCILMAN COHEN: And that's what I'm
21 driving at.

22 COUNCILMAN NUTTER: Right.

23 COUNCILMAN COHEN: One other question.
24 I thought I'd seen it and now I can't find it
25 again. At the time person enters the DROP, do

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2 they make their choice as to -- say it's a
3 husband-wife situation, husband working, has a
4 wife who he wants to receive pension if he passes
5 on. Is that an irrevocable decision made at the
6 time the employee enters the DROP?

7 MR. HERKNESS: Yes. In order for your
8 DROP to be determined, the amount of payment will
9 depend on your survivorship option selection and
10 you will make that at the time you enter the
11 DROP. In other words, the amount of money that
12 you will receive during the DROP credited to your
13 account will depend on the survivorship option
14 that you select. So that's a very, very important
15 option, which is why you cannot rush entrance into
16 the --

17 COUNCILMAN COHEN: And you can't change
18 that once you make it?

19 MR. HERKNESS: You can't change it
20 unless certain circumstances took place -- a
21 death, if the survivor predeceases you and you're
22 in a particular plan, you have an option to change
23 it. But if nothing changes other than you just
24 decide to change your mind, you cannot change
25 that.

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2 COUNCILMAN COHEN: Is there a provision
3 to that effect in the bill?

4 MR. HERKNESS: Pardon me?

5 COUNCILMAN COHEN: Could you refer to
6 what section of the bill refers to that, Mr.
7 Herkness.

8 MR. HERKNESS: I don't know if we
9 address survivorship, but that's in order to -- in
10 order to retire, you have to make a survivorship
11 selection.

12 COUNCILMAN COHEN: And that's the --

13 MR. HERKNESS: To get a payment, you
14 have to do that. If don't do that, you're not
15 going into the DROP. You can take that to the
16 bank.

17 COUNCILMAN COHEN: Okay, I see.

18 MR. HERKNESS: We had a lawyer try to
19 tell us that we had a problem there, but you're
20 not going to get out of our offices unless you
21 make -- for DROP purposes, unless you make a
22 survivorship selection. We're just not going to
23 okay it because we wouldn't know what to put in
24 the account for you.

25 COUNCILMAN COHEN: Right. Now, I don't

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2 understand really why there should be an amendment
3 to provide retroactivity on the interest rate. It
4 seems to me if we make a bargain with an employee,
5 it ought to be a bargain, and that both sides
6 ought to live up to it. And the bargain is,
7 you're going to get 4.5 percent rate. I
8 understand the City wants to have a cushion.

9 The only other option I could see is
10 why don't we have an option, if an employee wants
11 to do his or her own investment, would the City
12 lose anything if they made the payment available
13 immediately to the proposed retiree instead of
14 waiting for the three years? Maybe the employee
15 feels he or she could do better in their own plan
16 of investment.

17 MR. HAYLLAR: They can do that in their
18 457, but I believe if they touch the money --

19 COUNCILMAN COHEN: Could you speak into
20 the microphone.

21 MR. HAYLLAR: I'm sorry. I believe
22 they can do that through their 457 Plan, but they
23 can't touch this money until they actually
24 separate from the City.

25 There is also an issue again of

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2 administration and keeping track of all these
3 individual trades if you had separate accounts.
4 We're trying to start off with the most efficient
5 system possible. We can always improve it going
6 forward, but if we make it too complicated now, it
7 just may not work.

8 COUNCILMAN COHEN: Okay, thank you.

9 COUNCIL PRESIDENT VERNA: Are there any
10 other members from members of the committee?

11 The Chair recognizes Councilman
12 O'Neill.

13 COUNCILMAN O'NEILL: Thank you, Madam
14 President.

15 Gentlemen, I have a copy of the
16 proposed amendment that was circulated.

17 MR. HAYLLAR: You have the only copy.

18 COUNCILMAN O'NEILL: I have the only
19 copy, I'm sorry.

20 And basically, I appreciate you
21 drafting this; it's in response to my concerns
22 from the briefing last week. That while we be
23 cautious up front with the 4.5 rate, because we
24 don't know what is going to happen, that there be
25 a mechanism for a review assuming that the Pension

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2 Fund did as well as it was intending to do, that
3 there be a way of increasing that interest rate
4 retroactively similar to a dividend that might be
5 paid on an insurance premium that -- where there
6 was good experience. So to the extent that we
7 have good experience, as we expect, the fund
8 doesn't make out -- it just breaks even, and the
9 DROP people go up from this 4.5.

10 And what I was hoping this amendment
11 would say is that prospectively, obviously anytime
12 for any new person in this test, the rate could be
13 changed -- for instance, downward. And there's a
14 mention here of 3.5 percent. But I hope we can
15 somehow make it clear that if I start in the DROP
16 Program this year at 4.5 percent, next year
17 someone's not going to retroactively make that
18 3.5 percent and cut me down a point over what I
19 agreed to get in at.

20 And that's not clear here. This
21 amendment would allow it to be done retroactively
22 as well as prospectively.

23 MR. HAYLLAR: I think we can work on
24 that.

25 COUNCILMAN O'NEILL: Okay. The second

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2 thing is, why is the retroactive upside limited to
3 9 percent? And I can understand some
4 administrative fee or maybe a percent or something
5 less than the rate of return of the fund; I just
6 don't understand the cap. I mean, even when we
7 were dealing with the cap on the COLA bill, we
8 were going 9 percent and 1 percent over and on and
9 on, but we weren't capping any, you know --
10 because again, if the fund would make 13 percent,
11 then instead of the DROP people getting the
12 benefit of the area between 9 and 13 or even, say,
13 take off a point for some fee expense, 12 percent,
14 this caps it at 9. I just don't understand how
15 that levels everything out, and I would hope that
16 the retroactive number may be like 1 percent, up
17 to 1 percent less than the actual return on the
18 fund.

19 There's a couple of things I'm hoping
20 it would accomplish. One is to get more people
21 into the fund and into the DROP Program, and then
22 also get them to stay in, because they would see
23 that potential. Particularly the first year, get
24 in as many people in that first year as possible.
25 And I think we can -- if you're agreeable, we can

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2 get this language worked out fairly quickly. I
3 mean, I don't want to hurt fund, but I want to
4 help the DROP Program in terms of its return as
5 much as possible.

6 MR. HAYLLAR: I think we can address
7 that. I don't think there's anything magical
8 about the 9 percent cap except we believe there
9 needs to be a cap in there, just for purposes of
10 self-restraint, but I'm sure we can work out
11 something that meets those ends.

12 COUNCILMAN O'NEILL: Okay, thank you.

13 COUNCIL PRESIDENT VERNA: Thank you,.
14 The Chair recognizes Councilman Cohen.

15 COUNCILMAN COHEN: Just one question.
16 This is a three-year program; is that right?

17 MR. HAYLLAR: Yes.

18 COUNCILMAN COHEN: So that the decision
19 by an employee to retire under the DROP Program
20 can be made at any time during the three years
21 after this bill becomes law?

22 MR. HAYLLAR: Yes, yes.

23 COUNCILMAN COHEN: In other words --
24 and say if somebody joins the program two years
25 and eleven months down the road, the program has

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2 one month to go, somebody joining at that point
3 would be able to continue for the three years.
4 MR. HAYLLAR: Yes.
5 COUNCILMAN COHEN: Is that right?
6 MR. HAYLLAR: Yes.
7 MR. HERKNESS: Yes.
8 COUNCILMAN COHEN: So everybody's
9 clear. Okay, I wanted to make sure. So it's not
10 that if go in after one year, you're only going to
11 have two years.
12 MR. HERKNESS: That's right. If this
13 is --
14 COUNCILMAN COHEN: You're going to have
15 your full three years --
16 MR. HERKNESS: Yes.
17 COUNCILMAN COHEN: -- to continue to
18 work after you've signed off on all of the papers
19 as we talked about earlier.
20 MR. HAYLLAR: If, despite all our best
21 efforts, this is a disaster and we have to end it,
22 those people in the program get their three years.
23 COUNCILMAN COHEN: Very good.
24 MR. HAYLLAR: We just don't accept new
25 participants.

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2 COUNCILMAN COHEN: All right. Thank
3 you.

4 COUNCIL PRESIDENT VERNA: Thank you.

5 Are there any questions from members of
6 the committee? The Chair recognizes Councilman
7 O'Neill.

8 COUNCILMAN O'NEILL: A couple quick
9 questions. One, are there any other DROP programs
10 in the country that have ceased to exist once they
11 begun? I know it's a fairly new --

12 MR. HERKNESS: Not that I know of.
13 John Reilly, one of the Board members is a member
14 of the National Commission of Public Employee
15 Retirement Systems. John might be able to answer
16 that.

17 I don't know if there's ever been a
18 DROP that ceased. They seem to be expanding them
19 either in the length of time or the number of
20 people that are eligible. There are about 50
21 DROPs, 35 to 50 now. There are no less than 30
22 plans looking at it. In my opinion, there's
23 probably over a thousand plans. In the next five
24 years, this will spread wild fire when people
25 begin to understand just what the advantage is to

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2 a public employee.

3 COUNCIL PRESIDENT VERNA: Thank you.

4 Mr. Reilly, please identify yourself for the
5 record.

6 MR. REILLY: Madam President, my name
7 is John A. Reilly. I'm a member of the Board of
8 Pensions and Retirement for the City of
9 Philadelphia.

10 Brian, the question you asked was about
11 the irrevocable when you join the program. The
12 answer is yes, except for Baltimore. In
13 Baltimore, you go into the system when you're
14 eligible, you do your three years, then you go
15 back in the system. Everybody else --

16 COUNCILMAN COHEN: No, I think you
17 misunderstood me. What I'm looking for is, we're
18 testing this, it's a three-year trial.

19 MR. REILLY: Oh, yes.

20 COUNCILMAN O'NEILL: And I appreciate
21 the caution approach.

22 MR. REILLY: Right.

23 COUNCILMAN O'NEILL: But in reality,
24 have there been any other DROP programs that
25 proceeded cautiously then just found it was a

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2 loser and stopped it?

3 MR. REILLY: No, they haven't. In
4 fact, Houston, Texas, started five years, and they
5 just upgraded to seven years. Dallas, Texas,
6 their plan is now six and a half years old,
7 there's no limit. You go into it, it started six
8 and a half years ago, and they're still in it.

9 COUNCILMAN O'NEILL: Now, a follow-up
10 question, and I'm not sure who should answer this,
11 but three years seems rather modest in terms of
12 the DROP period, and again, I understand the
13 caution initially. When would we in Council and
14 also eligible employees look for a threshold
15 period where you could say in a year, eighteen
16 months, two years, we'll know whether we can push
17 this to five years or seven years, depending on --

18 MR. HERKNESS: We're going to calculate
19 the, quote, costs as best we can. The first will
20 take place in no less than nine months so that the
21 Board, when it receives its report in one year,
22 would have the decision of whether to move that
23 interest rate. We will have at least nine months'
24 experience and will give them an estimate. The
25 following year, we could do the same. We would

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2 then have almost two years.

3 So we will have this information well
4 before the three-year, you know, deadline so that
5 Council or the Board can make its decision. And
6 the --

7 COUNCILMAN O'NEILL: So if that first
8 group wanted to extend, then you would have some
9 time during that three-year period where you could
10 make decision as a Pension Board to recommend
11 extending the program for three years to five
12 years for an individual or to seven years or
13 whatever.

14 MR. HERKNESS: That's certainly
15 possible. I mean, Council could amend plan, you
16 know, at anytime and make it three or five.

17 COUNCILMAN O'NEILL: Right, but is
18 there any time that you're thinking now, Boy, by
19 18 months, we ought to have an idea of whether
20 this not only is a good thing rather than a bad
21 thing, but we can go into that longer DROP period,
22 which I believe helps everyone if it's possible to
23 do.

24 MR. HERKNESS: After the meeting in the
25 afternoon after we had the Council briefing last

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2 week, we met with the actuary and committed to
3 between six and nine months, we would have the
4 numbers of people who would be in, and we could
5 have a ball park figure for those, the early
6 entrance into the DROP, and then begin to project
7 it and then kick those numbers around, whether
8 there was an actuarial loss or gain. And if there
9 was, is it attributable to the DROP? It's
10 difficult to attribute 100 percent of someone's
11 decision to a DROP plan.

12 So that's the challenge that the
13 actuary and the Board will have, to say, Well,
14 this projected change might be \$100, but is it
15 \$100 attributable to a DROP decision? It's a
16 difficult thing, but in nine months, we will have
17 some numbers so that the Board's first decision is
18 twelve months afterwards on the interest rate, and
19 they can move that. We believe that they could
20 move it prospectively, even under the present
21 language, under the amendment that you're alluding
22 to. You could then make it retrospectively to the
23 day one when the people are in it, and let's say
24 you moved it to seven or eight, then the people
25 would have a 7 percent credit retroactively.

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2 We're going to give 'em a DROP statement, what
3 we're calling a DROP statement, within 90 days
4 after they sign up so that they'll get their
5 payment and it will show what grows at the rate of
6 the interest. If the rate of interest would
7 change, we would expect to send 'em a new
8 statement so they will be able to look and plan on
9 what their DROP account will grow to, and then
10 they can make a decision on when they want to get
11 out.

12 COUNCILMAN COHEN: Okay, thank you.

13 COUNCIL PRESIDENT VERNA: Thank you.

14 Are there any other questions from
15 members of the committee?

16 COUNCILMAN O'NEILL: Do you know how
17 long it will take to get that language worked
18 out?

19 COUNCIL PRESIDENT VERNA: I'm sorry, I
20 didn't hear your question, Councilman.

21 COUNCILMAN O'NEILL: This amendment
22 needs some tweaking, just needs a little bit of
23 work to --

24 MR. HAYLLAR: It depends on your
25 availability.

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2 COUNCILMAN COHEN: I'll do it anytime.

3 MR. HERKNESS: The Council President's
4 office has copies of that amendment.

5 COUNCILWOMAN TASCO: Point of order.

6 COUNCIL PRESIDENT VERNA: Yes?

7 COUNCILWOMAN TASCO: Madam President,
8 we do not have a copy of the amendment.

9 COUNCIL PRESIDENT VERNA: I don't think
10 any of us have a copy of the amendment.

11 COUNCILMAN O'NEILL: I can quickly
12 explain what we're trying to accomplish because
13 this is going to get. . .

14 Councilwoman, what the amendment
15 attempts to do is, instead of leaving the
16 4.5 percent as the rate of return, and that's it,
17 have a mechanism for the Board of Pensions to
18 review what the actual experience was and,
19 hopefully, bring the 4.5 percent up additionally
20 later on, within a year.

21 And that's the language we're trying to
22 work out. It's how high up that can go above 4.5
23 and ensure that it won't go below 4.5 as well, but
24 the language will be clear. And that's what we're
25 going to be working on. This doesn't quite do it,

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2 but it gets pretty close.

3 COUNCIL PRESIDENT VERNA: And someone's
4 going to be working on the amendment before we go
5 into our public meeting?

6 COUNCILMAN O'NEILL: Yeah, yes.

7 MR. HAYLLAR: Council staff does have a
8 copy but it was not a complete amendment and not
9 ready to be introduced, but we'll have a
10 satisfactory amendment ready for Council, I guess,
11 next week.

12 COUNCIL PRESIDENT VERNA: If it's as
13 simple as Councilman O'Neill is saying, why
14 couldn't you work something up today before we
15 adjourn the meeting?

16 MR. HAYLLAR: Okay, I don't think it's
17 a problem.

18 COUNCILMAN O'NEILL: Tom's in, Tom
19 Erekson's in. I think we could go forward
20 quickly.

21 COUNCIL PRESIDENT VERNA: 'Cause we
22 have another bill to hear, and hopefully after
23 that bill, we will go in a public meeting. And I
24 don't see any reason why we couldn't have the
25 amendment ready.

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2 MR. HERKNESS: No problem.

3 MR. HAYLLAR: Fine.

4 COUNCIL PRESIDENT VERNA: Okay, I think
5 Mr. Erekson is right here, so he'd be more than
6 happy to work with you on that. And Councilman
7 O'Neill, maybe you could speak to Mr. Erekson.

8 Do we have anyone else to testify on
9 this bill?

10 (Audience member raises hand.)

11 COUNCIL PRESIDENT VERNA: Kindly
12 approach the witness table and identify yourself
13 for the record.

14 MR. ZEITZ: Good morning, Councilwoman.

15 COUNCIL PRESIDENT VERNA: Good morning.

16 MR. ZEITZ: My name is Israel Zeitz.

17 I'm a retired City employee, 1988.

18 I was asked or requested by many of the
19 civil service people, City employees now that do
20 not want to have their names published to come and
21 represent 'em at this hearing as being opposed to
22 the bill.

23 But from what I hear, the bill opposes
24 itself. Mr. Herkness said that you're going to
25 have the money held in escrow because they didn't

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2 want to put 'em out at 55. What's the difference
3 if you start paying them at 55 or if you hold the
4 money till 58 and they get the money? There's
5 still going to be that amount of money coming out,
6 but besides that, there will be no money going in.

7 The people that had sent me here had
8 requested that we go to something that the City
9 has done since 1954, when they first incorporated
10 this with the amendments, that you give incentives
11 to people to go out on pension. If they go out on
12 pension, not only will the City not have to pay
13 for the pension money going into the Pension Fund,
14 the City won't have to pay for their benefits or
15 hospitalization, the City won't have to pay Social
16 Security and other things.

17 We are in a two-tier system as was
18 mentioned before, it may even be three by now.
19 The people that are in the higher tier would
20 retire, thereby the people at the high levels of
21 those pay ranges would leave and the people
22 filling those positions, if those positions would
23 be filled, will be filled by people with a lower
24 pay range, thereby the City saves money there.
25 Also, the new employees that take over for the

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2 open vacancies would be under the second tier and
3 get much less benefits.

4 But getting back to this Pension Fund,
5 there is nothing here for the 30,000 employees
6 that are not eligible a pension, but there is a
7 plethora of things for people that are going on
8 pension. They can come back and serve -- besides
9 serving as Councilman Cohen had mentioned, besides
10 serving the City again, they may be able to pick
11 out a higher job and go out on pension again at
12 another higher rate after collecting 50 to 80
13 percent raise that they did over those three years
14 that they were working under this DROP plan.

15 So the people that sent me, which is a
16 few that didn't want to speak mainly, they feel
17 like --

18 COUNCIL PRESIDENT VERNA: How many
19 years have the employees who sent you here have
20 with the City?

21 MR. ZEITZ: I'm sorry, I didn't get --

22 COUNCIL PRESIDENT VERNA: How many
23 years of service do the employees who sent you
24 here have with the City?

25 MR. ZEITZ: They average somewhere

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2 around 20 years. They're in a position to take
3 the next positions, yes. But they can't take them
4 as long as these people in the higher positions
5 will not leave if they stay instead of retiring.
6 There's no incentive to leave. That's what their
7 concerns were.

8 COUNCIL PRESIDENT VERNA: I don't
9 understand that at all, sorry.

10 MR. ZEITZ: They asked me to come
11 down. Instead of having a DROP plan, give an
12 incentive similar to 1988. Have the people get an
13 incentive to leave instead of taking -- the
14 money's coming out of the -- the money will be
15 coming out of the pension anyway, no matter how
16 you look at it. The Pension Board will not be
17 saving any money with this DROP plan. They have
18 to pay the money out whether it's after they
19 retire at 55 or whether they go till they're 58,
20 the money's coming out.

21 COUNCIL PRESIDENT VERNA: Are there any
22 questions from members of the committee?

23 COUNCILMAN COHEN: What is the concern
24 that the people have who you say asked you to come
25 here? What are they concerned about?

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2 MR. ZEITZ: Well, the concern is that
3 the City of Philadelphia was always looking to
4 find a way to put people on early retirement
5 instead of keeping them because it was costing the
6 City to keep the employees. If they could get rid
7 of the higher-priced employees, the people that
8 were here longer, then they would be able to fill
9 'em with lower-paying jobs and open up jobs for
10 other people to come in, or eliminate jobs, which
11 has happened in 1988 when I left and they closed
12 my district.

13 COUNCILMAN COHEN: And as a result of
14 this bill, how are these people hurt that you are
15 representing?

16 MR. ZEITZ: They are staying instead of
17 leaving, and they are eligible to go on
18 retirement, and some of them were going to go on
19 retirement till this bill hit the floor.

20 COUNCILMAN COHEN: Oh, you mean you're
21 representing people who are currently working?

22 MR. ZEITZ: Yes.

23 COUNCILMAN COHEN: For the City, not
24 retirees.

25 MR. ZEITZ: Yes. No, no retirees.

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2 COUNCILMAN COHEN: Oh, I --

3 MR. ZEITZ: These are people that are
4 working for the City, yes.

5 COUNCILMAN COHEN: Oh, people who are
6 working for the City.

7 MR. ZEITZ: They asked me to represent
8 them because they couldn't be here and they didn't
9 want to have their name on the record.

10 COUNCILMAN COHEN: And they feel there
11 isn't a sufficient --

12 COUNCIL PRESIDENT VERNA: Councilman,
13 we're not saying it's compulsory for employees to
14 enter into the DROP Program; it's their choice,
15 it's their choice.

16 (Applause.)

17 COUNCIL PRESIDENT VERNA: So we're not
18 compelling anyone to join the DROP Program.

19 MR. ZEITZ: But the DROP Program was
20 supposed to save money for the Pension Fund, for
21 the pension. The DROP system, as Joe Herkness
22 said, is going to keep the money in the pension
23 system, but they're still going to have to pay it
24 out after the three years.

25 I can't see how this is going to help

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2 the Pension Fund.

3 COUNCIL PRESIDENT VERNA: I think Mr.
4 Hayllar will respond to that.

5 MR. HAYLLAR: The intention, sir, is
6 not to save money for the Pension Fund; the
7 intention was to provide an additional benefit
8 that we can now afford because of the Pension Bond
9 and other things that Council and the
10 administration has done. Our goal is to be
11 revenue-neutral, and we believe the DROP Program,
12 as constructed, will be neutral, but our goal is
13 not to save money for the plan.

14 COUNCILWOMAN TASCO: Madam President?

15 COUNCIL PRESIDENT VERNA: Yes,
16 Councilwoman Tasco?

17 COUNCILWOMAN TASCO: Maybe we don't
18 understand the issues as presented to us this
19 morning. What we might -- what the gentleman
20 might want to do is have his people put their
21 position in writing so that we can understand what
22 points they are concerned about, just for
23 clarification and information.

24 'Cause I don't understand -- I don't
25 know how you get hurt.

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2 (Unidentified person responds inaudibly
3 off-mike.)

4 COUNCIL PRESIDENT VERNA: If you want
5 to say something, please come up to the witness
6 table and identify yourself and give us a
7 response.

8 MS. STUKES: Hi, my name is Carol
9 Stukes. I believe the gentleman's trying to say
10 that the people who he represents think they're
11 going to get hurt because the people who will go
12 into the DROP Program at their own option would
13 not make space available for those who move up and
14 get promoted, and that's what his issue is; am I
15 correct?

16 MR. ZEITZ: That's correct, absolutely
17 on the head.

18 MS. STUKES: But what the gentleman
19 don't understand is, whether the person's going to
20 the DROP or not, they never have to retire, so
21 that option to promote may not never be there.

22 COUNCIL PRESIDENT VERNA: That answers
23 the question.

24 Is there anything else you would like
25 to add, sir?

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2 MR. ZEITZ: That's fine, no.

3 COUNCIL PRESIDENT VERNA: Thank you
4 very much.

5 Is there anyone else to testify on this
6 bill.

7 (No response.)

8 COUNCIL PRESIDENT VERNA: Before we
9 hear testimony on our next bill, I would simply
10 like to announce that the Law and Government
11 Committee meeting schedule to meet today at noon
12 has been recessed until Thursday, June 10th, 9:00
13 a.m.

14 The next bill to be called for
15 consideration is Bill 990221. The title is,
16 amending Title 17 of The Philadelphia Code
17 entitled "Contracts and Procurement" by amending
18 Section 17-107 entitled "Contractors, Labor
19 Management Relationships," by revising and
20 prevailing wage ordinance by extending the
21 prevailing wage requirements to include all
22 building and construction work contracts with City
23 agencies and City-related agencies, and by
24 extending the prevailing wage requirements to
25 building or construction work contracts on which

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2 City, City agency, and City-related agency funds
3 are allocated or spent, all under certain terms
4 and conditions.

5 May we hear from the administration
6 first on this bill.

7 (John Kromer comes forward.)

8 COUNCIL PRESIDENT VERNA: Good morning
9 Mr. Kromer.

10 MR. KROMER: Good morning, Council
11 President Verna and members of the Committee of
12 the Whole. My name is John Kromer. I'm Director
13 of the Office of Housing and Community
14 Development. I have submitted written testimony
15 on this bill and so I just want to make a few
16 brief comments on what is proposed.

17 First of all, a comment with respect to
18 the current applicability of prevailing wage to
19 programs that are administered through the Office
20 of Housing and Community Development program.
21 Prevailing wage currently applies to nearly all of
22 the rental housing development, new construction
23 and vacant structure rehabilitation. And the
24 reason for that is because most of that type of
25 development, rental housing, is done through the

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2 Low-Income Housing Tax Credit Program.

3 And so to organize a project for tax
4 credit financing, it really isn't feasible to
5 think about fewer than eight units. Generally,
6 the developers assemble projects that range from
7 30 to 70 units. You just capital organize a tax
8 credit deal with fewer than eight units. So the
9 majority of rental development is already subject
10 to the prevailing wage requirements.

11 The Mend II Program, a rental repair
12 program administered by the Redevelopment
13 Authority, is not subject to that requirement, but
14 Mend II accounts for a very small number of units.

15 The home ownership programs that are
16 administered through the Community Development
17 Block Grant Program do not require that prevailing
18 wage be paid if they are community development
19 block grant funded. However, those programs
20 really can be divided into two categories. One is
21 large-scale development, such as Poplar-Nehemiah
22 and the current Cecil B. Moore sales housing. And
23 on both of those ventures, there has been
24 prevailing wage applied to a substantial portion
25 of each of those ventures, although not required

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2 by federal law.

3 The other home ownership activity is
4 the Home Start Program administered by the
5 Philadelphia Housing Development Corporation.
6 Again, prevailing wage is not required, but Home
7 Start involves a relatively small number of
8 packages of houses for rehabilitation, frequently
9 7 or 8 or 9 or 10 houses per package during the
10 course of the year.

11 So that is the applicability of
12 prevailing wage at this time. Prevailing wage is
13 also not required with respect to the home repair
14 programs -- Basic Systems Repair Program and the
15 Philadelphia Home Improvement Loan Program
16 administered by the Redevelopment Authority.

17 COUNCIL PRESIDENT VERNA: I'm sorry,
18 did you say that it is not?

19 MR. KROMER: It is not required, that
20 is right.

21 One point of information. The Mayor
22 had scheduled a meeting between representatives of
23 various City agencies and representatives of the
24 building trades to discuss some of these issues
25 several weeks ago, and a follow-up meeting is

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2 scheduled for this Friday at the Redevelopment
3 Authority to discuss how we could implement some
4 of what is being proposed here, and I look forward
5 to that further discussion. I think we can
6 accomplish a lot.

7 I just want to make two brief comments
8 on the effect of this proposal. One is that if
9 the prevailing wage is required for all of the
10 programs across the board, then the home repair
11 programs, Basic Systems Repair Program and the
12 Phil Program, the Philadelphia Home Improvement
13 Loan Program, really will change substantially.
14 My understanding from the building trades
15 representatives who met with me and others in the
16 Mayor's office several weeks ago was that they
17 were not concerned about these programs.

18 My concern about these programs is that
19 much of the participation, much of the contractor
20 participation is by neighborhood-based,
21 Philadelphia-owned, small repair firms. And if
22 prevailing wage is required here, I can't predict,
23 you know, who will be involved and who will not be
24 involved. Maybe it will be the same proportion of
25 Philadelphia-based firms. But the cost of each

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2 unit of repair will definitely go up. The cost of
3 delivering the program will increase, and fewer
4 units of basic systems repair will be produced
5 every year. That is just one effect of the
6 program.

7 So I am concerned about the repair
8 programs. And, again, my understanding from Ed
9 Keenan and the representatives of the building
10 trades was that the repair programs really were
11 not the focus here.

12 My final comment with respect to the
13 issue of employment of Philadelphia workers. I
14 sat here exactly one week ago in the budget
15 hearing on the Community Development Block Grant
16 Program and heard expressions of dissatisfaction
17 from Councilmembers about the level of
18 Philadelphia employment associated with Section
19 108 finance downtown development ventures. The
20 two ventures that were illustrated through
21 statistics distributed by Kevin Brooks of my
22 office both happened to be prevailing wage
23 ventures.

24 Now, does that mean that you can
25 conclude that prevailing wage will mean

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2 insufficient neighborhood employment, Philadelphia
3 employment? No, you can't, but I know that this
4 is a concern of Councilmembers and it's a concern
5 of mine as well. And I hope that in the meeting
6 that is coming up this week and in further
7 discussion of this subject, we can set specific
8 goals for Philadelphia resident employment on all
9 City-funded work.

10 I had attached an example of a housing
11 development venture to my testimony. This is the
12 Cecil B. Moore Phase I-A Sales Housing
13 Development, and this is a development that was
14 not required --

15 COUNCIL PRESIDENT VERNA: Mr. Kromer,
16 I'm sorry. I don't have that attachment and I
17 don't know if anybody else does.

18 You don't have a copy of his
19 statement?

20 MR. KROMER: I will then furnish that
21 later to the Chair.

22 COUNCIL PRESIDENT VERNA: Please.

23 MR. KROMER: You will see that the
24 statistics on that venture are similar in some
25 respects to what had been presented last week.

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2 And so my expectation would be that
3 Councilmembers, at least some of them, would want
4 to see us do better. And so my hope is that at
5 the meeting with the building trades
6 representatives, we can discuss how to equal or
7 better that performance while maintaining the
8 prevailing wage standard that is being requested.

9 So I think these issues can be
10 addressed and I look forward to working with
11 Council and with the building trades to implement
12 a program that achieves the goals of the building
13 trades but also provides for the neighborhood
14 employment, Philadelphia resident employment that
15 we all value.

16 Thank you.

17 COUNCIL PRESIDENT VERNA: Mr. Kromer,
18 can you give us your definition of prevailing
19 wage.

20 MR. KROMER: I will defer to the
21 experts on the definition. And if Gerry Murphy is
22 here, I think he would be the best source of that
23 definition.

24 COUNCIL PRESIDENT VERNA: Yes, The
25 Chair recognizes Councilman Kenney.

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2 COUNCILMAN KENNEY: I had requested
3 earlier from the representative of the building
4 trades who are going to testify in favor of this
5 bill to give us a kind of history and a short
6 synopsis of what exactly is prevailing wage, how
7 it came about and what it entails.

8 COUNCIL PRESIDENT VERNA: That's fine.

9 COUNCILMAN KENNEY: And I think they
10 are prepared to do that post the panel from the
11 city.

12 COUNCIL PRESIDENT VERNA: Great, thank
13 you.

14 Mr. Hankowsky, are you prepared to
15 testify?

16 MR. HANKOWSKY: Yes, I am. I have
17 written testimony, which I've prepared, which I'd
18 be happy to quickly go through.

19 I'm William Hankowsky, President of the
20 Philadelphia Industrial Development Corporation,
21 and am here today to testify about Bill No.
22 990221. PIDC has reviewed this legislation, and
23 we'd like to offer a few comments.

24 First, we believe that this legislation
25 would apply to PIDC and our related authority of

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2 the Philadelphia Authority for Industrial
3 Development, or PAID. I think, as you all know,
4 PIDC and PAID serve as the City's economic
5 development implementation agencies. In this
6 role, we operate 20 loan programs, a series of 11
7 industrial parks, and the conversion of
8 approximately 1,000 acres of closed-fence
9 installations. We deal with a myriad of clients
10 from small, family-owned businesses to Fortune 500
11 corporations. PIDC and PAID do or have received
12 appropriations from the City, entered into
13 contractual relationships with the City, and
14 operate under a legal authority either granted by
15 established by City ordinances. Hence, one, we
16 believe this bill would cover us.

17 My second comment is that PIDC and PAID
18 do directly contract for building or construction
19 work at various times. PIDC and PAID have no
20 objection to being covered by the City's
21 prevailing wage requirements for such work that we
22 directly undertake. I want to be clear that we
23 are not opposed to this aspect of the proposed
24 legislation.

25 My third comment does deal with that

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2 aspect of this bill which gives me some concern.
3 I believe, as currently drafted, this bill could
4 be interpreted to apply to those firms,
5 businesses, or projects to which PIDC or PAID
6 provide financing or land. These firms and their
7 projects are implemented in a variety of ways.
8 Sometimes they purchase specialized equipment
9 which requires manufacture installation.
10 Sometimes they use their own employees to
11 undertake a renovation project that we might
12 finance.

13 I believe that allowing this bill to
14 cover our clients' projects would be a detriment
15 to the growth of businesses in the City. We'd
16 like to allow the flexibility for the companies to
17 execute projects the way they'd like. And in this
18 regard, I propose that the bill be amended to
19 include the following addition:

20 "Provided, however, that where a City
21 agency provides funding to a private individual or
22 private entity which has legal title or will
23 require legal title to the buildings or
24 construction work on which the funds are being
25 expended, the limitations of Chapter 17-107 shall

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2 not apply."

3 This amendment actually parallels
4 language included in state statutes with regard to
5 state loan programs -- for example, the
6 Pennsylvania Industrial Development Authority
7 Program -- and, therefore, would be consistent
8 with our overall guidelines.

9 Thank you. And I'd be pleased to
10 answer any questions you might have.

11 COUNCIL PRESIDENT VERNA: Thank you.
12 Maybe we ought to hear from all of the witnesses
13 first. Mr. Feder?

14 MR. FEDER: Thank you, Madam Chair.
15 Richie Feder, from the Law Department, Deputy City
16 Solicitor.

17 I'm here because I have expressed to
18 the Administration and to Councilman Kenney's
19 office two legal concerns with this bill. I
20 believe I have solutions to those two legal
21 concerns, but the Administration has asked me to
22 testify about those two problems. And then I have
23 an amendment here which I believe would rectify
24 the problems I'm going to identify.

25 The two legal concerns I have is that

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2 this bill, as written, would have City Council and
3 have the City directly regulate the affairs of
4 various public authorities. Those authorities are
5 generally considered State agencies -- the RDA,
6 PAID, PHA are all State agencies. Although the
7 City funds a lot of them and the City has
8 contracts with them, they are entities of the
9 State, and the City does not have the power to
10 directly regulate entities of the State and tell
11 them what to do.

12 Traditionally what we have done in this
13 instance, and Council has done this in the past,
14 most recently with the imposition of the McBride
15 Principles. What Council has done is rather than
16 directly regulating the affairs of the authority,
17 Council requires the City, in its contracts with
18 the authority, to require by contract that the
19 authority would provide for prevailing wage. And
20 so then the City would not be regulating, through
21 its police powers, the affairs of the authority,
22 but rather, the City would be entering into a
23 voluntary contract with the authority, and the
24 authority could choose whether to enter into it or
25 not, as a condition of accepting City funds.

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2 And so what I have here an amendment
3 which would -- it's virtually verbatim from the
4 language that's used in the McBride Principles and
5 has also been used in other ordinances adopted by
6 this Council, which would require that the City,
7 when it enters into a contract with one of the
8 City-related agencies, it would require the City
9 to include language in that contract which would
10 require the City-related agency itself to impose
11 prevailing wage.

12 The other legal issue that we've
13 identified is the problem that in some of these
14 instances, the City-related agencies are actually
15 spending federal dollars and may be subject to
16 federal or State requirements, which may in some
17 instances prohibit the use of our local prevailing
18 wage ordinance.

19 And so what we have done here is
20 propose an amendment exactly the same as that used
21 in the McBride Principals Ordinance, which would
22 allow the City to waive the requirements of
23 prevailing wage if applying the requirements would
24 cause the City agency to lose the federal or State
25 grants.

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2 And so, with the Chair's permission,
3 I'd like to hand up a proposed which accomplishes
4 exactly what I've just described.

5 COUNCIL PRESIDENT VERNA: Thank you.

6 MR. FEDER: And that concludes my
7 testimony, Madam Chair.

8 COUNCIL PRESIDENT VERNA: Thank you.

9 The Chair recognizes Councilman
10 Kenney.

11 COUNCILMAN KENNEY: Thank you, Madam
12 Chair.

13 Just so the record's clear and the
14 procedure that I'd like to follow this bill is
15 clear. We will be hopefully taking some testimony
16 today on this bill and then rescheduling the --
17 continuing the hearing on this bill to a date
18 certain, which I believe Miss Diaz has indicated
19 that June 16th is an available day, so I wanted to
20 make sure that there was no effort today
21 considering the request for additional
22 conversation with OHCD and the concerns expressed
23 by Mr. Hankowsky and the legal issues expressed by
24 Mr. Feder that we do have some more discussion
25 that we have to enter into.

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2 But my question to Mr. Kromer is, and
3 stipulating from your testimony that the home
4 repair work is not something that is a concern, a
5 major concern to the building trades in
6 Philadelphia, but the construction or renovation
7 of larger projects.

8 What are the number of properties that
9 trigger prevailing wage currently on OHCD
10 projects, home construction, or renovation? Isn't
11 there a number of properties that over a certain
12 number, prevailing wage applies, and under a
13 certain number, prevailing wage does not apply?

14 MR. KROMER: Yes. With respect to
15 Community Development Block Grant-funded rental
16 development, the requirement is triggered on
17 ventures of eight or more contiguous units. There
18 is another source of funding for our programs, and
19 that is Federal Home Program. And with respect to
20 development activities supported through Home,
21 prevailing wage applies if more than 11 units are
22 contracted together, either sales or rental.

23 COUNCILMAN KENNEY: And they're also
24 contiguous.

25 MR. KROMER: I believe they could be

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2 scattered as well with respect to Home, but the
3 primary funding source is the Community
4 Development Block Grant.

5 COUNCILMAN KENNEY: Part of the problem
6 that has occurred and the reason that we're here
7 today is that some developers take the literal
8 language of this requirement and do it in a way to
9 bypass intentionally the payment of prevailing
10 wage. For example, on the eight or more
11 contiguous properties, some developers will build
12 five and then have a break and then build three
13 and have a break and then build two more, and get
14 to a to a large-scale development anyway but
15 circumvent the spirit of prevailing-wage
16 ordinances intentionally.

17 And long ongoing discussions to try to
18 get those developers to stop that process has been
19 fruitless. The building trades, their
20 representatives, people from the City
21 Administration, to their credit, have attempted to
22 have this conversation with the developers
23 involved to no avail. Ad at that point in time,
24 we wind up needing some vehicle, some legislative
25 vehicle, in order to mandate it, to keep them from

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2 trying to get around what we all intend to be a
3 fair wage for this kind of work.

4 So if we take the home repair program
5 out of the mix -- and we can probably do that at
6 some point with language in this bill -- and
7 concentrate on what it is some of the developers
8 are doing to circumvent prevailing wage, which is
9 a readily accepted State and national issue, I
10 think we'll get to where we want to be.

11 I can tell you, this is not something
12 that we necessarily wanted to do, but all of our
13 efforts to discuss this and to negotiate this have
14 gone for naught, and that's the reason why we're
15 here today.

16 I mean, do you recognize the issue or
17 the situation that I'm talking about?

18 MR. KROMER: To the extent that
19 developers are felt to be circumventing the
20 requirements, we need to take that seriously
21 because we are committed to upholding the
22 requirements. And so at our discussion this week
23 and later, I'd be very interested in reviewing the
24 specific cases where that is felt to be true so
25 that we can do something about it now.

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2 COUNCILWOMAN KRAJEWSKI: Thank you.

3 Councilman Cohen?

4 COUNCILMAN COHEN: Mr. Kromer, do you
5 know what is the occasion now for this action?
6 How old is the prevailing wage in the City?

7 MR. KROMER: The prevailing wage
8 requirement has been in effect for some time as a
9 federal requirement, which we are committed to
10 upholding.

11 COUNCILMAN COHEN: But the Philadelphia
12 ordinance has been in effect for many years,
13 hasn't it?

14 MR. FEDER: Councilman, if I can, the
15 prevailing wage ordinance has been on the books in
16 Philadelphia since at least the 1950s. But Mr.
17 Kromer has not been subject to --

18 COUNCILMAN COHEN: What causes -- where
19 has the law failed to provide the protection that
20 this bill is aimed at giving? I mean, why does
21 this issue come up at this time? I'm just trying
22 to figure it out. We've done a great deal of
23 construction work over many, many years. And I
24 always thought that the prevailing wage law
25 applied everywhere.

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2 MR. KROMER: This is not an
3 Administration bill, so I think the sponsors can
4 address that.

5 COUNCILMAN COHEN: Well, from your
6 experience, do you know of any need for this
7 particular provision? Is it additional
8 safeguards?

9 MR. KROMER: Well, again, the concerns
10 that I have, I think, can be addressed through
11 some further discussion with the building trades,
12 and I think we should pursue that, and that those
13 goals need to be achieved, whether they have this
14 legislation or not.

15 As I said, we do have an obligation to
16 the federal government. We also have a clear
17 agreement -- what I feel is a clear agreement --
18 to promote the hiring of Philadelphia residents.
19 And I think we all want to achieve both those
20 things.

21 COUNCILMAN COHEN: Well, I think it's
22 important to have the discussion on the
23 Philadelphia residents. There also have been
24 hearings with respect to subcontractors who are
25 very concerned, minority subcontractors who are

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2 very much concerned about what they feel are
3 inequities in the grant of contracts, and I'm
4 hoping that's a part of the discussion 'cause we
5 ought to clear that up.

6 And then there is the matter of the
7 living wage bill. Basically, the prevailing wage
8 deals with workers at a higher level of income
9 than the living wage, maybe double or triple the
10 amount of living wage. I think workers at the
11 lower levels ought to also be involved in these
12 discussions.

13 I think this is a good time for us to
14 clear up all of the inequities in the wage system
15 that exist, and labor ought to be recognized at
16 every level as being central to, you know, any
17 kind of effective performance, and they ought to
18 be compensated properly. And the laws that exist
19 ought to be complied with fully, and where the
20 laws are inadequate, they ought to be changed to
21 make sure we recognize, you know, the dignity and
22 the work skills of the various people and that
23 they get paid fairly, particularly where
24 government is involved. And I think government
25 has to be the model employer if government has the

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2 responsibility for seeing to it that workers at
3 every level are protected, and in the first
4 instance, certainly, where government is involved.

5 So I hope in these discussions that
6 take place, all of these interests are involved,
7 and we come forth with recommendations which will
8 permit us at one point to deal with the living
9 wage, with the situations between subcontractors
10 and general contractors and with the situation of
11 minority workers. We ought to clear the whole
12 situation up so that Philadelphia can really rank
13 number one nationally in its fair treatment of all
14 workers.

15 If there are discussions, since it is
16 publicly known that I'm very much involved in
17 labor issues, I'm making this declaration publicly
18 'cause apparently, discussions have been ongoing
19 that I know nothing about. I would feel very much
20 more involved if I were notified of these
21 meetings. I would like to participate in them.
22 I'm a member of the Labor and Civil Service
23 Committee, which seems to me ought to be the
24 committee that's dealing with this issue. And I
25 just hope we finally put to rest all of these

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2 labor issues and see that workers everywhere get
3 proper and fair treatment they're entitled to.
4 Thank you, Madam Chair.
5 COUNCILWOMAN KRAJEWSKI: Thank you.
6 Councilman Nutter?
7 COUNCILMAN NUTTER: Mr. Feder, first
8 let me -- there was an amendment circulated, and I
9 think I heard you either talking about it or
10 reading something that I thought I heard. Is this
11 your amendment. It's a proposed amendment to Bill
12 990221, delete the amendment, the definition of
13 City work?
14 MR. FEDER: Yes Councilman.
15 COUNCILMAN NUTTER: This was drafted by
16 the Law Department?
17 MR. FEDER: Yes, sir.
18 COUNCILMAN NUTTER: Okay. Now, with
19 regard to some of definitions, I've figured out
20 pretty much letter o. on Page 2, City Agency
21 Departments, Boards and Commissions. Letter p.
22 and then the qualifier, small letter i., double i.
23 and triple i., do you have a list or can you
24 provide us any information on what various
25 agencies come under these definitions or

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2 qualifiers?

3 MR. FEDER: I certainly don't have such
4 a list, but I can certainly try to develop one if
5 you'd like.

6 COUNCILMAN NUTTER: That certainly
7 would be helpful so I know who we're talking
8 about.

9 And lastly, Mr. Kromer, you and
10 Councilman Kenney were engaged in a discussion I
11 think about half to three quarters of which I
12 heard and followed. Can you go back to the issue
13 of some work that's being done and how many units
14 and what triggers what? I mean, what's -- what is
15 that issue about?

16 MR. KROMER: As I understand it,
17 Councilman Kenney was concerned about developers
18 who might be circumventing the requirements which
19 trigger the payment of prevailing wage, and those
20 requirements briefly are that for rental housing
21 development funded through the Community
22 Development Block Grant Program, a development
23 eight or more contiguous units trigger the
24 requirement.

25 With regard to the Federal Home

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2 Program, another funding source, not as
3 substantial as the Community Development Block
4 Grant, if more than 11 units are contracted
5 together, then prevailing wage is triggered
6 regardless of whether it's rental or sales
7 housing.

8 Now, the issue, as I understand it, is
9 that a particular developer may organize a Phase I
10 development that may be seven units and a Phase II
11 development that may be six units. And there is
12 an appearance that the regulations are being
13 circumvented. And I indicated that to the extent
14 that there are concerns about that, we need to
15 address them because regardless of this proposed
16 legislation, we have an obligation -- we the City
17 Administration -- to HUD to enforce the prevailing
18 wage. And if there's an attempt to circumvent, we
19 need to deal with it.

20 COUNCILMAN NUTTER: And this is by the
21 particular developers, either selection or
22 application of what properties to -- this is, I
23 guess, mostly -- this is primarily rehabilitation
24 or is this new construction also?

25 MR. KROMER: I would expect it would be

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2 primarily rehabilitation, but I would want to look
3 at the specific cases that are the subject of the
4 concern.

5 COUNCILMAN NUTTER: Okay. Now, on the
6 handout that you referred to, I think you
7 indicated that it was a part of your testimony,
8 although when we got your testimony, it wasn't a
9 part of it.

10 MR. KROMER: Copies are available now.

11 COUNCILMAN NUTTER: No, it's around, I
12 just got my hands on it.

13 If you can just walk us through some of
14 these numbers. This is Cecil B. Moore Stage A?

15 MR. KROMER: Yes.

16 COUNCILMAN NUTTER: In the black box,
17 it has, "Workforce, 155."

18 MR. KROMER: Yes.

19 COUNCILMAN NUTTER: Now, down at the
20 bottom of that same row, it says "Total Workforce
21 Participation, 271." What's the 271 number?

22 MR. KROMER: The 271 at the bottom
23 refers to all of the workers on the venture. The
24 statistics in the box refer to Philadelphia
25 workers.

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2 COUNCILMAN NUTTER: Oh. The 271 number
3 can't be the total of -- it's not the total of the
4 50, the 105, and 92.

5 MR. KROMER: No, it should be the total
6 of those plus the total number of non-Philadelphia
7 resident workers.

8 COUNCILMAN NUTTER: I'm just trying to
9 understand what I have here.

10 COUNCILMAN ORTIZ: Madam President?

11 COUNCIL PRESIDENT VERNA: Do you have a
12 point of order, Mr. Ortiz?

13 COUNCILMAN ORTIZ: Can he repeat that?
14 I didn't get it.

15 MR. KROMER: Looking at the left hand
16 column --

17 COUNCILMAN NUTTER: Right, I'm just --
18 I'm trying to get some of these numbers to add up
19 into something that I can understand.

20 MR. KROMER: If you took the first line
21 in each of the three categories, under the box --

22 COUNCILMAN NUTTER: Right, that gets
23 you 147, I think, right? I'm sorry, 247.

24 MR. KROMER: 50 plus 105 plus 92.

25 COUNCILMAN NUTTER: Right.

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2 MR. KROMER: That is the total number
3 of Philadelphia resident workers on this
4 particular job out of a grand total workforce of
5 271. And so the difference between the
6 Philadelphia resident figure and the 271 would be
7 the nonresident workers on the job.

8 COUNCILMAN ORTIZ: The 271 would be
9 nonresident?

10 MR. KROMER: No, that would be the
11 total workforce -- resident and nonresident.

12 COUNCILMAN NUTTER: Right. But the 50,
13 the 105, and the 92 add up to 247.

14 MR. KROMER: All right. I'd like to
15 resubmit that -- was an error in the calculation.
16 Let me go through again my understanding of the
17 breakdown.

18 The figure in the last category, in the
19 left-hand column, Total Workforce Participation
20 that currently reads 271 should instead read 247,
21 and I will resubmit that with the correction.

22 The 247 is the entire workforce of
23 Philadelphia residents plus nonresidents. Of that
24 total workforce of 247, 92 were nonresidents.
25 That is in the category just above that, second to

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2 the last, number of workers outside of
3 Philadelphia. And that means that the
4 Philadelphia resident workers would amount to 155
5 -- 50 from the project area and adjacent zip
6 codes, that first line in the first category below
7 the box, and then 105 Philadelphia workers from
8 other areas, in the second category.

9 COUNCILMAN NUTTER: But who still live
10 in Philadelphia.

11 MR. KROMER: That's right.

12 COUNCILMAN NUTTER: All right. So it's
13 155 out of the 247 live in Philadelphia.

14 MR. KROMER: Yes.

15 COUNCILMAN NUTTER: 50 of whom live in
16 the adjacent zip codes to the particular project
17 question.

18 MR. KROMER: Or within the zip code
19 where the project is located, yes.

20 COUNCILMAN NUTTER: Right, okay. And
21 with the 247 number now being the total workforce
22 participation, I assume you'll have to make some
23 adjustment to the 123, the 9, and the 139 because
24 I assume that that's now supposed to add up to 247
25 also, down at the bottom?.

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2 MR. KROMER: We'll double-check those
3 figures and make whatever change is needed.

4 COUNCILMAN NUTTER: Okay, but 247 is
5 the number.

6 MR. KROMER: Yes.

7 COUNCILMAN NUTTER: Okay, and the
8 reason you raised -- my recollection is that you
9 raised the this issue in the context of last
10 Tuesday's issue with regard to -- I think those
11 figures indicated that on one project, it was 55
12 percent residential, Philadelphia participation,
13 and 54 percent on the other, giving us 45 and 46
14 nonresident participation on two large projects.

15 MR. KROMER: Yes.

16 COUNCILMAN NUTTER: Again, is it my
17 recollection of your earlier testimony that in
18 light of that, as compared to this, that the
19 extension of the particular provisions in front of
20 us may affect the kind of numbers that we're
21 seeing on a Cecil B. Moore Stage A project versus
22 some of the other projects that we were talking
23 about last week?

24 MR. KROMER: I can't predict that but
25 what I wanted to make clear is that I believe

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2 we're all concerned about the employment of
3 Philadelphia residents, and whether -- regardless
4 of this legislation and regardless of whether
5 prevailing wage applies or not, the employment of
6 Philadelphia residents has to continue to be a
7 priority.

8 And I'm expecting that, among other
9 things in the discussions that are upcoming with
10 the building trades, we'll talk about Cecil B.
11 Moore Stage B, which is about to get underway, and
12 seek to equal or exceed the Philadelphia resident
13 employment goals that we see here on this
14 development, which I believe was a mix of
15 prevailing wage and non-prevailing wage.

16 COUNCILMAN NUTTER: My last question
17 is, do you have any perspective on why these
18 numbers, which end up being 63 percent resident,
19 37 percent nonresident, why these numbers are
20 somewhat different, 11, 12 -- I'm sorry, about 8
21 or 9 percent different than the other projects?

22 MR. KROMER: There really is a lot of
23 variation from venture to venture, so it really
24 would not be accurate to say, Well, all downtown
25 development is like this and all neighborhoods are

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2 like that. Just as you can't say that with
3 respect to prevailing wage versus non-prevailing
4 wage. The bottom line is the same, though, as
5 Councilmembers made clear, we need to do more
6 about Philadelphia resident employment.

7 COUNCILMAN NUTTER: Okay, thank you.

8 COUNCIL PRESIDENT VERNA: Thank you.

9 The Chair recognizes Councilman
10 Mariano.

11 COUNCILMAN MARIANO: Thank you, Madam
12 President.

13 Mr. Kromer, to follow up on Councilman
14 Nutter, you don't think that the prevailing rate
15 and the neighborhood employment are directly
16 unproportional, as one goes up, the other one goes
17 down?

18 MR. KROMER: I don't think they're
19 necessarily incompatible with each other, and
20 everyone I've spoken to seems to be in agreement
21 that we need to work together to achieve both
22 goals.

23 COUNCILMAN MARIANO: I just wouldn't
24 want you to be on record as someone to interpret
25 that you think they were inversely proportional.

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2 I would have to add that, you know, the prevailing
3 rate -- and the carpenters are going to get up
4 here and they're going to testify, but they have
5 different rates for housing than they will for a
6 commercial job.

7 So there's only one group in the City
8 that I know of -- well, there's three actually --
9 Congreso de Latinos Unidos, Top, and there's
10 another one whose name escapes me that actually
11 works with the carpenters, and I'm looking at
12 Lenny Lombardo there. Lenny has been responsible
13 for getting minority Philadelphia residents in the
14 program.

15 And I think from a person that comes
16 from a building trade background, and I can think
17 back when I started in the building trades in the
18 mid-'70s, a lot of the minority members that were
19 in my apprentice class don't live in the City of
20 Philadelphia by their own choosing. Now, when I
21 speak with Alva Martinez, and when she has us
22 speak to the classes of these young men and women
23 that are learning to be carpenters and
24 electricians and plumbers and sprinkler fitters
25 and sheet metal workers, I say, Look, do me one

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2 favor, I mean I can't hold you to this, but stay
3 in your neighborhood, you know. That might be
4 more like a social problem, but I don't think we
5 can cure all the woes of the City of Philadelphia
6 and put it on the back of the building trades that
7 are prevailing rate.

8 I know you didn't intend that to
9 happen, but people need to reinvest in their own
10 community. But, I'll tell ya, they can reinvest a
11 lot better in their community if they're making a
12 decent union wage that Lenny and all those guys
13 make as carpenters. I mean, no matter what race
14 or socioeconomic background. And Top Win and
15 Congreso gets people to that.

16 But this isn't something you just hand
17 someone where you get out of high school and say,
18 Hey, you're a union carpenter. It takes four,
19 five, six years to be a carpenter. Then ten years
20 after that, after they turn their ticket to become
21 a real good carpenter. When you turn your ticket
22 after apprentice school, most of yooz get laid
23 off, right? I mean, if I was a foreman -- I mean,
24 you don't -- you'd rather have somebody with 30
25 years' experience putting up that dry wall or

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2 doing that wood or doing the moulding or whatever
3 it is that you guys still do than have someone
4 who's been out of apprenticeship for a year.
5 That's business.

6 The problem -- and there's always going
7 to be a problem here, and we can talk in coded
8 messages and we can try to figure out, and I think
9 the bill -- and I was one of the sponsors of the
10 bill. The bill has good intentions, but we have
11 to realize there's a bigger problem, and it's
12 being addressed at different levels, but it's
13 going to take a long time to figure that all out.

14 I mean, if building trades was
15 traditionally a white male group for 20, 25 years,
16 it isn't any longer. Now, I can't speak for the
17 carpenters but I can speak a little bit for the
18 electricians. We can send you all shapes, sizes,
19 colors and sexual preference, and that's the way
20 they work it.

21 It is a business, it is a business, and
22 these guys are businessmen, and they have
23 something to offer. They don't have time on a
24 construction job to sit down and be concerned
25 who's working with you. If it's a man or a woman

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2 or someone who has different philosophies than
3 you. It's let's get this job done and then get on
4 to the next one. Very many times, it's get this
5 job done and then get laid off. That's what they
6 face every day.

7 So my second question is to
8 Mr. Hankowsky. Mr. Hankowsky, you said on Page 6
9 of your testimony that you're concerned about
10 special firms and businesses for projects with
11 PIDC and PAID that you provide financing or land
12 to, and you say sometimes they have specialized
13 equipment that require manufacturer installation.
14 Do you think this bill will affect the
15 installation of this special equipment?

16 MR. HANKOWSKY: I think it could. I
17 guess I've been around long enough that I've dealt
18 with enough peculiar problems over the years, and
19 I think generally, we've worked out any issues
20 that have arisen with the building trades. But
21 occasionally -- particularly today with technology
22 companies where somebody makes some kind of piece
23 of equipment that only they'll install because
24 only they'll warranty it. And, you know, it's
25 true, they come from some other place, they come

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2 in, you know, Philadelphia and they put that in
3 place.

4 COUNCILMAN MARIANO: The company
5 technician comes in.

6 MR. HANKOWSKY: Yeah and does
7 something. So I just don't want to create a
8 scenario where when we're trying to work with
9 these companies to grow their jobs and businesses
10 in Philadelphia, we're creating some encumbrance
11 obstacle, snag that because this would sort of a
12 one-size-fits-all bill, it would just drop on top,
13 and I wouldn't be able to say, you know, you could
14 do that.

15 COUNCILMAN MARIANO: Can I be correct
16 in assuming that your concern is -- and please
17 correct me if I'm wrong. Your concern is keeping
18 businesses from the City because they may feel
19 that with the encumbrance of this bill, there
20 would be a further labor problem. And you don't
21 want somebody to say, Look, Bill, I want to come
22 here, but if I got to pay the riggers or the
23 electricians or the carpenters that great rate
24 that they make, I'm not coming to your city.

25 MR. HANKOWSKY: Well, it's not just

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2 that gross.

3 COUNCILMAN MARIANO: Yeah, not that
4 gross, but along those lines?

5 MR. HANKOWSKY: I mean, I've dealt with
6 a companies where there was actually a very
7 specific kind of room that would make it pressure
8 that had to do with some kind of pharmaceutical
9 thing that they were, you know, that they were
10 subbed like to Merk or something. And they said
11 this is made by company in Ohio, and they come out
12 and they put it in and, you know, we can't
13 quote/unquote -- you know, we're going to pay
14 whatever that company charges us to pay it, but
15 they may or may not be union, they may or may not
16 be prevailing wage. I just don't want that to be
17 a problem.

18 COUNCILMAN MARIANO: I think having
19 been --

20 MR. HANKOWSKY: And we've also had
21 companies, as I said in my other comment, where
22 they've, you know, they have their own machinists,
23 there may be a nonunion operation, but they're an
24 operation, and we lend them money and they buy a
25 piece of equipment and they have their machinists

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2 put the piece of equipment in.

3 COUNCILMAN MARIANO: But we're not
4 inventing the wheel here. I mean, this has all
5 been done, and you have Philadelphia area labor
6 management, you have Deputy Mayor Murphy who does
7 a fine job on this. I mean, this all stuff -- and
8 having been a business agent, I can tell you
9 what's not in the scope of work. I mean, most of
10 the arguments on the jobs are between the trades.
11 It's not with the trades. If there's something
12 that the carpenters can't do, they know what they
13 can't do. There's no way -- or the electricians,
14 they're not going to try to hook up some special
15 equipment because they understand that if it gets
16 messed up, the person that they work for may be
17 responsible for fixing that equipment.

18 That's all in the scope. When it's
19 built, it's in there. And before it's built,
20 that's in the scope of the job.

21 MR. HANKOWSKY: But your earlier
22 comment is one of my concerns, which is, as much
23 as things are better today than they were, we are
24 still in a very difficult, competitive
25 environment. I mean, I met two companies last

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2 week, each of which told me that if, you know, if
3 we stay in the City of Philadelphia for ten more
4 years and sign a lease, it's going to cost us
5 1.3 million more than it's going to cost us if I
6 go to Conshohocken, what are you going to do about
7 it? So --

8 COUNCILMAN MARIANO: Well, bring 'em
9 down to my Keystone Opportunities Zone on Tioga
10 Street.

11 MR. HANKOWSKY: Well, those are some of
12 the options, but we continue to be confronted with
13 that, you know, cost of doing business in the
14 City, which isn't driven by this. It's just, you
15 know, 'cause I don't want to create any barriers,
16 if I don't have to.

17 COUNCILMAN MARIANO: All right, thank
18 you.

19 No more questions, Madam Chair.

20 COUNCIL PRESIDENT VERNA: Thank you.

21 The Chair recognizes Councilman Clarke.

22 COUNCILMAN CLARKE: Thank you, Madam
23 President.

24 I don't know if this question should be
25 directed to Mr. Kromer or to Mr. Feder, probably

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2 both. It's related to the language in the bill
3 and I'd like to get your interpretation. When you
4 talk about off-site fabrication of sheet metal
5 ducts and other building-related materials, is it
6 your interpretation that this would also include
7 modular housing? 'Cause we've done quite a of bit
8 that here in the City of Philadelphia here of
9 late.

10 MR. FEDER: Councilman, I suspect that
11 none of the three of us knows enough about
12 off-site fabrication to be able to answer that
13 question.

14 COUNCILMAN CLARKE: Mr. Kromer?

15 MR. KROMER: No, I don't know, but we
16 can research that and get a response to you.

17 COUNCILMAN CLARKE: Okay, thank you.

18 There's another issue I have. As a
19 staff person for some years back, I had the
20 pleasure of working with staff at the RDA and the
21 Office of Housing when this whole issue, as it
22 relates to non-prevailing wages came about. The
23 thrust was to reduce the cost of housing.

24 And what I would like to know is, has
25 there been an analysis on that since this has been

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2 going on for about four or five years ago? Has
3 the bottom-line unit costs been reduced since that
4 was the basis for one of the basises (sic.) for
5 doing that?

6 MR. KROMER: We can provide you some
7 information with a breakdown of the cost of
8 prevailing versus non-prevailing jobs so that you
9 could have a look at that, yes.

10 COUNCILMAN CLARKE: Okay, thank you.

11 Thank you, Madam Chair.

12 COUNCIL PRESIDENT VERNA: Thank you.

13 The Chair recognizes Councilman Ortiz.

14 COUNCILMAN ORTIZ: Thank you, Madam
15 Chair.

16 Mr. Kromer, could you give me -- what
17 is Cecil B. Moore Stage A? What is that? And
18 what does it consist of? What is Stage A?

19 MR. KROMER: Cecil B. Moore Stage A is
20 the first phase of the development in the Home
21 Ownership Zone area between 17th and 20th Street,
22 between Master and Montgomery. It consists of 30
23 sales housing units, most of them new construction
24 and most of them located on 18th Street.

25 So this is all sales housing in the

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2 first phase of a larger development in North
3 Philadelphia.

4 COUNCILMAN ORTIZ: Is that the first
5 phase of building or of the total construction of
6 it?.

7 MR. KROMER: First phase of the total
8 development.

9 COUNCILMAN ORTIZ: First phase of the
10 total development. But what does Stage A mean? I
11 mean, does Stage A mean the house fully fitted?

12 MR. KROMER: These workers are
13 completing those houses in the next stage, which I
14 refer to as Stage B, is in another nearby site,
15 again, starting new.

16 COUNCILMAN ORTIZ: Do you have
17 breakdowns of the minority workers and the
18 percentages of that, you know, African-American,
19 Latinos and so on?

20 MR. KROMER: Yes. Again, we will check
21 the figures here on the left-hand column, but you
22 will see what is contained in the material
23 distributed. It does break down minority and
24 female. We can further break that down by race
25 and ethnicity, if that would be useful.

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2 COUNCILMAN ORTIZ: Do you have the same
3 breakdown in the subcontractors and contracting
4 area?

5 MR. KROMER: Yes, yes.

6 COUNCILMAN ORTIZ: Do you have the same
7 breakdown in terms of skill level?

8 MR. KROMER: By "skill level," do you
9 mean apprentices versus --

10 COUNCILMAN ORTIZ: A skill level --
11 laborers, electricians, carpenters and so on, a
12 breakdown in terms of minority participation in
13 all of those skill levels and so on?

14 MR. KROMER: Yes.

15 COUNCILMAN ORTIZ: Do you have that
16 breakdown?

17 MR. KROMER: Yes. We can provide that
18 as well.

19 COUNCILMAN ORTIZ: Could you provide
20 that to the President, please.

21 MR. KROMER: Certainly.

22 COUNCILMAN ORTIZ: In terms of people
23 and developers, do you have a listing of
24 developers or reports of developers and the way
25 they have tried to circumvent the prevailing wage

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2 legislation?

3 MR. KROMER: No, I don't. That's why
4 it's important that we know of any complaint along
5 those lines because we do have an obligation to
6 enforce the rules which are now in place.

7 COUNCILMAN ORTIZ: Have any complaints
8 come to your office about that?

9 MR. KROMER: I don't recall any.

10 COUNCILMAN ORTIZ: Have any complaints
11 come to PIDC?

12 MR. HANKOWSKY: To PIDC?

13 COUNCILMAN ORTIZ: Right. Or RDA? Do
14 we have a record of that?

15 MR. HANKOWSKY: On behalf of PIDC, we
16 may get one or two instances a year where there's
17 some issue that comes up regarding prevailing wage
18 in some construction project. Sometimes it's a
19 sub issue, sometimes it's an installation issue.
20 They're usually resolved.

21 COUNCIL PRESIDENT VERNA: The Chair
22 recognizes Councilman Kenney for a point of
23 order.

24 COUNCILMAN KENNEY: Point of
25 clarification.

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2 There have been ongoing discussions
3 between the building trades and the Mayor's office
4 and their representatives about specific
5 complaints about specific developers that I am not
6 in a position here, in a public record, to
7 divulge, but privately would happy to tell you,
8 and I'm sure that they would also tell you, but
9 there's been ongoing sometimes vociferous and
10 angry conversations that have gone on with the
11 Mayor and the Mayor's people and representatives
12 of the various trades over this issue. So --

13 COUNCILMAN ORTIZ: Why doesn't that get
14 down to OHCD?

15 COUNCILMAN KENNEY: Well, I guess they
16 were dealing directly with the Mayor. I don't
17 know whether or not Mr. Kromer was informed by the
18 Mayor as to these meetings or these complaints,
19 but there's been at least two or three meetings
20 that I know of that have already taken place. And
21 specifics about what their complaints were
22 discussed at the meeting quite heatedly.

23 So I mean, there is an unofficial
24 record, I guess, of the developers involved and
25 the specific complaints, and those representatives

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2 -- when representatives of the carpenters union
3 here today come to the table, I mean, if they have
4 something --

5 COUNCILMAN ORTIZ: Do those developers
6 continue to receive contracts from the Mayor's
7 office?

8 COUNCILMAN KENNEY: Well, not from the
9 Mayor's office -- from OHCD.

10 MR. KROMER: I attended one meeting of
11 that group, and there was a reference to Community
12 Development Corporation projects, but there was no
13 specific issue that was raised there.

14 COUNCILMAN ORTIZ: Well, I think that
15 should be a part of the record of the developers
16 doing that. That should be a part of the record.

17 COUNCILMAN KENNEY: I think it will be
18 when they testify.

19 COUNCILMAN ORTIZ: But it confounds me
20 that that information is not -- if the discussions
21 are taking place in the Mayor's office but the
22 Office of Housing Economic Development gives the
23 contracts, how come those names are then not
24 filtered down to OHCD so that OHCD can then put
25 certain regulations saying you're not going to get

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2 a contract if you continue these practices?

3 That's confounding. It seems there's a
4 lack of communication between the Mayor's office
5 and the Office of Housing and Community
6 Development.

7 COUNCILMAN KENNEY: I'm only supposing
8 that perhaps there's a motivation on the Mayor's
9 office not to the eliminate some of these
10 developers for various reasons. So perhaps
11 there's no reason for Mr. Kromer to even know
12 about it. There may be an opportunity to protect
13 some of those developers as opposed to getting rid
14 of them.

15 COUNCILMAN ORTIZ: Well, yeah. We have
16 a living wage legislation that I'm quite concerned
17 about that I believe ties into very closely into
18 what we're talking about here. And I hope that
19 now we can we can begin tying that in with what
20 we're discussing.

21 Mr. Kromer, I'm interested in the
22 second page of your testimony that says that --
23 and I would like your explanation of it. That for
24 this reason regarding repair programs to maintain
25 prevailing wage would substantially reduce the

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2 number of Philadelphia-based neighborhood
3 contractors and companies participating in OHCD
4 funding repair programs.

5 We're talking about leveling the
6 playing field in terms of getting minority folks
7 to be able to enter into this process and
8 participate. Obviously, one of the ways of doing
9 that is with minority-based contractors. I'm not
10 -- I'm interested in raising the wages of
11 minority contractors that they pay, but I'm also
12 interested in maintaining that they are able to
13 compete.

14 Explain that to me because I've gotten
15 some questions, and there are divergent points of
16 views on this issue. And I think if it can be
17 resolved in which minority contractors can then
18 play on a level playing field and also pay a
19 living wage and a prevailing wage. But explain
20 that -- your statement for me along those lines,
21 will you?

22 MR. KROMER: My understanding, through
23 the Philadelphia Housing Development Corporation,
24 which administers the biggest repair program, the
25 Basic Systems Repair Program, is that a

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2 substantial number of the contractors
3 participating in this program are small,
4 neighborhood-based contractors which do not pay
5 prevailing wage, which work on a variety of
6 different types of construction activities, many
7 of them not City-funded.

8 COUNCILMAN ORTIZ: What's the level of
9 contracts? What is the amount of contract in
10 terms of monies?

11 MR. KROMER: Oh, I can provide you with
12 a breakdown that will show the program as a whole
13 and the level of minority neighborhood
14 participation and the dollar amount that that
15 represents, but it is very substantial.

16 COUNCILMAN ORTIZ: What is the cost for
17 the average contract?

18 MR. KROMER: The cost varies. In some
19 instances, it's below \$2,000 per unit and would
20 not fall within this proposed ordinance. A
21 substantial number of other cases, however, do
22 exceed the \$2,000 threshold.

23 But, again, I can provide that
24 breakdown for you for a year's worth of repair
25 cases.

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2 COUNCILMAN ORTIZ: But the statement
3 you make is that it would substantially reduce the
4 number, and I would like you to substantiate that.

5 MR. KROMER: Yes.

6 COUNCILMAN ORTIZ: I want you to
7 expound on that paragraph, on that phrase, that it
8 would substantially reduce the number of
9 Philadelphia-based neighborhood contractors.

10 MR. KROMER: My understanding is that
11 those small neighborhoods contractors would not be
12 able to participate in a program that required the
13 payment of prevailing and, therefore, would drop
14 out of the program.

15 COUNCILMAN ORTIZ: Why?

16 MR. KROMER: Because they are working
17 on other construction activity which is not
18 City-funded and could not afford to charge on
19 those construction jobs the level of contract
20 amount that would enable them to continue to
21 support prevailing wage. Therefore, their only
22 option would be to drop out of the program so that
23 they could continue to afford to do business.

24 COUNCILMAN ORTIZ: Well, because
25 they're working on other programs, they would not

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2 be able to bid on City programs? Wouldn't the
3 fact that the City at least would be presenting a
4 level playing field for all contractors and asking
5 that all contractors pay at least the prevailing
6 wage give minority contractors -- we had this
7 discussion in my office last night and went back
8 and forth.

9 Wouldn't that give minority contractors
10 a level playing field in terms of being able to
11 bid on a prevailing wage basis?

12 MR. KROMER: My understanding is that
13 by paying prevailing wage, some of the
14 construction work that those contractors are doing
15 now would not be economically feasible and would
16 be less than break even.

17 COUNCILMAN ORTIZ: I would like you to
18 explain that to me. You mean that if they get the
19 City contract, they would not be able to do the
20 outside contracts?

21 MR. KROMER: That's my understanding,
22 that there's a mix of contracts, including some
23 non-City construction activity which would not be
24 feasible if prevailing wage were to be paid.

25 COUNCILMAN ORTIZ: I'd like an

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2 explanation. Really, I'd like to talk to minority
3 contractors because this is -- if you're putting a
4 level playing field which, is what we're talking
5 about here, and I'm a minority contractor and I'm
6 then competing against, let's say, Mr. Keating,
7 Keating will have to pay the same wages that I'm
8 paying.

9 I'm just putting it as an example. You
10 know, I know Keating is not going to go for this
11 type -- it's a name.

12 COUNCILMAN MARIANO: But there aren't
13 really prevailing wages yet. They don't have
14 classifications in their union for this yet. I
15 don't think they have somebody that just does
16 windows. You know what I'm getting at? We might
17 be talking about stuff that's not really there
18 yet. We may, in the long run, by this -- just one
19 minute -- be able to help people that have a
20 chance of getting into the union. They may be
21 able to go into the carpenters union at a
22 classification that they never had before.

23 COUNCILMAN ORTIZ: I'm trying to get an
24 understanding because he's saying that they would
25 be working here, but then they would lose the jobs

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2 outside and they would have to choose one or the
3 other. That's what you're saying?

4 MR. KROMER: Yes.

5 COUNCILMAN ORTIZ: I -- I -- we -- I
6 need further conversation. That's --

7 MR. KROMER: I'd be glad to join you in
8 some discussion with some of those contractors
9 just to talk that over. I think that the more we
10 all know about those issues, the better.

11 COUNCIL PRESIDENT VERNA: I believe
12 Councilwoman Tasco is next if she's available.

13 COUNCILWOMAN TASCO: Yes, yes, yes,
14 yes.

15 When Councilman Kenney discussed the
16 problems, he cited a problem that caused the
17 initiation of this legislation because he couldn't
18 get a resolution with the administration. If a
19 developer bids on a project and doesn't follow the
20 project as bid on, wouldn't he be breaking the
21 law, the basis of the contract, by not paying
22 prevailing wage?

23 MR. KROMER: Yes, absolutely.

24 COUNCILWOMAN TASCO: If he says he's
25 doing a contract, he's building 20 houses and how

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2 ever you say that he break it up, I mean, where's
3 your oversight, where's your monitoring?

4 MR. KROMER: Absolutely, it would be a
5 violation of the regulations, and we at the Office
6 of Housing and Community Development would be
7 responsible for enforcing them.

8 COUNCILWOMAN TASCO: Well, is it that
9 that issue can't be resolved? Why are we here
10 discussing this when there hasn't been a problem
11 when you all haven't addressed the issue that this
12 developer is breaking the law?

13 MR. KROMER: Again, I don't know of any
14 complaint, any specific complaint. I expect to
15 hear what they are and to respond to them. But as
16 of now, I have nothing that has been reported to
17 me in the way of a complaint.

18 If there is, though, we're legally
19 obligated to deal with it.

20 COUNCILMAN KENNEY: Point of
21 information.

22 COUNCIL PRESIDENT VERNA: Councilman
23 Kenney.

24 COUNCILMAN KENNEY: The complaints
25 traditionally go to the Office of the Wage

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2 Standards, which is the Deputy Mayor for Labor.
3 And they investigate with their staff the
4 allegations normally brought by the union against
5 a particular contract or developer.

6 So I don't know whether or not
7 Mr. Kromer would be getting those specific
8 complaints initially, but the Department of Wage
9 and Labor Standards would get those complaints.

10 Mr. Murphy was here earlier, but he's
11 not here and maybe --

12 COUNCILWOMAN TASCO: Madam President, I
13 would like to engage in a conversation with
14 Mr. Kenney, Councilman Kenney.

15 If the wage -- if the complaint is
16 waged with the Bureau of Labor Standards with the
17 City?

18 COUNCILMAN KENNEY: (Nods.)

19 COUNCILWOMAN TASCO: And they know that
20 they have a contract with OHCD, and on the basis
21 of contract, they're breaking the law, where is
22 the problem? Nobody's enforcing the law?

23 COUNCILMAN KENNEY: It would lead me to
24 that assumption.

25 COUNCILWOMAN TASCO: So we're here to

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2 change the whole apple cart because we can't get
3 the Administration to make the developer or OHCD
4 follow the law and honor the contract as
5 presented?

6 COUNCILMAN KENNEY: I don't know if
7 it's changing the whole apple cart because, I
8 guess, as was stated earlier, there's been a
9 prevailing wage standard in the City since the
10 1950s. I just think that some of this work on
11 large-scale development has fallen through the
12 cracks from traditional large construction
13 projects down to the end of home repair.

14 Somewhere in the middle comes this
15 nuance of rental and for-sale housing development
16 that is paid for by dollars and tax credits that
17 funnel through City-related agencies. And it's
18 not as direct link.

19 So I think what this is attempting to
20 do, either through amendments that Mr. Feder
21 recommended or other changes, is to close that gap
22 in that nuance of construction work that is now,
23 in many instances, being circumvented, or
24 circumventing prevailing wage standards.

25 MR. KROMER: What we can do,

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2 Councilwoman, is, with the Deputy Mayor for Labor
3 and the Redevelopment Authority, and I just heard
4 from one of their staff, is identify every
5 complaint that has been received and how each of
6 those is being addressed. Regardless of this
7 proposed ordinance, we have an obligation to
8 follow up, and we will do that.

9 COUNCILWOMAN TASCO: But Councilman
10 Kenney, if the Administration, including OHCD,
11 were to honor the existing prevailing wage, how
12 are they breaking the law?

13 COUNCILMAN KENNEY: Well, technically,
14 the developer probably isn't breaking the law by
15 doing the development in phases. It is an
16 interesting idea to try to circumvent the law that
17 you're holding.

18 So, for example, if the prevailing wage
19 standards are triggered at eight properties or
20 more, and the guy's doing five in Phase I and four
21 in Phase II and five in Phase II, the letter of
22 law is not being broken, but certainly the spirit
23 is being broken because he's paying his workers a
24 much lower wage rate to do the work that should be
25 done prevailing wage, and he's pocketing the

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2 profit.

3 And what we're saying is that maybe
4 technically, he's within the law by doing it in
5 phases. But in the spirit of the law, he's really
6 trying to circumvent what we in the State and in
7 the federal government have intended to be fair
8 wages for a fair day's work.

9 COUNCILWOMAN TASCO: How does the
10 amendment keep him from going through various
11 phases?

12 COUNCILMAN KENNEY: 'Cause it will
13 require him -- the way it is written now with that
14 amendment would require the prevailing wage in
15 everything over \$2,000 in all the development, so
16 that the eight-property trigger wouldn't be
17 effective or would be moot. It's anything over
18 \$2,000 would be at the prevailing wage.

19 COUNCILWOMAN TASCO: It's the amount of
20 the project.

21 COUNCILMAN KENNEY: Mm-hmm.

22 COUNCILWOMAN TASCO: Okay, thank you.

23 Mr. Kromer, what is the prevailing wage
24 rate versus the non-prevailing wage rate? What's
25 the disparity? Are the carpenters going to talk

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2 about that?

3 MR. KROMER: Yeah.

4 COUNCILWOMAN TASCO: All right, that
5 will be my question. Okay, thank you.

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

8 COUNCILMAN COHEN: Madam President,
9 first I have a general objection to the entire
10 procedure. I don't know why every member of
11 Council -- and every member of Council is a member
12 of the Committee of the Whole -- why we're dealing
13 with a matter like this instead of having it go
14 through one of the regular Council committees so
15 that we can get all of the facts, spend whatever
16 time is necessary over many days or weeks.

17 And the only problem is that I'm just
18 having difficulty getting a handle on and which
19 the City says they haven't got any complaints
20 about, the City departments that are involved with
21 this. I don't know whether we're trying to solve
22 a problem that doesn't exist. It seems to me to
23 be clearest and why it's a matter of the Committee
24 of the Whole, I don't understand.

25 I understood both of you, Mr. Hankowsky

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2 and Mr. Kromer, to have said that you haven't
3 gotten complaints of the kind that we're talking
4 about and that if you had gotten complaints, you
5 would be seeking to resolve them. You know, I
6 thought this might have to do -- maybe it does, I
7 can't find out what the problem is.

8 We had hearings -- I think Councilman
9 Kenney was the Chairman of a hearing in which
10 there were a group minority contractors
11 complaining. I'm trying to see, does that fit
12 into this area or doesn't it? And that's why I
13 said it's good, Mr. Kromer, that you're dealing
14 with that. I thought maybe it's involved with
15 living wage, I still don't know. But it seems to
16 me if we deal with wages, we ought to deal at
17 every level.

18 Madam Chair, I just don't see what the
19 problem is that we're dealing with. If it's a
20 matter of some contractor trying to avoid the law,
21 I think we've got all kinds of procedures
22 available to deal with that, and we have
23 representatives of the City involved in this work
24 who say if they know of a complaint, they would
25 try to address it. I don't know what it's doing

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2 on the floor of City Council.

3 MR. KROMER: If I could recommend,
4 during the period specified by Councilman Kenney,
5 between now and the time when the consideration of
6 the bill is resumed, we can communicate with one
7 another through the Deputy Mayor for Labor and
8 others, the implementing agencies, and identify
9 all of the complaints that those other agencies
10 and the Deputy Mayor are aware of, record them,
11 and identify how we are following up so that that
12 information will be in the hands of Council prior
13 to the reopening of this issue.

14 COUNCILMAN COHEN: Well, I am
15 concerned, Mr. Kromer, about your statement that
16 in the home ownership repair group, is that where
17 you feel that this bill might have an adverse
18 effect?

19 MR. KROMER: Yes.

20 COUNCILMAN COHEN: Now, you say the
21 repair work is financed by Community Development
22 Block Grant funds.

23 MR. KROMER: Yes.

24 COUNCILMAN COHEN: I thought the
25 prevailing wage law applied to all federal

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2 funding. Doesn't the Community Development Block
3 Grant funds, isn't that federal funding?

4 MR. KROMER: No. When Community
5 Development Block Grant funds are used -- and the
6 Block Grant is federal, but the prevailing wage
7 only applies to rental development, so
8 owner-occupied repaired does not trigger
9 prevailing wage.

10 COUNCILMAN COHEN: Even though it's the
11 use of federal funds.

12 MR. KROMER: That's right.

13 COUNCILMAN COHEN: I see. That's
14 another nuance.

15 And I always understood that the
16 contracts -- and, Madam Chair, I'm stunned by the
17 language in the bill which talks about \$2,000. I
18 always thought that the issue was in projects in
19 the area of \$1 million, not in the small home
20 ownership projects.

21 Is that a new interest that's being --

22 COUNCIL PRESIDENT VERNA: Excuse me,
23 Councilman Cohen. I believe that Councilman
24 Kenney has a point of order.

25 COUNCILMAN KENNEY: We had discussed

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2 earlier in the course of this hearing that that is
3 basically off the table, as far as discussion.
4 The home ownership repair program is not something
5 that was intentionally included in this particular
6 legislation and will be removed at some future
7 date because it's not something that really is at
8 issue. So, I mean, it keeps on being raised but
9 it's not --

10 COUNCILMAN COHEN: What is the point of
11 order?

12 COUNCILMAN KENNEY: The point of order
13 is you're arguing about something we're not
14 arguing about. We're not arguing about the home
15 ownership --

16 COUNCILMAN COHEN: Well, I disagree
17 with you. I think I'm arguing about something
18 that's the subject of this bill.

19 COUNCILMAN KENNEY: Right. Well, point
20 of order.

21 COUNCILMAN COHEN: And I don't
22 appreciate these points of order that are being
23 raised to obscure facts. I think points of order
24 ought to be limited to areas that are appropriate,
25 and not whenever Councilman Kenney feels like

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2 interjecting a point of order in order to disrupt
3 the discussions that are taking place.

4 COUNCILMAN KENNEY: Madam Chair, I'm
5 sorry, I will refrain from points of order that
6 Councilman Cohen doesn't agree with.

7 COUNCILMAN COHEN: I just wish you
8 would operate in the proper fashion. It's the
9 only complaint I have.

10 But I don't -- is this a change of
11 policy by -- I mean, what is it that we are
12 considering here? Why are we all gathered here
13 teething this as a very important problem when we
14 haven't even defined the problem, we don't know
15 what the problem is? I mean, is this a mystery
16 session today, you know, where we're trying to
17 solve a mystery?

18 If the administration representatives,
19 Madam President, don't know what the problem is
20 and say they have not been confronted with it, but
21 if there is a problem, they'd be happy to deal
22 with it, I think we ought to go ahead and let them
23 deal with it.

24 COUNCIL PRESIDENT VERNA: Can anyone at
25 the table, the witness table respond to Councilman

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2 Cohen's question?

3 MR. KROMER: I believe that there's
4 testimony on this, and I'd recommend hearing and
5 following up on the testimony.

6 COUNCIL PRESIDENT VERNA: Thank you.

7 COUNCILMAN COHEN: Mr. Kromer, could
8 you indicate to what extent do you think it would
9 have an adverse effect on the small home
10 improvements?

11 MR. KROMER: Yes. Again, as I
12 responded to Councilman Ortiz's question, I
13 believe that a substantial number of the small
14 neighborhood-based contractors currently
15 participating in the City-funded repair programs
16 would not continue to participate. But I think
17 it's been indicated that these repair programs
18 would not be a part of the bill.

19 At the same time, though, with
20 Councilman Ortiz, I think it is worthwhile to have
21 some further discussion with some of these
22 contractors about some of the issues that you've
23 brought up, and I'd be interested in following up
24 with you and other interested Councilmembers.

25 COUNCILMAN COHEN: All right. I'm

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2 lost. I just wonder, has the union raised the
3 issue that they want to be involved in these small
4 home ownership contracts? Has that been raised
5 with you?

6 MR. KROMER: No, it has not.

7 COUNCILMAN COHEN: It has not been.

8 All right, Madam Chair. I don't have
9 any other questions. I just don't know what we're
10 spending our time on.

11 COUNCIL PRESIDENT VERNA: Thank you.

12 The Chair recognizes Councilwoman
13 Miller.

14 COUNCILWOMAN MILLER: Thank you, Madam
15 Chair.

16 I'm somewhat a little perplexed, and
17 just to follow up to some of what Councilman Cohen
18 said, when I read this, I tried to figure out what
19 was the problem, and I do think the problem needs
20 to be defined. And if there are people here from
21 the carpenters union or wherever that can help me
22 understand the problem, because as I see it too,
23 it would impact those smaller neighborhood
24 developers that are doing smaller jobs such as the
25 Basic System Home Repair Program.

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2 And I do have one question, though, of
3 Mr. Kromer. Who set the guidelines around the
4 number of units? Like this -- in the Federal Home
5 Program, prevailing wage must be paid if it's 11
6 units or more. Who set that number 11?

7 MR. KROMER: The federal government --
8 Congress and HUD.

9 COUNCILWOMAN MILLER: And the number
10 2,000 in this piece, again, you were saying
11 earlier -- I think you said that the home repair
12 programs are going to be excluded from this \$2,000
13 limitation?

14 MR. KROMER: My understanding was that
15 the -- in further discussion, the bill might be
16 modified to exclude the home repair programs
17 altogether so that that issue would not come up at
18 all in the future.

19 COUNCILWOMAN MILLER: Okay, thank you.
20 But I would like to hear a definition of the
21 problem.

22 COUNCIL PRESIDENT VERNA: I'm sure that
23 we will hear from members of the union.

24 At this time, the Chair recognizes
25 Councilman Clarke.

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2 COUNCILMAN CLARKE: Thank you, Madam
3 Chair.

4 Mr. Kromer, is there currently a
5 contract compliance or wage compliance staff for
6 the Redevelopment Authority?

7 MR. KROMER: The issue of wage
8 compliance, I believe, is handled through the
9 Deputy Mayor for Labor's office.

10 COUNCILMAN CLARKE: What is the
11 responsibilities of that individual?

12 MR. KROMER: Again, my understanding is
13 that the staff there is responsible for monitoring
14 federally-funded construction work to ensure that
15 federal standards for prevailing wage and other
16 federal standards are upheld.

17 COUNCILMAN CLARKE: And is that -- so
18 they essentially only deal with rental
19 developments?

20 MR. KROMER: And any other development
21 to which the federal regulations apply, yes.

22 COUNCILMAN CLARKE: All right.

23 Question. When the decision was made
24 -- and I always had a question about this -- on
25 allowing the home ownership developments to be

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2 non-prevailing wages, was that a federal decision
3 or was that a local decision?

4 MR. KROMER: It was a federal
5 decision. And I believe it's correct to say that
6 the federal regulations simply did not mention
7 sales housing development. And, therefore, sales
8 housing development was not subject to those
9 regulations.

10 COUNCILMAN CLARKE: Okay. So Mr.
11 Feder, if a law is imposed to require these
12 prevailing wages on home ownership development,
13 how does that relate to the federal regulations?

14 MR. FEDER: Councilman, unless there's
15 a specific prohibition in the federal regulations,
16 we are free generally to impose pose additional
17 requirements as long as we are involved in the
18 contracting. Where there are specific
19 prohibitions, we have proposed that there should
20 be a waiver, but only in those instances.

21 COUNCILMAN CLARKE: Okay, thank you.

22 COUNCIL PRESIDENT VERNA: Thank you.

23 Are there any other questions from
24 members of the committee?

25 (No further questions at this time.)

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2 COUNCIL PRESIDENT VERNA: Gentlemen,
3 would you please remain until the conclusion of
4 this hearing, just in the event that there are
5 other questions.

6 Who's going to testify for the union?
7 Please approach the table.

8 (Union witnesses come forward.)

9 COUNCIL PRESIDENT VERNA: Good
10 afternoon. Kindly identify yourself for the
11 record and proceed with your testimony.

12 MR. MCNEIL: Good afternoon. My name
13 is Rick McNeil, and I'm an attorney in
14 Philadelphia who represents a number of building
15 trades unions.

16 I'm here at Council today on behalf of
17 one of my clients, the Metropolitan Regional
18 Council of Carpenters. With me is Len Lombardo,
19 who is a business agent from the carpenters, who
20 will also provide you with testimony regarding
21 specifics.

22 With all due respect to the
23 Administration and the agencies, we've kind of
24 proceeded somewhat backwards here. We are
25 speaking in favor of the bill and its proposed

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2 amendment. You got a lot of questions that were
3 raised, and obviously a lot of questions that are
4 still in respective Councilpersons' minds, and I
5 hope to clear all those up for you.

6 What I'd like to do, however, is start
7 by talking about what we're here to talk about
8 here today and what we're not here to talk about
9 today. Prevailing wage has nothing to do with
10 labor unions. Prevailing wage has nothing to do
11 with minority contracting. I will start by
12 explaining what prevailing wage has to do with by
13 giving you a little history of it, following up on
14 Councilman's Cohen's request as to when the wage
15 ordinance that's at issue went into effect.

16 It did go into effect, as Mr. Feder
17 pointed out, around the time of the City Charter,
18 back in the '50s, but it was not the first piece
19 of prevailing wage legislation in this country,
20 nor was it unique. The very first piece was a
21 federal act, the Davis Bacon Act, which you heard
22 mentioned here, and that was passed back in the
23 '30s as part of New Deal legislation.

24 Following Davis Bacon, 36 states
25 enacted what are called mini Davis Bacon Acts that

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2 provide prevailing wage requirements with respect
3 to the expenditures of State as opposed to federal
4 money, and those states include Pennsylvania, New
5 Jersey, and Delaware.

6 Other cities, besides the City of
7 Philadelphia, have ordinances that impose
8 prevailing wage requirements with respect to the
9 expenditure of City dollars, and that's really all
10 we're here today to deal with and all we're here
11 today to discuss. That's what the changes to the
12 bill that are proposed before Council have to do
13 with.

14 Now, the theory behind prevailing wages
15 is very simple and it's not hard to imagine how it
16 came into being in the Depression-era economy.
17 Let's face it, if you wanted to buy a house in
18 Overbrook or rent an apartment in Center City,
19 Philadelphia, you're going to expect to pay a
20 certain amount of money for that. That's just the
21 standard of living here in Philadelphia. And if
22 you were to drive 75 miles or so west to the
23 Lancaster area or 75 miles or so south to the
24 Dover, Delaware area, a house similarly situated
25 to the one in Overbrook in a similar neighborhood

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2 in one of those locations may cost significantly
3 less. The apartment in the downtown area may cost
4 significantly less.

5 But there is a certain cost of living
6 in Philadelphia as there is in any major
7 metropolitan area. And that's really what lies at
8 the bottom of prevailing wage laws. Because back
9 in the '30s, when everybody was hungry for jobs,
10 it was not uncommon for people to serve as
11 itinerants going throughout the country and going
12 into an area, and they'd come to Philadelphia and
13 work for a lot less than everybody in Philadelphia
14 was used to working for. With jobs being scarce,
15 it was easier for people to find work that way.
16 And the result was, it was destroying the living
17 standards in local areas and destroying the local
18 economies.

19 Now, what the federal government said
20 when it passed Davis Bacon was, when we spend
21 federal tax dollars which come from our citizens
22 on our construction projects, we're going to make
23 sure that the wage standards and the living
24 standards in the area where that work is being
25 done are not going to be destroyed. We're going

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2 to require that wages that are in accordance with
3 what's normally paid in that area are paid when
4 those federal tax dollars are used.

5 The mini Davis Bacon Acts that have
6 been passed in the 36 states, including
7 Pennsylvania, say the same things with respect to
8 State money, that when something's going to be
9 built within this state, in a particular area in
10 this state, we're not going to permit the wage
11 rates and the living standards in that area to be
12 destroyed for the use of State tax money.

13 And the City's ordinance says the same
14 thing. Although it comes a little later, it says
15 that when we use City dollars, we're going to make
16 sure that we don't destroy on City construction
17 projects the living standard in the City of
18 Philadelphia. And that is really what we're here
19 about today. Not much different than Councilman
20 Cohen and Councilman Ortiz's concerns about a fair
21 wage.

22 This is one area where Congress has
23 acted and state legislatures have acted for over
24 60 years to assure that at least in the
25 construction sector, where public dollars are

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2 spent on public projects, a fair wage is paid.

3 Now, there are a lot of checks and
4 balances in those systems as to where those wages
5 come from. Municipalities like the City, states
6 like the Commonwealth of Pennsylvania, and the
7 federal government do wage surveys. And
8 prevailing wage means the wage that's paid to more
9 people than everybody else for that particular job
10 in the area.

11 Now, in Philadelphia, which is a strong
12 union town, collectively-bargained rates, which
13 have been the product of the unions working in
14 cooperation with management since the enactment o
15 the National Labor Relations Act back in the '30s
16 as well, are the prevailing rates. If you go to
17 other parts of the country, you may or you may not
18 find that to be so, and you may even go to some
19 parts like South Carolina where you will find no
20 presence at all.

21 But in Philadelphia, the prevailing
22 rates, as determined by the federal government, by
23 the Commonwealth of Pennsylvania, and by the City
24 of Philadelphia parallel collectively-bargained
25 rates for carpenters, for electricians, for any

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2 other trade that you can think of. It doesn't
3 mean union rate, it's got nothing to do with labor
4 unions. And the passage of the bill before you
5 today would not guarantee that one other person
6 from our union who's not already working is going
7 to get on a job.

8 What it's going to guarantee is that
9 anybody who works on a project where City money is
10 involved, whether it's for the City and its
11 departments and agencies, as the ordinance now
12 requires, or if it's also for those quasi City
13 agencies that the amendments are intended to
14 embrace, that whenever City dollars are spent, a
15 prevailing wage will be spent on the construction
16 workers working on that project. It's not about
17 the contractors; it's about the people who work
18 for them.

19 That's all the bill really attempts to
20 do. Although we've heard a lot of comments, there
21 are some other things that the bill is not about
22 as well.

23 I wholeheartedly agree with many of the
24 concerns that were expressed by Council when the
25 Administration testified that we need to be

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2 concerned about the number of residents of
3 Philadelphia who get to benefit by working on
4 these projects and get to benefit by the
5 prevailing wages that are required to be paid.

6 I can tell you that there is nothing in
7 this amendment that would accomplish that. It's
8 not intended to do that, it's not intended to set
9 though ratios. It is merely intended to make sure
10 that whoever works on those projects where City
11 money is involved is going to get paid a fair,
12 decent, prevailing wage, and that wage standards
13 in Philadelphia area are not going to be eroded by
14 carpetbaggers coming in here from areas where
15 people are paid much less and destroying our
16 standards of living, our ability to patronize
17 local businesses, and pay our bills.

18 Now, Len Lombardo is here with me
19 today, who is going to address some of the
20 concerns that were raised about residents of
21 Philadelphia working on projects. Obviously, if
22 the union rate is the prevailing rate, we do have
23 the chance, as a union, to benefit from City money
24 being covered completely by this ordinance because
25 it's likely that some of our members are going to

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2 get to work on these prevailing wage projects.
3 It's not guaranteed, but it's likely.

4 Mr. Lombardo is going to explain to you
5 a few things, and I'm going to let you all in on a
6 little secret that Councilman Mariano's probably
7 aware of that many of the rest of you aren't.
8 There is a serious growing shortage of employees,
9 skilled employees, in the building trades sector,
10 and it's not going to change. It is incumbent
11 upon us as a union to go out there and recruit and
12 train people.

13 Mr. Lombardo will tell you about the
14 composition of the union, the enormous percentage
15 of our members, our 10,000 members, who are
16 residents of the City, and many of whom who are
17 not residents of the City and are residents of the
18 four counties surrounding Philadelphia.

19 Mr. Lombardo is going to tell you about
20 the apprenticeship training program and the
21 journeyman upgrade programs that we offer those
22 members, and how we are actively recruiting
23 Philadelphians, and in particular minority
24 Philadelphians, to come into the trades so that we
25 can meet that labor shortage.

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2 So although those issues are not
3 presented in the proposed amendments, they are
4 certainly issues that we are conscious of and
5 issues that we will address if, by result of this
6 change, our members and our contractors are
7 working on those jobs.

8 Now, I do wish, before I pass it on to
9 Mr. Lombardo, to make a few responses to the
10 comments that were made by the City.

11 Mr. Kromer, quite frankly, may have
12 been asked some unfair questions because by
13 listening to his testimony, it appeared to me that
14 he did not have an enormous understanding of
15 exactly what prevailing wage laws are and what
16 they require. To the extent he discussed
17 prevailing wage laws with you, he discussed the
18 Davis Bacon Act, a federal act, nothing about the
19 City of Philadelphia's ordinance.

20 To the extent that he told you that
21 Congress had set those levels on housing projects
22 of eight units or eleven units, he was incorrect
23 because those have been done by regulation either
24 through the Department of Housing and Urban
25 Development on the federal level, or through

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2 regulations concerning the Davis Bacon Act. They
3 are not enactments of Congress.

4 Mr. Hankowsky raised a very interesting
5 concern which, listening to Councilman Cohen and
6 Councilman Ortiz's concerns for the fair wage
7 bill, kind of scared me. Because in essence,
8 Mr. Hankowsky was asked the question about, Well,
9 what if a contractor doesn't want to pay it? and
10 kind of responded, Well, we sort of try and work
11 with them, and extending it to our agency might
12 prevent us from doing that.

13 The logical extension of that theory is
14 that if this Council does pass a fair wage bill
15 that would apply to all citizens working for all
16 businesses in Philadelphia, are we going to exempt
17 for economic development purposes businesses who
18 say, I'm going to leave if I have to pay my
19 employees 7.50 an hour? Because that's the
20 logical extension of what Mr. Hankowsky had to
21 say.

22 With respect to the legal points that
23 were made by Mr. Feder, I must apologize because I
24 just saw Mr. Feder's proposed amendments, they
25 came from the Administration this morning. I do

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2 not believe that the amendments defining the City
3 agencies that are set forth in the bill that's
4 proposed would result in the City directly
5 relating what are essentially State authorities.
6 So I disagree with Mr. Feder on that point.

7 The second point is with respect to
8 Davis Bacon. I think as he conceded in the last
9 question that Councilman Clarke asked him,
10 depending on the mix of money, the City does have
11 the discretion to impose greater requirements than
12 those required by Davis Bacon. And if there is no
13 City money involved, the amendments to this bill
14 and original bill itself don't apply.

15 There is one last problem that I wish
16 to address before I move on to Mr. Lombardo and
17 his comments. If you take a look at Section B in
18 the bill itself, you'll note -- and there was a
19 question on it -- concerns about off-site sheet
20 metal products, and if they amount to over \$2,000,
21 they should be included. I do not represent the
22 sheet metal workers. I don't know, in response to
23 Councilman Clarke's question, whether modular
24 homes are covered by that. But I gather from it
25 that there is some problem with pipe being

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2 fabricated that's for buildings that's covered
3 under contracts being done off-site where
4 contractors claim that they're not covered.

5 We have a similar concern with respect
6 to cabinetry, mill work, and other carpentry
7 products that can be fabricated off-site and would
8 propose that the bill be slightly modified as if
9 -- if you take a look at Section B, I have copies
10 of the modification. What we would like to do is
11 insert, after the section that concerns sheet
12 metal products, the following language: "and for
13 mill work, cabinet work, and other carpentry
14 products that are prefabbed off-site for
15 installation on a project site."

16 And I do have copies, Madam President,
17 for all Councilmembers here for distribution, and
18 I have highlighted the operative sections on
19 there.

20 With respect to Mr. Feder and the
21 City's proposed amendments, other than to comment
22 on them as I have, I have to say that my initial
23 assessment of them is that we wind up in the same
24 place -- although the Administration and us seem
25 to be going by different roads to get there. So

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2 to the extent that the Council wants to consider
3 the City's proposed amendment, we would also like
4 to add the language in the same logical place
5 before sheet metal work that's contained in the
6 City's proposal that we just proposed in what was
7 circulated. So in either version of it, we would
8 lying to insert that language.

9 I would appreciate it if we would allow
10 Mr. Lombardo the opportunity to speak to you about
11 using residents, training development, what our
12 union is all about. And when he's finished, both
13 he and I would be glad to entertain any questions
14 you may have.

15 COUNCIL PRESIDENT VERNA: Thank you
16 very much.

17 Good afternoon Mr. Lombardo.

18 MR. LOMBARDO: Good afternoon.

19 COUNCIL PRESIDENT VERNA: Please
20 identify yourself for the record and proceed.

21 MR. LOMBARDO: My name is Len Lombardo.
22 I'm the Council Representative for the United
23 Brotherhood of Carpenters. Good afternoon,
24 everyone.

25 I guess by starting out, I'd like to

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2 say that I heard a lot of confusion from the table
3 before us, from the City management. We have had
4 numerous meetings with Mr. Kromer's office, and
5 they're ongoing, about complaints that we, as
6 trades people, have -- not strictly as unionists,
7 but as trades people for, as Councilman Cohen so
8 eloquently put it, for the dignity of all workers.

9 I personally don't just go out there
10 and represent union carpenters to get the
11 prevailing wage. If we find contractors coming
12 into this City cheating, we represent the nonunion
13 carpenters, we take them to the Wages and
14 Standard. And we present our concerns to Wages
15 and Standards.

16 The biggest problem with the rules that
17 we have, I guess, for lack of better terminology,
18 from OHCD, is that it's not on an even playing, as
19 Councilman Ortiz said. It's not so much the
20 developers that are cheating, to answer your
21 question, it's the subcontractors.

22 When you go into a development that is
23 not dictated by the prevailing wage, they tend to
24 pay their employees considerably less money. When
25 they are cheating on the prevailing wage, they

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2 still tend to pay their employees considerably
3 less money. And the way this is superseded -- and
4 I' won't make allegations or accusations here,
5 this is just fact from what I've accumulated
6 through the history of being in the street.

7 Most of the time, the men that work for
8 the subcontractors that are being cheated on or
9 that are being cheated are afraid to speak up. We
10 have to approach them, we have to go to them.
11 They receive a check at the end of the week that
12 has a certain designated amount of money that is
13 supposed to be paid, they sign the check, they
14 turn it in and they get paid in cash. We find it
15 all the time.

16 In defense of the Wages and Standards,
17 they are overburdened with cases right now because
18 when we do call, they go out and they do check
19 immediately. But the person that's being cheated
20 has to come forward. They have to be willing to
21 put their job on the line and to testify against
22 the company that's cheating them.

23 And a lot of them are afraid. They're
24 afraid because they don't know us, because they
25 don't know that we'll protect 'em, and they're

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2 afraid of losing their jobs and the food on the
3 table for their families. And that's the biggest
4 problem out there. That's the reason for this.

5 If we put all the contractors on an
6 even playing field, if the certified payrolls are
7 mandated and are checked by the developers who
8 ultimately become responsible once these
9 contractors go out of business, they become
10 responsible for the wages, and they become
11 responsible for the benefits.

12 Having said that and gotten that off my
13 chest, I came on the street about four years ago,
14 four and a half years ago and immediately met
15 Senator Kitchens, who at the time was not the
16 senator, and was made to realize that there was a
17 need for City people, City residents. I grew up
18 in the City and there is a need for City
19 residents. It took me two and a half years to get
20 into the carpenters union.

21 There was a criteria that has to be met
22 to become a carpenter, a union carpenter, and you
23 have to pass a test to be an apprentice. If I go
24 in on a job site and I find a skilled journeymen,
25 a nonunion journeymen working for a contractor and

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2 he fulfills the qualifications of being a
3 journeyman, he doesn't have to be an apprentice, I
4 can bring him in as a journeymen.

5 But if they don't have certain skill
6 level, as Councilman Cohen was saying, then we put
7 'em into our apprenticeship program and we train
8 them. And right now, I believe we have some 735
9 apprentices in the carpenters union, and quite a
10 number of them are City residences (sic). The
11 exact figure I cannot give you, but I would
12 imagine close to half.

13 I also heard some confusion about
14 statistics about City residents working on City
15 jobs. Well, I've never heard a statistic about
16 how many City residents go outside the City every
17 day to work, that we send into the counties to
18 work. They're still bringing that money back into
19 the City, and I understand we have a concern about
20 putting City residents on City jobs. But as was
21 stated, I believe, by Councilman Mariano, we can't
22 dictate where our membership works. Some prefer
23 to go to the counties to work.

24 As far as minority residents go or
25 minority participation in our union goes, I sit on

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2 the Kenny Gamble's advisory committee down at
3 Universal, I sit on the advisory committee at
4 Tasker Pre-apprenticeship Program, I sit on
5 Congreso, I sit on a lot of advisory committees
6 throughout Philadelphia.

7 When there's a development coming up
8 into an area, as you can attest to yourself, Madam
9 President, when Sussman (ph.) was going to build
10 St. Anthony's, we approached them. When
11 Mrs. Bruce was doing Vineyard Estates, I
12 approached her. When Raymond Rosen was built, we
13 approached them. They didn't have to come to us;
14 we went to them for City residents.

15 And we brought them in and we trained
16 them. And like I said, whoever needed to be an
17 apprentice to be trained to be a skilled,
18 qualified professional journey person in our
19 trade, we've done that. To those that became that
20 were qualified journey persons working throughout
21 the area, we brought them in as journey persons,
22 and they got the full rate.

23 It is our intention that the prevailing
24 rate be paid in Philadelphia to let everyone
25 sustain a living, to keep the money in

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2 Philadelphia, to let them spend their money in
3 Philadelphia, and to put the residents in
4 Philadelphia on the City jobs in Philadelphia.
5 But we need help from Council and through this
6 bill in order to maintain that.

7 We have a job right now that they're
8 talking about ratios of eight houses and eleven
9 houses. Well, there's a 250-unit project up in
10 Germantown right now that's non-prevailing rate,
11 and I guarantee you, you won't find 10
12 Philadelphia residents on that job, but you'll
13 find a whole lot of people from the counties out
14 there. And that came out of the City agencies.

15 And we fight this all the time.
16 Oakdale Street, 26th and Oakdale, a contractor
17 from Bucks County did the job. The two City
18 residents on that job are now members of my local.
19 It goes on and on.

20 We need this bill to help us regulate
21 what we do.

22 Thank you.

23 COUNCIL PRESIDENT VERNA: Thank you
24 very much. And may I say that I think the
25 training program that you have initiated down at

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2 Tasker Homes is just fabulous.

3 MR. LOMBARDO: Thank you.

4 COUNCIL PRESIDENT VERNA: And I'm sure
5 that many of the residents there are taking full
6 advantage, are they not?

7 MR. LOMBARDO: As we speak today, as a
8 matter of fact, I came from the advisory committee
9 meeting committee down there this morning. I
10 believe right now, there are nine residents --
11 nine applicants, excuse me, coming into the
12 carpenters program in probably about a week and a
13 half. There letters of application were sent by
14 Carl Green's office.

15 COUNCIL PRESIDENT VERNA: Mm-hmm.

16 MR. LOMBARDO: I think the painters
17 took six, the electricians -- how many did you
18 get, ten? I believe the electricians took ten.
19 And Phase II of that program is getting underway
20 starting in July.

21 COUNCIL PRESIDENT VERNA: That's great.

22 MR. LOMBARDO: So, believe me, a
23 program like that is something that the whole
24 country is looking at. That is a true jobs
25 program down in there, you know, from welfare to

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2 work.

3 COUNCIL PRESIDENT VERNA: I totally

4 agree.

5 The Chair recognizes Councilman Nutter.

6 COUNCILMAN NUTTER: Thank you, Madam

7 Chair.

8 Mr. -- it's Lombardo?

9 MR. LOMBARDO: Correct.

10 COUNCILMAN NUTTER: All right. First

11 let me say that I'm not sure that you and I have

12 ever had direct discussions, but I certainly know

13 a number of people at the carpenters union and

14 have great respect for the leadership and the work

15 that you do.

16 I did want to follow up on a couple of

17 the figures that you had put out. You said that

18 presently, there are 735 people in an apprentice

19 program?

20 MR. LOMBARDO: The exact, I don't

21 honestly know. It's around 700, 730.

22 COUNCILMAN NUTTER: 700.

23 MR. LOMBARDO: Right.

24 COUNCILMAN NUTTER: And do you have any

25 estimates on the issues of both City residents for

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2 those 700 or any demographic data on those folks
3 with regard to either race or gender?

4 MR. LOMBARDO: No. To be perfectly
5 honest with you, I don't. I would have had all
6 this -- not to be evasive, but I didn't know I was
7 coming here until I was at a PHA meeting and I was
8 summoned to come here. But I can make that
9 available to you.

10 COUNCILMAN NUTTER: Okay. Take me
11 through -- you talked about a training program, I
12 think the most recent one you mentioned was down
13 at Tasker?

14 MR. LOMBARDO: Yes, sir.

15 COUNCILMAN NUTTER: What happens in the
16 training program? And then what are the next
17 steps after that? Where does the person go, what
18 do they do, what's -- what do the next couple
19 years kind of look like with that person?

20 MR. LOMBARDO: The training program is
21 a partnership between America Works, the City of
22 Philadelphia, and the building trades. It's a
23 16-week program of residents -- primarily started
24 out at Tasker but will be opened citywide now.

25 They go to a 16-week training program

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2 of both practical and scholastic to take the
3 apprenticeship test for the building trades and
4 for which particular trades they're interested in.

5 COUNCILMAN NUTTER: That's the first
6 stage is --

7 MR. LOMBARDO: Well, there are other
8 stages involved with that because there are
9 requirements that some of the trades have to have
10 to have a GED. So America Works is also -- excuse
11 me, Top Win is involved to help get GEDs, and they
12 are being paid while they're down there.

13 COUNCILMAN NUTTER: And how do people
14 find out about the training programs? Is it
15 something that happens at the work site or near
16 the work site? I mean. . .

17 MR. LOMBARDO: I believe that the first
18 -- we're only in the first phase of this right
19 now, it's the first class that's gone through.
20 The graduation is June the 16th.

21 COUNCILMAN NUTTER: Okay, so this is
22 new.

23 MR. LOMBARDO: It's brand new. There's
24 a lot of federal money into it that's helping this
25 program move along. And as in any program that's

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2 being initially -- there are bugs to be worked
3 out. Hopefully, there -- I mean, not hopefully,
4 but they are being worked out, you know, quite
5 expeditiously. They really are coming along very
6 well.

7 Phase II starts in July, our class 2
8 starts in July for their 16-week program. When
9 they -- upon completion of their 16-week program,
10 like I said, they will take an apprenticeship test
11 in whichever building trades their desire is, they
12 participate in the program. And then they will be
13 inducted into the apprenticeship program, and they
14 will be placed with contractors on job sites or
15 with PHA.

16 Now, there's a stipulation with PHA.
17 They go in as provisional employees, they can only
18 stay a minimum of six months or a maximum of one
19 year, and then we put them with private
20 contractors through the rest of their
21 apprenticeship. And their apprenticeship for us
22 is four years.

23 COUNCILMAN NUTTER: Four years?

24 MR. LOMBARDO: That's correct.

25 COUNCILMAN NUTTER: And then is the

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2 next level -- you know, I'm asking these questions
3 because, as compared to some of my other
4 colleagues, I don't have a lot of experience in
5 this particular area.

6 The next thing after the apprentice, is
7 that the journeyman?

8 MR. LOMBARDO: That would be
9 journeyman, yes.

10 COUNCILMAN NUTTER: Okay. So you stay
11 four years and then I assume you have to take a
12 test to be a journeyman also?

13 MR. LOMBARDO: You must complete the
14 program. You have to take a test to get in. The
15 apprenticeship school is regulated by State laws
16 as well as by our own collective laws or our own
17 laws. You must maintain a certain average, you
18 must maintain a certain attendance.

19 COUNCILMAN NUTTER: So you're
20 essentially -- I mean, you're in school.

21 MR. LOMBARDO: That's correct.

22 COUNCILMAN NUTTER: For all intents and
23 purposes.

24 MR. LOMBARDO: But you're in school and
25 getting paid for it.

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2 COUNCILMAN NUTTER: Yeah, I should have
3 gone to that school.

4 MR. LOMBARDO: You should go visit the
5 school with us one day. I think you would be
6 quite impressed.

7 COUNCILMAN NUTTER: Okay. So you go
8 for the training program to apprentice. That's
9 four years for carpenters; it could be different
10 for others.

11 MR. LOMBARDO: That's correct.

12 COUNCILMAN NUTTER: And then after
13 that, you go to the journeyman level, but while
14 you're an apprentice, you could end up working for
15 a private contractor while you're still an
16 apprentice.

17 MR. LOMBARDO: Absolutely.

18 COUNCILMAN NUTTER: Okay, all right.

19 MR. LOMBARDO: There's a sponsorship
20 program. Once you pass our test, you need a
21 contractor to sponsor you to come into our
22 program, sponsor you for work.

23 COUNCILMAN NUTTER: Um. . .

24 MR. LOMBARDO: It's a pretty simple
25 matter.

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2 COUNCILMAN NUTTER: I'm sorry, at what
3 stage does this sponsorship -- is this after
4 you've been accepted into the --

5 MR. LOMBARDO: It's after you pass the
6 entrance exam for the carpenters yes.

7 COUNCILMAN NUTTER: For the
8 apprenticeship program?

9 MR. LOMBARDO: That's correct.

10 COUNCILMAN NUTTER: Okay. Then a
11 contractor has to sponsor you to go work for
12 them?

13 MR. LOMBARDO: That's correct.

14 COUNCILMAN NUTTER: What happens if you
15 don't get sponsored?

16 MR. LOMBARDO: I know that not everyone
17 gets sponsored the first week or sometimes the
18 first month, especially when, you know, we have --
19 I believe we had 350 new apprentices pass the test
20 back in May. It will probably take till the end
21 of -- to be perfectly honest with you, it will
22 take to the end of the summer to get everybody
23 sponsored, but I really don't know of anyone that
24 hasn't been sponsored.

25 COUNCILMAN NUTTER: Okay, thank you

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2 very much.

3 MR. LOMBARDO: You're quite welcome.

4 COUNCILMAN NUTTER: The information was
5 very helpful. Thank you.

6 Thank you, Madam Chair.

7 COUNCIL PRESIDENT VERNA: Thank you.

8 The Chair recognizes Councilwoman
9 Tasco.

10 COUNCILWOMAN TASCO: I just want to --
11 I'm trying to go back to the problem and where the
12 breakdown is. You said in your testimony, if I
13 heard you correctly, that the subcontractors are
14 not paying the workers the prevailing rate. Are
15 they on jobs where the prevailing rate is supposed
16 to be paid and they're not doing it?

17 MR. LOMBARDO: In some cases, yes.

18 COUNCILWOMAN TASCO: So the problem is
19 enforcement, right?

20 MR. LOMBARDO: That's part of the
21 problem. I mean, let's be realistic, we're in
22 America. Enforcement has long standards
23 sometimes. I mean, there's processes through
24 enforcement. You just don't take a gentleman in
25 there and say to the Labor and Standards, Okay,

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2 this guy's not getting paid the prevailing wage.
3 It has to be proven too. He has to have pay
4 stubs.

5 Even though -- there's contracts that
6 are involved so there's legalities for the City
7 that are involved with the contractors. They
8 can't just go out -- actually, I'm wrong, they can
9 go out and shut a contractor down, but they don't
10 do it just because one man goes in there and says,
11 you know, I'm not being paid the prevailing wage.
12 Like I said, it has to be proven first.
13 Sometimes, in order to prove this, it takes a
14 longer amount of time than what hopefully would be
15 necessary to do this.

16 COUNCILWOMAN TASCO: How does that bill
17 correct that?

18 MR. LOMBARDO: Let me let counsel
19 address that.

20 MR. MCNEIL: In order to answer your
21 questions, Councilwoman, a lot of what you just
22 discussed is what I would view as an enforcement
23 problem, and this bill is not designed to address
24 that. The problem this bill is designed to
25 address is that there is City money being used to

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2 fund public contracts, the bulk of which, under
3 the ordinance, are already covered under
4 prevailing wage laws, and the employees are
5 supposed to be getting paid prevailing wages.

6 But some of that money is going to the
7 quasi agencies. It's City money, it's being used
8 for public construction, but the employees who are
9 working on those projects are not receiving
10 prevailing wage, not because the law is being
11 violated, but because the ordinance at present
12 doesn't extend to those quasi agencies.

13 COUNCILWOMAN TASC0: Which agencies are
14 they?

15 MR. MCNEIL: Well, obviously, we heard
16 from two of them today. I'm not sure of the
17 complete list. PIDC and Mr. Kromer's group would
18 be two. I don't know whether there are others.

19 But that's really what the problem is
20 and what the amendments are intended to address.
21 It's the expenditure of City money by the quasi
22 agencies without requiring prevailing wage to be
23 applied.

24 COUNCILWOMAN TASC0: There is some
25 concern about the home program. Would you have

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2 any objection to -- well, I shouldn't ask you that
3 question. I'll put it back.

4 Because it does cover smaller contracts
5 usually, not larger contracts, the Home Repair
6 Program is not covered by the prevailing wage.
7 However, on some of the problems -- a problem that
8 Councilman Kenney raised about the larger
9 developers designing or implementing their
10 programs in phases -- their construction in
11 phases, that is a way of -- it kind of like
12 circumvents the prevailing wage, and there's
13 something that can be done administratively to
14 correct that.

15 I just want to know the agencies that
16 are quasi agencies that are supposed to be --
17 because the first bill says "City work," which --
18 City is City is City is City. So I want to know
19 what agencies are not conforming to the original
20 prevailing wage laws.

21 MR. MCNEIL: Well, at a minimum, we've
22 had some examples that have been mentioned both by
23 Councilman Kenney and Mr. Lombardo concerning
24 Mr. Kromer's group. I think PIDC has recognized
25 that they would be an agency within the definition

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2 of this.

3 I would have to defer to Councilman
4 Kenney who I think drafted the bill with respect
5 to other agencies because I'm not aware what's out
6 there now and what isn't out there now.

7 And in addition to that, there's always
8 the possibility that other City authorities or
9 agencies that meet this definition would spring
10 into action in the future for one reason or
11 another that may be covered by it as well.

12 MR. LOMBARDO: I can give you a
13 for-instance. PHDC and RDA.

14 COUNCILWOMAN TASCO: PHDC does not pay
15 prevailing wage?

16 MR. LOMBARDO: There are certain jobs
17 where PHDC -- where a PHDC-governed job does not
18 come under the prevailing wage criteria, and there
19 are certain jobs with the Redevelopment Authority
20 that do not come under the prevailing wage
21 umbrella, or they're so deemed not to.

22 COUNCILWOMAN TASCO: Are there reasons
23 why they would be exempt, Mr. Kromer? Are you
24 disagreeing with this statement?

25 MR. KROMER: The Philadelphia Housing

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2 Development Corporation and Redevelopment
3 Authority are not exempt from the HUD regulations.
4 The regulations go with --

5 COUNCIL PRESIDENT VERNA: I'm sorry,
6 Mr. Kromer, you're going to have to speak into the
7 microphone.

8 MR. KROMER: The regulations go with
9 the funding. The federal funding goes from HUD to
10 the City through the Office of Housing and
11 Community Development, and the City contracts with
12 the Redevelopment Authority and PHDC for certain
13 development activities. The federal requirement
14 goes along with that funding, and any federal
15 requirement that relates to prevailing wage is
16 passed on to those implementing agencies, but the
17 fact is, as --

18 COUNCILWOMAN TASCO: But they are
19 supposed to pay the prevailing wage.

20 MR. KROMER: Yes. Some kinds of
21 development, such as Community Development Block
22 Grant-funded sales housing is not mandated to be
23 prevailing wage. This bill, as I understand it,
24 would require that type of development and other
25 development to be prevailing wage.

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2 MR. LOMBARDO: If I can just interject
3 something to that. The confusion, I guess, on our
4 part or on my part in being a tradesman, is that
5 when you have, as Mr. Kromer mentioned before,
6 Nehemiah West, which was 105 units, I believe?

7 MR. KROMER: 195.

8 MR. LOMBARDO: 195 units,
9 non-prevailing. There's wage no prevailing wage
10 implemented in there at all.

11 What was the other one mentioned
12 before?

13 MR. KROMER: Cecil B. Moore.

14 MR. LOMBARDO: Cecil B. Moore is going
15 to be close to 500 units by the time -- someone
16 was asking about -- Councilman Ortiz was asking
17 about phased out. Okay, Phase I was actually, I
18 think, 35 units, if I'm not mistaken, with the
19 renovation units. Phase II was 42, Phase III --
20 and it goes on and on to about 500 units. There
21 is no implementation of the prevailing rate in
22 there.

23 MR. MCNEIL: And this bill, of course,
24 Councilwoman, would correct that. And I would
25 note in doing it that it would also have two other

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2 benefits. Benefit number one is that the people
3 who work for low wages on a project would now make
4 a living wage as we view that in the construction
5 industry. And in addition to that, there have
6 been multiple studies -- in particular, both in
7 the states of Utah and Delaware by Professor Peter
8 Phillips -- which have proven that efficiency,
9 productivity, and in value are better when
10 prevailing wages apply to building projects as
11 opposed to when it isn't.

12 COUNCILWOMAN TASCO: If a person is
13 working on a project where there is prevailing
14 wage, does that person have to belong to a labor
15 union?

16 MR. LOMBARDO: Absolutely not.

17 COUNCILWOMAN TASCO: So those
18 subcontractors who are working on those projects
19 now, hire people from the neighborhood would be
20 required to pay the prevailing wage, but those
21 people don't necessarily have to be a member of
22 any of the trade unions?

23 MR. MCNEIL: No. That is an
24 across-the-board law in the federal, State, and
25 the City ordinance level as it stands now. It's

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2 any person, it's regardless of whether they're a
3 union member or not. If they work on the project
4 and there is, depending on the law, City, State,
5 or federal money involved, under a prevailing wage
6 law, they're entitled prevailing wages.

7 COUNCILWOMAN TASCO: Mr. Kromer, under
8 the Sales Housing Program, the costs are designed
9 -- I guess you develop the cost of the house
10 based on -- the price of the house based on the
11 cost. Is the cost of the labor tabulated or
12 calculated in the price? And what is it
13 calculated on? Is it calculated on just a normal
14 average salary for various trades, or is it
15 calculated based on the prevailing wage?

16 MR. KROMER: For ventures such as the
17 Poplar-Nehemiah, the Redevelopment Authority
18 accepts competitive bids from various developers,
19 and I believe evaluates them in terms of the
20 standards for materials of labor costs, and
21 prevailing wage may not necessarily enter into
22 that. I believe it's the case that with respect
23 to Poplar-Nehemiah, there was a mix of some
24 trades, which were union workers and, therefore,
25 prevailing wage and others which were not.

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2 COUNCILWOMAN TASCO: Could you give us
3 a breakdown, say, if you had a project like
4 Nehemiah and you -- it was constructed without
5 prevailing wage, could you give us the price it
6 would cost with prevailing wage? Do they pay the
7 workers that much lower?

8 MR. KROMER: I can give you a breakdown
9 of the unit cost, which Councilman Clarke had
10 requested. And I can't say one thing or another,
11 but I can show you the unit cost for specific
12 ventures that we have funded.

13 COUNCILWOMAN TASCO: Mr. Lombardo, I
14 wasn't ignoring you. Go ahead. I wasn't ignoring
15 you; I was just trying to get my question out
16 before I forgot it.

17 MR. MCNEIL: Councilwoman, if I may
18 pick up on that. There's essentially on any
19 construction project three components to what the
20 person who's buying it is going to pay.

21 COUNCILWOMAN TASCO: Speak up.

22 MR. MCNEIL: Essentially, there's three
23 components, all right. One is materials, and
24 unless you're a really big player who can
25 negotiate big discounts from supply houses,

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2 everybody pretty much pays the same for materials.

3 COUNCILWOMAN TASCO: Right.

4 MR. MCNEIL: The second component is
5 labor costs. When there's a prevailing wage
6 ordinance in effect, every contractor bidding a
7 job is required to pay the same wage rates. So in
8 that scenario, everybody would have fixed labor
9 costs.

10 And then the third, of course, is going
11 to be the contractor's profit.

12 So theoretically, if you have a
13 prevailing wage situation, as Councilman Ortiz has
14 already recognized, you level the playing field
15 for all contractors. And the lowest bidder is
16 really going to be the person who's willing to
17 take the least profit, which means that you get
18 quality work done, you get well-trained employees
19 because you're paying freight for those, you're
20 getting a competitive bid, and the taxpayers are
21 probably getting the best value because they're
22 getting the best bid with the lowest profit margin
23 built in.

24 When you throw the prevailing wage
25 component out, dollar figures can be all over the

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2 lot, and I don't know whether saw my head shaking
3 up and down when you asked whether non-prevailing
4 wage rates are that much lower. They are.

5 For example, you may have a company who
6 regularly does roofing work in Philadelphia that
7 pays contractual rates, and they're about 30 bucks
8 an hour for a roofer. And then you may have
9 somebody come up from Lower Delaware whose roofers
10 customarily nail corrugated tin on chicken coops
11 paying their employees 6 bucks an hour. So you
12 can have those kinds of discrepancies when
13 prevailing wage isn't involved.

14 And then it doesn't become a question
15 of the three components deciding which
16 contractor's willing to take the least profit.
17 But it becomes a question of which contractor is
18 going to pay his employees the least and line his
19 pockets with as much profit as possible.

20 COUNCILWOMAN TASCO: Thank you.

21 COUNCIL PRESIDENT VERNA: Thank you.

22 The Chair recognizes Councilman Clarke.

23 COUNCILMAN CLARKE: Thank you, Madam

24 Chair.

25 Mr. McNeil, Mr. Lombardo, I know today

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2 you indicated that you were here to talk about
3 this particular bill and not necessarily unions
4 and other related issues, but there's a certain
5 reality in life. And having been around in some
6 way, shape or form related to this type of
7 activity, traditionally, when you talk about
8 prevailing wages and you come into a community
9 such as the community that I represent, those jobs
10 tends to be union jobs. I mean, that's just the
11 reality.

12 I mean, I'd say 75, 80 percent of the
13 jobs end up being union jobs. I mean, although
14 West Poplar was not a prevailing wage, the
15 majority of the workers on there were union. The
16 same thing with Cecil B. Moore Home Ownership
17 Zone.

18 And if this bill addressed certain
19 unions, I would be very happy, because the reality
20 is that there are certain unions that are very
21 aggressive in their outreach approach -- the
22 carpenters, the laborers local, the electricians,
23 I mean, they have a very aggressive program. But
24 there are also certain unions who don't do any
25 outreach. And when they come into these

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2 communities and when it's then required to do some
3 union work, people in the community that I
4 represent don't get an opportunity.

5 So I guess what I'm saying today is, we
6 need your help. I need you to help me figure out
7 a way that if somehow this bill passes and then
8 ultimately requires that all of this work that's
9 done in conjunction with this CDBG of City-funded
10 development activity requires that these other
11 unions don't traditionally reach out to our
12 communities reach out.

13 I mean, do you have an idea of how we
14 can get that done? 'Cause, you know, personally,
15 I'd like to see a person get a good union job
16 'cause I understand what that means long term.

17 MR. MCNEIL: I think, Councilman,
18 although I don't know whether it's appropriate for
19 this forum that you and I and some of my clients
20 ought to sit down and have some further
21 discussions on it.

22 If it's any consolation, I think you've
23 already heard today the commitment that the
24 carpenters have. I am aware of the commitment the
25 laborers have since they are also one of my

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2 clients. I'm aware of-- not the laborers, the
3 electricians. I'm aware of laborers' commitment
4 as well. I'm also that some of the trades don't
5 have those outreach programs.

6 But the reality of things is that there
7 is such a shortage of skilled people out there
8 right now, that even if you and I engaged in no
9 efforts whatsoever to make those folks outreach,
10 they're going to have to outreach. But I think
11 probably some dialogue between my clients and
12 myself and your office would probably be helpful.

13 The carpenters, as I said, are very
14 committed to that outreach program. And it's not
15 just a commitment to Philadelphia. I mean, you
16 know, Len and I both come from Philadelphia. I
17 came from Southwest Philadelphia. The carpenters
18 union is here, my firm is here. We're committed
19 to Philadelphia.

20 But if you go past that commitment and
21 just practicalities dictate that we have to
22 outreach because if we don't, we're not going to
23 have enough people to man the jobs in the future.
24 We have to do it.

25 COUNCILMAN CLARKE: But, you know,

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2 frankly speaking, I'm not saying that level of
3 outreach from certain unions, you know, as the
4 carpenters do and as the electricians and the
5 laborer, and I don't see any evidence that that is
6 changing. And I', concerned about requiring that
7 all of these jobs basically have to be union jobs.
8 And if there's no incentive for those people then
9 to do the outreach, I'm trying to figure out how
10 we get there.

11 MR. MCNEIL: With all due respect, I'll
12 defer to Mr. Lombardo to answer the rest of that.

13 MR. LOMBARDO: Actually, I was just
14 going to ask him a question, but he'll correct me
15 if I'm wrong.

16 If this bill passes, Section 3 becomes
17 prominent in this bill, and the unions that you're
18 talking about --

19 COUNCILMAN CLARKE: Section 3 is new
20 hires. And you know, you don't bring in anybody
21 new, you don't have to hire anybody.

22 MR. LOMBARDO: Well, I understand that.
23 Like I said, we can't speak for the other unions,
24 but we can come to the table and, like he said,
25 not at this forum, and speak with the other unions

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2 and possibly help you with them.

3 COUNCILMAN CLARKE: I mean, a union
4 person will listen to you before they'll listen to
5 me probably, see what I'm saying? I'm saying
6 that, you know, I mean, we really need help on
7 this and this is something that --

8 MR. MCNEIL: They'll listen to you now
9 because you're on the other side of the fence.

10 COUNCILMAN CLARKE: Okay. So we can
11 have your commitment in spite of what happens to
12 this bill?

13 MR. LOMBARDO: A meeting? Yes,
14 absolutely.

15 (Councilwoman Krajewski assumes the
16 Chair.)

17 COUNCILWOMAN KRAJEWSKI: Councilman
18 Cohen?

19 COUNCILMAN COHEN: I'm still in search
20 of what the problem is 'cause I don't think we
21 ought to legislate on the basis of a theoretical
22 problem that may exist.

23 For example, if there is a problem, we
24 have a -- as Council, we have a problem of
25 oversight of City agencies. If the City agencies

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2 don't do their job right, we want to know about it
3 because it could be from one of two points of
4 view. It could be -- it could be that the agency
5 is just not enforcing the law, and we want to
6 change that. Or it could be that the law is
7 deficient. When a bill is introduced and the
8 indication is that there is a conclusion that the
9 law is deficient, we have to have a change somehow
10 in law, and that's what I've been hunting for and
11 looking for.

12 And generally -- not generally. I'd
13 say in every case I've known, we know what the
14 problem is. We get names, we get circumstances
15 that indicate there's a problem. We call in the
16 city officials, we say, Why is there this problem,
17 why don't you resolve it? And usually it gets
18 resolved without legislation. Sometimes it
19 doesn't get resolved because the City -- just the
20 law is insufficient.

21 I'm searching for here to find out
22 where the law is insufficient. And it's, you
23 know, very difficult for us when the City
24 officials in charge of the program tell us that if
25 there were a problem, they'd be happy to deal with

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2 it, and when we try to find out what is the
3 problem, we just can't put our fingers on it. And
4 so I have that problem.

5 Second problem I have is on the
6 prevailing wage in general. You recited very
7 effectively, I thought, one of the great virtues
8 of the New Deal. People don't believe in the New
9 Deal today 'cause they believe that one of the Ten
10 Commandments was one relating to prevailing
11 wages. They don't understand that it was a part
12 of the New Deal program that was aimed at making
13 sure that workers and all people were treated
14 properly. And the prevailing wage law is one of
15 the things, like Social Security that exists for
16 the purpose of protecting working people.

17 But the problem is different -- we
18 don't have itinerants coming in, do we, taking
19 away the jobs? Well, if we did, I'd like to hear
20 about it. I'd like to know what the problems are
21 that we're trying to resolve.

22 I think we ought to take the first
23 step, and the first step ought to be find out what
24 is the problem and why can't the City fix it --
25 if, in fact, there is a problem. And I'd like to

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2 get to the point where I can pinpoint Mr. Kromer
3 and Mr. Hankowsky and say, why didn't you tell us
4 about that problem, why have been hiding it? So
5 far, I can't do that to them 'cause I don't what
6 problem we're even talking about.

7 So I think that what's needed at this
8 time on this bill is the establishment of what the
9 facts are and a hearing at which, if it becomes
10 necessary to have such a hearing, in which we
11 probe with City officials, why are you permitting
12 this illegal activity to continue to exist?

13 I assure you that if there is a
14 problem, we're going to resolve it. We're going
15 to resolve it by either using the laws that
16 currently exist or by moving ahead with a change
17 in the laws because I think this Council's record
18 in support of decent wages and working conditions
19 for workers is very clear. It's been a very
20 strong record, and we intend to keep it that way.

21 But we would like at the same time to
22 clear up the misapprehensions. You say that --
23 you know, you use that figure of 700 or so. We'd
24 like to get details of your apprenticeship
25 program, because I can tell you out in the

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2 community, the feeling is strong among minority
3 groups that unions don't accept everybody, that
4 it's very difficult to get into an apprentice
5 group. And then if you do get in, it's very
6 difficult to complete it. And if you do complete
7 it and finally get into the union, you find that
8 you don't get many work assignments. And if you
9 do finally get work assignments, you find you get
10 the worst, the furthest away from home.

11 Now, they're complaints. I'd like to
12 see those complaints dealt with, you know, and
13 corrected 'cause --

14 MR. LOMBARDO: I would like to see
15 those complaints in writing.

16 COUNCILMAN COHEN: -- it's in
17 everybody's interest.

18 Now, they're the kind of things I'd
19 like to say and I thought that the discussion
20 between you and Councilman Clarke was a very good
21 own. I'd like to get to the bottom of all of
22 these things so we can really resolve them.

23 But right now, I just don't see any
24 problem that this bill addresses. If there is a
25 contractor violating the law, let's go after him,

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2 and that's where I sit on this bill. I just don't
3 know why we're taking all of this time on a
4 problem, the existence of which we don't know
5 about. And if it does exist, we have a whole
6 group of people who have pledged during the
7 testimony -- Hankowsy and Kromer, the two top
8 officials in this area, have pledged to do
9 everything they can to resolve the problem, and
10 they said they had never received complaints about
11 the problem.

12 COUNCILWOMAN KRAJEWSKI: Excuse me.
13 Councilman Mariano?

14 COUNCILMAN MARIANO: Councilman, for
15 the last three years, I've been sitting here and I
16 sit next to you in caucus. And I listen to you
17 like a tender foot Boy Scout, and all your words
18 of wisdom coming from you, and I soak it all in
19 and I digest it.

20 And one of the main things that always
21 comes out is, "Rick, don't trust the
22 Administration." In this case, you want to trust
23 the Administration.

24 COUNCILMAN COHEN: No, I don't want to
25 trust the Administration.

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2 COUNCILMAN MARIANO: These guys work
3 for -- not these two, but those other people work
4 for the Administration. They're going to say
5 whatever they're told. Come on, Councilman, you
6 come here and you say statements, and I have to
7 stick up for the building trades.

8 I've been in Council for three years as
9 a Councilman. I worked for Jim Kenny for two
10 years, I worked for Dan McElhatton for a year. In
11 that three, four, five, six seven, whatever it is,
12 years, nobody's ever came to me except one person,
13 maybe somebody else and said, Rick, you know a
14 little bit about unions and the building trades.
15 I have a group of minorities that needs to get
16 into the electricians, the carpenters, the
17 plumbers, okay?

18 There's malcontents in every business.
19 There's malcontents in City Council, there's
20 malcontents in the carpenters union. With all due
21 respect, that's a brass statement to say. There
22 is ways for minorities to get into the building
23 trades, and I'll personally work with Councilman
24 Clarke.

25 But I'm tired of sitting here and

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2 hearing this stuff all the time. What are you
3 supposed to do, hold people down because they've
4 been successful and they want to move out of the
5 City? I would rather stay in the City. Congreso
6 de Latinos Unidos, they're doing just we're
7 talking about. Lenny Lombardo talked about the
8 Tasker Home Projects, Top Win. There's projects,
9 but nobody uses 'em. The people are finding out
10 themselves.

11 Now, I know your intentions are good,
12 but to say statements like what you said about the
13 building trades, I just can't have you say that
14 without some kind of rebuttal. The building
15 trades are trying. These guys are businessmen.
16 His boss knows there's no way he's going to keep
17 his employees employed for the rest of his tenure
18 as the president of the carpenters if he don't
19 have minorities and women in his union. That's
20 the cost of doing business.

21 The guy that runs the electricians,
22 Johnny Dougherty, grew up at Second Street, an
23 issue kid from South Philly. He's constantly
24 recruiting women and minorities 'cause he knows.
25 And guess what, if he doesn't recruit 'em, other

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2 people come around the country and other parts of
3 this state, Councilman, and they exploit they
4 exploit minorities and women.

5 The only persons that are going to help
6 are the unions. It's not going to be some guy
7 making the buck. And the big thing everybody's
8 looking past here is, there's three components.
9 There's the workers. The workers are workers no
10 matter which side they're on -- union, nonunion,
11 prevailing wage, not prevailing wage.

12 The contractors, they're still
13 contractors. The guys building houses, he's
14 building houses. Union, nonunion, prevailing wage
15 or not.

16 The developers are the key, and
17 nobody's talking about the developers. The
18 developers are the same guys that do the big
19 project that Jerry Murphy as to chase around to
20 pay the money, the prevailing rate. Then they
21 know they're the guys that are skirting the law.
22 And the reason you're not hearing it is exactly
23 what Mr. Lombardo talked about.

24 Why should some carpenter who's barely
25 -- maybe he has four kids. Maybe he works for a

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2 nonunion contractor. And that's the deal. You
3 shut your mouth, you sign that paper, or you don't
4 get the work. You're going to work in that
5 prevailing rate job on Tuesday, but Saturday,
6 you're working on my non-prevailing rate job for
7 free. It happens, I've seen it, I was an
8 organizer, I know.

9 The electricians have a guy just like
10 Lenny like, Timmy Brown. It's Timmy's life.
11 Timmy could tell you stories of people coming from
12 Nebraska and taking inner city kids and giving 'em
13 \$7 an hour to do work that's traditionally
14 electricians' work and charging the customer \$30
15 an hour. Now, that money's not going to the kids
16 from West Philly or North Philly or from
17 Councilman Clarke's district or mine or yours.
18 It's going to the developer, and he's taking that
19 money and he's going back. It's the developer
20 here.

21 We all have good intentions here, but I
22 mean, I sit here week after week, day after day
23 and hear the same -- I mean, before I became a
24 Councilman, I would probably call it "bullshit,"
25 but I wouldn't say that now but that's what it

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2 is.

3 I mean, we can only get to a point by
4 trying to work things out. But, you know, I'm
5 embarrassed for these guys that came off the job
6 and have to stand here and hear this rhetoric and
7 rhetoric. They're here because their union asked
8 them to come here. And this is something that has
9 to be worthwhile. I mean, how can you be a union
10 guy sometimes and not a union guy another time?

11 Please help me Councilman, I'm
12 confused.

13 COUNCILMAN COHEN: Well, I'm just
14 listening in amazement to this nonsense pouring
15 forth from your mouth.

16 COUNCILMAN MARIANO: Well, I mean, we
17 could debate this till the cows come home. It's
18 not nonsense in my world.

19 COUNCILMAN COHEN: I'm just sitting
20 here listening. For three years, I've heard that.

21 COUNCILMAN MARIANO: Yeah.

22 COUNCILMAN COHEN: Why don't we just
23 deal with the problems that we're talking about?

24 COUNCILMAN MARIANO: We are dealing
25 with the problem. I mean, Lombardo told us that

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2 the people are afraid to stand up here and say
3 what the problem is. But I'll tell you, it's the
4 developers. And they're the developers that give
5 donations to politicians all around the City of
6 Philadelphia. There are little projects, big
7 projects, and middle-sized projects.

8 Now, all you have to do is take your
9 research staff and start looking at some of them
10 campaign disclosures and start figuring out who
11 these developers are. And they're going to make
12 money 'cause they're only in it for the money.
13 They're not in it for you, me, the minority people
14 in the City of Philadelphia, the majority people
15 -- they're in it to make money.

16 And guess what? When they make their
17 money, they're taking that money back to Delaware
18 County, Delaware, Bucks County, New Jersey,
19 anywhere but here. They're the guys that are
20 making money, but that's the American way. So
21 this is the way that we see how we can help that.
22 This is how we could stop that tide of money going
23 away from our city. It may not be perfect but
24 we're here trying to do so something.

25 Thank you.

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2 COUNCIL PRESIDENT VERNA: Councilman
3 Cohen, do you still want to be recognized?

4 COUNCILMAN COHEN: What's that?

5 COUNCIL PRESIDENT VERNA: Your light's
6 on, do you still want to be recognized?

7 COUNCILMAN COHEN: No, I've finished my
8 comments.

9 COUNCIL PRESIDENT VERNA: Are there any
10 other statements or questions from members of the
11 committee?

12 (No response.)

13 COUNCIL PRESIDENT VERNA: Is there
14 anyone else to testify on this bill?

15 UNIDENTIFIED PERSON: Yes.

16 COUNCIL PRESIDENT VERNA: Would you
17 please approach the witness table.

18 (Chick comes forward.)

19 COUNCIL PRESIDENT VERNA: Please
20 identify yourself for the record and proceed with
21 your testimony.

22 MS. ORTIZ: My name is Maritsa Ortiz.
23 I'm here representing Esperanza CDC. And I have a
24 letter from the president they he wanted me to
25 read.

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2 COUNCIL PRESIDENT VERNA: Fine.

3 MS. ORTIZ: Esperanza Inc. strongly
4 opposes the proposed Bill No. 990221. If passed,
5 this law will significantly increase the cost of
6 creating housing for lower-income persons and make
7 the creation of training and work opportunities
8 for low-income persons in construction virtually
9 impossible.

10 We have developed over 49 units of
11 housing for lower-income persons and have caused
12 the employment of over 35 lower-income persons in
13 construction jobs. The total construction costs
14 of these housing projects has been approximately
15 \$6 million. It our experience that the payment of
16 prevailing wages increases the construction costs
17 by at least 15 percent. Without increased funding
18 from the City, state, and federal sources, the
19 increased cost of housing will reduce the
20 production of housing.

21 Further, some low-income persons
22 obtaining initial jobs on housing construction
23 projects where the sponsors requires a contractor
24 to provide training and work opportunities,
25 contractors may be unable to afford these training

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2 and work opportunities if the union wages are
3 required. As a result, many low-income persons
4 and minority persons will be locked out of work if
5 this legislation is passed.

6 That's it. Thank you very much.

7 COUNCIL PRESIDENT VERNA: Thank you.

8 Are there any questions of this
9 witness?

10 (No questions.)

11 COUNCIL PRESIDENT VERNA: Thank you
12 very much for your patience.

13 Is there anyone else to testify on this
14 bill?

15 (No response.)

16 COUNCIL PRESIDENT VERNA: Seeing none,
17 this will conclude our public hearing.

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2 COUNCIL PRESIDENT VERNA: Now go into
3 our public meeting.

4 The Chair recognizes Councilman DiCicco
5 regarding Resolution No. 990391.

6 COUNCILMAN DICICCO: Thank you, Madam
7 President. I move for the adoption of Resolution
8 990391. Is that the first one?

9 (Duly seconded.)

10 COUNCIL PRESIDENT VERNA: It has been
11 moved and seconded that Resolution No. 990391 be
12 reported out of committee with a favorable
13 recommendation.

14 All in favor will signify by saying
15 aye.

16 Those opposed?

17 The ayes have it and the motion is
18 carried.

19 The Chair recognizes Councilman DiCicco
20 regarding Resolution No. 990392.

21 COUNCILMAN DICICCO: Thank you, Madam
22 President. I move for the adoption of Resolution
23 No. 990392.

24 (Duly seconded.)

25 COUNCIL PRESIDENT VERNA: It has been

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2 moved and seconded that Resolution No. 990392 be
3 reported out of committee with a favorable
4 recommendation.

5 All in favor will signify by saying
6 aye.

7 Those opposed?

8 The ayes have it and the motion is
9 carried.

10 The Chair recognizes Councilman DiCicco
11 regarding Resolution No. 990393.

12 COUNCILMAN DICICCO: Madam President, I
13 move for the adoption of Resolution No. 990393.

14 (Duly seconded.)

15 COUNCIL PRESIDENT VERNA: It has been
16 moved and seconded that Resolution No. 990393 be
17 reported out of committee with a favorable
18 recommendation.

19 All in favor signify will by saying
20 aye.

21 Those opposed?

22 The ayes have it and the motion is
23 carried.

24 The Chair recognizes Councilman DiCicco
25 regarding Resolution No. 990394.

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2 COUNCILMAN DICICCO: Madam President, I
3 move for the adoption of Resolution No. 990394.

4 (Duly seconded.)

5 COUNCIL PRESIDENT VERNA: It has been
6 moved and seconded that Resolution No. 990394 be
7 reported out of committee with a favorable
8 recommendation.

9 All in favor will signify by saying
10 aye.

11 Those opposed?

12 The ayes have it and the motion is
13 carried.

14 The Chair recognizes Councilman DiCicco
15 regarding Resolution No. 990395.

16 COUNCILMAN DICICCO: I move for the
17 adoption of Resolution No. 990395.

18 (Duly seconded.)

19 COUNCIL PRESIDENT VERNA: It has been
20 moved and seconded that Resolution No. 990395 be
21 reported out of Council with a favorable
22 recommendation.

23 All in favor will signify by saying
24 aye.

25 Those opposed?

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2 The ayes have it and the motion is
3 carried.

4 The Chair recognizes Councilman O'Neill
5 regarding Bill No. 990288.

6 COUNCILMAN O'NEILL: Madam Chair, I'd
7 like to introduce an amendment which has been
8 circulated which the Administration has agreed to
9 regarding Bill 990288, and I'll hand it in and
10 I'll just make reference to the section that it
11 applies to.

12 COUNCIL PRESIDENT VERNA: And does the
13 stenographer have a copy?

14 Please proceed, Councilman.

15 COUNCILMAN O'NEILL: Thank you.

16 I refer you and my colleagues to Page 5
17 of the bill. In Section 5, subparagraph B-2, all
18 the changes that occur in this section in this --
19 after -- let me just read through the paragraph as
20 it will be. The new paragraph will read as
21 follows.

22 "Interest on the member's DROP account
23 balance computed at a rate determined by the Board
24 and compounded monthly rather than replacing
25 annually. The rate shall be 4.5 percent upon the

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2 effective date of the ordinance amending this
3 title to provide for this test DROP, and shall be
4 reviewed not less than annually by the Board at
5 the beginning of each plan year.

6 "The Board may adjust the interest
7 rate" -- and this is additional language --
8 "prospectively or retrospectively following such
9 review providing that the rate shall not exceed 10
10 percent (instead of 9 percent) and shall not fall
11 below 4.9 percent" instead of the original 3.5
12 percent.

13 COUNCIL PRESIDENT VERNA: And did you
14 indicate that the Administration was in favor of
15 this amendment?

16 COUNCILMAN O'NEILL: They are in favor,
17 Madam Chair.

18 Madam Chair, I'd also request that --
19 and I've talked to the sponsor, if this bill could
20 have rules suspension so that it will be ready a
21 week before we adjourn in case there are any
22 further amendments.

23 COUNCIL PRESIDENT VERNA: So would you
24 make a motion to adopt the amendment.

25 COUNCILMAN O'NEILL: I move the

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2 adoption of the amendment.

3 (Duly seconded.)

4 COUNCIL PRESIDENT VERNA: It has been
5 moved and properly second that the amendment be
6 approved.

7 All in favor will signify by saying
8 aye.

9 Those opposed?

10 The ayes have it.

11 The Chair recognizes Councilman Kenney
12 regarding Bill No. 990288.

13 COUNCILMAN KENNEY: Madam Chair, I move
14 that Bill No. 990288, as amended, be reported out
15 of this committee with a favorable recommendation
16 and a request made for a rules suspension to allow
17 for first reading at our next Council session.

18 (Duly seconded.)

19 COUNCIL PRESIDENT VERNA: It has been
20 moved and properly seconded that Bill No. 990288
21 be reported out of committee with a favorable
22 recommendation, as amended, and that the rules of
23 Council be suspended so as to permit first reading
24 at our next session of Council.

25 All in favor will signify by saying

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2 aye.

3 Those opposed?

4 The ayes have it. And the motion is
5 carried.

6 It is my understanding that Bill No.
7 9900221 will be recessed until Tuesday, June 15,
8 at 2 30, at the request of the sponsors.

9 Thank you all very much. This
10 concludes our public meeting.

11 (Adjourned at 3:08 p.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing proceedings of the Council of the City of Philadelphia of Tuesday, June 8, 1999, were reported fully and accurately by me, and that this is a correct transcript of same.

RE: COUNCIL COMMITTEE OF THE WHOLE
RESOLUTION NO.'s 990391, 2, 3, 4, 5
BILL NO.'s 990221, 990288

_____,
JOSEPHINE CARDILLO,
Registered Professional Reporter