COUNCIL OF THE CITY OF PHILADELPHIA

CONTINUED PUBLIC HEARING

COMMITTEE OF THE WHOLE

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Room 401, City Hall
Philadelphia, Pennsylvania
March 20, 2002
10:00 a.m.

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BILL 020031 - An Ordinance amending Section 19-1301 of the Philadelphia Code...
BILL 020032 - An Ordinance amending Chapter 19-1800 of the Philadelphia Code...
BILL 020033 - An Ordinance amending Section 19-1801 of the Philadelphia Code...
BILL 020034 - An Ordinance amending Chapter 19-800 of the Philadelphia Code...
BILL 020040 - An Ordinance authorizing transfers in appropriations for Fiscal Year 2002 from the Grants Revenue Fund, the Director of Finance...

PRESENT:

COUNCIL PRESIDENT ANNA C. VERNA

COUNCILWOMAN JANNIE BLACKWELL
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN DARRELL L. CLARKE
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COUNCILMAN ANGEL L. ORTIZ
COUNCILMAN FRANK RIZZO
COUNCILWOMAN MARIAN B. TASCO

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COUNCIL PRESIDENT VERNA: Good morning, everyone. This is the continued public hearing of the Committee of the Whole regarding Bill Nos. 020031, 0230032, 020033, 020034, and 020040.

I believe our first witness is Debra Kahn.

(Witness comes forward.)

COUNCIL PRESIDENT VERNA: Good morning.

MS. KAHN: Good morning, President Verna and Members of City Council. I am Debra Kahn, Secretary of Education for the City of Philadelphia. I'm testifying on behalf of the Administration of Mayor John F. Street in support of the five tax authorization and appropriations ordinances that were just read into the record that were submitted by the Administration related to the School District. Also here today are Rob Dubow, City Budget Director, and Chief Deputy City Solicitor Richard Feder so that they can answer any legal or financial impact questions that you might have about any of these measures that are under consideration by you.

Two of these ordinances essentially request continuation of current tax authorizations,

so I think that I will focus most of my testimony on the transfer ordinance and the increase in the property tax millage ordinances for the School District. And I'd like to explain these measures in the context of Mayor Street's agreement with Governor Schweiker for the State/City partnership to govern Philadelphia's public schools.

I had fully expected to be able to be here this morning in present you today with a written version of those partnership terms, as you have asked. Unfortunately, however, I am not able to do that right now. I think that most of you know that the Governor for the past couple of weeks had been out of the country. And Secretary Zogby was also away at the end of last week. But I also know that we have been circulating drafts with the Governor's negotiating team and the City Administration for several months now. And especially for the past several weeks, we have impressed upon the Governor's team the importance, really, of getting this document completed and especially in light of these hearings which we consider to be so critical to implementing the financial terms of the partnership agreement.

I had understood in the course of this exchange that we're really down to the wording on just a few items, but for whatever the reason is, I'm really just simply not in a position to be able to give you a written version of that document today. But I don't want, at the same time, to be in the position to be able to let form get in the way of substance. So I do want to turn our attention to what our Administration knows is the content of that agreement. The key terms actually have already been reported publicly in the media and in various conversations, including in this Council Chamber, most recently I think when I testified here on January 30th. And on December 21st when the Governor in the Mayor announced their partnership agreement, they did, in fact, hit on many of the highlights of that agreement. But for the purposes of this hearing, what I would like to be able to do is summarize some of those terms in then focus on the financial agreement which, of course, is the most relevant part in terms of the measures under consideration.

The new governing body that was established by State Law originally, not by this

partnership agreement, but by State Law, the School Reform Commission, of course, has been seated for eight weeks now. And the membership does reflect the terms of the agreement, meaning that the Governor had three appointments to that Commission in the Mayor had two appointments.

We have also agreed in the course of our discussions that -- in this would be subject to having a change in the authorizing legislation -- but that the terms of those members would be different if we can get the change in the legislation so that the Governor's appointees would have five-year terms and the Mayor's appointees four-year terms.

We also -- and there had been some discussion about this in the past -- had agreed that a qualified majority, in the course of the operations in the way the School Reform Commission conducts its business -- that a qualified majority of four votes would be needed allowing for provisions to prevent impasse in deliberations would be needed to take specified and very significant actions by the School Reform Commission. And those actions would include the appointment and the

dismissal of the Chief Executive Officer and the General Counsel, the authorization to incur debt, and the adoption and the amendment of bylaws themselves.

The agreement also, in short, as everyone will recall certainly the issue of consultants that would be brought in to assist the School District and the School Reform Commission in their work and management consultants was a big topic of the negotiations. And the agreement ensured that it would be the full Commission rather than the interim Chair alone who would consider any options for engaging Edison Schools or any other central office consultant.

Now, I'm not suggesting that the Commission or the interim chair at the time for that 30-day period, James Nevels, would have taken any of those actions on their own. Just this was a reflection of what the law permitted. It would have permitted the interim Chair to do that. And our agreement was that, in fact, there would have to be the full seating of the Commission before any action like that could be taken.

The Governor and the Mayor also agreed

and acknowledged publicly that while they differed on the role that Edison Schools should fill at the School District, they stood together and said but ultimately it would be up to the School Reform Commission to decide exactly what that role would be.

You're also aware that the Commission has, in fact, launched a competitive selection process and established a timetable that calls for decisions on making these consultant decisions within the next, as I understand it, week or so.

The agreement also recognizes the important role that the professional management of the District, specifically in the form of the Chief Executive Officer, must have in supervising and evaluating the performance of any consultants who are chosen by the Commission. Of course, we have a situation today where there is not a permanent Chief Executive Officer in place but, nevertheless, the agreement looks to the day when that position will, in fact, be filled.

A portion of the agreement also pertains to the educational program. And really what it does is it supplements and it modifies aspects of the

Governor's October 31st proposal, which I know received some discussion here yesterday. And it also references a number of the activities and programs underway at the School District which Dr. Farmbry had outlined and discussed with you yesterday.

The Governor and the Mayor agreed that despite whatever changes might occur at the School District, the key features of the current education program, including full-day kindergarten, reduce class sizes in Grades K to 2, in extended day in your instructional services would be preserved.

They also agreed that new educational initiatives would be supported with priorities in spending amounts determined by the School Reform Commission each year through its regular budget approval process.

With large numbers of District and Charter schools already in existence and with the prospect of new types of school models to be created like these partnership schools that have received so much discussion, the parties also agreed that it would be wise to establish an independent assessment and reporting center that could monitor and report

on the performance of all publicly funded schools in the City.

The agreement authorizes the School Reform Commission to approve the strategy for determining what the appropriate improvement interventions would be for particular schools, what kind of curriculum. And, again, this is a modification to what the Governor's plan said to determine which schools might be candidates for partnership schools and other types of improvement interventions.

In finally, the agreement required that any community partners in school providers that would be selected would be through an open, fair, in merit-based process. And it was our belief that that process should include opportunities, certainly, for parent and public input and participation.

Now, the ordinances that are under consideration today, of course, tie directly to the financial section of the partnership agreement. You are certainly aware that the Governor has requested an unprecedented $75 million in State funds for our School District for the coming Fiscal Year '03 above

all current appropriations in funding in the 1 percent increase in the basic education funding that was proposed for all of the 501 school districts at the Commonwealth. At the time of the agreement, of course, we did not know, neither Governor or we knew, what the percentage across-the-board increase would be at the that time. But it was clear that the 75 million was intended to be over and above whatever that across-the-board increase would be. And the additional State support is intended to continue with incremental increases, and this was outlined in the Governor's plan, growing to actually $82 million in Fiscal Year '06 and to be continued thereafter.

In exchange for this additional support, the Mayor agreed to ask City Council to increase its annual support to the School District by $45 million beginning in Fiscal Year '03. Of this amount, it was estimated that $25 million would be allocated to pay the debt service on a $300 million deficit funding bond to be issued by the School District with all proceeds provided to the School District in the current year.

And two of the ordinances that Council

President Verna read into the record 020031 in 020033 authorizes the transfer of 2.71 property tax mills from the City to the District and the corresponding decrease for the City that would be equivalent to the $25 million that's intended to cover the cost of the debt service, the remaining $20 million to be provided in the regular recurring support to the School District as contained in the Mayor's budget proposal and five-year plan.

The Mayor also again pledged to be able to provide the one-time grant of $45 million to the School District in the current year. And you will recall that this was money pledge for an earlier commitment that came in two parts. First, in May of 2000, $20 million to satisfy the temporary budget agreement that we had with Governor Ridge at the time in May of 2000. In then later that year, an additional $25 million in order to settle the PFT contract negotiations to provide one-time bonuses for that purpose was $25 million. And that, of course, was announced when the contract negotiations were concluded in October. And Bill 020040 is that transfer ordinance.

Consistent with the concerns that have

been expressed previously and with previous actions the City has requested that the Pennsylvania General Assembly exempt these one-time funds from the Act 46 recapture provisions and that was, in fact, part of our agreement so that the Governor would be supporting that exemption. And with that exemption, the City would be able to provide the full $45 million now which the School District is counting on -- and I believe you heard that testimony from yesterday from Mr. Doosey -- without mixing that payment up with any future obligations.

Legislative language has been submitted to the Governor's Office to provide the exemption to Act 46 and to authorize the School District to undertake deficit financing as part of that same vehicle. And we have requested action on that for next week.

The School Reform Commission, I think, has testified that this timing is really critical in order for the Commission to be able to initiate the bond sale in time to receive cash that it needs to complete the current school year and open for the next year.

In anticipation of the General

Assembly's action, we are asking that this Committee could approve these measures following the conclusion of these hearings and give them First Reading at your regular Session tomorrow, with final approval to be scheduled for April 4. This would put the City in a very strong position to say to the Commonwealth that we have taken significant steps to uphold the local funding part and responsibility of the school agreement. If the General Assembly fails to act, Council could approve these measures with the Mayor's assurance that the funds would not be transferred to the School District without the proper legislative protection. And you will recall last year when Council approved the $45 million transfer ordinance, in fact, the Mayor did veto it because we did not get the legislative protection that he had promised you that he would seek.

Contingency provision is already built into the millage transfer ordinance to protect against possible double counting of that so that our obligation going forward would not be anymore than the $45 million, although as I understand it -- and again, Mr. Feder can explain this to you in detail -- might require some technical change

depending upon how the final language in the General Assembly's adoption might actually read.

Mayor Street said in his Budget Address in January, and I certainly repeat today, that the arrangement that I've described with the Governor certainly doesn't resolve every academic and financial concern of the School District. And most important, as has certainly been pointed out, it does not provide the long-term financial stability that's needed. And it is our belief and continues to be our belief that it will come only through State-wide reform of public school funding. Efficiencies are certainly something that every governing body of the School District and every other organization need to be attuned to, and certainly the School Reform Commission has indicated to you that it will do its part in that. But it has long been our belief that we can't cut our way out of this problem. And I remind, certainly, this City Council that the problem and the analysis that was done by the School District last year is really not an overspending problem in the School District. A recent study issued actually by the Commonwealth by Standard & Poor's last fall had indicated that when

you account for the demographics of our student population and the cost of living in our School District and in our region, Philadelphia is actually spending 24 percent below the State-wide average in our School District. So it's not real an overspending problem, and we really need to come to terms with this reform on a State-wide basis.

But if we can hold all the parts of this agreement together, the partnership will give the City an ongoing say in the policies of the School District. It will protect the City treasury by capping our financial commitment at the $45 million. And most importantly, it will give children in families the certainty that they deserve for uninterrupted school years along with the chance for better schools by providing the School Reform Commission with some real breathing room to implement improvements.

On Monday, City Finance Director Janice Davis in I and SRT Chair Jim Nevels and Mr. Doosey went to Harrisburg and we testified before the House Appropriations Committee that's considering the Governor's request for the special funding for our schools. This was an opportunity, actually, for us,

for the City, to set the record straight about the extent of our financial support for public education and the considerable demands on our budget. The City of Philadelphia support for public schools is, in my experience, continuously misunderstood and misrepresented and, in fact, undervalued by the Commonwealth because our situations and our tax situations are different than other jurisdictions in the Commonwealth. And, in fact, I do have here copies of the testimony that we presented that I'd be happy to share with you.

And it is clear through the course of that hearing that the General Assembly, as we do, wants improved financial and educational performance from our School District and that in return for that State support, they certainly want greater financial support from the City.

We know, and throughout the course of the budget hearings, that the City will feel the squeeze of this additional funding that the Mayor has proposed, but we also know that it is the right and the essential thing to do.

I believe that that covers the main points of what I wanted to testify to.

COUNCIL PRESIDENT VERNA: Thank you. You indicated that we can have a copy of the testimony?

MS. KAHN: I do have that. And I also have in addition -- a couple of weeks ago, there is a special select committee in the House of the General Assembly that is looking into the State-wide school reform proposals and they came to Philadelphia a couple of week ago for a hearing and we testified there, along with other members who had been invited representing different community organizations, and I have that testimony as well which I'm happy to share with you.

COUNCIL PRESIDENT VERNA: Thank you. We would appreciate a copy of that.

Ms. Kahn, in your testimony, you are asking for immediate approval so that we could have First Reading of the bills tomorrow. Are you referring to all of the bills before us, or is it just $45 million transfer?

MS. KAHN: Referring to all of the tax authorizations and the transfer ordinance as well.

COUNCIL PRESIDENT VERNA: All of the bills that are before us today, you are asking for

us to approve them and report them out tomorrow for First Reading?

MS. KAHN: We're saying that we believe that this would put us in the strongest possible position in terms of the General Assembly to say that the City has acted to fulfill its commitment, recognizing that there are protections built into each of those ordinances.

COUNCIL PRESIDENT VERNA: The Chair recognizes Councilman Goode.

COUNCILMAN GOODE: Thank you, Madam President.

Good morning, Secretary Kahn. For the record, do you believe that most of the reforms that may be instituted by the Reform Commission will mirror actions already proposed by the School District?

MS. KAHN: I'm sorry, I only heard the first part. Do I believe they will --

COUNCILMAN GOODE: Do you believe that reforms that will be instituted by the Reform Commission mirror actions already proposed by the School District?

MS. KAHN: I think that the Commission

is faced with, as I think they described yesterday, a very complicated set of circumstances. On the one hand, they do have the Governor's plan that had been presented on October 31st. They also have the whole range of initiatives, 264 schools and District initiates that, again, Dr. Farmbry outlined yesterday in addition to the District's Empowerment Improvement Plan, which I believe that Councilwoman Miller had asked about. So I think that what they will be about is sorting through all of that and figuring out what the right --

COUNCILMAN GOODE: My question is, what they come up eventually. It seemed to be the spirit of Dr. Farmbry's testimony that what they will come up with are actually reforms that the School District would have done anyway.

MS. KAHN: I think there will be a blend.

COUNCILMAN GOODE: Do you think that the majority of what they will come up with would have been done by the School District anyway?

MS. KAHN: I don't think that I can give odds on that necessarily. I think there will a blend. I think that they will see and have already

seen that a number of the initiatives underway by the District are certainly initiatives that are worth preserving and expanding, so I do think that a lot of what the District has been doing will continue to be done, those initiatives that have been proven to really produce results.

COUNCILMAN GOODE: Let me ask the question a different way then. Do you believe that the School Reform Commission is necessary for academic reforms or just for financial purposes?

MS. KAHN: I think that, first of all, there needs to be a governing body, certainly, for the School District. And the School Reform Commission is by law the governing body. I think that their ability to succeed will be limited by many of the same constraints that the Philadelphia School Board had. And some of those constraints certainly have to do -- a large part of those constraints have to do with the unstable situation we have that is mostly caused by insufficient funding.

COUNCILMAN GOODE: So you believe the major purpose for it is financial versus academic?

MS. KAHN: I believe that it is the

financial condition of the School District that got us to this arrangement, yes.

COUNCILMAN GOODE: Do you believe that principals should have to power to hire, fire, set their own curriculum and budgets?

MS. KAHN: I believe that principals need the authority to be able to really manage their schools. I think that it also --

COUNCILMAN GOODE: Should they be hire, fire, set their own curriculum and budgets?

MS. KAHN: I think that -- and I have to qualify it. I think for the most part, I do think so. But I think that it has to be measured against the performance of the school.

COUNCILMAN GOODE: What does that mean?

MS. KAHN: I think it means that in schools where student performance has been meeting expectations and meeting goals that, certainly, those principals have been in a position to demonstrate that they have in effect earned and they merit the kind of flexibility that they have. I also think that there have to be overall standards. We've talked a lot about the kind of curriculum.

COUNCILMAN GOODE: So you don't believe

that all principals should be hire, fire, set their own curriculum and budgets?

MS. KAHN: I think principals need -- this is personal view. I think --

COUNCILMAN GOODE: But you don't believe that all principals should be able to?

MS. KAHN: I think that it has to be a system that is tied to performance.

COUNCILMAN GOODE: So a system of accountability would not be set up where all principals are managing their own schools?

MS. KAHN: A system could not, is that what you said?

COUNCILMAN GOODE: A system of accountability would not be set up so that all principals are responsible for their own schools?

MS. KAHN: I think a system of accountability could be set up where it is presumed that principals will have lot of authority for managing their schools, but I also think that there have to be overall consistent standards and components to our schools.

COUNCILMAN GOODE: Lastly, the bills before us, 020031 to 020033, don't require the

$45 million be used in any specific way, do they?

It's been proposed that $25 million go for debt financing in 20 million be an ongoing grant, but the $45 million as the legislation is written now does not require the $45 million be used in any specific way, does it?

MS. KAHN: I do not believe that there is any specification in the language of the bill.

COUNCILMAN GOODE: Thank you.

Thank you, Madam President.

COUNCIL PRESIDENT VERNA: Thank you.

Ms. Kahn, why does the Administration believe it can borrow $295 million for blight bonds for $20 million debt service payments while it will cost $25 million per year for the proposed $300 million in deficit bonds for the School District?

MS. KAHN: I might ask some of the financial people to speak to that. That was an estimate that was done at the time. I really don't know whether -- and since it is the School District will be doing the borrowing, they may have looked into this --

COUNCIL PRESIDENT VERNA: Is there

someone who could respond to that?

Good morning. Please identify yourself for the record.

MR. DOOSEY: Good morning. I am Jim Doosey, Chief Financial Officer for the School District of Philadelphia. Could you restate the question for me, please?

COUNCIL PRESIDENT VERNA: Certainly. My question was, why does the Administration believe it can borrow $295 million for blight bonds for $20 million in debt service payments while it will cost $25 million per year for the proposed $300 million in deficit bonds for the School District?

MR. DOOSEY: The $300 million number that has been reported was the product of the yield table at the point in time when the negotiations began. The City's proposed obligation is not to fund debt service on $300 million in bonds. It is to provide $25 million annually for whatever face amount of bonds that that would be able to procure in the market. As rates move up, it is entirely possible --

COUNCIL PRESIDENT VERNA: We understand

that. That's not the question.

Councilman Nutter, did you want to be recognized for a point of order?

COUNCILMAN NUTTER: Yes, Madam Chair. Thank you.

Mr. Doosey, I have written here in my notes from yesterday, and I believe I asked you this question or the panel that you were participating in yesterday -- we can get the notes of testimony -- the $45 million going forward, not to be confused with the $45 million in FY '02, I laid out yesterday in questions that it was my understanding that that $45 million was being split such that $25 million which is the millage transfer shift was going to the debt service on a $300 million bond and that $20 million was going directly from the City to the School District and that made up the $45 million. And I believe and my recollection from yesterday is the testimony was, "Yes, that is correct." Now I'm hearing something different today.

MR. DOOSEY: No, sir. Your understanding of my testimony yesterday is correct.

COUNCILMAN NUTTER: Well, what did you say just now? I thought I heard you say a few

minutes ago that the $25 million is not dedicated specifically for debt service on a $300 million bond offer. What did you say a few minutes ago?

MR. DOOSEY: No, sir. Let me clarify my statement. The $25 million through the millage transfer would go directly to debt service on the bond issue.

COUNCILMAN NUTTER: Well, what did you say a few minutes ago? Do you recall what your statement was? Because the whole reason for the point of order was that I thought you say that it was not specifically dedicated to the debt service, that it was just a $25 million millage shift.

MR. DOOSEY: No.

COUNCILMAN KENNEY: I understood his answer to be that he wasn't talking just about borrowing $300 million. That whatever the $25 million would fund is what they were anticipating borrowing. The difference from yesterday to today is, I understood yesterday being $300 million; now what I'm hearing today is it may be actually more than $300 million, whatever $25 million will carry.

COUNCILMAN NUTTER: Which is actually

similar to the discussion we actually had about NTI, which is it's not so much determined how much you're going to borrow because you're setting figure, the borrowing amount is a function of how much you have to dedicated to debt service; is that what you're saying?

MR. DOOSEY: That is correct. That is what I'm attempting to go say.

COUNCILMAN NUTTER: Okay. So it's not necessarily a set $300 million figure. It is $25 million dedicated to debt service to fund whatever $25 million will allow you to borrow over 30 years; that's the testimony today?

MR. DOOSEY: That is correct.

COUNCILMAN NUTTER: Would you at least put on the record that that was not made yesterday as we've had this discussion about $25 million, $300 million borrowing, those two figures have been linked together. What you're saying here today is it's $25 million for whatever $25 million will support in debt service?

MR. DOOSEY: That is correct.

COUNCILMAN NUTTER: Okay.

COUNCIL PRESIDENT VERNA: Thank you very

much.

I'd like to ask you this hypothetical. The $45 million transfer is approved for FY '02. It is now July the 15th and the State has not passed its budget. If and when will the Administration pay the $45 million to the District, will the District go to the debt market before the City's payment is made and the State funding secured?

MS. KAHN: Okay, let me see if I can recall all the parts of that. I think you said the $45 million for '02, correct?

COUNCIL PRESIDENT VERNA: Yes. As I said, it's a hypothetical. We're now in July and the State has not passed its budget. If and when will the Administration pay the $45 million to the District?

MS. KAHN: Well, the $45 million for '02 is, again, as you know, a previous obligation, but we certainly brought it to the table again in the context of this discussion.

COUNCIL PRESIDENT VERNA: I think we understand that.

MS. KAHN: The exemption that we have requested does not necessarily need to be part of

the State's passage of the budget. That could be a separate action. So as soon as the General Assembly provides that exemption and City Council would act to approve the transfer ordinances, those funds could in fact and should and we would like them to be turned over to the School District as soon as possible, really not being related to the future obligation so that we can clear the decks on that previous commitment.

COUNCIL PRESIDENT VERNA: Several years ago when Council passed a bill for senior citizens of low income, has the Administration considered what impact the senior citizen low income special tax provisions might have on the proposed transfer of millage from the City to School District?

I note that under Chapter 19-2900 of the Philadelphia Code, eligible low-income senior citizens are protected from any increase in real estate taxes whether due to an increase in assessments or an increase in real estate tax rates.

Under Bill No. 020031, the rate of the real estate tax imposed under Section 19-1301 of the Code, the City portion of the real estate taxes would decrease. However, under Bill No. 020033, the

rate of the tax imposed under section 19-1801 of the Code, the School District portion of the real estate taxes would increase.

My question is whether low income senior citizens whose real estate taxes have been frozen would be exempt from the increase in the tax rate imposed under Bill No. 020033, would those senior citizens be given the benefit of the tax decrease granted under Bill No. 020031 but then be exempted from the rate increase imposed under Bill No. 020033? In if eligible, low-income senior citizens would be exempt from the tax increase rate under Bill No. 020033, what is the estimated revenue impact, if any, of such an exemption?

I think there's somebody from the Law Department here and there is also somebody from the Budget Department here. Could they explain that or can they answer that question?

MS. KAHN: Mr. Feder will answer that.

MR. FEDER: Good morning, Council President Verna. Richard Feder from the Law Department, Chief Deputy City Solicitor for Legislation.

I understand the question. We have not

looked into that. I will look into it. In I think I can speak for Mr. Dubow that he will also look into the revenue estimate for that. I don't know if the low-income exemption would be triggered by what you just suggested. I'd have to look at the Code language. I understand the question. I'll have to look at it.

COUNCIL PRESIDENT VERNA: When do you think we would have the answer.

MR. FEDER: I think I can look at it while these hearings are going on.

COUNCIL PRESIDENT VERNA: That would be wonderful, since we're being asked to report these out of committee today. I'd appreciate it. Thank you.

The Chair recognizes Councilman Kenney.

COUNCILMAN KENNEY: Thank you very much, Madam Chair.

I had a same set of questions yesterday with Mr. Nevels and the SRC relative to the deficit financing strategy. I'd really would like to have Mr. Dubow at the table too, if possible, because this is basically the same questions but to the City's position on this particular strategy.

What I'd really like to know is what the strategy is if we do borrow the $300 million to deficit finance, what's the strategy over the next two years to deal with the long-term permanent funding problems at the District. What's our strategy in dealing with the legislature? What have we done so far with the legislature? And from Mr. Dubow's point of view, what does borrowing this type of money and spending potentially $750 million over 30 years for a two-year window, how he feels that is from a fiscally prudent standpoint relative to the City's current budget condition?

MS. KAHN: I will respond to that first and then let Mr. Dubow come in. I think, Councilman, the concerns that you and others had expressed yesterday about the deficit finance proposal I think are shared by everyone and I don't think that there's one person who's involved in the situation who would say that this is the preferred way of going about paying for the School District of Philadelphia's obligations. But having said that, it is in our view also vital that the School District have at least some window of financial stability to enable the governing body to address

the organizational and the educational concerns and deficiencies on the part of the district as best they can within the constraints that they will continue to have. So that's why, certainly, this proposal is before us.

COUNCILMAN KENNEY: What I raised yesterday with the SRC was that in 1991-92 when the City was facing a similar situation financial crisis, there was in place as a result of the negotiations the borrowing that was done was done through PIKA. The ability to pay back that loan was done through a increase in taxes through the sales tax. None of those situations are in place as we speak. But we're being asked to, as Mr. Nevels said yesterday, to be royal optimists, I guess, that somehow once we borrow that money, once we mortgage the City's future, that without those items being in place before we borrow, we're expected to rely on the fact that they will in place for 2004 when, again, the train is approaching the wall again.

MS. KAHN: As I said previously, I really don't think that there's any solution here other than to have State-wide reform of school funding, which is a situation that is not just

relevant to Philadelphia. It is increasing relevant to the vast majority of school districts. And I think we're seeing this in the legislative activity that is occurring and generated from across the Commonwealth. So that's really the result. It's not a situation where we believe that we can cut our way out of this. If there were to be some radical situation where somehow -- and I don't think this is something any of us would really want -- where the enrollment of the District would shrink to a point where maybe available resources would do it. But if you have the right kind of school funding formula that is tied to enrollment, then that really wouldn't make your case either. So we really need to have a different way of being able to reach our goals.

COUNCILMAN KENNEY: So the borrowing of $300 million which gives us a two-year window, what urgency does that provide for any elected official to solve this problem in a confined space of time?

My experience with politics and with the legislative process is that when people are given the opportunity to delay, they will do in fact that, they will delay. When there is an urgency, a

crisis, something that needs to be addressed immediately because the circumstances dictate it, they are generally then addressed. And I'll give you -- the corollary is that the City's fiscal condition in '91 to '92 was basically entering bankruptcy, if not bankrupt. All elected officials, both in Harrisburg and in Philadelphia, the outgoing Mayor and incoming Mayor, the outgoing Council and incoming Council, and the legislative caucuses in Harrisburg on both sides of the aisle acted in a responsible way because they had no other choice.

Now, I raised this yesterday in I'll raise it again. I don't want to see in June an announcement made that the schools will not open in September. But it would seem to me that looking at past history and the way in which this process works that if the schools were announced that they would be closed in September, there would be an urgency, a major urgency, a political price to pay for those who did not fix that problem. And the concern that I have is that while the $300 million may, in fact, get both political and legislative peace for two years perhaps, we're going to be in that much more debt in 2004 than we are now with still no

resolution to the problem. The urgency and the potential of having people complain to you that their kids aren't going to school in September is more likely to get a legislator or a councilmember or a mayor or a governor animated than kind of patching this sinking boat with a $300 million patch. And although it is a difficult thing to face, perhaps that's the only way it really gets resolved. Because we may be in this situation in 2004, but we'll in this situation with $300 million in additional debt. Why would we want to do that and why we would want to put ourselves in that position?

And, Mr. Dubow, you may want to add something to this because of your responsibilities as far as the City's budget is concerned. We're basically borrowing ourselves to death here.

MR. DUBOW: Rob Dubow, City Budget Director. We're committing to $45 million a year. We're not doing the borrowing. I just want to make that part clear.

COUNCILMAN KENNEY: It's like saying, well, because -- it's all the same money. We're increasing the millage and transferring it. It's a

net sum gain for the average taxpayer, but it's still their money.

MR. DUBOW: I agree. I just wanted to make that technical clarification. It clearly puts and did put in doing this year's plan an extra strain on making the numbers work. It means that everything is tighter. It means also that we have less flexibility going forward in making our plans work.

MS. KAHN: I would just add that, certainly, over the course of my lifetime with the School District, we have had these recurring and annual crisis and they've come in different forms. The last time there was a statement that schools wouldn't open or schools would shut down, one of the things we got was Act 46 in response to that. So some would say that that was the solution and that was how elected officials acted to solve the problem. We came very close again this past spring. I mean, we had the School District and a $1.7 billion organization had less than a million dollars in the bank and they were a couple of days away from payroll. That's crisis.

COUNCILMAN KENNEY: But we settled a

contract and committed $25 million in additional City money without any contact or consultation with the Council. From that perspective, I mean, it's wonderful we avoided a teacher strike, but at the same time we spent more money, committed more money in no one even had the courtesy of asking us whether we would appropriate it. That's not a good example of -- it's not a good example to give as to why we're in the situation. We didn't make that deal. That deal was made unilaterally. That deal was made without consultation of the Council, and it was committing money that we weren't even asked to appropriate yet. And we still haven't appropriated the money yet for it. So if we're all in this together, we're all in this together. But it seems like people make unilateral decisions and then put us in the same boat to solve the problem.

The point of the matter is, is that this problem is not going to get solved in Harrisburg in the next two years based on this deficit financing scheme. I don't believe it from my experience of 25 years in dealing with both City government in State government, this problem don't get solved with deficit financing over the next two years and we're

back here again in the same situation with the same controversy and the same critical situation, $300 million more in debt without a solution.

What's our strategy in dealing with the Legislature in getting 75 million?

MS. KAHN: I would just say that there are, obviously, no guarantees, but I think that this problem --

COUNCILMAN KENNEY: Excuse me. The one thing that's guaranteed is we will be paying the debt service for 30 years on this $300 million. That's the only thing in this whole hearing that's guaranteed.

MS. KAHN: This problem will not on a State-wide basis get involved necessarily because it's Philadelphia's problem. It will, I believe, get solved because it is a problem that is in the majority of the 501 school districts in the Commonwealth.

COUNCILMAN KENNEY: Pretty substantial State Representatives in this City who represent districts in this City who would have to deal with the issue of school closing in September. They're not going to have to deal with it now because we're

going to patchwork this until 2004. They may have to deal with it then, but if they have to deal with it now, I think it's a much bigger situation for them facing constituents whose kids will not go to school in September as opposed to us taking this, I think, very, very shortsighted approach to borrowing this amount of money to get us some breathing room when we can confront this now.

Now, you weren't here, I don't believe, when the press conference was held a few years ago with Mayor Rendell in then Council President Street about this strategy of not cutting school programs, of keeping this train on the track and eventually this train was going to hit the wall. Well, it's about 20 feet from the wall now in what we're being asking to do is build a two-mile-long track for $750 million so it don't hit the wall anytime soon. Well, that's what I thought the strategy was. Now we get to the end of the strategy and we're going change it. And we're going to change it at a much greater expense to the taxpayer of Philadelphia than we were on the prior strategy. And I just don't understand why we're shifting gears at this point. Do you know why?

MS. KAHN: Well, I can say again, I think that we had hit the wall. In we now have --

COUNCILMAN KENNEY: No, when you hit the wall id when you announce schools are not opening in September, that's the wall.

MS. KAHN: And again, I said the last time that was done, as part of that strategy, what we got was Act 46. And now Act 46 has been implemented.

COUNCILMAN KENNEY: Well, they're stuck with Act 46, too, you know. It's not just us stuck with Act 46; they're stuck with Act 46.

MS. KAHN: You know, just let me from personal standpoint, I think that -- and I think we all feel this. The 214,000 children in our system, sure, they are Pennsylvania's children and we appreciate that the Governor -- both governors, Governor Ridge and Governor Schweiker -- had reached out and in their way tried to take responsibility for them. But they're our kids, too. And we know them and we see them. And I have a difficult time really, you know, talking about that whole analogy and kids on a train and crashing into walls.

COUNCILMAN KENNEY: It wasn't my

analogy. It was Mayor Rendell's analogy two or three years ago.

MS. KAHN: And I understand that. But we all, you know, as parents know, you need some stability. In this has come to the wall. It has come very close. Again, I think the situation we had just this spring had us there. And this was the result of that.

COUNCILMAN KENNEY: So we settle a contract -- which situation?

MS. KAHN: Not the contract. Just this past spring when we entered into and then the summer when Mayor Street and Governor Ridge entered into the MOU. We were there.

COUNCILMAN KENNEY: That agreement that's no one's seen?

MS. KAHN: No. The Memorandum of Understanding you have seen.

COUNCILMAN KENNEY: Where is the agreement?

MS. KAHN: I think I spoke to that before. Were not here?

COUNCILMAN KENNEY: I was probably on my way down.

MS. KAHN: Well, I had said that I had fully expected to be able to share that with the Councilmembers this morning, but I couldn't do it. And we have had ongoing discussions throughout several months with the Governor's representatives, and I really think that it is now in their court. We spoke to them most recently Monday evening.

COUNCILMAN KENNEY: What's the legislative strategy for the $75 million? What's being done to garner the votes necessary for the 75 million? Because the information that I get from personal contact with staff and representatives throughout the state is that that is an extremely, as you know, difficult for them to do in that the Governor's budget asking for a 1 percent increase for their districts in a $75 million for Philadelphia. What strategy are we employing to garner those votes? And where are we right now in that effort?

MS. KAHN: Well, I think everybody who is involved in this have a different role to play. I think that the role that we played when we went to Harrisburg on Monday to testify for the House Appropriations Committee was to really help provide

the information and the facts about what Philadelphia really does to support public schools. The fact is, on the record, it has been misrepresented and undervalued and under-appreciated, and we felt that it was very important to go there and to try to set the record straight.

In terms of what the Governor is doing and his team, because this is part of his budget proposal, too, I don't know that the serious really intense budget discussions have begun, and that will have to happen and that will be their role.

COUNCILMAN KENNEY: Just as an aside, and this is my final comment. You guys really missed a great opportunity a couple weeks ago.

We had almost 90 legislators in from around the State, rural Republicans, people from the suburbs and their families in a very social and relaxed atmosphere, opportunity for three days of great face time and personal relationship building. And no one, no one, from the Administration was there. No one. And to me, you can do all the deals you want to do with the Governor, you can make all the arrangements and Memorandums of Understanding

and deals and agreements, but the people who vote on that money and who need to have their minds turned about this City and about the School District were here in our City for three days and not one person on that second floor or associated with that second floor had the courtesy to show up and even say hello. So opportunities lost. Opportunities should be taken to kind of change that. I guess it wasn't important enough.

MS. KAHN: I can't speak for others. It was the first year that I had actually had missed that event. I simply had an obligation and was unable to be there.

COUNCILMAN KENNEY: And I can tell you, it was mentioned by a number of people, including people in leadership that it was shocking that no one was there.

Thank you, Madam President.

COUNCIL PRESIDENT VERNA: You're welcome.

The Chair recognizes Councilman Ortiz.

COUNCILMAN ORTIZ: Thank you, Madam Chair.

I really don't have much because I think

the decisive educational policy is no longer in the hands of the Mayor. I think it's now in the hands of Reform Commission. So in essence, I believe that the one role that Ms. Kahn had here, because I believe that we can influence policy at this point, is bringing forth the agreement that was supposed to have been written. And I know Councilman Nutter spent a long time in the last hearing when Ms. Kahn was here asking Ms. Kahn when that agreement would be available to us so that we could peruse it. Not that we were going to have any influence in changing it, obviously. But at least we would have some knowledge of what bridge we were crossing. And we would know the guidelines of and the instructions that were set out to cross that bridge. And we were given assurances that the agreement would be given to us within two weeks, then it became a month. Now it's more than a month, now it's much longer than that, and we get testimony in which there's rhetorical description of what is supposed to be in the agreement, but we don't get the agreement. And this Council is being asked not to approve a plan that goes to resolving the problem we have in public education, but as the Commission said yesterday,

approving a Band-Aid process, buying us time. I think Marian Tasco said yesterday, the buying of time over time has cost us and is making more expensive the final solution to public school stability. And so I don't have really any question because I think we need to go for the answers to the legislature and to Mr. Nevels and the other members of the Commission.

Right now, Madam Chair, until we see in agreement, we have no directions of how we're going to cross that bridge or what it all means to us. I mean, we have more or less some parameters that we can deduct from testimony that's been given to us, but I'd like us to have a plan in front of us, I'd like us to have an agreement in front of us before we vote on any of this.

So, Ms. Kahn, until you get an agreement and that agreement is in front of us, I really don't have any question.

Councilman Goode asked questions about the authority principals should have and so on. Well, that's public policy that's going to be resolved really by the Commission. The Mayor's Office has transferred or our authority has been

taken by the State. And I think it's the State from now on who we have to continuously question. So, to me, Ms. Kahn has no answers and she doesn't bring any solutions. So I give my time up to those individuals who -- I think it's, at this point, a waste of time.

COUNCIL PRESIDENT VERNA: Thank you.

The Chair recognizes Councilwoman Miller.

COUNCILWOMAN MILLER: Thank you, Madam Chair.

Good morning, Ms. Kahn. I'm still somewhat confused or just not really very clear on the role parents and the public will play. Could you explain on Page 2 of your testimony when you're talking about the agreement, in the last sentence that begins with "Finally, the agreement requires..."?

MS. KAHN: Well, when we discussed this issue, we thought that -- and again, this is somewhat in contrast to the plan that the Governor had presented in October where I believe it listed -- it had a set number of schools for partnership schools and it had listed as an example

certain organizations as an example of who could be community partners in managing those schools. And our position, first of all, was that it ought to be an open and competitive and merit-based process so that whoever maybe had raised their hand at a certain point in time that others be given the opportunity to be involved in our schools in whatever way they thought they could. So that was the first part of it.

Implicit in that was the thinking, and this is discussion that we've had certainly throughout these many months, is that parents and students and other community members would certainly want to have their points of view heard in any of these kinds of changes in terms of school management. And so we thought that it was really important that there could be vehicles and mechanisms created to enable that input to, in the first instance, be given before any real decisions are made and then on an ongoing basis to make sure that parents and students and others continue to have a voice in school operations.

COUNCILWOMAN MILLER: But this, to me, kind of says that the voice would be prior to the

selection of the community partners and school providers. But you're saying this would be prior to, would be a part of the selection process?

MS. KAHN: We were really addressing the selection process there. But I think -- and I would say on a ongoing basis, I think that there are certainly needs to be vehicles and I think that Commission Member Sandra Glenn outlined yesterday some of the current thinking. And I know that they want to continue to share that and refine that with community members as well as have the opportunity to discuss it among themselves.

COUNCILWOMAN MILLER: But during the selection process -- because also in your testimony you talk about the SRC's role to approve improvement intervention strategies for particular schools. So parents will be able to see that or the public will be able to do that prior to a provider being selected for a particular school? When will the public be able to see these improvement intervention strategies?

MS. KAHN: What we meant, first of all, by that part of the discussion was that -- and, again, if you take it back to the Governor's plan or

proposal where it was stated that partnership schools, for example, should be in the 60 lowest performing school, where curriculum changes should occur in other places, you know, where different things should happen in different types of schools. As we engage in our discussions with the Governor's team, we pointed out certain things such as, you know, you have to -- first of all, how do you define low-performing schools. Are they schools that have been flat at a relative performance level for a while or don't you have to look at schools to see if, in fact, they've been improving. They may not be on an absolute basis where you want them to be, but have they been improving and what are the ingredients in there and why would you just take a particular school that's actually been going up and say, "We're going to get rid of the entire curriculum and just retrain all the teachers and do everything different"?

Our point was that you really needed to be aware of what was going on in certain schools and that maybe the slicing and the segmenting had to be a little finer than what was initially presented. So it was our thought that the School Reform

Commission in concert with, certainly, the educational management of the District should be taking a look at all of the schools in trying to identify what the particular needs were of particular schools. So it was in contrast to saying, yes, that is exactly what would be happening in all the schools. That, in fact, they would take a more thorough review, and that's what we meant by identifying what were the right improvements that should go into particular groupings of schools.

COUNCILWOMAN MILLER: Has the Governor's plan been adapted or is it the same as it was in October? Have there been any changes or additions or deletions?

MS. KAHN: Again, that was a plan that the Governor produced pursuant to the terms of the Memorandum of Understanding between the Mayor and the Governor. And that's what we asked for. We said, "What would the State do? What would your ideas be? "

I mean, I don't -- I can't speak to whether they've actually made changes in that document or not. But it was sort of the start-off point that we used to have our negotiations.

COUNCILWOMAN MILLER: Right. I thought that perhaps after the Mayor and the Governor had some discussions maybe some things were added, maybe something was taken out. You don't know whether any of that happened?

MS. KAHN: Not on a content basis so much. It was really about saying that, you know, we think that there may be some merit in these ideas but that ultimately it should really be up to the School Reform Commission to take these actions and make these decisions.

COUNCILWOMAN MILLER: So later we can ask the School Reform Commission if there's been any additions, deletions, et cetera, to the plan.

But it sounds like -- and maybe this is a question for later when the School Reform Commission comes back up -- that each school, each distressed school or school on the distressed list will have an improvement plan, there will be an improvement plan per school. Or will that happen once the EMO is brought on?

MS. KAHN: Well, you're right, the Commission will have to speak to this. I will just say to clarify, schools already have school

improvement plans. Whether that process will continue or it will be modified -- and I think you might recall that was written into the Empowerment Plan as well as the grade or attention be placed on school improvement plans. But I think the Commission will have to talk about how they're approaching deciding what those interventions and improvement strategies should be.

COUNCILWOMAN MILLER: Thank you. It's still fuzzy. All these changes ar fuzzy, and they sometimes, to me, overlap. For example, if you read that an EMO is going to do central office or six EMOs, I don't have a clue what they're going to be doing. Community partnership schools, other school providers. Maybe at some point we need to see the structure on paper or a draft or a proposal or someone's thoughts, it doesn't have to be written in stone, so that we can follow and visualize what might actually happen and how the whole system may look in the next three months or by the time you get a CEO here. Because right now, it's not real clear. It may be clear to people that's working on it all the time, but for other people it is not clear and it is not clear for the public. So thank you. And

I will ask the SRC later.

Council President, at this time I want to introduce guests of mine here in the audience. March is Citizenship Month, and we have eight members of the Boy Scout Troop No. 398.

COUNCIL PRESIDENT VERNA: Please stand so we can recognize you.

(Applause.)

COUNCIL PRESIDENT VERNA: Welcome.

COUNCILWOMAN MILLER: And these young men are from New Covenant Church, in that's at the 7800 block of Germantown Avenue. And most of them are public school or charter school students. Their scoutmaster is Ron Francis. And we have a parent with them, Linda Davis. And their coordinator Mony Thomas. So we just want to welcome them.

COUNCIL PRESIDENT VERNA: We welcome you. Thank you for coming.

(Applause.)

COUNCIL PRESIDENT VERNA: Ms. Kahn, can you provide any further details concerning what you refer to as, "Provisions to prevent impasse," if there are only three votes on the School Reform Commission to take an action that requires a

qualified majority of four votes?

MS. KAHN: The impasse provisions I cannot share with you. Again, I can tell you that there are drafts that we have exchanged, but I can't tell you what exactly would be the result that we would -- that the Governor's team and our team would ultimately agree on. That's one of the issues --

COUNCIL PRESIDENT VERNA: So you really have no further details that you can share with us on that issue?

MS. KAHN: On that issue, I don't.

COUNCIL PRESIDENT VERNA: You're asking Council to approve the $45 million transfer ordinance with the assurance that the Mayor will not actually transfer any funds to the School District unless the General Assembly acts to make it clear that the maintenance of funding provisions of Act 46 will not apply to this $45 million payment. Can you or someone from the Law Department advise us with certainty that Act 46 in its current form would not apply to the mere appropriation of funds by Council even if the Mayor does not actually transfer the funds?

MS. KAHN: I'm going to ask Mr. Feder to

do that.

He might have gone to research the other question.

COUNCIL PRESIDENT VERNA: Well, we'll wait. We'll wait until he comes back. However, I do have another question.

Are you stating in your testimony that the $25 million of the City's ongoing commitment will be used to pay for a $300 million deficit funding bond issued by the District? What happens when the District consumes the funds? In if at the end of the day the State does not have school tax reform, what happens to the District?

MS. KAHN: Well, that is the larger question that we have been discussing. We would hope that over the course of the next three years or so that in fact that action would be taken by the General Assembly. If not, all of us who bear a responsibility for this will be in the same situation. We maybe have a situation where we have an improved organization to point to. We may have a situation where we continue to have improved student performance to point to.

COUNCIL PRESIDENT VERNA: Or we may not.

And we would still owe all that money plus probably have to pay additional taxes in order to make certain that we go forward.

MS. KAHN: I do believe, though, that if we don't achieve the stability that this will provide, there is a much greater likelihood that we will not have those results.

COUNCILMAN ORTIZ: Madam Chair, there was no stability that we're achieving. We're going across and we're not solving anything. That's the whole problem here. And we have no assurances from anywhere, at the State House or the gubernatorial place, that we have a solution in the foreseeable future.

I'm tired of going through this year after year about public education that we never get to the end gain. And it's about time that we stop that. It's no longer viable. It's no longer acceptable that we continue to put our kids, teachers, parents through this process year after year.

You're not seeking stability. You're seeking a way to get over until the next crisis. This is not stability we're talking about. This is

not solution we're talking about.

I'm really angry about it because we're not really realistically looking at how we challenge this problem that we have. We talk around it. We talk around it. We go around it.

Yesterday I was with 300 parents at 3 o'clock, and they're in a panic. I talked to principals. They don't know what's going on. Our kids deserve better.

I'm tired. There is no agreement in front of us. Everybody speaks about this agreement with the Mayor and the Governor. And six months afterwards, we haven't seen it. What is so difficult?

Because it is not a solution. The agreement does not provide a plan to resolve the funding crisis of the educational system that we have.

We give away our authority to the State House, to the Governor; we retain no control. This legislature has no say whatsoever except to say, "Yes, we're going to mortgage our future," but there's no solution in sight. And it's about time, I think, that we said "No, we will not mortgage our

future until we see a plan that brings a solution."

And this is the time. This is the time. Just because people are running for Governor should not paralyze us to not work towards that, or to force that solution to happen. In fact, it should be the opportunity to make that solution happen, just when they're running for Governor, just when the legislature is running for election. We should commit. We should push. We should force.

Let's stop talking about bridging over from this September to next September, and then next September be talking here. I'm tired of that. I've been talking about that since Connie Clayton.

We're not talking about stability. We approve this, there is no stability in the system. No one is stable. 325 people are getting fired; they don't know who they are. We're not even assured that they're getting fired so that Edison positions can be opened. We cannot be reassured that that's not going to happen. We can get no answers about who's going to be the privatizing company. We can't get any answers about partnerships that's supposed to work for nothing; there's no money for that. We're not talking

stability. We're not talking education. We're not talking instruction. Let's stop the charade. We're talking about a political deal that we have to ratify for political purposes, not educational. That's it. But don't talk stability because we're not stability.

Thank you, Madam Chair.

COUNCIL PRESIDENT VERNA: You're welcome.

Ms. Kahn, I know that you've asked us to report these bills out today, however, I believe that Mr. Doosey had indicated that actually the School District will not be going out for the bond issue until May the 15th. Am I correct, Mr. Doosey? I think that was said and we wrote ot down and that's why I wanted to question you on that. When would you go out for the bond issue?

MR. DOOSEY: It would be for receipt of funds by May the 15th, so the approval to permit deficit financing needs to be in place by March 30th to allow the period from April 1st to May 15th to contact the underwriters and actually place the issue. I would need receipt of funds by May 15th.

COUNCIL PRESIDENT VERNA: That would

have to be approved by the State, not us.

MR. DOOSEY: That is correct. It's my understanding that bill will come out next week.

COUNCIL PRESIDENT VERNA: Okay, thanks.

MS. KAHN: To clarify, the legislation had been submitted to the Governor's Office and approved that that would authorize the School District to initiate the deficit borrowing and also that same vehicle providing the exemption for Act 46 for the original $45 million. We have requested that the General Assembly --

COUNCIL PRESIDENT VERNA: Can we have a copy of that?

MS. KAHN: I actually do not have that. I would have to check the different people who were in on the drafting, the Commission's attorney and others. I can look into that.

COUNCIL PRESIDENT VERNA: Point of order. The Chair recognizes Councilman Rizzo.

COUNCILMAN RIZZO: Secretary Kahn, I would assume you anticipated the response you were going to get from Members of Council coming here empty handed.

MS. KAHN: I did. And I have to tell

you, again, I take the position I agree with you. I think that we should have it. It is time. And I suggest that you contact Secretary Zogby and ask him where --

COUNCILMAN RIZZO: No, no, don't pass the buck. You're coming down here. You're the Secretary of Education. You should contact Zogby -- you shouldn't have even showed your face here today not being prepared. Don't pass the buck to Secretary Zogby. Because if you were doing what you're supposed to do, you wouldn't show up here and insult this Council. Would you, if you were sitting in that chair vote on those bills based on the information that a Secretary of Education representing the Administration sitting in that table? Please answer that question.

MS. KAHN: I repeat. I agree with you that it is time to have this document produced. And everything that I have shared with you as to what its content is, is accurate. So it is a matter of having the form, which I do believe the Members of Council and public are entitled to receive.

COUNCILMAN RIZZO: You must have one great memory to be able to come down here and

remember everything that was discussed in a meeting. You must have the greatest retention. You're telling me you're doing all of this today, this conversation from memory? There's nothing in writing that you could have brought here to provide this Council?

MS. KAHN: Actually, I didn't say that. What I don't have is something that I could hold up and represent as being agreed to by the members of the Governor's team and our team. I also testified that there have been different drafts. So I'm not doing it all memory.

COUNCILMAN RIZZO: Well, that's a disgrace that you would come here and then blame Secretary Zogby for not doing -- you should have demanded. The Mayor should have demanded. He's sending you or on a kamikaze mission to the Council not prepared. That amazes me that you would come here like this.

So let's talk time lines. How quickly can you have the documents? You want us jump through hoops. We're going to ask you to jump through hoops. How quickly can you have a document in front of us?

MS. KAHN: We spoke with the Governor's Office as recently as --I believe the last time was 8 o'clock more or less Monday evening. I don't know whether any communication has occurred since I've been here today. We were expecting to receive something from them yesterday, which did not come. And we will pick up on the issue again when I leave here today.

COUNCILMAN RIZZO: Well, I would think -- personally, I think this whole process should be put on hold until we have the information. This is too -- it occurs too frequently that you put this Council -- when I say you, the Administration -- in a position. It's getting to be old. It's getting to be an insult. And, again, you shouldn't have even showed up here today, in my opinion.

Thank you, Madam Chair.

COUNCIL PRESIDENT VERNA: You're welcome.

The Chair recognizes Councilman Nutter.

COUNCILMAN NUTTER: Thank you, Madam Chair.

Ms. Kahn, I just need to go through a

couple items. You were here back on Wednesday, January 30th at a Rules Committee hearing about a couple bills, and the topic of this agreement between the Mayor in the Governor came up. At that time, you indicated that you thought you might have an agreement in document form somewhere in a week to a month. Do you recall that?

MS. KAHN: Yes, Councilman.

COUNCILMAN NUTTER: And then I wrote to you last week about that because I wanted to at least wait for the outer time frame which was the month which would have been around about the end of February, beginning of March. We were in budget hearings by then and I got slightly distracted. But I wrote to you with a copy of those pages of the testimony saying that you said you thought it might take a week or month, it was actually at that point 40 days, and that we had not received anything. We talked, I think, the next day and you said that you would address that issue next week. I think I asked you "You'll have an agreement with you?" And I think you just pretty much gave the same response that you would address that issue next week, which is naturally today. I guess I was left with the

impression that there was actually going to be a document out of your response. You were very firm in coming back with that.

Today, I took down the number of the things that you said when asked earlier, way before my questioning now, and you gave two responses. One, the document is not ready. Two was related to the Governor and the Educational Secretary. So the Governor was out of the country for some period of time and that the Education Secretary was either out of the state or possibly out of the country as well.

Now, when was the Governor out of the country?

MS. KAHN: The past couple of weeks.

COUNCILMAN NUTTER: Is he still out?

MS. KAHN: I believe he's back.

COUNCILMAN NUTTER: Do you know when he left and when he returned?

MS. KAHN: I don't know the precise dates.

COUNCILMAN NUTTER: What about the Education Secretary?

MS. KAHN: He was away towards the end of last week, last two or three days.

COUNCILMAN NUTTER: So maybe like Wednesday through Friday of last week?

MS. KAHN: Wednesday or Thursday.

COUNCILMAN NUTTER: And are you saying now that had those situations, which were relatively recent, if those had not occurred that you'd have a document now?

MS. KAHN: I think what I also said was that over the course of the past several weeks, probably even the past month, we impressed upon them what we consider to be the importance of honoring that commitment and also the importance of this event right here in terms of implementing the entire agreement and certainly bringing all the pieces together on the financial agreement. And we tried repeatedly to produce the result.

COUNCILMAN NUTTER: What's the problem?

MS. KAHN: I can't speak to that. I don't know.

COUNCILMAN NUTTER: What do you mean you don't know? What actually is the problem? Why is it not possible to produce an agreement?

MS. KAHN: Again, from our point of view, as we have exchanged and discussed this over

the course of several months, I believe that we had gotten some questions about language down to just a very small number of items.

COUNCILMAN NUTTER: What were they?

MS. KAHN: Without going into the particulars on those, again, I will say that what I described to you is the content of what we had agreed to. But we're waiting, again, for a communication from them.

COUNCILMAN NUTTER: Why can't you go into the particulars? You're not negotiating. You've already negotiated. You announced an agreement back on the 21st. And I understand that the parties or maybe attorneys are involved or doing what they're doing. But what are the outstanding issues? What is unresolved?

MR. BURRELL: Councilman Nutter, George Burrell, Secretary of External Affairs from the Administration.

I think that the Secretary has fully described our efforts to try to finalize the document. I do not believe that there is any significant difference between us and the State over what are the provisions that we have agreed to. But

it is impossible for us to tell you why the State has not signed a document or we've been unable to get to the point where we can sign a document. And I will speculate that they are struggling with some legal issues in questions in interpretations of law on their side as relates to the whole general environment that we are working in. But we are unable to say --

COUNCILMAN NUTTER: What are those issues.

MR. BURRELL: There are a number of litigations that are going, some of which Council is a member of. There's federal litigation that's still going on. And I think they're evaluating the role, how they can cast a document consistent with other events that are going on that don't relate specifically to the terms and agreements that we've agreed to.

COUNCILMAN NUTTER: What do any of those litigation matters have to do with anything that was agreed to back on December 21, 2001?

MR. BURRELL: I would refer you, sir, to the State for that. I cannot speak to the State's mindset.

COUNCILMAN NUTTER: I understand that. But you must know what their issues are.

MR. BURRELL: I won't speculate as to what their issues are. I do not believe there are issues outside the boundaries of our agreement -- I do not believe that there are differences of opinion within the boundaries of our agreement. I believe there are other factors that they are evaluating with respect to signing the agreement, and I can't speak to those.

COUNCILMAN NUTTER: Are there any unresolved issues on the City side?

MR. BURRELL: I do not believe that there are any unresolved issues on our side within the boundaries of the agreement that we reached with the State on December 21st, or whenever that date was.

COUNCILMAN NUTTER: Are there any differences of opinion by the State on City issues?

MR. BURRELL: Well, you know, let me say it this way. Until you ultimately, Councilman, sign a document, there's always the potential to be differences of opinion, but I do not believe there are meaningful differences of opinion between us and

the State on the substance of our agreement. We are confident in that and we are proceeding consistent with that view.

COUNCILMAN NUTTER: Is there one document at this point?

MR. BURRELL: I'm sorry, I didn't hear you, sir.

COUNCILMAN NUTTER: Is there one document at this point? Has the City -- I'm left with the impression from the earlier testimony, the City has sent a document to the State and you are waiting for them to sign off on it. Is that the situation?

MR. BURRELL: Yes. We have sent a document to the State.

COUNCILMAN NUTTER: And from your perspective, that document is complete and encompasses everything that the City believes that was agreed to back on December 21st?

MR. BURRELL: Yes, it does.

COUNCILMAN NUTTER: Can you submit that document to the President so that we can understand what the agreement is?

MR. BURRELL: I don't think we would

have any problem with submitting that document to you.

COUNCILMAN NUTTER: Who's on the negotiating teams on the City side and on the State side?

MR. BURRELL: The negotiating teams that reached agreement back in December on the State side were comprised of the Governor's Chief of Staff, Secretary of Education, General Council, and Fritz Bittenbender whose title has changed since then.

COUNCILMAN NUTTER: Who?

MR. BURRELL: Fritz Bittenbender who was on the Governor's staff at that time and is now Secretary of Administration for the Governor.

For the City it was Debra Kahn, Janice Davis, myself, Joe McLaughlin, Phil Goldsmith, Deidra Farmbry and Dorothy Rush and Pedro Ramos.

COUNCILMAN NUTTER: And are all of those same persons participating in the ongoing either negotiation or wrap up of the particular document? Those are all still the same parties?

MR. BURRELL: The primary attempt to resolve the documentation is going on between Secretary Kahn in Secretary Zogby. I've had some

discussions with the Governor's Chief of Staff, Mark Campbell, but the primary discussions have been between the two secretaries.

COUNCILMAN NUTTER: So the two main negotiators are Secretary Zogby and Secretary Kahn?

MR. BURRELL: The primary negotiations were conducted by the groups that I've described. The attempt to resolve to get the document signed has been a work that Secretary Zogby and Secretary Kahn have been working on, I think, within the parameters of what Secretary Kahn indicated. The Governor was out of the country for two weeks and Secretary Zogby was out for several days. But I think we can -- we will fully apprise you of everything we've done with respect to this, but right now it is in the State's court to get back to us on this issue, and I simply cannot speak for them.

COUNCILMAN NUTTER: Now, how has the issue of either super majority on -- I think I've read in the newspaper requirement for super majority on the superintendent, or I guess technically the Chief Executive Officer, the CEO. Is there a super majority requirement with regard to the consultant?

That term is used usually with a capital C.

MS. KAHN: No.

COUNCILMAN NUTTER: I'm sorry?

MS. KAHN: No. It was for the appointment or dismissal of the Chief Executive Officer and General Counsel for the incurring debt and for the adoption and amendment of the bylaws themselves.

COUNCILMAN NUTTER: And that has been agreed to by the State?

MS. KAHN: Yes.

COUNCILMAN NUTTER: And now how does the agreement work in conjunction with the statute, whether it's 46 or 83? Which I think neither of them makes any reference to super majority. Can an agreement outweigh a statute?

MS. KAHN: I think that, for example, just like the way the statute also says, that the Governor would have four appointments and the Mayor have one. We were able to execute that by agreement. I think in the case of the super majority votes, and we've discussed this to some extent with Council, it would be the position that the School Reform Commission can adopt its own

operating procedures, but certainly to be able to have the force of law it might be preferred to be able to amend the statute.

COUNCILMAN NUTTER: I'm sorry. Say the last part again.

MS. KAHN: That the School Reform Commission itself, and they are, of course, getting started and haven't adopted all of their operating procedures yet, but that they would have the ability to adopt operating procedures for themselves. In order for it, though, to have the actual force of law to the extent that this would be contrary to anything that does exist in the current law, then you would need to amend.

COUNCILMAN NUTTER: Right. Because I think the statute talks about decisions being made by majority.

MS. KAHN: Correct.

COUNCILMAN NUTTER: Now, let's go back to before all this happened. When the agreement was signed back in the summer between the Mayor and the Governor, then Governor Ridge, naturally, July 30th, tell me about events in the context of that agreement that address probably the two most

important issues in the agreement. One was "The Governor will examine the foregoing analysis and no later than October 31, 2001, will provide to the Mayor a long-term proposal to address the educational and financial situation in the School District, including option to improve the educational performance and financial condition of the School District."

What events or activities or meetings or discussions ensued from July 30th up to September 28th at which time a new agreement was signed primarily for the purpose of extending the deadline?

MR. BURRELL: I'm getting old. I may not have perfect recollection here, Councilman. But largely the period from when the agreement was signed with the Governor and a number of us met with the Governor in Harrisburg that led to the signing of that agreement and the Governor appointed a consulting team, and that consulting team spent roughly those 60 days meeting with people in the School District --

COUNCILMAN NUTTER: Who would that have been, Edison?

MR. BURRELL: I'm sorry?

COUNCILMAN NUTTER: Would the consulting team have been Edison?

MR. BURRELL: The consulting team would be Edison and working with some people in state government, Secretary Zogby and others. But they spent 60 days putting together their plan and proposal. The September 11 events intervened in that, and Governor Ridge was called to Washington. Governor Schweiker was sworn in and asked for an additional 30 days to be able to get himself up to speed to review the Edison report and to make his recommendations to the Mayor as to how they proposed to go forward.

COUNCILMAN NUTTER: And then from the --

MR. BURRELL: And I might add, the objective of the agreement was that Governor Ridge and then Governor Schweiker would present a plan to the City, and if we could work out a partnership, that we would go forward based upon the negotiations. And the 30-day period after the end of the first 60-day period was to determine whether the State and the City could negotiate an arrangement that we both thought was mutually acceptable. And if that were impossible, that the

State would then take over public education in the City of Philadelphia and become responsible for it.

COUNCILMAN NUTTER: And then what happened in the period between September 28th and December 21st, again in the context of the first paragraph from the Memorandum of Understanding?

MR. BURRELL: What primarily took place between that period is in the 30-day extension Governor Schweiker put together his plan and his proposal, which was either akin to or a modification of what Governor Ridge was reaching a conclusion on before he left. He presented that plan first in draft form to the Mayor and then probably 20 or so days into the extension period. And at the end of that, then he presented a plan. He took that plan publicly around the City to a number of constituencies. In the intervening time -- in the post time after his delivery of that plan in December 21st, we went through an extended negotiation period where we, the Mayor for the City and the Governor for the State reached what they thought was a responsible plan to go forward, understanding that we all didn't agree 100 percent on all the issues that were in front of us, but that

we did agree that the most effective way to potentially resolve the issues of public education in Philadelphia was through a partnership between the State and the City. And we thought that we had framed that in a way that allowed us to move forward.

COUNCILMAN NUTTER: And then the result was the agreement on December 21st?

MR. BURRELL: Correct.

COUNCILMAN NUTTER: Now, the plan before us, was that announced as a part of the December 21st agreement, $45 million in FY '02, $300 million deficit financing supported by $25 million millage shift and the $20 million direct to the School District which results in FY '03 in going forward $45 million additional contribution by the City as well as a $75 million FY '03 in going forward contribution by the State? Was that all announced as a part of the December 21st?

MR. BURRELL: Yes.

COUNCILMAN NUTTER: Now, when was that plan put together?

MR. BURRELL: That plan was negotiated in the period of time after the Governor presented

his plan in December 21st. That was the subject of the negotiations during what was first a period that was to end early in December in which the Governor and Mayor agreed to, to extend for three weeks when we reached a conclusion but had not reached agreement but thought we were close enough to extend the discussions, extended them for the three weeks and then came to an agreement on the 21st.

COUNCILMAN NUTTER: Now, was that back when there had been, I think, a three-week or so period of time when the Mayor and the Governor at least officially or publicly were not talking or not negotiating? The Mayor took a very hard-line stance that he wouldn't even talk to the Governor. Whether he was actually talking to the Governor or not, naturally, we'll never know. But the position was no discussion until Edison was off the table as the absolute 100 percent central office operation. And I think my recollection is that there was an actually meeting around about November 21st; is that right?

MR. BURRELL: Well, don't hold me the exact times, but certainly the Mayor took the position after -- the sequence was there was a

meeting in which the Governor presented his plan. Subsequent to that, the Mayor took the position -- and once the Governor delivered his plan publicly and officially, the Mayor took the position that he would not negotiate as long as there was a proposal that Edison would run the School District, it would become responsible for the central management of the School District and it would fire and hire the top 55 employees.

COUNCILMAN NUTTER: Right. And once that was resolved, there was this more official first meeting which, I think, was at a law office down on South Broad Street somewhere in late November?

MS. KAHN: Right before Thanksgiving.

COUNCILMAN NUTTER: And was it at that point that there was also the three-week extension?

MR. BURRELL: No.

COUNCILMAN ORTIZ: Madam Chair?

COUNCIL PRESIDENT VERNA: The Chair recognizes Councilman Ortiz.

COUNCILMAN ORTIZ: How enforceable is the agreement on Edison, legally enforceable?

MR. BURRELL: I won't put my lawyer's

hat on. I think that we are -- I want to say this carefully. We are clearly functioning in an environment where many of the decisions that people will have to make will be driven by the desire to avoid the train wreck that Councilman Kenney referred to yesterday, in that people driven by those decisions will do the things that they've committed to do as a part of this process. The School Reform Commission, as you know, is an independently appointed body with independent authority. So that we don't have the power, I think, to bind them to do anything.

COUNCILMAN ORTIZ: So the answer is no.

MR. BURRELL: I think we do not have of the power to bind the School Reform Commission.

COUNCILMAN ORTIZ: So the answer is no.

MR. BURRELL: I think we do not have the power to bind --

COUNCILMAN ORTIZ: So the answer is no.

MR. BURRELL: That we do not have the power to bind the School Reform Commission.

COUNCILMAN ORTIZ: The answer is no.

Let the record show.

COUNCIL PRESIDENT VERNA: The Chair

recognizes Councilman Nutter.

COUNCILMAN NUTTER: Thank you, Madam Chair.

So I think the answer is no.

So the meeting takes place in late November. Discussions begin. When did this three-week extension --

MR. BURRELL: We spent the last week of November -- once the Governor decided -- you might remember that there was a meeting. The Governor and the Mayor held a press conference which they agreed that Edison would not centrally manage the School District. They also discussed the fact Edison would have a role in the consultant and operating of some schools within the District, immediately subject to that meeting they identified -- spent a week and a half trying to reach agreement. It led up to the December 3rd or 4th, whenever that date was, when the official end date to the 30-day extension came about. We had spent a week and a half negotiating. We had not reached agreement, but had reached a point where we thought there was an opportunity -- there was an opportunity if we move forward that we could reach agreement.

COUNCILMAN NUTTER: Just so we better understand all this. During this week, week and a half period that you made reference to where there are negotiations going on, what was actually being negotiated?

MR. BURRELL: It's hard to say -- I think you see in the results that we now announced on December 21st what the conclusions are that we reached, but we spent a fair amount of time making sure that we were all on the same page about how to move forward with public education in the City of Philadelphia. We spent a lot of time talking about the concept of community partner schools and what that meant. We spent a lot of time talking about the capacity of the City to provide funding resources and a series of other educational issues. We spent a tremendous amount of time, I think, on the financial capacity of the City and what we could afford to support this process going forward. But I think what was most important was determining, and I think this is a critical determination in all of this for everyone involved, determining whether we could partner with Governor Schweiker in a relationship where we could have confidence in one

another to do what it was that we had committed that we would do. And I think at the end of that period, as I said earlier, although we then and still disagree on some of the decisions that will have to be made in which we have now entrusted to the School Reform Commission making, we came away from those discussions believing we could work in partnership.

COUNCILMAN NUTTER: What are those items?

MR. BURRELL: I think that Secretary Kahn who has a better recollection of them than I will could go though them. And she may have already gone through them. But they are the issues that we've agreed to with respect to those issues that have a super majority, with respect to the monies that would be necessary, with respect to our need for protection under Act 46, with respect to the FY '02 contribution that would be made and that the limit on the City's contribution would be $45 million going forward, that we would have some sense of comfort on Home Rule, and a whole series of those issues. And I may have left a couple out and Secretary Kahn can add to them. But they are reflected in our agreement.

COUNCILMAN NUTTER: I had a different question, but you made reference to something. What is the comfort as it relates to Home Rule?

MR. BURRELL: We think that what we are going to be looking for in the legislation that we would hope that the State will take up next week that the contribution of the City will be capped at $45 million.

COUNCILMAN NUTTER: Well, hopefully they would do that. But with every respect, what does that have to do with Home Rule? That's a financial issue. At least from my understanding or perspective, it doesn't have anything to do with Home Rule as it relates to public education. I think we gave up Home Rule in public education.

MR. BURRELL: We don't necessarily agree with that.

COUNCILMAN NUTTER: I don't want to have a major disagreement about it. But I'd be intrigued as to your perspective on what remains of the notion of Home Rule as it relates to public education in Philadelphia.

MR. BURRELL: I think that you've heard from Mr. Nevels who I thought spoke eloquently about

a number of things yesterday and said very publicly and very consistently that it is his objective in chairing and leading the School Reform Commission to try to build a consensus to work in partnership. I do not think it is his intention to move the Commission, not to say that this won't happen on some issues, but I don't think it's his intent consistently to move the Commission forward with three/two votes that will look like they're broken down with State versus local interest. I think he is open to hearing from the City, what our concerns are and what our issues are. I think the Governor is open to hearing those. And I think that will continue, that partnership will continue through this process.

COUNCILMAN NUTTER: I don't disagree with anything you just said. Again, I don't think that any of those issues, though, have anything to do with the concept or even the legal aspect of Home Rule. Home Rule generally means that the local legislative people and the residents rule.

MR. BURRELL: Bad choice of words. I will concede I made a bad choice of words.

COUNCILMAN NUTTER: So there is no Home

Rule.

MR. BURRELL: I will stand by what I said in describing what I think our relationship is with the State and with the School Reform Commission, I will agree with you that I made bad choice of words in defining it in the context of Home Rule.

COUNCILMAN NUTTER: Okay. Let's go back to the financial plan. Somewhere in the early December time period you're not actively in negotiations and discussions, everybody's trying to get on the same page, whether it's about Home Rule or not Home Rule, but just how the process is going to work. When did the plan, maybe the four or so elements of the financial plan, the $45 million in '02, $300 million deficit financing, $75 million in '03 going forward from the State, and $25 million in the millage transfer shift to support the $300 million offering, you can throw in the other $20 million as a part of that. Those four elements, when was that plan put together?

MR. BURRELL: If we had the press conference on 4 o'clock December 21st, we agreed at 3:59 on December 21st. Literally, that agreement

came together at the end of the discussions when I think the State became convinced that the capacity of the City -- as you'll recollect, the Governor's proposal was that there would be a $75 million contribution from the State matched by a $75 million contribution from the City. So that we had started in those discussions at a much lower number from the City that the Governor, the Governor's staff, and the people involved in those discussions and negotiations, I believe became convinced that the capacity of the City to contribute really did not go beyond the $45 million that we had ultimately gotten to as a part of the discussions. And the Mayor agreed and the Governor agreed, as I said, literally moments before that agreement was announced on December 21st.

COUNCILMAN NUTTER: When did that idea start? I understand and I appreciate you laying out when you finally agreed to it. But when was that concept, the elements of that concept, when were they first broached or offered and where did they come from?

MR. BURRELL: Again, I want to be careful on the record because I don't want to go

back and check the details and discover that I'm off by a day or two. But all of those issues were continually discussed from the very beginning of our negotiations going back to the end of November. The concept of deficit financing probably came in near the end of the first week and began to be a part of the discussion going forward. I think that there was -- at least none of the financial experts that I've heard from in this instance has believed that there's a way to get out of this problem without deficit financing. As you know, we started out arguing that the City had no capacity to go beyond the first $15 million that the Mayor put on the table. And so these discussions were ongoing, consistently, amicably, sometimes tensely, but through that whole period. And as in most negotiations, some ideas were on the table that wound up off the table that wound up back on the table. So through that period of roughly a month, there were lots of discussions about all of those issues. Mostly, though, in the negotiating group that I've described to you -- I don't believe that we broke up in very many side-bar groupings. Most of it negotiated by those groups collectively.

COUNCILMAN NUTTER: And so let me even just say off to the side. Notwithstanding how strongly the Mayor felt about the City's capacity at the time, and I think the number was about $15 million, ultimately for a host of reasons, that position changed?

MR. BURRELL: Correct.

COUNCILMAN NUTTER: And the intent or serious negotiations around this particular idea was for about a month leading up to literally the 3:59, as you laid out.

MR. BURRELL: The negotiations -- I would go back and say I think that this whole process was serious. I don't think that it was -- we as a City, even while the State was conducting its evaluation of the School District and putting together its proposal, spent a considerable amount of time thinking through what our positions were and what were going to be the discussions in those negotiations in working with the School Board and other interested parties. But certainly, from the time that the Mayor and the Governor announced that Edison would not centrally manage the School District, that the negotiations were ongoing and

they were serious.

COUNCILMAN NUTTER: All right. So that would be literally from about late November to the December 21st? Again, for some reason I think that it was around November 21st or so. I don't know, what was it, Tuesday, Wednesday, before Thanksgiving?

MS. KAHN: The Tuesday before Thanksgiving.

MR. BURRELL: Just for the purpose of accuracy, I would think it's fair to say, though, this is not unique in the set of negotiations that after we went back to -- after we agreed upon the extension in the early part of the December, after we agreed on the three-week extension, there was about a week or so that we were not having face-to-face discussions. The State wanted to go back in revisit whether -- they wanted to evaluate the position that the Administration had put forward with respect to re-crunching some numbers in assessing. So there was probably a week or 10-day period in there when there were not any daily ongoing negotiations.

COUNCILMAN NUTTER: So it would be fair

to say, though, that in a five-week period of time, notwithstanding all other meetings, discussions and the like, this plan started taking serious shape, the State started more seriously -- not that they weren't serious before, but started -- why don't we say started having a better understanding of the City's capacity and ability to pay or not pay certain figures. And for an intense five-week or so time period, this plan started to take form and to gel and become the item of discussion which then led to the agreement and a 3:59 before 4 o'clock press conference, this is the plan?

MR. BURRELL: I would say the answer to that is yes, but I would characterize it in this way: That when we agreed to the extension at the beginning of December, we were not -- I think we were at a point where we agreed and believed that partnership and partnering was the best way to confront this problem. I would say that there was fair distance between us with respect to the plans that we both were promoting and supporting at that time. So I would kind of break the negotiations into two stages and say that the second stage that began after the extension probably, both of us came

back to those discussions having revisited our own positions and with a new commitment to try to reach an agreement.

COUNCILMAN NUTTER: Just in a way of some context. Again, about a five-week period to come up with the plan, the details, crunch numbers. Each side kind of went back to their respective corners to make sure that their numbers were correct, and that was a fair amount of the time of that final month period; is that accurate?

MR. BURRELL: It is absolutely accurate. But just, as I said, keeping it all in context, this was the continuum of a long period of work that went back months and before that.

COUNCILMAN NUTTER: Let me ask this question just for context. How long did it take to come up with the financial deals related to the two stadiums?

MR. BURRELL: I would have to refer to our Finance Director and others to characterize how long it took to come up with those deals. I'm not able to answer that question accurately.

COUNCILMAN NUTTER: Just from your time around the office or things that you might have

heard. I mean, it took months, right?

MR. BURRELL: It took a fair amount of time. And that is precisely the reason I expanded my response to your last question, that the five weeks that it took to reach conclusion on this partnership with the State is the product of a couple of years of work. There's a lot of work that went into it. The proposals and plans that we had put together for what we proposed to the State initially with respect to resolving this issue was not something that was put together in five weeks. Our discussions with the state, as you will remember, go back to the 1st of May of this Administration when the School District was then going to run out of money. And we reached an agreement with Governor Ridge to advance subsidies and do a number of other things in which we started the process then saying that in the next fiscal year we wanted to try to find a way to solve the school crisis. We've known for a long time, as has this Council, that there's a problem in the finances at the School District. So that I don't want to get into anyway suggesting that somehow in a five-week period we found the information, we put together a

plan or proposal and that that's how we got to the end of this road. All of what we agreed to, all of what we discussed, all of what we presented, all of what we proposed was based upon the work that we've done from the beginning of this Administration. In the same way that on stadiums, a lot of that was built upon work that was done in a prior Administration.

COUNCILMAN NUTTER: I understand. But it took, my recollection is a better part of a year. And, again, I thought your testimony earlier was that the serious negotiations around ability to pay, financial stability and the like really started in the late-November, early-December time period leading literally right up to the press conference. I thought that was your testimony.

MR. BURRELL: And as relates to the time frame in which the negotiations were conducted to reach agreement that we proposed to you, that is correct. But it is also correct that over the last two years, the same players who were a part of the negotiations in the last five weeks when we reached agreement had been in intense discussions each year about the financial conditions of the Philadelphia

School District and about educational reforms that are necessary and required there.

You will remember that the State was intimately interested in observing the negotiations that we went through with the PFT. In each of the last two years we've reached agreements with the State with respect to advancing subsidy and working with us to solve the financial issues at the School District. So that all of the people who were engaged in that last five weeks of negotiations have had probably a two-year education on the issues that confront the Philadelphia School District.

COUNCILMAN NUTTER: Well, let me ask this question now. The plan before us, how does it meet the test of the agreement from last summer where "The Governor will provide the foregoing analysis and no later than October 31, 2001, will provide to the Mayor a long-term proposal to address the educational and financial situation in the School District, including options to improve the educational performance and financial condition of the School District."

How does this plan meet the test of that paragraph?

MR. BURRELL: Councilman, I wish we lived in a perfect world.

COUNCILMAN NUTTER: So do I. We don't.

MR. BURRELL: In a perfect world, the proposal that the Governor presented publicly -- don't hold me to the dates, but when the Governor presented his plan publicly, I think it is the view of the Governor and it is the view of the State that if you implemented that plan as they propose it, if the State committed $75 million going forward and the City committed $75 million going forward, they believe that in their plan that they could solve the fiscal crisis that confronts the School District at the City of Philadelphia.

The Mayor has been consistent and he has been clear in that the agreement that we have reached with the State is a bridge that gives us the time necessary to work with this Council, to work with other elected leaders in Philadelphia, and to work with other elected leaders around the State to address the issue of how public education gets properly funded in the Commonwealth of Pennsylvania. We believe that without some form or State-wide reform that we will consistently confront this

issue.

We believe -- and there are some differences of opinion between us and the Governor and the School Reform Commission. We'll have to address these issues. I think you heard part of this from Mr. Nevels yesterday in saying that the Reform Commission believes that some kind of reform is necessary solve this problem over the long haul, that we've got to find out a way -- we are fully committed to and continue to be committed to charter schools within the Philadelphia school system. But we have to find a way to better fund them and the $94 million that they contribute to the projected budget deficit in the current year. And so that we believe that this is a good deal. We do not believe that this deal fixes the finances of the School District forever. We believe that with a new Governor in place next year and the legislature firmly ensconced again after this year's elections and with public hearings that were held by a state committee in Philadelphia as recently as two weeks ago where they have from hearings around the Commonwealth to address the issue of State-wide tax reform, this issue is everywhere in the

Commonwealth. A number of school districts, rural, urban, and suburban are struggling with the question of how to properly fund public education, and we will continue to do it here. We believe this is a good deal. We are 100 percent for this deal. We think we need to do it and move forward to do it, but it does not, it does not once and for all fix the fiscal crisis at the School District.

COUNCILMAN NUTTER: The earlier part of your response triggered a thought. It sounded like the title of a movie when you said that this was a bridge. There's a movie called "A Bridge Too Far." And what we see for the moment is -- I mean, this is a bridge without any information, no other action, this is a bridge to another deficit. The Chief Financial Officer of the School District testified yesterday that at best this plan gets us through a couple fiscal years and right back into a deficit. So let me ask again, in this context, does this plan address the particular section of the Memorandum of Understanding from last summer that talks about a long-term proposal to address the educational and financial condition of the School District?

MR. BURRELL: I think I've answered that

question, Councilman. But this is bridge to an opportunity for responsible leaders who care about the children in our public system and who care about funding public education State-wide in the Commonwealth of Pennsylvania will take the time that is afforded by this bridge. It is only a bridge to nowhere if responsible leaders refuse to act responsibly.

COUNCILMAN NUTTER: Well, I understand that. But leaders have been on this road and we've actually crossed this bridge both in 2000 and 2001, which then leads me to ask a question that I asked yesterday. What do you believe is going to happen different after this bridge that has not happened after we crossed the other two bridges in 2000 in 2001? Same bridge.

MR. BURRELL: I believe that the work that we did in 2000 and the work that we did in 2001 and the work that we're continuing to do is moving us in the right direction. I think that when the State Legislature authorizes the $75 million and when they empower us to do the borrowing that's necessary to be done, that they will join in this partnership and will have a shared responsibility

with us to solve this problem, but the problem --
COUNCILMAN NUTTER: Can't they share responsibility now?
MR. BURRELL: The problem, with all due respect, Councilman, is not going to go away. If we do nothing --
COUNCILMAN NUTTER: I understand that. That's why I'm here at the hearing.
MR. BURRELL: If we do nothing, it's not going to go away. If we do nothing, schools will close in a couple months and we will have a whole other group of problems that are associated with them. This is --
COUNCILMAN NUTTER: Secretary Burrell, I've made no suggestion that we do nothing. I am asking questions in a public hearing about a plan that has been presented that, you are correct, it is a bridge. The bridge at the moment is not connected to anything. People generally are reluctant to proceed over bridges like that that apparently are still under construction. I'm just asking questions about your level of confidence that notwithstanding the fact that we've been in this position before and those problems have not been address -- and they

didn't start or become evident when this Administration came into office in January of 2000. We have known this for a long time. The School District's been running deficits for a while. The partnership that you talk about and the responsibility of the Legislature, that argument has been made on numerous occasions. I think some people have even gone to court about that particular issue. Legislature was directed, I think, 10, 15 years ago to take responsibility for funding the court system. We spent just about every year for almost eight years denying funding or giving half funding to the courts in some ploy to force somebody to do something to only come back and do a transfer ordinance and give them the rest of the money. I'm not disputing that we should try. I'm just trying to understand from your perspective, because you're much more intensely involved in these matters and talk to people at the State level, unlike myself, what do you think is going to happen different and why? What's the basis for your belief that things will be different, given the fact that these circumstances have existed for a long period of time with most of the same players? I don't think

there's been a tremendous amount of change in either house in the State Legislature. Governors have, to some extent, kind of come and gone. And I don't necessarily know that anybody believes there's going to be a significant change in the Legislature one way or the other in this round of elections. Do you?

MR. BURRELL: I don't anticipate -- I don't want to get into a political discussion, but I don't anticipate a substantial change in the legislative leadership.

COUNCILMAN NUTTER: So my only question is -- and I blew my time probably a half hour ago. Why do you think now, what is the circumstance, what is the situation, and quite honestly, from a political standpoint, why is it easier for people to make critical hard decisions when through this plan pressure is actually not increased, it is decreased? Why do people make tough decisions under difficult circumstances when there is no pressure versus making the tough and difficult decisions when there is pressure?

MR. BURRELL: Councilman, I think -- I don't want to keep invoking your name, Councilman

Kenney, but I think Councilman Kenney posed this question accurately yesterday and I think Jim Nevels answered it equally accurately. That in a political environment people tend to operate and function in crisis situations.

COUNCILMAN NUTTER: Or some people like to create crisis.

MR. BURRELL: Whether they are created or whether they're real, people like to operate in crisis situations. Councilman Kenney perhaps does not believe that we are at the point of crisis right now with respect to the public school system of the City of Philadelphia with respect to its finances. I think we all agree --

COUNCILMAN KENNEY: Hold on.

COUNCILMAN NUTTER: I don't know what Councilman Kenney believes or doesn't believe.

COUNCILMAN KENNEY: Can I be recognized?

I never said that. I recognize there is a crisis. As a matter of fact, I think the crisis is what's going to cause people to fix this thing. And if you want to borrow $750 million over the course of 30 years through this toll bridge to nowhere simply to get through an election, that's

fine. You go ahead in do it. You may have the votes in here to do it. But don't tell me I don't know about the fiscal crisis of the school system. My point is that if we face the fiscal crisis in June through September, you might just get enough people to turn around and do something about it as opposed to plugging a hole in this sinking boat with $750 million taxpayers' money so you can get through 2003. So don't characterize my statements or what I think. This school system is in bad crisis. I understand it. And the way to face the problem is to face it, not to put it off for two more years and we're back in this room again spending more money. Don't characterize my comments.

MR. BURRELL: Councilman Kenney, I will apologize if you think I mischaracterized your comments. But I will say again --

COUNCILMAN KENNEY: Known it for a long time. You guys keep putting it off and --

MR. BURRELL: I will say again that what was said in this Chamber yesterday is that we were speeding on this train towards collision and we weren't at the point yesterday. What I disagree with is that we're at --

COUNCILMAN KENNEY: I said we're at the collision point. I said that we're 10 feet from the wall.

MR. BURRELL: We're at collision point. We don't have the ability to propose what the State will do. It is the State here that proposed their plan of action. Their plan of action is to put up $75 million going forward and --

COUNCILMAN KENNEY: Your plan of action is to let us borrow $350 million to get Governor Schweiker out of there, to get Mayor Street through this election, and then come back with the same situation and make us face something they're still not going to resolve. Now, if you don't believe that, that's fine. If that's your position of external affairs, then you believe that. I'll tell what. I've seen this over 25 years. I've seen them do this. Now, if you trust them, trust them. But I don't want you trusting them with taxpayers' money.

MR. BURRELL: Councilman Kenney, we simply disagree with respect to the proper course of action with respect to resolving the crisis that is in front of us.

COUNCILMAN KENNEY: I didn't put this

train on the track. Remember who did it? It was the last mayor and the last council president who put this train on this track going to this wall. I remember at the press conference what they said, "We're going forward. We're going to knock up programs, we're going to deficit spend until this train runs into the wall." Not my words; their words. Now it's into the wall, "Oh, let's borrow $300 million to keep it from hitting."

MR. BURRELL: What they said and acted consistently with then was to say that we cannot solve the problems School District of the City of Philadelphia simply by making cuts without partnership and participation by the State. And thier argument then was that State was not providing additional new funding for public education.

COUNCILMAN KENNEY: We all know that.

MR. BURRELL: I think the State is today coming forward. The Governor has proposed, and I believe that the Legislature will support --

COUNCILMAN KENNEY: What leads you to believe that?

MR. BURRELL: I believe that the Legislature will support --

COUNCILMAN KENNEY: What leads you to believe that?

MR. BURRELL: We have spent time both with the Governor and in Harrisburg with the Legislature, and I believe that the Legislature will support -- the leadership will support --

COUNCILMAN KENNEY: You can spend all the time with any governor you want, but you don't spend enough time at that legislature. And I can assure you that according to many of them, they're not voting this. Now, you may have a different view and maybe you'd be right, and I hope you are right. But I'll tell you what. What happens when they don't do it, if they don't do it? What happens then? Does the train still hit the wall?

Maybe it's a bad example. We can use a plane, a train, use a car, I don't care. Whatever the example is, something is going to hit something soon. And if the Legislature doesn't pass that $75 million, which in my opinion, I don't think they're going to unless there's some significant increase for their own districts more than 1 percent. If that doesn't happen, what happens in June? Do we announce closure?

MR. BURRELL: I will leave to the Governor and the leadership in Harrisburg to figure out how they deal with their environment there. I believe that we are confident that they are going to make a 1,000 percent effort to deliver and will deliver $75 million of new funding for the Philadelphia Public School System.

COUNCILMAN KENNEY: My suggestion is you start talking to those individuals individually and you find out what they really think, because I don't know who's selling you this bill of goods, but it's not a real strong sale, believe me.

But I would appreciate you not characterizing my understanding of the fiscal crisis of the School District, because I do understand it. As a matter of fact, I may be the only one or one of the few people in here that are willing to face it in reality that it is. And that is, borrowing this money is not going to fix this, it's going to put us further in debt and it's going to bring us back here in two years, of course, after the municipal election which always is convenient, come back here in two years and deal with this thing again.

MR. BURRELL: With all due respect, I

think we will be dealing with this issue on a going-forward basis. We'll be discussing it next year in the middle of municipal elections as we go forward.

COUNCILMAN KENNEY: Not with this deficit financing plan we're not going to be discussing it.

MR. BURRELL: Well, we believe that there are going to be continuing issues that will have to be grappled with.

And, again, as I said, Councilman Kenney, I do want to apologize if you thought I was misconstruing your words, but I was giving my interpretation of what I heard.

MS. KAHN: I would just like to add something. I agree with my colleague, of course, that we'll have it in Harrisburg. We have to do our role, but ultimately it will be the Governor and the Legislators who will work that out. But in terms of what the Legislators have said on the record, the concerns that they've expressed are really about not so much not supporting Philadelphia, but it's about their own needs in their districts. And that's a position that we share and we understand, which I

think gives fuel and adds weight to the argument and to the position and to the prospect that there will, in fact, be significant change in Pennsylvania over the next several years for funding schools.

COUNCILMAN KENNEY: Let me tell you. You are the extreme optimist, because let me tell you something. The only way, as I said to you earlier and I said to Nevels yesterday, the only way this happens is if pressure is put on elected officials to act. If pressure is not put on them to act and they get enough time to breathe and enough time to put off and enough time to delay, we will be back here again and the only difference will be the taxpayers of this City will be saddled with a $750 million toll across this bridge to nowhere.

Thank you.

COUNCIL PRESIDENT VERNA: Thank you.

The Chair recognizes Councilwoman Tasco.

COUNCILWOMAN TASCO: Thank you, Madam President.

Good afternoon. I'd just like make a comment before I ask a couple of questions. Secretary Burrell, you said that this is a good deal. I think the problem is it's the only deal.

We don't have any other deal that's before us that has been thought about. The only deal would be for the State to do the right thing, and that is to find a way to deal with school funding across the State.

And I think it's a predatory deal. I put it in that category, it's predatory. The people who are responsible and can help us out have abandoned ship and left us to the sub-prime lenders and we're going to spend 50 percent interest to get $350 million. And that's not a good deal, it's a sub-prime deal. It's not a good deal, it's not a prime deal. The prime deal is for the State to come up with a way -- and I agree with Jim Kenney that they have to put people on the line to make sure that they deal with the whole issue of State-wide funding for the School District. So it's not a good deal. It may be a good deal in your mind because that's probably the only deal we could get right now. It's not a good deal; it's a desperate predatory deal.

I want to ask you a question about moving forward. If we deal with the school reform and what do we do moving forward to come up with a plan that states what Philadelphia really needs in

terms of funding? Is there any effort on the part -- because this Administration is going to be in place for the next two years and probably the four years after that. What is the plan that we put forward that says, "These are the reforms" -- and we should get some reforms out of this Commission, as they're saying they are. But what is the plan forward? Because at the end of the 18 months, we are back to a deficit, and what do we do? Are we going to at that point in 18 months say, "Well, we're counting on the State Legislature. They're going to come up with something."

Or do we go back to the predators and borrow some more money? And would we be able to have the ability to borrow money? What is the plan moving forward to deal with the structural debt of this Philadelphia School District? Where is the plan to deal with that? Where is the plan that we offer not only Council, but to our state reps who represent to us in Harrisburg that they can put on the table in Harrisburg to say, "This is Philadelphia's plan for recovery and these are what our needs are." Where is that? Does that exist? And if not, are you going to get on it? Who's going

to be a part of it? And how does the happen?

MR. BURRELL: I think in think end, Councilwoman, I think that's an excellent point. That is the $64,000 question that confronts us all. Part of it, I think, an important part of is Jim Nevels' testimony in the Reform Commission's testimony yesterday that they understand that's a problem. It would be a -- I'm not saying it's going to be easy, but it would be much more difficult if the School Reform Commission were testifying before the Council that if we do what we're going to do in Harrisburg this year and we do what we're asking this Council to do here in the City of Philadelphia that we will have solved this problem going forward. I think that it's to their credit that they've acknowledged on the record that that's the case. The fact is, I think, we have an understanding of what the funding needs are for the School District of Philadelphia going forward to be able to solve its fiscal problem. I think we have a pretty good sense -- and Secretary Kahn can talk about this better than I. We have a good sense of what we think the reforms are that are necessary to improve the public education product in the School System of

the City of Philadelphia. But solving the funding issue is beyond our capacity locally. We are never going to be able to fix this problem within the boundaries of the capacity of the taxpayers of the City of Philadelphia. It becomes a State-wide problem. It is bound up in State-wide tax reform. We cannot make State-wide tax reform just a Philadelphia issue. We've got to be part of a coalition that takes this message that I think is beginning to build and is beginning to come together. Unfortunately for us -- and I wish this were different. I wish that there were a political environment in which we could fight the battle for State-wide tax reform right now. That environment just does not exist. And it will not exist until this year's elections are over; a new Governor elected and a new legislature is in place. But the long-term is not our inability to know what the needs are of the district both in a financial sense and in a programmatic and educational sense, but it is the ability to impact at the State level the need for State-wide tax reform which goes back to an issue that we've heard repeatedly solving the $75 million in Harrisburg this year. And the

discussions at least that we've been part of this point is not a discussion about the $75 million for Philadelphia, which is the traditional arguments that you hear up there, but how can we support $75 million for Philadelphia and take nothing back to the districts that we represent that are having similar problems. That issue on a bigger scale is the issue for tax reform, that you can't just do it for Philadelphia. And that is an issue -- the Mayor has said it consistently and repeatedly in all his public discussions and speeches on this issue going forward, it will be at the forefront of our legislative agenda in Harrisburg next year and going forward with respect to reform. In the end, this is one of those issues that no matter how well intentioned any of us are individually or collectively, we cannot solve it locally.

COUNCILWOMAN TASCO: So I guess the message to our citizens in Philadelphia, particularly the school children, that politics does impact your life. Their whole future is predicated on who's going to be Governor next year. So I hope they understand that.

Thank you very much, Madam Chair.

COUNCIL PRESIDENT VERNA: Councilman Nutter, your light is on. Do you still want to be recognized?

COUNCILMAN NUTTER: Well, I wasn't finished from earlier, but I knew that my time had expired. There may be other members who have questions, so I want to be as accommodating as possible.

COUNCIL PRESIDENT VERNA: At this point, no one else's light is on.

COUNCILMAN NUTTER: Thank you. Let me ask this question. With regard to the proposal that is front of us, I'd like to talk about some of details of it. How was it decided that it should, in fact, be a 30-year debt financing as opposed to -- I know presently -- and you have a legislative proposal before the State Legislature to extend the current ten-year limit.

Let me go back to an earlier response that Ms Kahn made. Ms. Kahn, did you say that you did not have a copy of the proposed legislation which actually does or proposes to do two things, one, exempts the $45 million in FY '02 from the provisions of Act 46; and secondly, extends the

current limitation of ten-year deficit financing to 30? Do you have a copy of that legislation?

MS. KAHN: I said that, one, I didn't have anything with me; in two, I'm not sure whether I actually have the final version, but certainly it exists. I just don't have it here.

COUNCILMAN NUTTER: I thought I understood someone to say yesterday that the legislation had been put together by the City Solicitor and the Council for the School Reform Commission.

MS. KAHN: Correct.

COUNCILMAN NUTTER: You're Secretary of Education. Why wouldn't you have a copy.

MS. KAHN: I said I just don't have it here with me.

COUNCILMAN NUTTER: Is it possible to get a copy here while we're here?

I'm not even trying to be difficult. But it's a hearing about the pertinent matters. You can't do what you're even asking us to do if that legislation is not passed. And I think Councilman Rizzo touched on a bit of this. I mean, sometimes there are just some fundamental things that you kind

of have to bring to class: School books, syllabus, a couple other things. We're in a legislative situation. Of course we're going to have questions about that particular legislation. I mean, did anyone think that we might ask a couple questions about that?

MS. KAHN: I'm sure that we can get it.

COUNCILMAN NUTTER: Can we get it during the course of the hearing?

MS. KAHN: Yes.

COUNCILMAN NUTTER: How was the decision made to do the deficit financing for 30 years versus the present limitation of 10?

MR. BURRELL: I think that's an issue more appropriately to the School Reform Commission. But in the end, I'm sure it became an issue of numbers that we --

COUNCILMAN NUTTER: The School Reform Commission doesn't care how long we borrow for. They just want the $300 million. It's a City issue. The issue for us is $25 million a year for 30 years versus some other figure possibly for 10 years. The School Reform Commission could care less, I believe. This is a City of Philadelphia issue. I'm just

asking how did we decide to do $25 million for 30 years?

I mean, the School Reform Commission didn't negotiate the deal. Your testimony earlier was City and State negotiated all these discussions, whether it was five weeks, five months however long they went. There was no School Reform Commission during that time. Someone put an idea on the table. You laid it out, the $45 million, the 45 going forward, the $300 million deficit financing. I'm just asking the question how did we decide to do 30 years versus 10 or some other number?

MR. BURRELL: I think this clearly is within the boundaries when our initial discussions were that the City of Philadelphia would offer $15 million as a part of our negotiations with the State. We ultimately -- we got into the question of getting rid of the next year deficit. And when Secretary Kahn comes back, she can give you the numbers. I don't want to give you a wrong number. We, the City, proposed as we modestly increase the amount of money that we would put into the deal in the first step proposed to pay for the deficit financing in the amount of it so the numbers, I'm

sure, were backed into it. The amount of money that we were willing to pay is $20 million a year. And then the question is how much will $20 million a year --

COUNCILMAN NUTTER: You mean the 25?

MR. BURRELL: Well, it became 25. As I say, it went through gradations. It started at 15. It got to 20. It got to 25. But it ultimately was a question of what the money that we were putting on the table would finance and over what period of time.

COUNCILMAN NUTTER: I understand that. But I know that you also know because of your various backgrounds, this is one of those where the math is pretty simple. $25 million a year, 30 years, gets you $750 million, which we know from yesterday's discussion or even the Chief Financial Officer indicated in two, possibly three fiscal years, we're back to deficit. But the cost has already been obligated by the City for $750 million on a $350 million offering. I'm just asking -- I'm not saying that we should borrow a dime less. If 300 million is the figure or whatever 25 will get you, I just asked the question in an effort to

possibly save the City a little money over the 30-year period of time versus some other period of time, how do we decide that we were willing to be in for 750 versus some other number in an environment where we know, again, we're only doing the bridge to somewhere. We know that this is not the solution. Seems to me that we'd want to try to limit our exposure as much as possible, shorten the amount of time of the borrowing. If $300 million has to be a figure, then there's another number that the City would have to be able to provide to support debt service on that same amount of money, but for a shorter period of time.

MR. BURRELL: I think the calculation -- I believe I agree with everything that you just said.

COUNCILMAN NUTTER: Then let's shut the hearing down now.

MR. BURRELL: But I would add that at some point in time the way this got constructed -- and I won't say this is perfect math, but at some point in time we said the amount of money we need to borrow is $300 million. The amount of money that the City can afford to pay to borrow to service that

$300 million is $25 million. When you wind up over the time frame --

COUNCILMAN NUTTER: I understand.

MR. BURRELL: It computes itself. And you have a much better propensity for this, having been in business, than I do. But if you reduce that, I can't do the quick calculations of if you reduce that $300 million to a 10-year borrowing what the debt service is and what the ultimate aggregate payment is on that also, but it's also still a big number.

COUNCILMAN NUTTER: I understand. I think the quick math on that was somewhere in the 40 million, 41, 42, possibly 43 million range for a 10 years offering versus the 25 for 30 which gets you in the neighborhood of about $420 million in total borrowing cost versus $750 million in borrowing costs.

I guess part of the question here is whether or not in an effort to save $330 million over that last 20 years, is it worth it to the City to up the percentage or the shift in the millage from 25 to 42?

MR. BURRELL: Councilman, we'll get you

an answer on this. But I'm sure the lawyers -- and I don't want to speak for the lawyers who have advised us with respect to this, but we'll get you an answer as to why the lawyers have advised us that we think it's better to do this over the term that is currently proposed to be done.

COUNCILMAN NUTTER: Okay. Lastly on that piece -- it may be it doesn't matter if it's a packaged deal and people are going to vote for it in Harrisburg. Maybe it doesn't matter at the end of the day. But rather than having to ask them for two items -- and I don't know whether they're going to be packaged together or not. Under that scenario, you'd only be asking for one which is the Act 46.

MR. BURRELL: Yes.

COUNCIL PRESIDENT VERNA: Councilman, excuse me.

Mr. Burrell, will you be available in an hour? Because we were thinking of calling a recess. However, if you're not available, we'll continue on.

MR. BURRELL: Council President, if it would 2 o'clock, I could do it.

COUNCIL PRESIDENT VERNA: Fine. Then we'll recess until 2 o'clock.

3/20/02 - CONTINUED FY '03 SCHOOL BUDGET

This committee will stand in recess until 2 o'clock. Thank you.

- - -

(Recess taken at 12:40 p.m.)

- - -

3/20/02 - CONTINUING FY '03 SCHOOL BUDGET TESTIMONY

(Council proceedings now being stenographically recorded by Josephine Cardillo, Registered Professional Reporter.)

COUNCIL PRESIDENT VERNA: The Committee of the Whole is now back in session.

Councilman, I believe you were requesting Mr. Burrell when we recessed.

COUNCILMAN NUTTER: Yes. Thank you, Madam President.

Let me first ask --

MR. BURRELL: Excuse me, Councilman Nutter. I think Joan Stern would like to present to the President a copy of the legislation that you requested this morning.

COUNCILMAN NUTTER: Thank you. That was actually going to be the first question.

MR. BURRELL: The answer to your first question, sir, is yes.

COUNCILMAN NUTTER: Okay. Well, I think we're off to a great start.

MR. BURRELL: How about if we adjourn.

COUNCILMAN NUTTER: Obviously, the lunch helped your disposition, and you are now prepared

to be cooperative.

(Laughter.)

MR. BURRELL: Oh, Mr. Councilman.

COUNCILMAN NUTTER: Thank you. You resent the implication that were not being cooperative in the earlier session.

MR. BURRELL: I was being fully cooperative.

COUNCILMAN NUTTER: Okay, to the best of your capability.

MR. BURRELL: Right.

COUNCILMAN NUTTER: All right.

MR. BURRELL: Anyone who has a palate that looks like -- I mean a head that looks like mine, Councilman, I'm always trying to be cooperative with, but I can't grow that hair around my face but --

COUNCILMAN NUTTER: You could do it, you could do it. Try harder.

Thank you for providing the legislation, the legislation that we were discussing earlier that basically does two things. When we see it, we'll know better, but I assume it has both elements in it with regard to proposed amendments

to Act 46 as well as an extension of the deficit financing terms. I won't talk about that for the moment until we know we have copies.

What I'd like to turn our attention to is, when we were talking earlier about time frames and timetables with regard to various negotiations and when the -- what I've started to refer to as the "four-part financing plan." We don't have to go -- you know it's the 45, the 20, the 25, and the $300 million deficit financing, which is at the end of it.

What I wanted to try to get a sense from you at this stage is, were any other options or plans discussed during the course of those negotiations, whether during -- you made reference to a week- or a week-and-a-half time period, where there was an intense amount of discussion, or the longer, possibly four- or five-week time period. All of the elements of the plan that is in front of us today, I know you indicated earlier, had been discussed over some period of time, bits and pieces of them, a deficit financing, maybe not an amount at a particular point, and then it became an amount. 45 million, the old 45, the new 45, all of

these numbers.

Was there ever another plan discussed during that time that had some of these elements, possibly other elements that are not in front of us today or various iterations of different proposals that, as a package, would be a plan?

MR. BURRELL: And I'll defer to the specifics to Secretary Kahn but, you know, we started all of the discussions with the Governor's plan, and the Governor's plan had Edison operating the School District, running the central management of the School District, Edison being contracted with for all of the consulting services that the School Reform Commission has put out an RFP for and had a competitive process.

So there were a number of issues that were on the table at the beginning of the discussions that got modified or changed or dropped out over the course of the negotiations.

MS. KAHN: I would add specifically on the piece, you know, the basic elements in various forms had always been, what are the savings that are possible to be achieved, what new revenues, and from what sources and how much new revenue could be

expected? And then some aspect of borrowing.

And if you take this back in talking at the length of time that we actually had spent in crafting this, if you take this back even to last spring, when we looked at the Workout Plan that I know Mr. Nevels referred to yesterday and which we've certainly shared on a couple of occasions with the members of City Council, those same components and elements were in that version as well.

Specifically, when we looked at different aspects of new revenue, we even talked about, for example, in addition to the kind of appropriation that's under consideration by the General Assembly now, looking specifically at the problem of charter school funding as an example of maybe that being an appropriate new vehicle and a source of new revenue.

COUNCILMAN NUTTER: Where is that discussion?

MS. KAHN: I'm sorry, where is the discussion on --

COUNCILMAN NUTTER: Specifically with regard to charter schools. I mean, charter schools

obviously are not soley a Philadelphia problem, which, by extension, the whole school funding issue is not just a Philadelphia problem.

But for the moment, on charter schools, which, it appears that virtually every school district in the Commonwealth of Pennsylvania, even if they don't have a problem with the overall funding formula, all of them seem to have a problem with the charter school funding mechanism. Where is that discussion?

MS. KAHN: The issue actually came up on Monday, when we were testifying before the House Appropriations Committee, and at least two of the members of that committee raised this subject and said similar to what you just did, you know, that it --

COUNCILMAN NUTTER: Were they Philadelphia members?

MS. KAHN: No, they were not.

COUNCILMAN NUTTER: Mm-hmm.

MS. KAHN: And isn't this a way of potentially, you know, solving the problem and getting Philadelphia the revenue it needs for this year also, but addressing other districts' needs,

and our position was that whatever the vehicle is chosen, you know, it really doesn't matter. What we need is the revenue.

COUNCILMAN NUTTER: What's the magnitude of the, quote/unquote, Philadelphia portion of the charter school problem? Or let me phrase it another way. Do you know the magnitude the charter school funding program statewide? And what is the Philadelphia component of that, recognizing that we have more charter schools than anybody else?

MS. KAHN: I actually don't know the figures statewide. I mean, I think that our enrollment -- and actually, Mr. Doosey might be more current on some of the figures, but I'm guessing that right now, we have still at least, you know, probably over half of the, you know, two-thirds of the enrollment in charter schools in the State.

For Philadelphia -- and, again, he has more current numbers -- it had also been about a $100 million problem and accounting for about half of the projected deficit of the School District.

COUNCILMAN NUTTER: Well, I mean, is it fair to say that if Philadelphia has about -- I

mean, do we have about half of the charter schools, or are half of the charter schools in the State in Philadelphia?

MS. KAHN: I don't know about the number of schools, but I think the enrollment, we have about two-thirds of the enrollment in the State.

COUNCILMAN NUTTER: Do you know, or is it fair to say, then, that the possible solution to that particular problem is a -- I mean, is that a 150, is it a $200 million solution by the Commonwealth to get everyone out of the charter school dilemma?

MS. KAHN: You know, it really depends on exactly how they approach it. Our original concept had been about having the State fund net costs of the charter schools. There are, you know, full costs, so I'm not sure I actually know right now, but it's, you know, I guess, at least within that range.

COUNCILMAN NUTTER: Okay. Well, let me ask this question: Has anyone attempted to quantify the charter school financial problem either for the Philadelphia or for the Commonwealth?

MS. KAHN: We have certainly quantified it for members of the legislature and for the Governor and for ourselves, for Philadelphia. And I know that I've heard numbers -- I just can't quote them for you right now -- about what it would be on a statewide basis

MR. BURRELL: Councilman, let me add to that that every plan that we've put together going back now well over a year for how we propose to get ourselves out of this deficit position that the School District has proposed a specific resolution, an amount of money that was necessary that we thought to solve the charter school problem in the City of Philadelphia, it is one of, I think, differences of opinion that remain between us and the State at the end of those discussions and their belief that they could get at the charter school issue differently through the plan that they propose.

But I think the School Reform Commission has said, whether -- and our numbers may be different than their numbers; I don't want to speak for this them with respect to the amount, but I think that they have said publicly that there is an

issue with trying to get at the issue of how do you solve the charter school funding problem. And it is one that is not fully resolved in anything that is before us at the moment.

COUNCILMAN NUTTER: Well, your last comment -- the beginning of your last comment sparked a question, which I had written down earlier and I hadn't planned to get to, but why don't I take that on now. What is the City's plan for financial stability short-, medium-, and long-term for the School District?

MR. BURRELL: I -- I -- our plan is the one that is, in part, before this Council today. We believe that the way to get at the problem is to provide the School District with the one-time $45 million that we have previously requested, that the City be empowered both to transfer the necessary millage and make future grants to the District that would equal $45 million, that we'd be able to go forward and borrow the $300 million in deficit financing that the State would make available, and that we would ask that that be considered by this Council and hopefully reported out of this committee by the Council so that the

State can enact the legislation that is before you that would put us on track to borrow the money in a timely fashion, so that the District will not run out of cash before the end of this school year, and that we would provide those similar resources going forward year over year, and that that would get us to the point.

And that is the short-term and the midterm solution to the problem. As I said this morning, and I think we've said consistently, the long-term solution to the funding problem of public education requires statewide tax reform.

COUNCILMAN NUTTER: Well, I understand that, and we may have a slight difference of opinion about whether it's -- whether the plan in front of us is a medium-term plan.

I mean, I think in the context of -- and I'll throw the compliment back. You also have financial experience as well. And generally, I mean, short-term is usually about three years; medium term is three to five, maybe three to seven; and anything beyond that is usually considered longer-term.

The plan I seen in front of us, I think,

at best really is a short-term plan, and by your own acknowledgment, is certainly not a long-term plan. We don't have to have much disagreement about the medium-term.

But I guess I'm asking you to take the question to the next level, which is, we can at least agree that this is a short-term plan. My question was, does the City, for itself, have a long-term fiscal stability plan? This is before we even get to educational excellence. Does the City have its own plan that it's in a position to propose or encourage debate around with regard to long-term stability of the finances of the School District of Philadelphia?

MR. BURRELL: And I would -- and I'm not trying to be smart by repeating myself, but I'm going to repeat myself.

If we go back to where this process started and our discussions with Governor Ridge in, I guess, the spring and summer of 2001, after the Governor provided an additional roughly $68 million, some of that in empowerment funding, for the School District, we put forward a plan that we thought would create long-term financial

stability for the School District.

That plan dealt with a projected deficit of one-plus billion dollars over a five-year period, and we put forward a plan that included deficit borrowing and deficit spending. It put forward new revenues from the City, and it put forward new revenues from the State.

COUNCILMAN NUTTER: This is going back to --

MR. BURRELL: That's going back to -- where are we at --

MS. KAHN: 2001

MR. BURRELL: It's going back to 2001, and I do believe that that plan, partly at your request, Councilman, was brief with respect to the elements of that plan.

That plan is part of what was the central focus of the discussions with the Governor and the Governor's staff in the meeting that took place in Harrisburg in the summer of 2001, and part of what we got from the Governor in terms of the plan that ultimately was presented by Governor Schweiker was their response to our proposal, our long-term plan, which they thought they would be

unable to sell completely in Harrisburg.

COUNCILMAN NUTTER: Well, your memory will be better than mine, I'm sure, on this. I mean, what was the response from the Governor or the legislature to the City's plan at that time?

MR. BURRELL: The response from the Governor, and I think it was -- we did not have a response at that time from the legislature, but the response from the Governor, and this was first from Governor Ridge and, I think, supported by Governor Schweiker when he became governor, that the plan that we proposed was too rich for the State to be willing or able to absorb, and they proposed their plan in response to that.

And we have made a calculated judgment that working with the State, working with the School Reform Commission and working with the General Assembly and working with City Council, that we would be able collectively to move forward in a fashion that we believe that the plan in front of us can create a three- to five-year bridge in terms of dealing with the problems of the School District, and that within that timeframe, we can together fashion a long-term plan that can receive

the public policy support and the political support that's necessary to go forward.

COUNCILMAN NUTTER: All right. Lastly in that area, I mean, out of all of this discussion, is it fair to say at the moment that there is no long-term plan that exists, and at best, we have a short-term plan, trying to get to a long-term plan?

MR. BURRELL: I think it is -- the lawyer in me always makes it difficult for me to agree with anybody else' precise phrasing

COUNCILMAN NUTTER: All right, I understand. Why don't you send something back and we'll see if I can deal with your thing.

(Laughter.)

MR. BURRELL: But I think it is in fact --

COUNCILMAN NUTTER: And you wonder why we don't have an agreement with the State.

MS. KAHN: Too many lawyers.

MR. BURRELL: It is, in fact, fair to say that what is in place is a bridge that allows us to solve the immediate crisis before us in the current school year --

COUNCILMAN NUTTER: Right.

MR. BURRELL: -- that without being able to borrow funds, that the School District would run out of money this year, and that that funding package and plan, assuming that this Council continues to appropriate $45 million a year going forward and the General Assembly continues to appropriate $75 million a year going forward, we believe would give us the ability in managing parts of deficit that are out there in the future to get through a three- to five-year period, and that in that time frame, that we would have to do something else, we would have to do something else to be able to permanently fix the funding crisis at the School District.

I think the one thing -- and I know you said to defer this, but one of the things that I think everyone has consistently talked about and a condition for Governor Ridge and a condition for Governor Schweiker was that we not simply fix the fiscal problem and not address the educational problem, so that the challenge is to try to do both concurrently.

COUNCILMAN NUTTER: Now, you know your

response was about three times as long as the question.

MR. BURRELL: That's about the proper ratio, don't you think?

COUNCILMAN NUTTER: 3 to 1, okay.

What is the current financial need of the School District today to finish this school year?

MR. BURRELL: I would defer that question to Mr. Doosey, who is in the room. I think that that would be better answered by the School Reform Commission than by the Administration.

COUNCILMAN NUTTER: Okay. With regard to the proposed borrowing, let's stay in that area for a second.

Well, let me ask this other question before I get to that. Chairman Nevels yesterday indicated that there was a letter of commitment from the Budget Office -- he was talking about the State Budget Office -- with regard to the State's extending its commitment, which, apparently, by their own budget, does not extend the $75 million commitment, I believe, beyond Fiscal Year '06.

Chairman Nevels yesterday indicated that there was a letter about this.

Secretary Kahn, do you have a copy of that letter, or Secretary Burrell?

MS. KAHN: I do not have the letter. I know that Mr. Doosey has had discussions with Secretary Bittenbender, State Secretary Bittenbender, about that.

I also know that at the House Appropriations Committee hearings, when the Department of Education was on and Secretary Zogby testified, he was asked whether those funds were intended to continue, and his answer was yes.

COUNCILMAN NUTTER: Now, let me try to understand this, just because I don't know much about the State budgeting process.

How does the Governor, in that circumstance, make that level of commitment and have it stick? I mean, again, given the realities that this will certainly be the last budget for Governor Schweiker, how do you make that stick going forward into '06, '07, '08, possibly in perpetuity? How does that happen?

MR. BURRELL: Well, I think there are

two things, number one, and I think it was reinforced this morning that the legislature that, in fact, will have to vote on that appropriation. There is not much expectation that it would change going forward over the next several budget years, so there will be some institutional memory.

There is some historical precedent that money put into the budget for school districts tends to find its way to stay in there over a period of time.

But the reality is that there will be a new governor in office next year, and we will have to, just as we will have to with this Council, on a year-to-year basis before the legislative body make the case for the needs for those funds.

COUNCILMAN NUTTER: Now, the one interesting component of the, quote/unquote, new governor strategy or concept is -- I mean, I'm a Democrat, so I'll make slightly partisan remarks, and hopefully Councilman Rizzo will not hold it against me.

There are some, certainly, who would like there to be a Democrat Governor.

COUNCILMAN RIZZO: (Inaudible, off-mic.)

COUNCILMAN NUTTER: And there are some who would like to see a Republican Governor, as Councilman Rizzo reminds me.

But in that first scenario, I mean, why is it believed that with a Democratic governor, Secretary Burrell, you testified earlier, you don't necessarily see significant change in either house of the legislature? How does the Democratic governor get the Republican legislature to do what the Republican governor was not able to get them to do? How does that work?

MR. BURRELL: Oh, I don't agree necessarily with that conclusion. I don't know that by the time we've gone through the complete appropriations hearing process in Harrisburg that although there will be an appropriation only for the current or for the next fiscal year --

COUNCILMAN NUTTER: I'm sorry, I'm not talking about the $75 million.

The notion about the new governor has been a part of the larger strategy of reform of educational funding, statewide educational funding reform, statewide tax reform.

My question was specifically about if

this change were to takes place in terms of who's in the Governor's Office, a Democrat versus a Republican, how does the new potentially Democratic governor get the Republican-controlled House and Senate to do what the previous seven-and-a-half or close to seven-year Republican governor was not able to get them to do?

MR. BURRELL: I believe that it will not be incumbent simply on the next governor to respond to the question of Statewide tax reform to deal with the question of funding public education.

As I think I mentioned earlier this morning, Secretary kahn testified ten days or two weeks ago at a hearing held by the Education Committee from the General Assembly from the House that was looking precisely at the question of statewide tax reform for public education.

So I believe that this, in the not too distant future, Councilman, will become a bipartisan issue, because the questions of funding education are, as I said earlier today both, in the cities, in the suburbs, and in the rural areas of both the Democratic majorities and with the Republican majorities. And already in the General

Assembly, in the Republican-controlled General Assembly, there's at least one piece of legislation that speaks to the issue of statewide reform.

So I think this issue is before elected officials statewide, not just because there's going to be a new governor.

COUNCILMAN NUTTER: Okay, let's talk about the deficit financing. Again -- and I think we were at this point when we broke.

The question back then was $300 million 30 years, $25 million a year in payment. And you talked about earlier that you kind of backed into it. I'm assuming that it was somewhat of a chicken-and-egg decision-making process. You either decided: One, X-amount of dollars, how much does that allow you to borrow; or, two, we need X-amount of dollars, what would it take from a debt service standpoint to be able to fund that?

How was the $300 million figure arrived at?

MR. BURRELL: I'm going to defer to Secretary Kahn on this, but in some respects, it was looked at as, what is the deficit, what are the cash needs to get through the current school year?

COUNCILMAN NUTTER: Mm-hmm

MR. BURRELL: And what perhaps are some of the cash needs to go through the beginning of and parts of the next school year? And I think that calculation -- and as I said, I'll defer to Secretary Kahn -- is part of how we got to the point of figuring out what the number would be that we were borrowing.

COUNCILMAN NUTTER: Right. All right. Well, then let's go to the financial discussion. I don't know if you want to have Mr. Doosey up or Secretary Kahn would like to add on.

MR. BURRELL: I think he's --

(Mr. Doosey comes forward.)

COUNCILMAN NUTTER: I mean, what does the District currently need to at least finish out the fiscal year?

MR. BURRELL: I would be more comfortable not speaking for the School Reform Commission than the District.

COUNCILMAN NUTTER: Okay. And before Mr. Doosey speaks -- and I understand if you have discomfort speaking on their behalf, but under this construct, under the way this is arranged, and I'm

not saying that you don't have the interest 'cause I know that you do have the interest, it seems to me that in terms of this transaction, I mean, the City is the party that has -- I mean, the District obviously needs the money to open and operate, but the actual transaction also has a significant meaning, it seems to me, for the City of Philadelphia.

And that in that context, the City must have a significant interest in what the actual needs or debts or obligations of the School District or the SRC are in order for us to structure a transaction that helps them, doesn't harm us, we give them what they need, but not more.

MR. BURRELL: And it's great to have a secretary of education to defer the specifics to

COUNCILMAN NUTTER: You deferred a fair amount to her. I think she's actually doing more than you are.

MS. KAHN: And he should.

(Laughter.)

MR. BURRELL: But I think part of this, it's fair to say, is what I said this morning. We have confidence -- we have built up confidence over

the last several months with respect to some entities and over the last couple of years with respect to the Governor's Office in that there is an effective partnership that is going to work going forward in making decisions.

We obviously have the concerns that you just described, but we also are very comfortable with Sandra McArthur and with Glenn and with Michael Masch, who are the Mayor's appointees to the School Reform Commission. They have been working very cooperatively with Mr. Nevels and Mr. Gallagher and Mr. Whelan. They've been working very cooperatively with the staff.

And we are comfortable that it is their objective to work in consensus, and not to keep the City in the dark and to take into fair consideration the perspective the City would have on all financial transactions and all financial dealings at the School District.

We have a clear and present and recurring financial investment in public education, and the future of our city is tied to the success of many of those children.

COUNCILMAN NUTTER: Okay.

MS. KAHN: Yeah, I --

COUNCILMAN NUTTER: Go ahead.

MS. KAHN: Well, I was just going to pick up on that point as well.

You know, the District's preliminary budget was really just prepared and released really in this chamber yesterday, and we will be, over the course of certainty the next days and weeks to come, working through our members on the School Reform Commission.

And I think it brings us back to why it was so important for us to have this partnership in the first instance, because the City does, and will continue to, have a very significant investment and concern in the operations of the School District.

COUNCILMAN NUTTER: Okay.

Mr. Doosey, I have your document from the briefing the other day. I gave you a copy yesterday of a document that Secretary Kahn had transmitted to us from a meeting back in January, January 23rd. This document was a part of -- and I asked you, I think, yesterday, were you in a position to basically replicate that particular document? It was a one-page piece that I gave you

yesterday. Have you been able to do that?

MR. DOOSEY: I'm sorry. Has it been completed yet? No. Staff is in the process of completing it. I do have the cash flows you requested.

COUNCILMAN NUTTER: Yes. The document that we received from Secretary Kahn is dated 12/21/01 and lays out the transaction in front of us: A one-time grant from the City, $45 million in FY '02, the use of the $300 million deficit financing. Going forward: $45 million from the City split into two parts and $75 million in new State funding from the Commonwealth.

That projection at the time showed the City -- the School District ending FY '02 with, if I'm reading this correctly, a $161 million surplus, ending FY '03 with a $107 million surplus, and ending '04 with an $18.7 million deficit.

Now, some of the discussion we had yesterday was -- I don't know whether it was on the record or shortly after the hearing broke, but you seemed to indicate to me that within some range, those figures were generally correct, although there had been some adjustments in recent times.

Can you bring us up to date and also tell us about FY '04 and FY '05 and FY '06 if you have any information about those.

MR. DOOSEY: Okay. To start off with, those discussions were on the record, and that was, I believe -- and I haven't reviewed the testimony -- when we discussed verbally what the projections would be for the out-years.

The current projections that we have for five years show that at the end of Fiscal Year '04, subsequent to the borrowing of the $300 million --

COUNCILMAN NUTTER: I'm sorry, why don't you do me a favor, 'cause yesterday was a long time ago. Why don't you take us --

MR. DOOSEY: Okay.

COUNCILMAN NUTTER: What do you need to finish the school year right now?

MR. DOOSEY: Well, to finish the school year, I would need, in round numbers, $70 million. I need $45 million, which is the one-time grant from the City, and that would take me through approximately June 10th, and then the balance of the funds would take me through June 30th.

There is a subsequent cash flow problem

in the following year, where most of the revenue that comes into the School District comes in on even-numbered months, middle of the month.

So there is approximately a $200 million gap between July 1st and August the 15th, and historically, the School District completes a tran or a anticipation note funding for that short-term cash flow.

COUNCILMAN NUTTER: Right. Are you not anticipating doing that this summer?

MR. DOOSEY: I was not anticipating doing it this summer because I wasn't anticipating having the proceeds from the deficit financing to carry me through for that period, for a one-year period only.

COUNCILMAN NUTTER: I understand. Is it my recollection that you did not do a trans. last summer either?

MR. DOOSEY: That is correct, the School District did not do a tran this last summer.

COUNCILMAN NUTTER: Because we had an advance from the Commonwealth?

MS. KAHN: Yes.

MR. DOOSEY: I truthfully do not know

why.

COUNCILMAN NUTTER: All right.

MS. KAHN: Yes.

COUNCILMAN NUTTER: So to finish this school year, you need $70 million, you've got a $200 million gap during the summer, which could either be solved by doing a trans. but you probably don't want to do that. You could get the payments from the Commonwealth advanced, and naturally, that would mean asking for another favor.

Or your third position, which was the position you expected to be in, was to get the $300 million deficit financing.

MR. DOOSEY: That is correct.

COUNCILMAN NUTTER: Let me ask this question. If the Commonwealth did advance the payments to get you through the summer, which, I guess, takes you into the fall, what is your cash need at the end of '03?

MR. DOOSEY: I would be in the same situation at the end of '03 that I am in at the moment. I haven't done the exact calculations for the period, but my suspicion is that we would end up approximately a month short as well.

COUNCILMAN NUTTER: I didn't hear the last thing you said.

MR. DOOSEY: We would end -- we would end up in the same position we are now, where the cash flows for the year would be insufficient, which would be my guess, for a few weeks, three to four weeks at the end of '03.

COUNCILMAN NUTTER: So about that same $70 million, is that what you mean?

MR. DOOSEY: Correct.

COUNCILMAN NUTTER: So let me make sure I understand this. If you receive $70 million now, you finish the school year, and if you got an advance payment of the Commonwealth's obligations to get you through the summer, I guess, into the fall, then at the end of '03, this time next year, you'd have another $70 million problem.

MR. DOOSEY: If you're assuming that I'm just getting an advance, or that I'm getting -- I would have a cash flow problem of $70 million, but since the 200 million for the summer and fall was an advance, my liabilities will have increased.

COUNCILMAN NUTTER: Right, because you would have spent it.

Well, then let me ask this question: The present definite is --

MR. DOOSEY: The present deficit --

COUNCILMAN NUTTER: -- 61?

MR. DOOSEY: No, the present deficit is $65 million from last year's loss, and the current forecast net of the $45 million grant from the City would be 41 -- or it would be 61, an additional 61.

COUNCILMAN NUTTER: Okay. And from your perspective, does it make any difference whether the $300 million in deficit financing is over a 30-year period of time, a 15-year period of time, or a 10-year period of time?

MR. DOOSEY: Am I making the assumption that the source of funds to pay this is coming from a third party?

COUNCILMAN NUTTER: Yeah. I mean, it's the deal we're talking about, it's $300 million done relatively soon, which is the timetable that you're operating under. Millage, transfer shift. You go out, and I'm assuming you're planning to go out on the market sometime in late April or early May.

MR. DOOSEY: Mm-hmm.

COUNCILMAN NUTTER: You said you needed the money by May 15th.

MR. DOOSEY: That's correct.

COUNCILMAN NUTTER: Right. Does it matter to you one way or the other whether it's a 30-year financing or a 10-year financing?

MR. DOOSEY: No. If I'm not paying the debt service, I'm indifferent.

COUNCILMAN NUTTER: Okay, do you have a sense of what the difference is in either the debt service payment or the total cost of that offering?

MR. DOOSEY: No. I haven't priced it recently.

COUNCILMAN NUTTER: I'm sorry?

MR. DOOSEY: I haven't priced it recently, no. I'd have to take a look at the yield curve.

COUNCILMAN NUTTER: Okay. And that's something that could you do in a relatively short period of time?

MR. DOOSEY: Yes, sir.

COUNCILMAN NUTTER: And to get through the next couple of years, do you need $300 million?

MR. DOOSEY: I would need $300 million

with the current programs that the School District is running to cover my costs for the next two to two and a half years or so, yes.

COUNCILMAN NUTTER: And you're working on a schedule that would show all of your financials?

MR. DOOSEY: Yes.

COUNCILMAN NUTTER: When do you think you might have any numbers on the $300 million offering and the costs and timetable and debt services on a 30-, a 20-, a 15-, and a 10-year schedule? How long would that take?

MR. DOOSEY: I would have to make a few phone calls. It's whatever it today's rates would be.

COUNCILMAN NUTTER: I understand. I mean, is it an hour, is it five days? How long does it take?

MR. DOOSEY: It could be during the time of this hearing. The City can do it just as easily as me.

COUNCILMAN NUTTER: Okay, well, since you're going to be getting the money, they would probably rather you do it.

MS. KAHN: Councilman, with Mr. Doosey still here, I would like to clarify something he did and to give him a chance to respond to my clarification if that's okay, on your question of the borrowing and the length of time.

And I believe what Mr. Doosey said is the assumption that, quote, someone else is paying the debt service. But you asked that question within the parameters of the current deal, which means that the City would be providing $45 million no matter what, and not whatever it would take to pay that debt service.

So I think that if, in fact, the time period of that borrowing were to be shortened, the amount of the debt service would be increased, which would mean that Mr. Doosey -- I mean, the District would need to pay that increased debt services from resources that the District only has.

So it would, in fact, be taking money for some other function. I just want to make that clear.

COUNCILMAN NUTTER: No. Or if the millage transfer was increased.

The assumption here is that the District

is held harmless. The present proposal is $300 million, 30 years, $25 million a year in debt service coming from the change in the millage transfer.

I clearly understand that if you shorten the length of the borrowing, the debt service number is going to go up, in which case the millage rates would have to change with a higher millage rate than is before us today for the School District and a lower rate for the City to account for the increase in the debt service, right? Is that what you're trying to share with me?

MS. KAHN: Right, but when you had asked the question, I thought I heard you to say "within the confines of the current deal," which is a total of $45 million from the City to the School District, divide a portion of that and --

COUNCILMAN NUTTER: Yeah, I understand. It would not be $45 million anymore. It would be 20 plus whatever that new number is to accommodate a shortened financing period.

MS. KAHN: And, again, that is a different question and a different deal.

COUNCILMAN NUTTER: Right. If the -- I

mean, if the numbers mentioned earlier are correct, if you do a $300 million offering and at least one number has been put out, if you do a $300 million offering at $42 million in debt service, then obviously, the $25 million millage-rate figure would have to change to 42, and you'd have 42 plus the 20.

MS. KAHN: Which --

COUNCILMAN NUTTER: So you would have a $62 million City deal.

MS. KAHN: Right, which substantially increases the City's support for the School District, and that is not what's reflected certainly in the ordinances under consideration.

COUNCILMAN NUTTER: Right, we all know that that is not before us now, but it reduces the City's cost over the 30-year period of time because, apparently, you save about $330 million.

MR. BURRELL: Councilman, let me add very quickly that not only the Administration does not support more than current $45 million that has been negotiated as a part of the current deal, so that if we were going to change the millage to some $40+ million, that that increase in the millage, as

we would look at the deal, would come out of the $20 million grant that we would provide to the School District and, thereby, the School District would, in fact, suffer 'cause then they would be internally financing that increase.

It is not -- and we struggled very hard to get the $45 million and to get to 62 or 63, and I don't want to suggest that the Administration would support a proposal that increased our $45 million contribution.

COUNCILMAN NUTTER: I understand, and I think you know that I was trying to be straight up in the question. There was nothing in that question that -- just because I asked Mr. Doosey to try to figure out what the numbers were, there was nothing in that question to suggest that the City is interested in supporting that.

We are on a little bit of a quest for information and trying to understanded how the deal was put together, what its various components are. Are there any alternatives that, in the long term, actually help to save the City some money, while at we're, at the same time, trying to help the School District with a current need.

I mean, part of the philosophical discussion here is, how can we help the District at their time of need, while not either significantly or unnecessarily increasing the City's overall debt, whether it's in the short or the long term?

MR. BURRELL: And I agree with that, but what I wanted to be clear about -- and I appreciate the opportunity to have the exchange -- was that the Administration and the Financial Director or the Finance Office would speak to this more effectively than I could, but our -- we completely agree with the objective that you just stated, with the caveat that we would also need to protect the Five-Year Plan and the fiscal security of the City itself.

And a discussion of going beyond the $45 million is one that, as I said, could only be had with the Finance Director and the Mayor, because we believe that that would be an onerous challenge to our Five-Year Plan and the fiscal stability of the City.

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(Proceedings now being stenographically recorded by Brian Rasco.)

COUNCILMAN NUTTER: I mean, I understand the position that you're in and the position that you have to take. But, I mean, at the same time you're certainly not suggesting at the table that the City of Philadelphia -- I mean, this is a hypothetical discussion for the moment.

But I'm sure that you don't certainly mean to suggest that for $17 million the City of Philadelphia is going to go into the fiscal abyss or collapse in an effort to not only help schools but save potentially $330 million over an extended 20-year period of time while we're in the process of building the bridge to salvation.

MR. BURRELL: Councilman, Rob Dubow is here and he can speak to that. That $17 million over the five-year plan adds up to $80 million. We believe that we are challenged to get to the $45 million that we're currently committed to, and we do think that it presents some potential for fiscal chaos.

COUNCILMAN NUTTER: Well, I understand that. But at the moment, with every respect, I'm

really not interested in the Rob Dubow discussion. What I will say, though, is -- I mean, look, let's be honest. The other reason that you might not want to particularly move on the number is because you negotiated that number, and if that number changes, that creates a whole other set of issues.

I mean, in the parlance, I mean, that's your story and you're sticking to it.

MR. BURRELL: That's the Mayor's line.

COUNCILMAN NUTTER: I'm sorry?

MR. BURRELL: That's the Mayor's line, not mine.

COUNCILMAN NUTTER: Well, whoever.

That's what we negotiated. That's where we want to be. We don't think we can do anything else. And if that's the position that you either want to take, need to take, have to take, whether it's a financial position or a political position, I understand that.

But at the same time I don't want that to negate or cut off the ability to have a discussion about it while here we're in a hearing about this issue. And again, not meaning to suggest that you should accept it or you have to take it.

MR. BURRELL: I fully respect and am fully interested in and willing to participate in that discussion. But not because I'm in an awkward position or a difficult position or a compromised position. I happen to fundamentally believe if we try to find another $17 million a year out of the coffers of the City that it will create fiscal chaos.

We are going to manage through a very difficult process with the $45 million, and do not believe, absolutely do not believe that if we went up to 62 or 63 million dollars that that is just a simple arithmetic adjustment or that we're in any political posture. That's the reality and the numbers speak for themselves.

COUNCILMAN NUTTER: I understand. But you would also agree that in the whole scheme of things, we have a plan in front of us that does not get us to anyone's notion of a clear, final and rational solution. And at the same time, we're asked to support a proposal that, if you take it all the way out where it's proposed to go, you have to at least have a discussion about any idea that takes you from $750 million in costs on a $300 million

debt offering, to at least ask the question could we do it cheaper, make sure the district still gets what it wants and lower our costs. I mean, there's nothing wrong with having that discussion.

MR. BURRELL: Councilman, I think I've said each time that you've said that, fully agreed that there's nothing wrong with having that discussion. It is fully appropriate for a public hearing discussion. But I don't want to give any suggestion in that discussion that the administration believes there's some flexibility in that regard.

COUNCILMAN NUTTER: All right. I appreciate that. Let's talk about the 45 million in the current fiscal year.

Now, since we've been talking, obviously the Law Department has been busy. And we've received a memo from the City Solicitor with regard to the 45 million and concerns about Act 46 triggers, trapdoors and other pitfalls that may potentially come along. I'd like to talk specifically about Bill 020033, Section 2, and have some discussion on the record about the two points, either of which, if they happen, cause other actions

or cause other things to not happen.

Now, my recollection is when we did the $45 million before, Council supported the $45 million appropriation, we approved it. I think it passed 17-0. It sat over the summer. The bill came back. It was vetoed, a couple other bills. I think there were four of them altogether.

My recollection back at the time was that there was also a letter from the Mayor indicating his desire to have Council vote on the bill. There was concerns about Act 46 at the time. He was trying to get the same relief I believe then as is being sought today. We have the new legislation. I've not had a chance to read it because I just got it.

Has such a letter been provided in this particular case?

MS. KAHN: No, there is no letter. But our position, as I indicated in my testimony, is the same. In order to address the concerns that had been expressed previously, and really consistent with the Mayor's previous statements, that's why we've said that we need to have the same type of protection against the Act 46 maintenance of effort

provision.

COUNCILMAN NUTTER: And that's what you're referring to as the provisions in Section 2 of Bill 33?

MS. KAHN: No. I'm going to let Richie Feder -- let me just, as a backdrop, say that as we considered in what is, on the one hand, a similar situation with regard to the original $45 million, but on the other hand, a slightly different situation because of the negotiation of this agreement and potential new obligations.

As we considered what to do to address that very same concern, there were, as we analyzed it, a number of ways to go to try to reach the same end and different types of relief that could be sought. So I'm going to let, with that backdrop, Richie Feder explain the variety of legislative ways and what this represents.

(Witness came forward.)

COUNCILMAN NUTTER: Mr. Feder, why don't we talk about -- why don't you identify yourself for the record and then we can have that discussion.

MR. FEDER: Yes. Good afternoon, Councilman. Richie Feder, Chief Deputy City

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Solicitor for Appeals and Legislation.

COUNCILMAN NUTTER: In Section 2 of Bill 020033, you're trying to accomplish in the bill what I think the Mayor tried to give us comfort last year by way of a letter?

MR. FEDER: Councilman, this is actually a different Act 46 issue. There are really two separate Act 46 issues.

COUNCILMAN NUTTER: All right. Why don't you tell us what they are.

MR. FEDER: The comfort that you were talking about and the City Solicitor opinion that you just received relates to the one-time $45 million payment that the Mayor has committed to make for the current fiscal year.

That is a substantive Act 46 problem in that if the Mayor were to make that payment this year, the City would be on the hook for that payment in perpetuity throughout the life of the take-over. And what we are seeking from the General Assembly is relief so that the Mayor can make a one-time payment this year and not incur any recurring obligations.

COUNCILMAN NUTTER: Now, suppose you don't receive that relief. What happens?

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MR. BURRELL: The Mayor has indicated he would not make the one-time $45 million commitment without the protection from Act 46. That would produce a timing issue, Councilman, because going forward our commitment is in fact $45 million. So there would be a subsequent window. But the one-time $45 million --

COUNCILMAN NUTTER: I understand. But that's a different $45 million; right?

MR. BURRELL: Correct.

COUNCILMAN NUTTER: Now, you said the Mayor has indicated that. Where has the Mayor indicated that?

MR. BURRELL: The Mayor has indicated in a series of public discussions, I'm sure, that in the letter that we sent back vetoing the first $45 million, one of the reasons given for that was that we did not -- we couldn't make that grant to the school district and protect it from Act 46.

And so I don't know that there's anything anywhere specifically in writing, Councilman. But in all of our public discussions and in all of our negotiations with the Governor and the Governor's staff, we've been very clear that

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that one-time $45 million would not be given without protection from the capture provisions of Act 46.

COUNCILMAN NUTTER: Let me ask this question. And I may actually be talking about the wrong bill. Bill 33 is actually -- I think I'm now realizing Bill 33 is actually not about that $45 million; is that correct?

MR. FEDER: That's correct, Councilman.

COUNCILMAN NUTTER: Which bill is that?

MS. KAHN: 40.

MR. FEDER: The transfer ordinance.

COUNCILMAN NUTTER: I'm sorry. It's not a part of this.

Is the Mayor prepared to issue such a letter in an updated fashion about the current bill, which I'm believing is Bill 40?

MR. BURRELL: I never want to speak for the Mayor without talking to him. But that is our position. And I'm sure that the Mayor would communicate that in writing to the Councilman and to the Council.

COUNCILMAN NUTTER: All right. So why don't I at least make the request.

MR. BURRELL: Yes, sir.

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COUNCILMAN NUTTER: The question is regarding Bill 020040. This is the $45 million which was an old obligation or promise which is expected to be given to the school district in fiscal year '02.

My request is that the Mayor would basically update the provisions of his either the earlier letter or the veto message specifically with regard to Bill 40 laying out his position on what happens if in fact relief is not granted from Act 46 and what will his actions be with regard to the scenario where the bill could possibly be passed, which grants an authorization.

But I think the most recent letter from the solicitor's office is just because you have an appropriation doesn't mean that the funds have actually been given. The turning point seems to be that they are paid. That's the highlighted section of the letter, and that the Mayor will take the necessary actions to prevent the payment so as to not be captured by Act 46.

Is it possible to get a letter like that?

MR. BURRELL: As I say, Councilman, we

will take that request. But I don't imagine that we would have difficulty with providing you with a written response to that.

COUNCILMAN NUTTER: Now, let's talk about Bill 33. This is the millage transfer bill; right?

MR. FEDER: Correct.

COUNCILMAN NUTTER: Mr. Feder, talk to us about small letter I in Section 2 and what it says and small letter double I in Section 2 and what it says.

MR. FEDER: Councilman, Section 2 is designed to deal with a very different and much more technical Act 46 problem, unlike the first one that we just discussed which actually asks for -- where we're asking the General Assembly for substantive relief from the capture provisions. This is simply to allow the technical shift of the $25 million cash payment to become $25 million in millage.

Absent relief from Act 46, if the City were to make $45 million in cash payment to the school district this year and then shift $25 million in millage to the school district next year, under the technical provisions of Act 46 we would be on

the hook for both the full $45 million in cash on an ongoing basis and the --

COUNCILMAN NUTTER: The cash from the '02 payment.

MR. FEDER: Correct.

(continuing) -- and the $25 million from the increase in millage going forward, which would add up to $60 million, which is clearly not the intent of the administration. So what Section 2 does is it says that this millage shift only goes into effect if and when the General Assembly relieves us from that technical what we call double counting problem.

It's the same 25 million whether it's cash or millage. And the intent of Act 46 clearly was not, in our belief, to require us to double count that. And all we're asking for here is the General Assembly to clarify that for us so that we can go ahead with the millage shift.

COUNCILMAN NUTTER: Right. Then this issue was dealt with at a previous hearing, which then generated a February 14th letter from the Solicitor.

The turning point on this is the

certification by the Solicitor to the Chief Clerk of the Council that such relief, either under small letter I or small letter double I, has in fact been granted?

MR. FEDER: I don't recall the February 14th letter, but your statement just now is correct. The City Solicitor would certify that Act 46 has been amended or that the General Assembly has given us the relief that you just described.

COUNCILMAN NUTTER: Let me just ask you this question. Under small double I two, what does the phrase "otherwise granting relief from double counting the City's contribution or tax authorization," what does that mean?

MR. FEDER: What it means is when Bill No. 33 was drafted, we did not know exactly the precise language that the General Assembly would enact. In fact, we still do not know the precise language because the General Assembly hasn't enacted it.

That was designed to capture the intent of the discussion we just had, that the City Solicitor would certify that we have gotten the protection we need in order to avoid double counting

the $25 million both in terms of cash and in terms of millage.

COUNCILMAN NUTTER: And the final question on that issue is, the other issue that was raised was if none of this basically works out or if the Solicitor doesn't provide a certification letter to the chief clerk, the millage rates don't change, we've passed a budget that has certain revenue and expenses in that budget and the estimates that go with it, and then that budget would, in fact, be somewhat out of balance on June 29th.

The question that was raised at that time is or was what happens then? What action would be necessary by this Council or what action needs to be taken by the administration to deal with the fact that you would then have a budget out of balance?

MR. FEDER: I don't think any action would be needed, Councilman. I'm not sure I'd agree with your characterization that the budget would be out of balance. What there would be would be $25 million in unappropriated funds. There would be, in essence, a surplus.

COUNCILMAN NUTTER: Right. But we're required to pass a balanced budget.

MR. FEDER: You're required to pass a budget that does not have a deficit. I would not characterize that as an imbalanced budget.

COUNCILMAN NUTTER: So you're saying no action needs to be taken?

MR. FEDER: Correct.

COUNCILMAN NUTTER: I asked the SRC chairman this question yesterday, and I'd like to ask the two secretaries the same question.

This has generally been characterized as a partnership agreement, and that this partnership agreement is better than the, quote/unquote, hostile take-over. Could either of you describe for us what the difference would be between the apparent partnership and your working on nailing down the actual terms of that agreement versus a hostile take-over as it relates to either the finances, the education, safety and operations of the school district? What would be the difference between those two?

MS. KAHN: I think that obviously we know the situation we're in. So we can't say entirely what all the differences would be. But here are some that certainly come to mind for me.

COUNCILMAN NUTTER: Tell me what your fears were.

MS. KAHN: I think that, first of all, there's a whole question of what the environment would be. From the community standpoint, we know that the community has and continues to be extremely interested and concerned in what will happen in our schools.

They have long been active and vocal about changes that they'd like to see. And certainly there was a level of intensity that occurred last fall that I don't think we had seen for a while. I will be very interested in the public hering that follows this to hear the nature of those comments.

But I do think that there has been -- while there clearly continues to be considerable anxiety and concern and interest and all those things, I have to --

COUNCILMAN NUTTER: Hold on for a second. Wasn't most of that concern being expressed as opposition to a State take-over?

MS. KAHN: It was. And also to Edison Schools and the prospect of managing and all of

that.

COUNCILMAN NUTTER: I don't think we avoided that, did we?

MS. KAHN: I think those actions haven't been taken yet.

COUNCILMAN NUTTER: Well, we didn't avoid the State take-over. The Edison thing remains -- I mean, what we got was the State did take over and Edison's role remains to be seen. I mean, that was the result.

MS. KAHN: That's right. But I think that we have to look at and consider what the Governor's plan was, for example, on October 31st and where we are now and where we may end up. And I think it is a fair assumption that if in fact we had not been able to come to this partnership agreement, that what we would have is pretty much exactly what's written on the however many pages there were in the Governor's plan presented on October 31st.

And that would extend to the extent of the involvement, for example, by Edison Schools, the extent of the involvement in partnership schools and the other educational provisions. There also is the financial aspect of that.

COUNCILMAN NUTTER: Hold on for a second. Your comments -- I'm left with the impression that your perspective is driven by or makes a very serious assumption that the State, somehow on their own, had this enormous interest in taking over the School District of Philadelphia.

Is that your fundamental position and belief?

MS. KAHN: I don't know that they had an enormous interest. I do know that the Governor signed on to a memorandum of understanding that said if we couldn't come to an agreement --

COUNCILMAN NUTTER: Well, who suggested that?

MR. BURRELL: Councilman, let me take you back, though. Let me take you back.

COUNCILMAN NUTTER: My recollection is that the Mayor wanted a memorandum of understanding and that was a component of the memorandum of understanding; isn't that correct?

MR. BURRELL: Let me take you back. To the extent that you articulate that, that is correct. But in the year 2000, in the year 2000 when we went to Harrisburg with the situation where

the school district was about to run out of money and we were going to close the schools, we were going to have to close the schools in April, I guess it was, it was the position of then Governor Ridge that I will not allow the schools to close. If you find yourself in a position where the schools are going to close, that we will take it over. The State will come in and will take it over.

It was that series of discussions, in that series of discussions, I remind you, that we had our first effort at saying the State was going to advance some funds, was going to help us get through the school year, was going to help us open the schools in the following year, and we were going to work in partnership to try to find a solution to the school's crisis between 2000 and 2001.

COUNCILMAN NUTTER: Right.

(Unintelligible. Parties talking over one another.)

MR. BURRELL: But I want to be clear, sir, for the record that the August discussion that led to the memorandum of understanding was not set in a vacuum. It was precipitated by events that took place before that. And the position the Mayor

took is that I am unwilling to vault from year to year with the uncertainty of whether we can keep the schools open or open them in September and we would rather have the State here to run it themselves. That's what precipitated that discussion. It wasn't done in a vacuum.

COUNCILMAN NUTTER: I understand that. But there were also some -- I think in the law you guys call them -- there were also some predicate factors.

MR. BURRELL: I'm sorry. I didn't hear you, sir.

COUNCILMAN NUTTER: I think there were also predicate issues before that, which were the conscious decisions that were made as to whether or not, as you balance every budget, whether revenues were going to be increased or expenses were going to be cut. There was a conscious decision made at a prior point in time that the district was going to be run in a certain way with a certain level of programs and it would run until it either ran out of money or the City or the State or both came up with more funds.

And there were some cuts that were made

during that period of time. But it was a very conscious decision to not do or not take certain actions to get it to that point because there was a belief that the only way you'd ever get the attention of some people in Harrisburg was to pursue that particular strategy; isn't that correct?

MR. BURRELL: The strategy of the administration was that we were always prepared to engage in discussions to negotiate the future of the school district. We were always prepared to make reasonable and responsible cuts. And I think a credit -- I heard this name bandied about a lot yesterday.

But one of the good things that we did was to put Phil Goldsmith in charge of the school district. And much of what I've heard about the cuts and the direction that the district was heading in under Phil's Goldsmith's leadership was the right way. You can argue about the speed of it and the pace of it.

But what we said we were unwilling to do, Councilman, starting two years ago is that we were unwilling to be responsible for making the wholesale cuts in extracurricular activities and

sports programs, in educational programs and many of the things that would have had to have been cut if we, the City, under our own jurisdiction and power, were going to try to balance the budget of the school district without help from the State.

We said to the State, If someone is going to be responsible for making those cuts and raping the school district in that fashion, it was not going to be us and you ought to come down here and you ought to do it.

COUNCILMAN NUTTER: Okay. And then we got to the point where we started running out of money. And then those discussions started with the Governor's office, the result of which was the memorandum of understanding. And as they say, the rest is history.

MR. BURRELL: And I think there are two things that are true. The difference between -- I think there are two simple things that define the difference between where we are today and where we would be in what you have defined as a hostile take-over.

COUNCILMAN NUTTER: Well, I have not defined a hostile take-over.

MR. BURRELL: Or in response to your question what a hostile take-over would look like.

COUNCILMAN NUTTER: That language from yesterday was from Chairman Nevels.

MR. BURRELL: Number one, Edison Schools would be in charge of the Philadelphia School District. There would be 55 different employees or 55 potentially changed employees at the top of the district. Edison would be in charge of all of the decision-making apparatus of the public schools of the City of Philadelphia.

And from a financing perspective, because we would not be in those discussions or part of a partnership, we would be subject to the whim of the General Assembly and the State to take resources away from the City of Philadelphia to help fund public education. We're not going to circumvent the need to put money into that process. We simply decided we were better off to be in a position where we were a part of those discussions and a part of the decision about how the City participated as part of the schools going forward.

COUNCILMAN NUTTER: At least part of the result of which is we're here today trying to make a

decision about something that if we don't do it, the General Assembly will still take action against us in a potentially onerous fashion or take the money in some other fashion. And that is with this partnership.

I mean, we don't need to go back to the $300 million discussion. But you know as well as I do in that in any other circumstance, I mean, that's a whacked transaction. And we have no ability to say no.

MS. KAHN: We couldn't change the entire structure of government with this agreement. And the State is, as the Mayor likes to say, the sovereign. However, in this agreement the treasury is protected because the City's contribution is capped as part of this agreement.

COUNCILMAN NUTTER: And what's the role of Edison Schools?

MS. KAHN: We don't know yet. But what we do know is that part of the decision-making body -- and as I explained earlier this morning, we prevented a situation where in 30 days the interim chair, and not to say that he would have, but could have done that.

And I would also like to add that we have representing the City of Philadelphia two quality School Reform Commission members in the form of Sandra Glenn and Mike Mash, who I think give a lot of comfort to many of the constituents of the public schools, knowing that they are really representing the City's absolute best interests in a variety of ways.

COUNCILMAN NUTTER: That's fine. I don't have any issue with them. They were good on the school board. They'll be good on the SRC. I mean, they are not the issue in this debate.

We've gone from -- yes, Edison does not have all the power and jurisdiction that the Governor's office initially wanted, although they continue to complain about. They've now moved into an unknown status, which for the moment leaves things even murkier than they were before.

And while they won't have 100 percent control, it sounds like, looks like, feels like it'll be somewhere in the 50 to 75 percent. I mean, I can appreciate the effort. But I'm not sure how much has changed.

MR. BURRELL: Councilman, the

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administration has some questions about Edison Schools. We've said that consistently.

COUNCILMAN NUTTER: We all have questions about Edison Schools.

MR. BURRELL: We've been on the record. But the one thing that we have a greater degree of comfort with is that the SRC -- and this is to Jim Nevel's credit, and I want to publicly commend him and the members of the commission -- have taken the time -- what our issue with the Governor in the beginning of these discussions was really wasn't Edison. It was the way in which Edison was getting in, that they weren't subject to public scrutiny, they weren't subject to an evaluation of their capability, they weren't subject to any competitive process.

COUNCILMAN NUTTER: That started with the deal with Governor Ridge. I mean, you sign a deal with somebody, their next step is to hire somebody to tell them what to do.

MR. BURRELL: And we have no --

COUNCILMAN NUTTER: It's obvious they didn't know what to do.

MR. BURRELL: Councilman, you have never

heard us object to Governor Ridge hiring Edison to do the consulting study. That was a decision that Governor Ridge was completely --

COUNCILMAN NUTTER: I understand that. But then you can't be surprised if they want to get the business. I mean, come on. Everybody knew what the deal was.

MR. BURRELL: Councilman, we're not surprised that they wanted to get the business. And we think one of the results of the negotiations that we went through with the Governor was to slow that process down. Everyone believed that Edison would be here in January running the Philadelphia School District even after what we did and negotiated. And I think the SRC has gone through a responsible process.

It is our expectation that out of that process -- and I think Mr. Nevels and members of the commission have said that Edison is going to participate in some way. And the Mayor said from the very beginning, when he stood in a press conference with Governor Schweiker, that he was prepared to have Edison in some responsible fashion in the school district. What he was not prepared

was to have them running the district as the CEO and the top administrators.

COUNCILMAN NUTTER: I understand. But you know as well as I do that you can't really complain too much if you participate in the process that allows the fox in the henhouse and now you're upset that they decide to have a meal.

MR. BURRELL: Councilman, with all due respect, we are not upset. Politics and public service is a contact sport.

COUNCILMAN NUTTER: I understand that. No harm, no foul.

MR. BURRELL: So we are in no way upset that the Governor would support Edison, that Governor Ridge supported them nor that Governor Schweiker would support them. We don't support them. We think we've created a process by which their participation is different than it would have been originally.

We think that the participation is going to be broader than Edison in the consulting services and in the managing of school services. And I believe, and I think this administration believes, that the School Reform Commission deserves a great

deal of credit for acting independently as a body to do that review.

COUNCILMAN NUTTER: We might agree about that.

What is the City's expectation when all of this is said and done, the consultants, the SRC, diminished role for Edison, competition, other groups in, what's the City's expectation out of all this over the next five or ten years? What can parents and citizens and taxpayers and the children of this City expect to see based on the deal that's been negotiated?

MR. BURRELL: I believe that the Mayor has I think regularly and routinely articulated his vision for public education. And it is to create a quality opportunity both with preschool programs and after school programs and smaller class sizes and core curriculums that give young people an opportunity to learn, creating safe environments, having trained teachers. They're the things that make Philadelphia a first-rate public school system, whether it's an urban center, rural center or suburban center. We believe that for the first time, for the first time all of the relevant players

are in a discussion about that end.

Now, can we commit or promise that we're going to get to the end that we would like to see? I don't think we can. But I think for the first time the Mayor has created an environment where all of the relevant players are talking about how do you fix the public school problem in the City of Philadelphia, not pointing fingers and saying it's the Democrats down there in Philadelphia and they don't know what to do or how to handle it, it's the Republicans in Harrisburg that don't care about it and are not responsive to it.

People are sitting and have responsible discussions about how we get at the crisis of education in the City of Philadelphia, not just the money, but the product of the school system also.

COUNCILMAN KENNEY: I'm wondering if the Secretary of External Affairs could list those relevant players. I'd be interested in knowing who the administration believes are relevant players in this process.

MR. BURRELL: For this purpose, it is the leadership of the General Assembly, the Governor, the Mayor --

COUNCILMAN KENNEY: Who in the leadership in the General Assembly?

MR. BURRELL: I don't want to get into specific names. We have spoken to the leadership of the General Assembly.

COUNCILMAN KENNEY: Well, if you've spoken to them, can you tell us who they are? It's simple names.

MR. BURRELL: With all due respect, I'm not going to get into names.

COUNCILMAN KENNEY: There's four in the House and four in the Senate.

MR. BURRELL: I'm not going to get into discussions about --

COUNCILMAN KENNEY: So you can't name them or you won't name them?

MR. BURRELL: I think you know who the leadership is.

COUNCILMAN KENNEY: I'm asking for a list. That's all.

MR. BURRELL: We have talked to the leadership of the General Assembly, we've talked to the Governor, and I believe that they are all in responsible discussion about this issue.

COUNCILMAN KENNEY: So either you won't given them to me for you don't know who they are?

MR. BURRELL: Councilman, we have talked to the leadership of the Republicans and we've talked to the leadership of the Democrats about the issue of education. And we will continue to talk them and we will continue to try to resolve --

COUNCILMAN KENNEY: How often do those conversations take place? How often have they taken place in the past?

MR. BURRELL: I'm not going to try to recall how many times that we have gone to Harrisburg or that the people that represent us have been in Harrisburg talking with leaders on these issues. It's impossible for me to recall all of that. I'll simply say for the record that we are in recurring discussions with leadership on these issues.

COUNCILMAN KENNEY: On the issues of class size and the issues of curriculum, all those issues?

MR. BURRELL: On the issues of articulating the Mayor's vision. The Mayor has articulated his vision --

COUNCILMAN KENNEY: He hasn't articulated that vision to us. I don't know how he's articulating to anybody else.

Who is it that you've talked to?

MR. BURRELL: We've talked to -- Councilman, my answer is --

COUNCILMAN KENNEY: If you want to think about it and give it to me in writing, I'll wait until later.

MR. BURRELL: I'll be happy to have private discussions with you.

COUNCILMAN KENNEY: That's all right. I withdraw the point of information. Apparently, it's not going to be answered. So I withdraw it.

COUNCILMAN ORTIZ: I object.

COUNCIL PRESIDENT VERNA: Let's not shout at each other. Ask to be recognized.

COUNCILMAN ORTIZ: I do believe that it is relevant, Mr. Secretary, that while we're considering all of these millions of dollars of debt that we're going to be incurring, that we, as a legislative body and I think the public, should know what conversations are taking place, what are the levels and what commitments are going on because

everything we hear from the leadership that you're talking about in Harrisburg is about the lack of communication that is presently happening, that there is no conversations. And if there are conversations, I think it would be relevant for this body to know what they are and I think it's relevant for the public to know.

I mean, government by secrecy, especially when you're talking about 214,0000 kids and you're talking about the most monumental change in public education in the history of this country, I don't think that should be acceptable. I think there should be a public discourse and a public debate that has to take place in the public.

If we're going to win in Harrisburg, the only way we're going to win is if you engage the people and you engage the parents. And if you don't engage those individuals, those stakeholders, we're not going to win. And you're not going to engage them by not being forthright about who we're talking to in the leadership and what conversations and what is their response. Thank you, Madam Chair.

COUNCIL PRESIDENT VERNA: You're welcome. Councilman Nutter.

COUNCILMAN NUTTER: Thank you, Madam Chair.

Secretary Burrell, the start of your response was that the Mayor had articulated his views on education and you ticked off some of those items. I did also need to ask, from your perspective, where have those articulations taken place? In what forum has the Mayor laid out to the general public or to City Council what his views are on education, what his concerns are, what his commitments are -- I'm not questioning his commitment; I know he's committed -- and what his goals are as it relates to not only the current situation, whether it's the funding problem in general or the short to medium term, as you would indicate, funding solution in front of us?

But I'm actually talking about more of a view and a vision of what public education can be, what it should be, and what the goal is over the next four, five, eight, ten years that this City should be trying to attain from its standards and an educational excellence standpoint.

MR. BURRELL: And that is because she spends a lot more time with it than I do that

Secretary Kahn can answer more in greater detail.

But going back to from the time that the Mayor has appointed under -- when we came into office and within the first three and a half months of this administration, appointed a new school board. I think at the time that he appointed the new school board, made a public statement about the direction and the encouragement and the objectives that that school board was trying to achieve.

I think simply in the fact of appointing Debra Kahn as Secretary of Public Education, a job that had not previously existed in government, signaled his commitment to trying to address those issues. In his inaugural address when he said that that was the year of the child and we've made it the year of the child in every year since then, spoke to what his goals and objectives were for education.

From the beginning of putting together a plan for how we thought that you could resolve the fiscal crisis, a part of that plan is not just the financial objectives of the administration in terms of how to solve that plan. It put together how to change the business practices at the school district to make it run more efficiently and set forth what

the objectives were with respect to school size and other educational issues that were there.

It has been the subject of probably four or five of the weekly radio messages that the Mayor gives on KYW every week. I think it's been the subject of -- I know it's been the subject of at least of briefings that we've held with council members in which we've used the briefing document of our plan of how to solve that crisis.

And so I think that it is an issue that the Mayor has spoken about repeatedly, publicly privately since he has been in office, and has said that among the highest priorities of this administration is dealing with the issues of children and their future and I think tried to lay out what he would like to see that be.

COUNCILMAN NUTTER: Let me mention a couple things. My recollection of the start of our time together is that we were sworn in on a Monday in January of 2000. You may also recall that it was this City Council in 1999 that changed the City Charter that allowed the Mayor for the first time in the history of the City to appoint a school board almost immediately upon the Mayor being sworn in.

That power had not existed before. And this City Council took that action so that the Mayor would have that authority.

We were sworn in on a Monday. My recollection is, is that the Mayor had a press availability the next day on Tuesday and did announce that he was going to be the education Mayor. The parties I remember being around were at least the Mayor, Mr. Ramos, Ms. Rush and possibly Ms. Kahn. There was press availability.

The next day on Wednesday, I believe the Mayor announced that he was in support of new stadiums. And for the rest of the year 2000, we pretty much spent all of our time working on the practice facility transaction and the two new stadiums. I don't recall much discussion about education during the course of that year.

Second, with regard to the informational briefings -- and I have attended many of them -- to be honest with you, generally, the informational briefings are neither. They are generally not informational. They are usually a recap of stories that have been in the newspaper for the past week or so, and often unfortunately they are not brief.

I guess what I'm asking is should there be a forum in which the Mayor does lay out -- and I don't know how many people listen to the KYW weekly addresses. I think they're about five minutes in nature, which for any topic or certainly for any Mayor they're good to do. I mean, it's hard to communicate a whole lot in five minutes. And I think you don't necessarily know which week there's going to be a discussion about education.

But my recollection is that the Mayor did come and testify in these council chambers back on Thursday, November 30th about the stadium transactions. Came to this chamber, sat at the table, made an opening statement, I think answered some questions and talked about stadiums.

I do not have a recollection that the Mayor has ever, in City Council, talked about his views and his vision for education. And I guess under the circumstance, given where we are with all of the matters in front of us, it would probably be helpful at this point in time to hear from him directly about these kinds of issue, given all that happened last summer, what happened back in December, where we are now and what we are

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continuing to go through in terms of the SRC, the future of Edison, not Edison, other players, EMO's, providers, lead providers, charters, community partnership schools and the like. I mean, I think that that might be under the circumstances a great forum for the Mayor to have a full-blown, no time limit talk about public education.

When you say that we took advantage of the charter change to appoint the school board, there was another component to that charter change which has never been adhered to, which is that the Mayor, the Board of Education, who we now know whose powers have been suspended, and this City Council, according to that charter change, are required to meet twice a year in public to talk about public education. That has never happened.

There has never been a meeting even before the SRC became an entity. There has never been a meeting of the Mayor, the school board and the City Council to talk about public education in all of my time here.

MR. BURRELL: Let me go back to the first year of the administration. Number one, I was not a part of the administration in January. I

didn't join the administration until February.

COUNCILMAN NUTTER: We were glad when you got here.

MR. BURRELL: Much of the discussions in the first year of that administration were around the finances and trying to work out relationships in Harrisburg, and they came up a little bit in I guess April of that year in the budget discussions.

In terms of the Mayor's public interaction on the issue of education, I would say two things. Number one, let's not forget that he went to every one of the clusters in the very first several weeks of the administration, and each cluster district, held a public meeting with the cluster leaders, with the school board, with the community, open to all comers, anybody for unlimited time, with no time limit.

COUNCILMAN NUTTER: What was the result of that process?

MR. BURRELL: I would encourage the Mayor to have a meeting with this council, to have discussions about where we are with respect to education.

I would, though, remind you that if you

would go back to the Mayor's budget address in this council, that you will find a considerable discussion about the issue of public education, what our priorities are and what the funding mechanism is for this deal that is currently before all of us as we consider it.

And that's not to say that there's not opportunity and room for more discussion and more involvement. But I would say that in that budget message the Mayor did spend a considerable amount of time talking about the issue of public education.

COUNCILMAN NUTTER: In the 23 pages of the speech, yes, there was a lot of discussion about public education. But let's try to keep all of that in context.

I think the speech was on January 29th, January 28th, somewhere in that neighborhood. The SRC became a realty on December 21st. And within month, or slightly more than a month actually, the Mayor has got to deliver a budget message about an incredible event that has taken place in the City.

I know that the Mayor cares about public education. Again, I am not in any way, shape or form questioning that. That is not the issue.

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I would expect in a budget speech that there would be a lot of discussion about the school situation. It is new. It is live. There was a lot of consternation, if not protest, and people being upset about that particular issue. But you know as well as I do from all of your government experience, a budget address is just that. It is a budget address. It's not an interactive discussion.

It is an address. You sit, you listen to it, the speech is made. The applause is given, end of discussion. That is not an engagement with the public, from my perspective, solely about public education. It's a budget speech. And the schools were a discussion as a part of that.

But let me mention this to you, and one of the reasons I raise this. Now, different city, different mayor, different circumstance.

On March 1, 2002, in New York City, Mayor Michael Bloomberg gave testimony before the City Council Education Committee. And he had it seems like a relatively long speech and he took questions. But one of the things that he talked about which struck me in his speech, after thanking everyone and pleased to be there to come and testify

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at a public hearing that the committee was holding -- but these are some excerpts from his speech talking about governance and structure.

"The root of the problem is in the system, the way it is structured, organized and managed. The ultimate goal, enhanced student learning, can be achieved only when each of these factors are in alignment. The best way to achieve this goal is to abolish the Board of Education and give the Mayor control of the school system.

"Retaining the board and adding additional appointees will not accomplish the designed change. It would serve only to bring more cooks into an already overcrowded kitchen, increasing expenditures and advocating so many different alternatives that nothing would get changed. The resulting pretense of progress without substantive reform would be too cruel a hoax to play on our children and parents in their time of need.

"We need a direct line of accountability and a single empowered voice to give meaningful improvements. And the Mayor must have sole control over the appointment of the school's chancellor, with the chancellor reporting directly to the Mayor

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the way all current city commissioners charged with delivering services to the public do.

"While some have proposed various systems of nomination and/or approval, none of these systems would serve to provide the direct authority and responsibility so necessary to fix a system universally agreed to be broken. If democracy can be trusted to provide us with public safety, social services and economic development, how can we responsibly condemn our children to something less?"

We see the case evolving in New York. The mayor is seeking more responsibility, more accountability. We know about the Chicago story where the mayor went in partnership with the state legislature, which was also Republican -- it may still be at that time -- and crafted a deal where the mayor took responsibility for the schools in the City of Chicago. Most other systems are moving in that particular direction.

All I'm trying to encourage you to do is as you are developing these partnerships with the State and enhancing your relationship with the state legislature, it would be helpful, if not appropriate, to hear from the Mayor directly as to

what his view is, what his vision is and what his goals are for public education in this City, with this body and with the public here who will ultimately either pay for it or have their children subject to it.

MR. BURRELL: Councilman, I will take your request back to the Mayor. But I would, just so we're clear on the record, be very clear that I think that even though it was a part of the budget process and it's been a part of the other processes where the Mayor is making a public statement, the Mayor has very clearly articulated his vision of public education, what his goals are, what his objectives are and what the ends are that he would like to achieve.

Now, to the extent that we can create different forums or different environments for that discussion, I will raise that with the Mayor and get back to you. But I don't want it suggested that I agree that the Mayor has not publicly stated what his priorities are with respect to public education.

I don't know and I haven't looked at the New York situation. I don't know anything about the New York situation. I don't know that it is our

objective to try to unilaterally bring the authority for public education into the Mayor's office.

COUNCILMAN NUTTER: I only mention that as something else that's going on somewhere else. I'm not asking you to do a research project on the New York situation. I'm sure it's very different than ours.

The larger issue -- and I don't want this to get lost -- is that in different places, in big cities, mayors are trying to get a better handle and a better control on what's going on in their situation and take that line of accountability upon themselves.

With regard to the other forums, again, the Mayor does take advantage of many opportunities to have discussion in a variety of places about education. The only issue I would raise with you is at times it is driven more by either the crisis of the moment, a deal that's on the table or kind of general positions that all of us would agree on.

Of course, we want kids to learn. Sure, we'd love smaller class size. We'd like them all to have all the books and tools and resources that they need. We can all agree on that. Those generalities

don't get down to the specific of how you make it happen and what you're going to do to make those things happen.

And I guess all I'm suggesting to you is -- I mean, I read the newspapers and watch TV and listen to the radio as much as the next person. It is not crystal clear, not just to myself -- I don't need to have it crystal clear for me. But I'm left with the impression from my constituents it is not crystal clear what the goal and the game plan here is because in many instances the goal and the game plan is being done in a more private setting in circumstances and situations.

You may have the greatest plan and objectives known to mankind. The problem is very few people know what they are.

MR. BURRELL: And with all due respect, we will respectfully disagree with respect to that, Councilman. We have begun this process and we've spent an extraordinary amount of time with people in this process and we have worked day in and day out. Secretary Kahn, the Board of Education have worked day in and day out in Harrisburg, in Philadelphia, trying to craft what they thought was a responsible

solution. We proffered that solution in Harrisburg last year. Governor Ridge didn't embrace it, didn't support it. We worked through --

COUNCILMAN NUTTER: Mr. Secretary, I'm not talking about political people.

MR. BURRELL: With all due respect, sir, let me respond.

COUNCILMAN NUTTER: I'm not talking about political people, Mr. Secretary. You're not going to find a Philadelphian in Harrisburg.

MR. BURRELL: I think that we have briefed public constituencies repeatedly on this issue, with all due respect, Councilman. We've had numbers of public constituencies in the Mayor's office over and over on this issue over the last two and a half years.

We did not reach the point of saying to Governor Ridge that either you give us the money that is necessary to run the school system or you take it over or let's do a partnership lightly. What became clear to us -- and we are open to any discussion or ideas or thoughts that people have. But what became clear to us, that the state was not going to provide the resources to the City without

greater participation in the decision-making on public education in the City of Philadelphia.

COUNCILMAN NUTTER: Mr. Secretary, I am not debating with you the actions in this part of the conversation. I'm not debating with you the actions that you took. I'm not asking you to justify what you did or what you didn't do. We are obviously talking right past each other.

I am talking about people who live in Philadelphia, have kids in school or pay taxes for this system, many of whom have no idea what your game plan is and what you're trying to accomplish. That's all I'm talking about.

MR. BURRELL: And I respectfully disagree with you.

COUNCILMAN NUTTER: Well, we're just going to have a disagreement.

MR. BURRELL: We're not talking past one another. We disagree on that subject.

COUNCILMAN NUTTER: Have you been to a home school association meeting recently?

MR. BURRELL: I have not been to home school association meeting.

COUNCILMAN NUTTER: Well, I have. I

have. And I can tell you that many of the parents at that particular home school association have no idea what the game plan is. And I think they actually read, pay attention to what's going on, have been participants in the process. They do not understand what the goal is.

I'm not questioning motivation. I'm not asking you to refute actions that were taken. If you believe that those actions were necessary to forestall whatever cataclysmic events may have taken place, I understand that. We can disagree about some of the details.

I am now talking about communication with the public and people who have children in schools trying to understand, as it all filters down, what does it mean to me or my child for the school that they are presently attending, what is this all about, what are those people trying to do.

Now, your position is you have communicated at a level that everyone should know what the story is. Is that your position?

MR. BURRELL: My position, Councilman, is that we have communicated routinely and regularly and continue to do that. This is a changing

situation that no one can today, not I and no one else can say precisely what's going to happen. But I think we've tried to communicate our objectives clearly.

We are sensitive to the needs of parents and people who rely upon the public school system. It has been the foundation of every decision that we've tried to make in the last two and a half years. We have made no decision that we did not think -- and I've heard this repeatedly here today. We've never made a decision in this case that we thought was in the Mayor's political interest. We have made decisions on this issue, on the issue of public education day in and day out.

It is an issue we have lived with from the very first day of the administration. And every single decision has been made trying to improve the opportunity for people who rely upon that district in this City. And we will continue to do that.

We will continue to reach out to people. We will continue to involve people in that discussion. And if we're not getting our message out broadly enough, as you describe it, we will try to get that message out more broadly to the people

who rely upon public education in the City of Philadelphia because there is no higher priority for this administration.

COUNCILMAN NUTTER: Thank you. I appreciate that. Thank you, Madam Chair.

COUNCIL PRESIDENT VERNA: You're welcome. The Chair recognizes Councilman Kenney.

COUNCILMAN KENNEY: Thank you, Madam President. I'm glad to see that this is such an apolitical administration. I feel much better.

Council awhile ago appropriated $342 million for stadiums in Philadelphia, both for the construction of two new facilities and renovation of the Vet. And through that process, which was a grueling process -- I'm sure everybody who remembers it or wants to forget it will recall what a grueling process it was. And it was a relatively lengthy process.

And through that process there were term sheets available, subleases. There was information for us to read, albeit it wasn't all the information we would have wanted, but there was still a substantial amount of information.

What we're being asked here today to do

is to approve or authorize a $300 million borrowing or to set up the mechanism to allow that borrowing to happen without one sheet of paper explaining what the plan is going forward.

How does the administration expect us, based on just past experiences with such investments like stadiums, to do this today, which is what they're asking us to do, without one sheet of paper other than the testimony that has been provided by the witnesses?

COUNCILMAN ORTIZ: They got nine votes.

MR. BURRELL: Councilman, we have tried to be responsive on every issue that this council has to consider. It is one that we continue to work on. It is one that everyone agrees, the Governor, the Mayor, results in a drive towards solving in the short run and then to work on a longer term solution to the funding crisis of public education.

This deal has been presented we think as clearly as it can be presented in terms of its urgency and importance to the children of this City and to the ability to borrow the $300 million in a timely manner for the school district, and as incentive for the General Assembly to move the

legislation next week and thereafter the $75 million bill.

COUNCILMAN KENNEY: You've sat in maybe not this chair but one of these chairs.

MR. BURRELL: That one over there (indicating).

COUNCILMAN KENNEY: Would you have accepted the same level of information or lack of information from any preceding mayor and would have voted readily for such an investment of $300 million other 30 years?

I recall that you were, I know, a very serious legislator at the time and are still a serious person. Would you expect to have sat here and to cast a vote in favor of encumbering us with that kind of debt without one sheet of paper?

MR. BURRELL: Councilman, I will try to answer this as cautiously as I can and as accurately as I can. It is the responsibility of every legislator to try to have as much information as they can possibly have on the issues that are before them. But at some point in time we reach a point where we have to exercise a judgment. And then quite candidly, you have to decide whether you have

enough information to exercise that judgment or not.

It is one that, as a member of this body, a body that I have a tremendous amount of respect for, that I tried to exercise seriously in instances when I was in the majority and equally seriously when I was in the minority. Unfortunately, much of the time I was here I was in the minority.

COUNCILMAN KENNEY: I know how you feel.

(Laughter.)

COUNCILMAN KENNEY: The $75 million that we're requesting from or we anticipate coming from the Commonwealth, is that a recurring $75 million? Is that in perpetuity?

MR. BURRELL: Well, it is in the structure of the agreement that we have reached with the Governor, and what we hope that the General Assembly will agree with, that the $75 million is a recurring $75 million. But it is a recurring $75 million that the General Assembly will have to appropriate every year in the same way that we'll have to appropriate the $45 million here.

COUNCILMAN KENNEY: Not exactly the same way because our $45 million --

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MR. BURRELL: Well, the $25 million becomes millage. The $20 million.

COUNCILMAN KENNEY: So it's 20. From what my reading of this is, is that if we get the amendment relief on the 2002 45 million, we're still going to have a $20 million grant plus a $45 million millage adjustment.

MR. BURRELL: Correct.

MS. KAHN: Correct.

COUNCILMAN KENNEY: You're making a $45 million in perpetuity commitment that the legislature isn't necessarily making. Even if they give us the first year, there's no guarantee on the second, as opposed to ours where we're required under Act 46 to do so.

MR. BURRELL: That is correct. The $75 million relies upon the General Assembly appropriating it annually.

COUNCILMAN KENNEY: Let me walk you through one worst case scenario, or maybe there's a number of them. We pass the 2002 45 million --

MR. BURRELL: I'm sorry, Councilman. I didn't hear you.

COUNCILMAN KENNEY: I'm sorry. I would

like to walk you through one of the potential worst case scenarios. Maybe there's a number of them, but this is the one that I'd like you to comment on.

We pass the 2002 $45 million appropriation that the Mayor committed to that we had passed last year and was vetoed. We also pass the $20 million grant and millage adjustment, for another 45 million, and the State does not come up with their 75 million for whatever political reasons exist. What happens?

MR. BURRELL: In terms of reaching an agreement with the State to put up $75 million, it is this appropriation cycle that will be the first time that they are asked to do that.

COUNCILMAN KENNEY: Say, June comes and goes and it's not there.

MR. BURRELL: There is a certain level of commitment. And this is not said to encourage any action in any other quarters. There is a certain level of commitment that the administration believes that the City is responsible to support the school district at. And that conceivably is the $45 million that we're prepared to put forward.

Some have argued that we should be

prepared to give even more. But we think that that potentially -- that $45 million is a risk that we are willing to assume, not on the assumption that the General Assembly and the State will not act. But we think it is a risk that if they didn't, that we would be supportive of continuing to give.

COUNCILMAN KENNEY: Perhaps Mr. Doosey could give me the ramifications of what happens if the $75 million from the Commonwealth requested for next fiscal year doesn't arrive.

MS. KAHN: While he comes up to clarify that, for the 2002 appropriation, again, if the exemption is provided -- and the City would like to be in the position to be able to provide those dollars to the school district as soon as possible -- nothing would happen and that really is not tied to the 75 million.

COUNCILMAN KENNEY: What's the effect of the loss or the lack of acquiring the 75 million?

MR. DOOSEY: The nonreceipt of the 75 -- I'm sorry. Jim Doosey, CFO, School District of Philadelphia.

The nonreceipt of the $75 million would merely increase the deficit and shorten the time

frame to less than two years, assuming you get the $300 million in deficit financing. It just increases the deficit.

COUNCILMAN KENNEY: When does the end come then?

MR. DOOSEY: Well, the school district budget overall for the operating budget is 1.5 billion a year. So it would probably shorten it up by about three weeks.

COUNCILMAN KENNEY: Shorten what up by three weeks?

MR. DOOSEY: Lack of receipt of $75 million -- I testified yesterday that even with the receipt of $300 million, we would be in a deficit position again sometime at the end of the '04 fiscal year or beginning of '05 fiscal year. And nonreceipt of $75 million would just bring that time frame into the '04 fiscal year.

COUNCILMAN KENNEY: So if we borrow the 300 million and put up the 45 and the State does nothing, when would we be in a position not to be able to open the schools?

MR. DOOSEY: We would be in a position not to open --

COUNCILMAN KENNEY: Or close them.

MR. DOOSEY: You would have to close the schools sometime during the '04 fiscal year.

COUNCILMAN KENNEY: So the City is willing at this point to still proceed down that path of $45 million approval, $20 million grant, $25 million millage adjustment, $300 million borrowing even though we don't though whether the 75 million is coming, and if doesn't come, we're still going to proceed?

MR. BURRELL: Yes. We are prepared to and are asking council to approve the legislation before it to begin us in that process. We believe we'll get a relatively early indication of where the General Assembly is by the legislation that would empower the district to do the deficit borrowing and provide some of the exemptions that would have to be offered in the General Assembly probably next week to be able to get done.

COUNCILMAN KENNEY: I would disagree that that is any indicator of any commitment, and I'll tell you why.

If you're asking me, as a legislator, to give you approval to go into $300 million in debt,

that really is of no issue to me because I'm not paying the freight. So any amendment allowing for a 30-year borrowing is no, to me, any indication that the State or the legislature has committed the 75 million because they'll say borrow away, kill yourself. They don't really care because it doesn't affect them.

MR. BURRELL: I would disagree. And I do believe -- and as I said, at some point in time you have to exercise a judgment about where you think you have the potential to succeed and where you have the potential to come out.

I believe that the Governor and the General Assembly understand that this issue is squarely before them now, and if you don't solve it, whether we take this bridge, whether you believe this bridge gets us three years or five years, if you don't take this bridge, it will be squarely before them next year and it will be before them the year after that.

I think there is a realization and a reckoning in the General Assembly that this is an issue that we have to confront, and I think that the leadership is preparing to confront it now. And

that's a judgment that we're exercising and one that we're relying upon in asking us to move forward on the $45 million.

COUNCILMAN KENNEY: But the potential exists for us to move ahead on the 45 plus what amounts to 45 without any commitment or any definitive answer that we're definitely going to get the 75. So we're still going to proceed in spending and indebting the taxpayer of Philadelphia while at the same time not knowing for sure or having any ability to control the process on the State coming up with their end initially and in solving the long-term problem moving forward.

What is the motivating factor -- what I'm trying to get at, what is the motivating factor for the state legislature of Pennsylvania to fix Philadelphia's problem?

MR. BURRELL: Because at some point in time there is a constitutional requirement on the State to provide a thorough and efficient education in the Commonwealth of Pennsylvania. And I believe that the Governor has stepped forward, Governor Ridge before Governor Schweiker. Governor Schweiker has stepped forward and said that we must do

something about education in Philadelphia.

We have a Republican Governor, albeit it one who's going to go out of office at the end of the year, a Republican Governor who has asked the legislature to provide the $75 million necessary for the City of Philadelphia to get this bridge to the future for public education. We believe that there is going to be a genuine and serious effort and a successful effort to get that done.

COUNCILMAN KENNEY: The cynic would argue that this bridge is a bridge for the Governor to get out of office prior to it falling apart on his lap and having a new governor, whether that be a Republican or a Democrat, having to deal with that going forward, with basically the same set of players in leadership in the House and Senate that are there now.

MR. BURRELL: I don't want to speak for the Governor. But I've spent a fair amount of time with him and with the members of his administration. And I believe that although we disagree with some of his conclusions in the study that he completed and the plan that he put forward, I think that the Governor legitimately, as the current Governor and

from a historical perspective, believes that this is an important piece of work. And I think that he's dedicated to it, he's committed to it.

And I don't think it's just because there would have been easier things for him to do, Councilman, to just get out of office. He could have advanced us a little bit of money, kind of skated through it and gotten out of office without having to go through this whole process and do a study and present to the public his plan for how to do you fix the public school crisis in the City of Philadelphia.

I think there are a lot easier and better ways for him if he simply wanted to skate out of office than the process we're currently going through.

COUNCILMAN KENNEY: He could have stepped right in and taken over and not negotiated anything with the City and come in and did that. It would be even a more direct way to begin the process of reform as opposed to this extrapolated process of negotiation and this so-called partnership, which some people believe exists, some people believe doesn't.

MR. BURRELL: I do not believe that they believe that is accurate, Councilman. I do not think that they believe -- there is no question that they have the power to take over. But I don't think that they believe that they have the power to create an environment in which they could effectively govern the school district of the City of Philadelphia, given the organized constituencies that are concerned about and involved in public education. And I do believe that the Governor acted in good faith and is acting in good faith in wanting to try to solve this problem.

COUNCILMAN KENNEY: The second 45, the $25 million millage adjustment, the $20 million grant. The $25 million millage adjustment is going to this deficit financing of 300 million.

Is there anything that prohibits or precludes the additional 20 million in perpetuity from being used for additional deficit financing?

For example, we borrow $300 million. We get the 45. The State, say, they give us the 75. We take the 25 millage adjustment and borrow 300 million. Is there anything to keep that other $20 million from being used to incur additional debt?

MR. BURRELL: It becomes a commingled part of the general revenue of the school district so that it would be -- again, I don't want to speak for the School Reform Commission. But that $20 million, once granted to the school district, becomes an undivided part of the whole. So it could be used for any number of things, one of which could be some sort of debt service.

COUNCILMAN KENNEY: So it potentially represents another 250 or 260 million dollars or so in additional debt?

MR. BURRELL: You could look at it that way. But as I say, it becomes an undivided part of the whole and becomes the School Reform Commission's responsibility to fashion that budget and to bring that budget to the council each year and take a look at it and talk about it.

COUNCILMAN KENNEY: But, I mean, it also provides a $20 million -- a perpetual debt service for additional debt.

MR. BURRELL: Again, that's a question about the intentions with respect to debt service, additional debt and future debt, that should go to the School Reform Commission. There is not

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currently, to my knowledge, any intent to do any deficit financing beyond the $300 million that's on the table.

COUNCILMAN KENNEY: I'm not suggesting there's any current intent to do it. But the potential is there. And would this not potentially be, as we go down the road, another ability to delay true reform?

I mean, we're looking to use the $300 million for the $25 million debt service to get the bridge to reform. Perhaps the bridge gets a little longer with the additional $20 million in debt service in perpetuity.

MS. KAHN: I think that we would need to ask the School Reform Commission to speak to its concerns and any constraints that it has about its ability to borrow. I don't think that it's an unlimited ability.

COUNCILMAN KENNEY: Well, as long as you have the debt service that's guaranteed, you can borrow up to whatever it will bring.

MS. KAHN: But that's also to say they could look at any of their existing revenues anyway -- it doesn't need to be this 20 million --

and fashion any kind of borrowing.

COUNCILMAN KENNEY: Well, it's 20 million in new money that they weren't getting. And at issue relative to the ability to continue to delay the process of true reform, there's another $250 million which gets you another three years, three and a half years you can continue down that road, I guess, without any true resolution because we are, as the city taxpayer, providing that additional opportunity for debt service to continue to expand or extrapolate this process of reform.

See, let me go back to the original. I honestly believe that without everyone involved who is elected facing the potential of being defeated unless they fix the problem, it won't get fixed. All intentions, all good intentions, all wonderful vision, all that kind of stuff. If it comes between you, your reelection and fixing the problem, you'll fix the problem.

If it comes down to you, your reelection and delaying that problem, whether you're a House member, a Mayor, a Governor, or at council member, the propensity for that process to be delayed is there because you have breathing room. And as long

as you continue to have breathing room, whether it's a $300 million breathing or it's an additional 250 based on more money we can borrow breathing room, they'll continue to breathe as best they can. When the air gets cut off, that's when they actually move to get something done.

MR. BURRELL: Councilman, let me say that I, for the record, genuinely believe that what you are saying is what are legitimate questions to be considered in the process of making this decision. At some point in time, as I've said, and I've repeated myself a little bit today, we have tried to take the measure of the people in this process, and we believe that people are operating in good faith and that they want to get this done.

And I hope I don't sound too naive in saying it. I understand that we're functioning in a political environment. I understand that there are issues that are going to come into those discussions that are unforeseen today that will complicate getting to the end of the road. But I believe, as we discovered working through this with the Governor's people, that if you are, in fact, trying to get to the same end, you can find a way to get

there.

I believe that's the case here, if everybody is working toward the same end. And today I believe that everybody is. Could that change next week? Could that change? Absolutely, in a political environment it's capable of change. But we have to exercise the best judgment we can at the moment about what's the best thing to do.

We believe at this moment, with all of the information, all of the understanding of the political environment that we're functioning in, that the best options are the ones that we're putting forward with respect to what we're asking this council to do and what we're looking to the General Assembly and the Governor to do.

COUNCILMAN KENNEY: And from my perspective, if the bridge could be built with a one-time $75 million contribution from each side, I'd vote on it yesterday. The problem is that this bridge gets built with $750 million in 30-year debt.

When you come to a decision to trust people or to believe that they're going to work in the best interest of kids, I have a lot of poor faith if I'm only spending $75 million one time and

$750 million over 30 years. And that's where the rub comes.

I would vote for the 2002 $45 million appropriation that the Mayor committed to. I'd vote to make that $75 million if necessary. Where I get really queasy and really concerned is that I'm asked to commitment to 30 years of debt, a $750 million price tag with no real clear understanding that this problem is going to get solved.

And that's I guess where my fiduciary responsibility, my elected responsibility comes down, and I'll make that decision accordingly. And I appreciate your position and I don't deny that you're working in good faith. I don't think that you're sitting here lying to us.

MS. KAHN: No.

COUNCILMAN KENNEY: I just get worried that when certain statements are made about what we anticipate the legislature to do that I've seen in the face of 25 years in this business not happen. And when $750 million is on the line, I've got real serious concerns.

MR. BURRELL: And just for the record -- and I appreciate your hypothetical. I mean, if we

thought there were a way to do this where the City could afford to put up $75 million and the General Assembly put up $75 million, it would be something that I think we would consider.

(Unintelligible. Parties talking over one another.)

MR. BURRELL: With all due respect, Councilman, there is a genuine view that I have listened to the finance director in this administration and the budget director over and over tell us that the ability to do the kind of numbers that we are doing now put us at serious risk that, as you grow those numbers, it just compounds that problem. That's what we legitimately believe.

COUNCILMAN KENNEY: But the 70 or 75 million dollar potential is still there. I mean, if we don't get the amendment relief on the one-time contribution and you add the 45 to the 25 that we're being asked to do in the millage, I mean, we're in the $75 million perpetuity range as it is.

MR. BURRELL: I think we've consistently said we will not do the 45 without the protection.

COUNCILMAN KENNEY: Thank you, Madam President.

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COUNCIL PRESIDENT VERNA: You're welcome.

Are there any other questions or comments from members of the committee? Thank you both very much.

MS. KAHN: Thank you.

MR. BURRELL: Madam President, thank you very much.

Could I just leave with -- since we may or may not get a chance to come back again, we do believe, and we appreciate all the time, but that it is very important that the legislation that is before the council be considered. We would hope that it could get reported out.

It is the thing that starts this train down the road so that the legislature can vote next week to give us the protections that we need on the one-time $45 million and to authorize the deficit borrowing.

There are some time lines that the SRC is bound by -- and they can speak to those -- about how much time they need to actually be able to do the deficit borrowing, collect the proceeds, and be able to avoid running out of cash over at the school

district.

So that I appreciate all of the questions that council members have asked today. And in the somewhat not uncertain but not totally known future that we're going to function in, that we believe that if we take these steps here in the City that we will send a signal to Harrisburg that the legislation we need next week will be approved and we do believe that we'll get the $75 million. So we appreciate your time.

COUNCIL PRESIDENT VERNA: Thank you. The committee will stand in recess for five minutes before we hear testimony from the public.

(Brief recess.)

COUNCIL PRESIDENT VERNA: Can I have everybody's attention, please. The Committee is now back in session.

It is my understanding that we have two groups of students that are present that would like to testify and I understand their tokens run out at 7 o'clock. So at this point in time we will recognize Councilman Nutter, who I believe still has some questions.

Is Mr. Doosey here?

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(Mr. Doosey came forward.)

COUNCIL PRESIDENT VERNA: Councilman Nutter, do you want to be recognized?

COUNCILMAN NUTTER: Yes. Thank you, Madam Chair.

Mr. Doosey, I need to ask you a couple technical questions with regard to why don't we call it the schedule. Today is -- what is today? March 20th?

MR. DOOSEY: Yes.

COUNCILMAN NUTTER: It was my understanding that there's been some discussion back and forth earlier about action to be taken with regard to any number of these bills. I think it's fairly clear that the normal tax reauthorization bills are not under any dispute or question. I don't even know that they've had any discussion over the course of the past couple of days, the regular school tax reauthorization bills.

The primary matters before us today and that have been of the most intense discussion are Bill 020040, 020033 and 020032, 32 and 33 being the millage transfer shift bills, if you will.

I need you to walk me through your

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proposed schedule with regard to the current plan to borrow $300 million in deficit financing for 30 years and tell me if these bills were to come out of committee, get a first reading on tomorrow -- there is no council session on the 28th and I believe our next session is then on April 4th.

So under this hypothetical situation, the bills get on the calendar, they're voted in the affirmative on April 4th, the bills are done, the Mayor signs them. Tell me what actions you would then take from that point.

MR. DOOSEY: From April the 4th -- to start off with, for me, my hurdle is to have funds in hand by mid May.

COUNCILMAN NUTTER: Say that again.

MR. DOOSEY: My hurdle is to have funds in hand by mid May. Assuming that there is no supplemental receipt of funds -- that would be no proceeds from the $300 million proposed financing and no receipt of funds for the $45 million one-time grant that is proposed -- the school district will run out of cash May the 15th.

COUNCILMAN NUTTER: I understand that. I didn't ask you that question.

Now, you said you needed to have funds in hand by mid May; is that correct?

MR. DOOSEY: That is correct.

COUNCILMAN NUTTER: And "funds in hand" means what and how much?

MR. DOOSEY: "Funds in hand" would be closing on the bond -- your question was a time line question. If the bill is approved by City Council on April the 4th, that leaves me just enough time, but literally just enough time to complete the bond financing in time for the 15th.

COUNCILMAN NUTTER: Tell me what you have to do. Walk me through it.

MR. DOOSEY: What would have to happen is first there would have to be a bond team developed, a financial advisor hired. You would go out to Wall Street and actually solicit proposals for interest in the bonds to see who frankly is going to buy the bonds at a discount and then place them with retail customers.

And then there is a 15-day window that cannot be shortened that gives the Pennsylvania Department of Education and Mr. Biddenbender's office in Harrisburg the right to review the

transaction to ensure that it comes under the aegis of the state intercept, which acts as a de facto guaranty. In the event that the school district does not pay the bondholders, that the State will step in and redirect funds.

COUNCILMAN NUTTER: Now, by your earlier testimony -- I just want to make sure I have this correct -- you said that for FY '02 you basically have a $70 million cash flow problem?

MR. DOOSEY: A $70 million cash flow problem. That is correct. That would be from May the 15th through the end of June 30th.

COUNCILMAN NUTTER: That's from May 15th to June 30th. And your earlier testimony also was that if you received the $45 million, that is, the subject of Bill 020040, which is an FY '02 proposal, that would carry you through June 10th.

MR. DOOSEY: That is correct.

COUNCILMAN NUTTER: And that you needed an additional $25 million to get you through to the end of the fiscal year; is that correct?

MR. DOOSEY: That's correct.

COUNCILMAN NUTTER: Now, action is taken by this body. You do all your paper work. You go

to the market. You talk to the legal team, the underwriters. You go to Harrisburg, the Secretary of Education. And at what point in time are the bonds floated?

MR. DOOSEY: The actual close and transfer of funds would be immediately prior to May the 15th. The bonds would be priced and the underwriter's spread locked in approximately 20 days before that. So it would be April 25th.

COUNCILMAN NUTTER: I'm sorry?

MR. DOOSEY: It would be approximately April 25th.

COUNCILMAN NUTTER: April 25th. Okay.

Now, the security -- you're going to have to sign some kind of agreement or document that says to the bondholders and anyone else that cares what the security is for these bonds. You're going to have to create a reserve or a debt service fund; is that correct?

MR. DOOSEY: The debt service fund is actually funded on a daily basis once the bonds close, yes.

COUNCILMAN NUTTER: Don't you need to indicate that you have a direct revenue stream for

these bonds?

MR. DOOSEY: I need to have the revenue stream, yes. I don't need to create the debt service fund. I need to have the revenue stream looked in on that or prior to that April 25th date.

COUNCILMAN NUTTER: And how do you plan to lock that in?

MR. DOOSEY: Well, one would hope that at least at the moment it would be the transfer ordinance for $25 million worth of millage going forward, starting with the fiscal year '03.

COUNCILMAN NUTTER: That's from Bill 020032 and 33; is that correct?

MR. DOOSEY: That is correct.

COUNCILMAN NUTTER: So in the official statement, or in the OS, or even in a preliminary initial statement, I'm assuming that you're going to put in that document that the funding source for this is this millage transfer?

MR. DOOSEY: That's correct. That's what's been preliminary -- that frankly is the only additional source of cash flow that I would have coming into the district.

COUNCILMAN NUTTER: So you'll go to the

market. In the OS you've identified your funding source. You've locked that in --

MR. DOOSEY: Mm-hmm.

COUNCILMAN NUTTER: -- because we have these millage transfer bills.

Then tell me what the impact will be if the provisions of Bill 020033 and Section 2, small letter I or small letter double I, if those provisions do not go forward and the City Solicitor does not certify to the chief clerk by June 28, 2002, which is two months after you've gone to market, that the necessary relief related to Act 46 has not taken place?

MR. DOOSEY: It's my understanding that the City Solicitor will be able to provide that certification much earlier than June 28th.

COUNCILMAN NUTTER: Based on what?

MR. DOOSEY: Based on an action of the House of Representatives and the Senate in Harrisburg long prior to June 28th.

COUNCILMAN NUTTER: Well, when are they going to take that action?

MR. DOOSEY: Again, as per my prior testimony, my understanding is that that bill will

be present next Tuesday.

COUNCILMAN NUTTER: And you believe that next Tuesday that action is going to take place?

MR. DOOSEY: I believe that next Tuesday it's my understanding that the bill will come out of the Rules Committee for presentation to the Senate. But that's a layman's understanding.

COUNCILMAN NUTTER: Next Tuesday being March 26th?

MR. DOOSEY: Yes, sir.

COUNCILMAN NUTTER: And I'm sorry. What do you base that on?

MR. DOOSEY: I base that on discussions that I've had with counsel for the school district. I'm an accountant, not an attorney nor a legislator.

COUNCILMAN NUTTER: I understand that. Well, who told you that?

MR. DOOSEY: Excuse me?

COUNCILMAN COHEN: Could I ask you to speak directly into the microphone so that this side of the room can also hear.

MR. DOOSEY: Per my discussions with Joan Stern who is bond counsel --

COUNCILMAN COHEN: Move it up closer,

really close.

MR. DOOSEY: Is that better (indicating)?

COUNCILMAN COHEN: You're beginning to improve. Just don't be afraid of it. Bring it very close to you.

MR. DOOSEY: I can't get much closer, sir.

COUNCILMAN NUTTER: There's a whole lot of room there.

(Laughter.)

MR. DOOSEY: It's per my discussion with Joan Stern, who is bond counsel for the school district.

COUNCILMAN NUTTER: Ms. Stern is known to many of us, and she is an excellent bond lawyer.

What is your knowledge and understanding of Ms. Stern's understanding of what the state legislature is going to do or not going to do? What are we relying upon to know that the state legislature is going to take that particular action on March 26th?

MR. DOOSEY: Frankly, I do not think that I nor Ms. Stern, if she were here, could give

anyone any guarantees or assurances.

COUNCILMAN NUTTER: Then let me ask this question. Suppose the legislature does not take that particular action on that day or some number of days, if not a month or so later, and you float bonds and now have bondholders, and that on June 28, 2002, the City Solicitor is not able to provide the letter certifying that the General Assembly has taken the necessary action to either provide relief from Act 46 or alleviate any double counting concern that the City has.

What do you do at that point? Because we know that the millage rates will not shift in accordance with Section 2 of Bill 020033 or 32. What happens then?

MR. DOOSEY: Well, I think from a practical matter I cannot close on the bond transaction until that certification from the City Solicitor is in hand.

COUNCILMAN NUTTER: So your position now is regardless of what we do, whether we do this now, whether we do it later, until you have the certification from the City Solicitor or until all of us know, because I'm assuming we're all going to

know at the same time, that the necessary relief has taken place, you can't close on the deal?

MR. DOOSEY: That's correct.

COUNCILMAN NUTTER: So then you're saying that as a result of that, until the legislature takes whatever action is necessary, you can't borrow the $300 million?

MR. DOOSEY: That's correct because at the moment the school district is precluded from doing deficit financing at all and the Act 46 relief is part and parcel of the same proposed bill that also opens up the deficit window for the school district.

COUNCILMAN NUTTER: Then let me ask this question. Why don't we just wait and see whether the necessary action is taken? You're not going to run out of money. You're going to get the $45 million in '02 anyway. And at that point in time you don't need the money on May 15th because you now have enough money to operate until June 10th.

MR. DOOSEY: Until June 10th. But the only thing that throws that timing off is it is a minimum of 35 days from start to finish to close on the bond. Again, I believe I answered previously in

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the beginning of this particular piece of testimony that to delay an action in this body for two weeks does back up the time frame on the bonds, but still leaves just enough time to close the transaction.

COUNCILMAN NUTTER: Based on what you just said, if Bill 020040 passed immediately and you received the $45 million, you know for a fact that you're guaranteed to be in business at least until June 10th.

MR. DOOSEY: That's correct.

COUNCILMAN NUTTER: If you back that up 35 days, that takes you to May 5th; right?

MR. DOOSEY: Mm-hmm.

COUNCILMAN NUTTER: In which case you don't actually need final authorization on this part of the transaction until May 5th; isn't that right?

MR. DOOSEY: Well, from a practical standpoint, I would need it a little bit earlier than that simply because --

COUNCILMAN NUTTER: May 1st.

MR. DOOSEY: May 1st. I would be engaging underwriters to interest them.

COUNCILMAN NUTTER: And you'd need about a week or so?

MR. DOOSEY: Correct.

COUNCILMAN NUTTER: So if you get the $45 million now, you actually don't need action on the millage transfer bills until May 1st; right?

MR. DOOSEY: For ballpark dates, yes, that's correct.

COUNCILMAN NUTTER: So we don't have to do this right now; right?

MR. DOOSEY: We don't have to? Could you clarify what you're proposing?

COUNCILMAN NUTTER: We don't have to move on Bills 32 and 33 right now based on the scenario that we just had a discussion about; isn't that correct?

MR. DOOSEY: Are you defining "right now" as today, sir?

COUNCILMAN NUTTER: Today, tomorrow, Friday, one day next week. You have until May 1st if you get the $45 million in the FY '02 appropriation from Bill 020040. If you get that $45 million, you don't need action on the millage transfer bills, give or take a day, until May 1st.

MR. DOOSEY: We're fighting over a week. I agree with you. Yes. We're fighting over seven

days. I agree with you.

COUNCILMAN NUTTER: Which seven days are you talking about?

MR. DOOSEY: I'm much more comfortable with a late April date. You're suggesting May 1st.

COUNCILMAN NUTTER: I took May 1st based on you run out of money June 10th. 35 days from June 10th is back to May 5th. You said you needed a week before that. I'm willing to give you May 1st. Maybe the actual date is April 27th.

MR. DOOSEY: The only distinction I would make, though, is I would not only need for the $45 million an appropriation in this body. I would actually need cash transfer by the City.

COUNCILMAN NUTTER: I'm sorry?

MR. DOOSEY: Not only would I need for the 45 million, which is the one-time grant for fiscal year '02, not only would I need action in this body to appropriate it, I would need transfer of funds by the City.

COUNCILMAN NUTTER: I mean, Mr. Doosey, as you well know, if we approve a bill on a Thursday, it can be signed that day. Then you'll go have the pleasure of dealing with Mr. Dubow,

Ms. Davis and all the folks over there. We don't write checks here.

But I'm sure for this transaction you could probably get like an overnight transfer of funds electronically through the Federal Reserve system; right?

MR. DOOSEY: The question that the City has raised, though, which is also one that Mr. Kenney raised previously, is the actual transfer of funds -- no, I'm sorry. I'm confusing '02 and '03. Yes. I'm sorry.

COUNCILMAN NUTTER: Okay. So we can agree here that if you get authorization and transmittal of the $45 million on a fairly ASAP basis, you do not need Bills 32 and 33 to be approved by this body until sometime in late April; is that correct?

MR. DOOSEY: That is correct.

COUNCILMAN NUTTER: Okay. Thank you.

MR. DOOSEY: Can I make one correction to yesterday's testimony while I'm here, please?

COUNCIL PRESIDENT VERNA: Yes, please.

MR. DOOSEY: Yesterday there was some discussion at length over Latin and the elimination

of a Latin program. I was factually incorrect. It is not high school Latin for eight positions that were proposed as a reduction in the budget.

It is middle school and elementary Latin. High school Latin has not been proposed to be changed next year whatsoever. I'm just correcting the testimony.

COUNCILMAN NUTTER: Isn't it a little easier to learn Latin in your early grades as opposed to high school?

MR. DOOSEY: I'm sorry. What was that question, Mr. Nutter?

COUNCILMAN NUTTER: Isn't it a little easier to learn Latin in your early years than it is in high school?

MR. DOOSEY: Speaking for myself, I had enough trouble in high school.

COUNCILMAN NUTTER: Exactly. Many of us have had that situation.

COUNCILMAN COHEN: Yes.

COUNCILMAN NUTTER: I think for all the language arts it is clearly easier to learn and understand them as early as possible as opposed to a later possible time.

I mean, what's the educational reason that you would do that?

MR. DOOSEY: It's a recommendation that the finance department made to the academic side of the house and they accepted.

COUNCILMAN ORTIZ: Point of order.

COUNCILMAN NUTTER: I'm sorry. Say that again.

MR. DOOSEY: It's a recommendation that the finance department made based on programs that have the lowest impact to the lowest number of students. And it was discussed with the academic side of the house at the School District of Philadelphia.

COUNCILMAN ORTIZ: Councilman Nutter, if I may. Madam President, if I may.

COUNCIL PRESIDENT VERNA: Councilman Ortiz.

COUNCILMAN ORTIZ: It seems that accountants are making public educational policy. He says the finance department recommends and they make -- the accountants are making --

MR. DOOSEY: It's a proposal, sir.

COUNCIL ORTIZ: -- pedagogical

decisions?

MR. DOOSEY: It's a proposal based on my professional expertise. I do not hold myself out as an academic professional.

COUNCILMAN ORTIZ: But you're not making it as a pedagogical concept; right? You're making it because it saves money.

MR. DOOSEY: That is correct.

COUNCILMAN ORTIZ: I thought you were in the business of educating?

MR. DOOSEY: The school district is in the business of educating. My personal function within the school district is finance and accounting.

COUNCILMAN ORTIZ: By eliminating educational programs.

MR. DOOSEY: That's your statement, sir.

COUNCILMAN ORTIZ: No, that's what you just said, you're eliminating educational programs.

MR. DOOSEY: I am recommending the elimination of eight teachers in middle school and elementary school Latin. That is the extent of the programmatical changes that were included in the budget documentation.

COUNCILMAN ORTIZ: Again, you're making public policy educational decisions based on economics.

MR. DOOSEY: I'm making a recommendation, sir. That's all I can say. The recommendation is frankly free to be overruled by the academic side of the house.

COUNCILMAN NUTTER: Let me just, at least for myself, Mr. Doosey, say you're going to try to do your job at the best level that you can. But, I mean, this situation is somewhat akin to the finance and accounting office of the health care systems determining how long someone should stay in the hospital. I mean, they're not making a medical decision. They're making a financial decision.

And I understand that you've got to look for cost savings wherever you can. And if you say that the education side of the house agreed with that particular proposal, then our next stop should be with the educational side of the house as to why anybody would recommend the curtailing of language arts in the early grades as opposed to the later grades.

I mean, we don't necessarily have to

have an educational debate with you about it. But there is some similarity to I think that particular analogy.

MR. DOOSEY: And frankly, as a parent, I would share your concerns if the number of programmatical recommendations or changes in the budget detail that I presented was larger. But since this is the only item on there, I have a different view.

COUNCILMAN NUTTER: I understand. Thank you, Madam Chair.

COUNCILMAN RIZZO: Point of information.

COUNCIL PRESIDENT VERNA: The Chair recognizes Councilman Rizzo.

COUNCILMAN RIZZO: Mr. Doosey, a minute ago you said you're an accountant, not a lawyer.

MR. DOOSEY: That's correct.

COUNCILMAN RIZZO: Now, I assumed your recommendation -- and I'm trying to make sure I'm clear here -- that you made a recommendation to eliminate certain --

COUNCIL PRESIDENT VERNA: Latin.

COUNCILMAN RIZZO: Latin.

MR. DOOSEY: One program. Correct.

COUNCILMAN RIZZO: You made a recommendation. And your obligation is to look at different programs, make a recommendation to the academic side. That obviously was -- your recommendation was accepted; is that correct?

MR. DOOSEY: Yes. It was proposed. It's subject to additional changes. This is the preliminary budget.

COUNCILMAN RIZZO: I'm trying to be helpful here.

You made a recommendation. The recommendation is accepted. You're off the hook. Your job is to make recommendations, and if the academic people say you're correct, then it isn't really your decision.

MR. DOOSEY: Correct.

COUNCILMAN RIZZO: You made a recommendation, and if certain things get axed based on your recommendation, it's the academic side of the house that makes that happen; is that right?

MR. DOOSEY: That's correct. It's the academic officer that's responsible for academics, just as I'm responsible for finance operation.

COUNCILMAN RIZZO: But you are also --

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and we talked yesterday with the reform commission about various programs that need to be looked at, which they claim they're going to look at. But you've already started to look at some of the programs at the district and make -- and questioning those. And ones that you've already questioned, some action on the academic side of the district, they've already started to make some decisions on those programs.

Is that what I'm understanding?

MR. DOOSEY: The functions that I referenced yesterday were actually on the business side of the house, not the academic side of the house. When I made reference to the fact that we're in the process of going through function by function, they would be more along the lines of purchasing, transportation, print shop, et cetera.

COUNCILMAN RIZZO: But if you saw something, you have a responsibility to question.

MR. DOOSEY: I have a responsibility to flag it, yes.

COUNCILMAN RIZZO: Exactly. And I think that it's appropriate that you do that. And if the academic people buy in, then that's the way business

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Very good. Thank you, Madam Chair.

COUNCIL PRESIDENT VERNA: I think it would be safe to say that there aren't too many youngsters in grade school that were taking Latin.

MR. DOOSEY: No. That's part of the rationalization.

COUNCIL PRESIDENT VERNA: Thank you. The Chair recognizes Councilman Kenney.

COUNCILMAN KENNEY: Thank you, Madam President. I would request that Secretary Kahn take the witness table again. I would like to get a few issues clear for the record prior to the public testimony.

(Ms. Kahn came forward.)

COUNCIL PRESIDENT VERNA: I would just like to remind my colleagues that we do have students here and they have to leave before 77:00.

COUNCILMAN KENNEY: I understand. This is important for the record.

COUNCIL PRESIDENT VERNA: I understand. I understand. We're just being pressured for time, which I think is unfair.

COUNCILMAN KENNEY: It seems the way of

the world in this place the last two years, doesn't it?

COUNCIL PRESIDENT VERNA: Councilman Kenney.

COUNCILMAN KENNEY: Thank you very much, Madame President.

Secretary, just a few issues.

COUNCIL PRESIDENT VERNA: I'm sorry. We must have silence. Thank you.

COUNCILMAN KENNEY: Thank you, Madam President.

Madam Secretary, I just want to make sure we understand for the record that it's clear that what the administration is asking this council to do is a number of things.

One of the first and most routine things we're being asked to do in the course of this Committee of the Whole is to approve legislation which would reauthorize the collection of certain taxes that the City does on an annualized basis and it's been done as a matter of custom for many years and they're basically very innocuous bills that we approve every year.

MS. KAHN: That's correct. And there

are two ordinances in that regard.

COUNCILMAN KENNEY: The other issues that we're being asked to do is re-approve a $45 million allocation or transfer ordinance to the school district which we authorized I guess last year on a 17-0 vote and the Mayor, for reasons of not having it protected due to Act 46 requirements, vetoed the bill and basically sent it back. We're being asked to reauthorize that 45.

MS. KAHN: That is correct, with the same condition that there be the appropriate legislative exemption for those funds.

COUNCILMAN KENNEY: So unless there's an amendment basically carving out that $45 million from Act 46, we won't be spending that money again.

MS. KAHN: He makes the same commitment.

COUNCILMAN KENNEY: Thirdly, and also as part of the Mayor's proposed 2003 budget, there's a $20 million item in there basically as a grant to the school district which we anticipate moving forward in perpetuity.

MS. KAHN: As part of the budget. Correct.

COUNCILMAN KENNEY: As part of the

budget, not part of what we're dealing with here.

MS. KAHN: Correct.

COUNCILMAN KENNEY: And the final thing we're being asked to do, which is I guess the most controversial and the most complicated, is two bills which would change the millage, the millage on the real estate taxes, which results in a $25 million shift basically from the City side of the real estate tax revenues to the school district side of the real estate tax revenues.

And the purpose of that $25 million would be to incur a deficit financing, a bond issue of $300 million or whatever the $25 million would enable the SRC to borrow.

MS. KAHN: That is what we have stated, that that would be the purpose. But as I also indicated on the record in response to another question, there is nothing in the legislation that dedicates those funds for that purpose.

COUNCILMAN KENNEY: But that's the intention.

MS. KAHN: Correct.

COUNCILMAN KENNEY: And we are now also embarked on an effort to have the State, based on

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Governor Schweiker's promise or commitment, to put up $75 million additionally for the school district out of the legislature; is that correct?

MS. KAHN: Correct.

COUNCILMAN KENNEY: Whether or not we receive the $75 million from the legislature in this budget process, it is the intention of the SRC and/or the administration, whoever makes that decision, to move toward, to spend the $45 million that we've committed to in the past and to also go ahead and borrow $300 million in deficit financing money, which would translate into a 30-year borrowing, amounting to an approximately $750 million payment over 30 years by the taxpayers of the City of Philadelphia.

MS. KAHN: As part of the agreement that also triggered the support for the $75 million, the deficit financing was part of that package.

COUNCILMAN KENNEY: Whether or not we get the $75 million, it is the intention of the SRC and the administration to move forward and to borrow the $300 million in deficit financing anyway.

MS. KAHN: The timing of the actions, as we had understood them, was such that it would be

necessary to take the action. But again, I do want to point out -- and this is a secondary issue -- but that there is also protection in the millage ordinances in front of you that there not be a double counting provision either.

COUNCILMAN KENNEY: Right. But whether or not we get the 75 million from the State, it's every best intention of the Governor, of the Mayor, of some many leaders of the legislature to get this done.

If it does not get done, the $75 million additional, we will proceed to borrow $300 million, based on the $25 million debt service provided by the millage change, to move forward and borrow that money; is that correct?

MS. KAHN: We believe that we need to proceed with that action.

COUNCILMAN KENNEY: So, in other words, the schools will remain open despite the fact that there's the lack of $75 million and potentially the lack of a long-term solution to the statewide funding crisis for education. We will move forward, borrow that money, encumber the taxpayer and keep the schools open as long as they can stay open based

on money we borrow.

MS. KAHN: Without the $75 million, it is a considerably shorter bridge.

COUNCILMAN KENNEY: But we're going to do it anyway.

MS. KAHN: We believe that we did not see an alternative and that that was the best alternative available to us.

COUNCILMAN KENNEY: Knowing that, and the legislature knowing that, what leverage do you believe -- with the exception of people's word and best efforts, what leverage do you think that the City has once the legislature knows and the Governor knows that the schools are not going to close for a period of a year and a half to two years?

MS. KAHN: Well, first of all, I think that the best leverage we have is honoring the commitments and taking the best efforts we have to honor those commitments as best we possibly can. I think that the "leverage," if we want to use that word, the importance, the extreme significance of this issue is what we have always had. In the end, we do not and nobody else controls that legislative body.

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COUNCILMAN KENNEY: So the scenario exists potentially that we will give $45 million to the school district, an additional $20 million in perpetuity through this 2003 proposed capital budget, we will borrow $300 million, indebting the taxpayer to a $750 million nut over the course of 30 years, and we have no guarantee that the State is going to come up with the $75 million or with a long-term funding solution for the School District of Philadelphia or for any other district throughout the State of Pennsylvania. We're still going to embark down that road.

MS. KAHN: Supporting the kids in the best possible way that we can is what --

COUNCILMAN KENNEY: I didn't talk about supporting kids because, see, if we're going to go -- Councilman Cohen, could you just move back. I'm talking to the back of your head, which I don't mind, but it's a little distracting.

No one is talking about not caring about the kids. Every time we get into a discussion of a difficult financial question, we go back to caring about the kids. There's not a person in this room that doesn't care about the kids in this room or the

kids in that district or the kids in every other school in the City.

MS. KAHN: I agree with that.

COUNCILMAN KENNEY: The bottom line is, is that we potentially in a year and a half to two years, without State help, are going to hit a financial wall again. But the difference between now and then is we'll be $750 million worse off than we were today.

MS. KAHN: I think that there are other differences as well.

COUNCILMAN KENNEY: Is that a major difference? Is that a major difference?

MS. KAHN: That is a major difference. I would also say that if we are successful and there is statewide funding reform and there is significantly more revenues, those bonds could be paid off in a much shorter period of time.

COUNCILMAN KENNEY: There's no doubt about it. And if we have cold winters for the next couple years, the Gas Works will bail themselves out of their problem.

I mean, there's a lot of if's. And I'm not saying that the if's shouldn't be pursued. All

I'm saying is it is extremely naive and very short-sighted to send this City down this fiscal path with no, and I mean no guarantee or no even assumption that that 75 million or that statewide tax reform or that statewide funding formula is going to change in any way, shape or form.

We are simply, from our perspective, with what we know right now, with the information that we have, we are encumbering the taxpayer of Philadelphia for $750 million over 30 years and we are going to potentially in a year and a half to two years hit a fiscal wall again without any guarantee of reform.

Is that a fair statement?

MS. KAHN: We've already testified that there are no guarantees in any of this, but that the environment -- and to ignore this fact is I think a mistake -- that the environment has changed significantly.

COUNCILMAN KENNEY: Where?

MS. KAHN: Throughout the Commonwealth of Pennsylvania with all of the other school districts who are experiencing these very, very serious, both educational and financial problems.

And I think that it would be a mistake to ignore that.

COUNCILMAN KENNEY: That may be the case. But the one thing for sure, the one thing that is definitely for sure is that the taxpayers of this city will spend $750 million over 30 years on a promise and on a hope that this is going to happen. And I think that may be a bit naive. Thank you.

COUNCIL PRESIDENT VERNA: The Chair recognizes Councilwoman Tasco.

COUNCILWOMAN TASCO: Maybe I'm not clear. I thought Mr. Doosey said that we couldn't float the $300 million without the permission from the State.

Is that what he said?

MS. KAHN: That is correct. There needs to be legislative authorization.

COUNCILMAN KENNEY: Right now, we can only borrow 10 years out. The State needs to give us approval to borrow 30 years.

COUNCIL PRESIDENT VERNA: Permission for 30 years.

COUNCILMAN KENNEY: But, you know, the State will do that because we're not borrowing their

money. We're borrowing our money. They'll let us borrow 50 years out. What do they care?

I mean, I don't think there's any indication on that legislation being approved that the State is any closer to providing $75 million or a long-term solution to this problem.

COUNCILWOMAN TASCO: And just to add to the concern that you raised about the rest of the state, which is the problem in trying to get the $75 million for Philadelphia because other representatives across the state are looking at their districts, which their concern lowers the effort to get the 75 million for Philadelphia because state representatives are saying -- and I saw it on television -- they want to help Philadelphia, but they can't do it at the expense of their students.

So without having some leverage, I agree with Jim. I mean, we can borrow the money and it lets them off the hook and they go and fund the other state districts.

COUNCILMAN KENNEY: And we come back again, with all due respect, and excuse me for the interruption, we'll be back again here in two years.

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But the difference is the problems will be more severe and we'll be more in debt. Then what happens?

I think we need to face this problem now, don't borrow this money until we get the 75 and some promise of long-term reform or we're just throwing good money after bad.

COUNCILWOMAN TASCO: Madam President, I'm finished.

COUNCIL PRESIDENT VERNA: You're finished?

COUNCILWOMAN TASCO: Yes. I just wanted a clarification.

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

COUNCILMAN COHEN: Wouldn't it be accurate, Ms. Kahn, to describe the City's efforts as being based on a hope and a prayer and nothing more?

MS. KAHN: No. I think that they're based on very well thought out, very hard work, less than perfect solution because we do not live in this perfect world, but a lot of thought, a lot of research, a lot of effort to craft the best possible

solution under extraordinarily difficult circumstances.

COUNCILMAN COHEN: I guess I left out one important word: Faith. And I guess those folks who have not had much experience with the political system can have much more faith in it than those that have lived our life in the political system.

And I say that because any plan designed to produce failure at the state level could not have been more perfectly planned than the plan that was put forth by Governor Schweiker in which he said I'm going to try to get the votes of the rural districts to give Philadelphia 75 million more each year and I'm going to do it by making each district representative have to explain to his people why his own district is hardly going to get any increase, but Philadelphia, the place they love to categorize as the headquarters for all sin and unhealthy practice of every kind, they're going to get $75 million.

I think the whole plan at the state level was devised to ensure the fact that the legislature would never produce the $75 million for Philadelphia. How can any representative, Democrat

or Republican, vote to give Philadelphia all that money compared to a tiny 1 percent increase in that rural district's education budget?

MS. KAHN: I believe that all of the concerns that have been expressed by the other representatives and other communities are very well taken. We have told them that on the record. And I believe that when it comes time for crafting the final state budget, they will have to address that issue.

COUNCILMAN COHEN: If it's something that has to be drunk to get that kind of faith, I hope you have enough of supplies to give it to all the representatives that have to vote on the bill because it's a sure way to political suicide to shortchange your own district in favor of giving much more funds to the City of Philadelphia, which has been depicted for years and years as a place of sin and evil, as a place where money just gets thrown around and wasted.

I just think it's such a practically impossible scenario to believe in that I'm stunned by the way in which it's being supported by the administration.

MS. KAHN: I think we've been commenting on that for a long time now. And we missed you, Councilman. So we're glad that you're here.

Like you, I think I have been appalled over the years about the way that, one, as you put it, our city has been mischaracterized and our school district, as well as have the city support for public education has been undervalued and misrepresented.

I think our kids have been done a tremendous disservice. We all feel that. We all believe that. But we have this very imperfect system in which we operate, and we need to be able to work out the best possible arrangements that we can within the parameters of that situation.

And throughout all of this, throughout all of the years that we've been working on this, I haven't heard and I think none of us have heard what the alternative would be to this approach. So we crafted the best possible solution that we thought that we could, given the set of circumstances that we had. And it had to be something that could be acceptable to us and something that would be acceptable to the Governor's office.

COUNCILMAN COHEN: What would the plan be if the scenario is as Councilman Kenney so clearly set forth? Suppose we're back two years from now. Your hope and prayer and faith with the state legislature has not established any more money for Philadelphia of consequence and we're back again.

Is it your belief, is it the administration's belief that the City has the ability to finance the schools by itself?

MS. KAHN: Obviously not. That's why we're in this situation that we're in now because the City does not, has not and will not.

COUNCILMAN COHEN: Then what do we do two years hence?

MS. KAHN: Come up with a new approach. And none of us really wants to be here in that situation, which is why we have to do everything that we can in the intervening time during this period to take our absolute best efforts so that that doesn't happen.

COUNCILMAN COHEN: But if we know this isn't the time when it's possible to talk about a permanent solution because politically the situation

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is going to be changed, there's going to be a different Governor, Democrat or Republican, beginning in January.

MS. KAHN: Exactly.

COUNCILMAN COHEN: There are going to be different members of the House and the Senate at the state level beginning with the month of December. Their term begins a month earlier than the Governor's term does. We can understand why it's difficult now to arrive at a permanent solution.

Why would this be a time to undertake this very heavy and onerous bond debt for the next 30 years? Doesn't it make sense to say this isn't the time to make any long-term plans?

MS. KAHN: Because the cash situation wouldn't allow us to do otherwise. We had to address the issue now.

COUNCILMAN COHEN: The State has much greater resources than the City has, hasn't it?

MS. KAHN: Certainly, it does. And the state is putting far more into, one, on the ongoing operation of the public schools, and two, into this particular deal.

COUNCILMAN COHEN: Why isn't the Mayor

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pushing that lawsuit that united community groups, that united the City of Philadelphia to compel the State to meet its constitutional obligations?

MS. KAHN: There's no action that's been taken on the part of the City administration that jeopardizes our ability to pursue that lawsuit at the right time.

COUNCILMAN COHEN: At the right time? What could be more of a right time than a time of urgent need such as now, when you say in your previous testimony that people have developed their understanding of needs greater, and therefore, there's a greater likelihood of success?

MS. KAHN: Because pursuit of that lawsuit right now would have jeopardized our ability to get any kind of a hearing, whether it's on the part of the General Assembly or the Governor's office. It's just a fact that we may not like, but it is a fact.

COUNCILMAN COHEN: It may be that this body may vote for insanity because apparently the Mayor is a very charismatic figure who somehow may be able to produce nine votes at some time. But I think that will be a terrible mistake. I think it

belies the whole concept of the legislature's responsibility and ability to handle finances for the City.

But it makes absolutely no sense in a time of uncertainty to undertake this very onerous financial burden for the citizens of Philadelphia at a time when we need so many things in the City that we can supply because of lack of finances. Thank you, Madam President.

COUNCIL PRESIDENT VERNA: You're welcome.

Are there any other questions or comments by members of the committee? I beg your pardon?

COUNCILMAN COHEN: I would like to have whatever he's called --

COUNCIL PRESIDENT VERNA: Councilman.

COUNCILMAN COHEN: -- the finance officer.

COUNCIL PRESIDENT VERNA: Councilman, would you be very brief.

COUNCILMAN COHEN: Yes.

COUNCIL PRESIDENT VERNA: Because, as I indicated, we do have the students here and they

must take the bus back before 7 o'clock.

COUNCILMAN COHEN: Yes.

COUNCIL PRESIDENT VERNA: Mr. Doosey.

COUNCILMAN COHEN: Mr. Doosey, so that the record is clear, will you tell us what caused you to make the recommendation to eliminate the teaching of Latin in the middle and elementary schools so that eight Latin teachers can be cut from the staff?

MR. Doosey: First, for clarification, they would be reassigned to other teaching duties if they're so certified. My decision -- my recommendation was based upon the relatively small number of students and the fact that it was an enrichment program. It was not for credit in the middle and elementary schools.

COUNCILMAN COHEN: You were not concerned with how the rest of the country is going to look at the results of that, that Philadelphia is so poor that it no longer can afford to teach Latin to students who desire it because I understand that was a volunteer choice by students; right?

MR. Doosey: That is correct. It's an enrichment program.

COUNCILMAN COHEN: So we're going to cut down on the number of options given to students?

MR. Doosey: That was the one recommendation that I made, sir.

COUNCILMAN COHEN: And you feel that that shows the reform character and the advance of programs of the School Reform Commission?

MR. Doosey: Sir, my recommendations go to senior management as recommendations only and the decisions are made at that level. I implement policy. I don't make it.

COUNCILMAN COHEN: Well, if you are in a position to make a proposal and that proposal gets accepted, whether you would like to feel it or not, you are engaged in changing the whole pedagogical approach in the City of Philadelphia. And what you're doing is portraying before the world that Philadelphia, instead of moving forward and increasing the options for its students, is contracting.

MR. Doosey: Sir, with all due respect, I'm facing a financial situation where I'm in a deficit position. So when I take a look at what the school district currently operates, yes,

unfortunately there was a decision that I recommended that a program be changed. This is the sole program. That is correct. It was in the context of the deficit situation that the school district finds itself in.

COUNCILMAN COHEN: Were you interviewed for the position you now hold by the reform control commission or any member thereof?

MR. Doosey: Yes, sir.

COUNCILMAN COHEN: And did the question come up of what your position would be with respect to whether certain options can be afforded by the City of Philadelphia? Did you express the same view that you would examine them and feel free to make recommendations?

MR. Doosey: I'm sorry. I don't understand the question. Would I? Could you restate it for me?

COUNCILMAN COHEN: The question is when you were interviewed, did any questions come up with respect to how you would determine your financial recommendations?

MR. Doosey: Yes, it was -- did anything come up? I still think I don't understand.

You mean as far as how I would approach my position?

COUNCILMAN COHEN: Did you have any feeling that you were there for the purpose of enlarging the arena of education, of making it an educational system we could be more proud of, or that wasn't part of the equation of consideration for your choice?

MR. Doosey: The discussions for my position centered more around my competency as far as an accountant and a controller and also as far as my ability to improve the control environment and efficiency of the school district.

COUNCILMAN COHEN: And your opinion is to make recommendations based solely on finances, no matter what its impact would be on the educational environment?

MR. Doosey: With all due respect, sir, my responsibilities relate to finance. I can't express an opinion on anything other than finance.

I'm still having difficulty understanding the context of the question.

COUNCILMAN COHEN: Well, it seems to me that if somebody is in the educational field

business, one would have a broader concern than to merely think about it financially. One would think am I engaged in a business which is going to be helpful to the people of the City, to the youngsters, or am I there only as a bookkeeper ready to chop, chop, chop away at programs in order to make the books balance.

MR. Doosey: Again, I'll go back to my prior testimony, sir. The business plan for the School District of Philadelphia that I've recommended focuses on the business aspects, not the academic aspects of the school district. I am free to make a recommendation, but I do not have a professional expertise nor do I feel that I can make the decision on academic programs. That is Ms. Farmby's area of expertise.

If it is a financial or an accounting matter, I feel relatively confident in stating an opinion on it. Anything other than that, it's a recommendation and a recommendation only that senior managers, in their areas of competency, are free to accept or reject.

COUNCILMAN COHEN: Thank you. I think it's quite clear from your testimony that your

concern is solely with finances, which I believe is the sole concern of the reform commission. I believe they're only interested in cutting and cutting and cutting.

This year maybe it will be the Latin teachers in the middle schools and in the elementary schools. Next year it will be another version, probably two or three versions. Thank you, Madame President.

COUNCIL PRESIDENT VERNA: Thank you.

(The public testimony will appear in a separate transcript.)

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CERTIFICATE

WE HEREBY CERTIFY that the foregoing proceedings of the Council of the City of Philadelphia's meeting of the Committee of the Whole, on Thursday, March 20, 2002, are contained fully and accurately in the stenographic notes taken by us, and that this is a true and correct transcript of same.

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LISA BRADLEY, COURT REPORTER

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JOSEPHINE CARDILLO, REGISTERED REPORTER AND NOTARY PUBLIC

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