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

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- - -
Room 400, City Hall
Philadelphia, Pennsylvania
Monday, 1/29/01
10:35 a.m.

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RES. 010020 - Approving Phillies lease and
development agreement between Phillies and PAID.

8

RES. 010021 - Disapproving Phillies lease and
development agreement between Phillies and PAID.

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RES. 010022 - Approving Eagles lease and
development agreement between Philadelphia Eagles
Limited Partnership and PAID.

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RES. 010023 - Disapproving Eagles lease and
development agreement between Philadelphia Eagles
Limited Partnership and PAID.

13

14

PRESENT: COUNCIL PRESIDENT ANNA C. VERNA, Chair
COUNCILWOMAN JANNIE BLACKWELL, Vice Chair
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN DARRELL L. CLARKE
COUNCILMAN DAVID COHEN
COUNCILMAN FRANK J. DICICCO
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN JAMES F. KENNEY
COUNCILWOMAN JOAN L. KRAJEWSKI
COUNCILMAN W. THACHER LONGSTRETH
COUNCILMAN RICHARD T. MARIANO
COUNCILWOMAN DONNA REED MILLER
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN FRANK RIZZO
COUNCILWOMAN MARIAN B. TASCO

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P R O C E E D I N G S

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COUNCIL PRESIDENT Verna: Good morning,
4 everyone. This is a public hearing of the
5 Committee of the Whole.

6

Just last month, City Council passed,
7 and the Mayor signed, ordinances providing for the
8 development of a new football stadium and a new
9 baseball ballfield park at the South Philadelphia
10 Sports Complex. In particular, Bill No. 000721-A
11 authorized various transactions between the City
12 and PAID necessary for the development of the new
13 Eagles football stadium, and Bill No. 000722-a
14 authorized various transactions between the City
15 and PAID necessary for development of the new
16 Phillies baseball ballpark. As part of Bill
17 000721-A, City Council approved a document
18 entitled "Eagles Lease Terms" as the basis for the
19 Eagles agreement with PAID for the lease and
20 development of the new football stadium.

21

Section 8 of Bill No. 000721A provided
22 that the leases with PAID must "conform in all
23 material respects" to the Eagles lease terms
24 approved in Bill 000721-A, and it may contain such
25 other terms and conditions as are not inconsistent

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2 with that document.

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4 Bill 000721-A further required that a
5 copy of the Eagles lease be filed with City
6 Council, and City Council would then have ten days
7 to approve or disapprove the lease.

8

9 Bill No. 000722-A contains identical
10 provisions with respect to the Phillies lease
11 terms and approval of the Phillies lease and
12 development agreement with PAID.

13

14 On January 21, 2001, copies of the
15 Eagles and Phillies leases were filed with City
16 Council. Therefore, City Council has until
17 February 1, 2001 to approve or disapprove these
18 leases.

19

20 The purpose of this hearing is to take
21 testimony as to what action Council will take. We
22 will hear today from representatives of the
23 Administration, PAID, the Eagles, and the
24 Phillies, and we will then hear testimony from the
25 public.

26

27 Please note the limited purpose of this
28 hearing. The purpose of this hearing is not to
29 debate again whether new stadiums should be built
30 or where new stadiums should be built. It is not

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2 the purpose of this hearing to debate whether the
3 City should assist in the financing of new
4 stadiums or the amount of such assistance. Those
5 matters were debated at length in a series of
6 public hearings held in November and December,
7 when Council considered the stadium bills, and
8 those issues were resolved as far as this Council
9 is concerned when Bill No. 000721-A and 000722-A
10 were approved by the Council and signed by Mayor
11 on December 28, 2000.

12 The sole purpose of these hearings is
13 to hear testimony as to whether Council should
14 approve or disapprove the Eagles and Phillies
15 leases; and, in particular, whether those leases
16 conform in all material respects to the Eagles
17 lease terms and the Phillies lease terms, which
18 Council approved as part of Bill No.'s 000721-A
19 and 000722-A.

20 I implore the members of the public who
21 wish to testify today to confine their remarks to
22 that issue only.

23 Before we begin the testimony, I would
24 ask Mr. MacPherson to please read the titles of
25 Resolutions No.'s 010020, 010021, 010022, and

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2 010023.

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MR. MACPHERSON: Resolution No. 010020,
a resolution approving the Phillies lease and
development agreement between the Phillies and the
Philadelphia Authority for Industrial Development
for the Phillies baseball ballpark project.

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Resolution No. 010021, a resolution
disapproving the Phillies lease and development
agreement between the Phillies and the
Philadelphia Authority for Industrial Development
for the Phillies baseball ballpark project.

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Resolution 010022, a resolution
approving the Eagles lease and development
agreement between the Philadelphia Eagles Limited
Partnership and the Philadelphia Authority for
Industrial Development for the Eagles football
stadium project.

19

Resolution 010023, a resolution
disapproving the Eagles lease and development
agreement between the Philadelphia Eagles Limited
Partnership and the Philadelphia Authority for
Industrial Development for the Eagles football
stadium project.

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COUNCIL PRESIDENT Verna: Thank you.

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2 I believe our first witness this

3 morning would be the Finance Director.

4 (Witness comes forward.)

5 COUNCIL PRESIDENT Verna: Good

6 morning. I'm sorry we kept you waiting. Thank

7 you for your patience. Kindly identify yourself

8 for the record and proceed with your testimony.

9 MS. DAVIS: Good morning. I'm Janice

10 Davis, the Director of Finance for the City of

11 Philadelphia.

12 As directed by the Mayor of the City of

13 Philadelphia, I reviewed the sublease and

14 development agreements between the Philadelphia

15 Authority for Industrial Development and the

16 Philadelphia Eagles Limited Partnership and the

17 sublease and development agreement between PAID

18 and the Phillies. Both documents reflect the

19 financial terms presented in the documents labeled

20 "lease terms," which were previously submitted to

21 the Council, amended and attached as exhibits to

22 Bills No. 000721-A and 000722-A. There are no

23 financial commitments or risks contained in the

24 leases that are not included in those terms

25 sheets.

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2 Thank you for the opportunity to
3 testify.
4 COUNCIL PRESIDENT VERNA: Thank you.
5 So your testimony indicates that the
6 leases are in conformity with the terms sheets
7 adopted by Council?
8 MS. DAVIS: Yes, on those financial
9 terms, all financial terms.
10 COUNCIL PRESIDENT VERNA: Thank you.
11 Are there any questions from members of
12 the committee?
13 The Chair recognizes Councilwoman
14 Blackwell.
15 COUNCILWOMAN BLACKWELL: No, Madam
16 President, I'll wait for my questions.
17 COUNCIL PRESIDENT VERNA: Thank you.
18 MS. DAVIS: Thank you.
19 COUNCIL PRESIDENT VERNA: The Chair
20 recognizes Councilman Goode.
21 COUNCILMAN GOODE: Good morning, Miss
22 Davis.
23 MS. DAVIS: Good morning.
24 COUNCILMAN GOODE: I was curious as to
25 why we were approving leases between PAID and the

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2 team rather than between the City and PAID.
3 MS. DAVIS: The leases that are on the
4 table are those leases between PAID and the team.
5 Any agreements between PAID and the City, I think,
6 -- and I'll have to defer -- were previously
7 approved.
8 COUNCILMAN GOODE: Okay, thank you.
9 COUNCIL PRESIDENT VERNA: Thank you.
10 MS. DAVIS: Thank you.
11 COUNCIL PRESIDENT VERNA: Our next
12 witness is the City Solicitor.
13 (Witness comes forward.)
14 MR. TRUJILLO: Good morning, Madam
15 President. Good morning, members of Council. My
16 name is Ken Trujillo. I'm the City Solicitor.
17 Council President, on January 26, 2001,
18 I sent to you a letter and I am pleased to be here
19 today to confirm that, as you know, on Monday,
20 January 22, 2001, acting under Bills 000721-A and
21 000722-A, the Philadelphia Authority for
22 Industrial Development, or PAID, filed with the
23 Chief Clerk of City Council copies of what has
24 been known as the "Eagles lease" and the "Phillies
25 lease." I have reviewed the Eagles lease and the

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2 Phillies lease, and I also relied upon briefings
3 about both leases which I've received from other
4 members the City's Law Department and outside
5 counsel, which is working on behalf of the City
6 and on behalf of PAID.

7

8 These reviews and briefings have
9 focused on, among other things, the extent to
10 which the Eagles lease and the Phillies lease are
11 consistent with documents entitled "lease terms,"
12 which were previously submitted to Council,
13 amended, and attached as exhibits to Bills No.
14 000721-A as to the Eagles and 000722-A as to the
15 Phillies.

16 Based on this review, I confirm to you
17 that the Eagles lease and the Phillies lease
18 conform in all material respects to the terms and
19 provisions of the Eagles lease terms and the
20 Phillies lease terms respectively. They do
21 contain other terms and conditions that are not
22 inconsistent therewith. I also believe that the
23 Eagles lease and the Phillies lease do not
24 materially increase the legal risks to the City
25 beyond those contemplated by the transactions set
forth in the respective lease terms and

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2 accompanying ordinances, except for the creation
3 of certain contingent liabilities; for instance,
4 liabilities for the City's willful negligence or
5 gross misconduct in certain circumstances, which
6 are not uncommon in large-scale commercial
7 transactions to which the City is a party and in
8 commercial transactions of the size and complexity
9 of the stadium projects.

10 I'm happy to answer any questions.

11 COUNCIL PRESIDENT VERNA: Thank you.

12 Are there any questions from members of
13 the committee?

14 The Chair recognizes Councilman Nutter.

15 COUNCILMAN NUTTER: Thank you, Madam
16 Chair.

17 Mr. Solicitor, I've listened to your
18 testimony. I thought I heard you say that there
19 were no terms that were inconsistent with, I
20 assume, the terms sheets that were a part of the
21 legislation that we passed, and then you went on
22 to say that there were other terms and conditions.
23 Did I misunderstand your testimony?

24 MR. TRUJILLO: I believe my testimony
25 was that there were no material terms that are

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2 inconsistent with the ordinances which were
3 previously passed.

4 COUNCILMAN NUTTER: Okay. And what did
5 you say after that?

6 MR. TRUJILLO: Let me look at what I
7 was reading, Councilman.

8 I believe that I testified that the
9 Eagles lease and the Phillies lease do not
10 materially increase legal risks to the City beyond
11 those contemplated by the transactions set forth
12 in the respective lease terms and accompanying
13 ordinances, except for the creation of certain
14 contingent liabilities. Then I went on to
15 describe the kinds of contingent liabilities.

16 COUNCILMAN NUTTER: Okay. I may have
17 misheard you. I thought I heard you say that
18 everything that we had done back in December and
19 the things that are here today are consistent with
20 those things but that were other things that were
21 not a part of the December transaction, which are
22 also in the document or the attachments in front
23 of us today.

24 Did I misunderstand you?

25 MR. TRUJILLO: I believe you

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2 misunderstood me. I confirmed that the team
3 leases conform in all material respects to the
4 terms and provisions as were passed in December of
5 last year.
6 COUNCILMAN NUTTER: Okay, thank you.
7 Sorry.
8 COUNCIL PRESIDENT VERNA: Thank you.
9 The Chair recognizes Councilman Goode.
10 COUNCILMAN GOODE: Thank you, Madam
11 President.
12 The Finance Director said that we
13 approved leases between the City and PAID, and I'm
14 assuming that was done by ordinance 722-A. On
15 what date was that approved?
16 MR. TRUJILLO: I believe that was. . .
17 December 20th is my recollection.
18 COUNCILMAN GOODE: 'Cause the
19 resolution states "approved December 28, 2000."
20 MR. TRUJILLO: Sorry?
21 COUNCILMAN GOODE: The resolution
22 actually reads "December 28, 2000."
23 MR. TRUJILLO: The Mayor signed it
24 after it was passed by Council.
25 COUNCILMAN GOODE: Is that what the

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2 December 28th date reflects?

3 MR. TRUJILLO: I believe so, yes.

4 COUNCILMAN GOODE: Could we check on
5 that?

6 MR. TRUJILLO: I've just checked, and
7 that's what I understand.

8 COUNCILMAN GOODE: That's not the way
9 the resolution reads, though. It says, "Whereas
10 City Council, by Bill No. 000722-A, approved
11 December 28, 2000. . . "

12 MR. TRUJILLO: I will check on that for
13 you, Councilman.

14 COUNCILMAN GOODE: All right. If the
15 date in the resolution is wrong, that can be
16 amended, I assume?

17 MR. TRUJILLO: I need to check one
18 thing, if I might.

19 COUNCIL PRESIDENT VERA: The Mayor
20 signed it on December 28th.

21 MR. TRUJILLO: I have a copy here.

22 Thank you, Madam President. I have a copy.

23 The bill was signed by the Mayor on
24 December 28th. That's the day that the bill takes
25 effect. And so I do not believe that there's an

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2 inconsistency with the resolution.

3 COUNCILMAN GOODE: Do you have a copy
4 of the resolution before you?

5 MR. TRUJILLO: No. I'm sorry, I have a
6 copy of the bill before me.

7 COUNCIL PRESIDENT VERNA: I think the
8 bills we have indicate --

9 MR. TRUJILLO: I understand. If you
10 were looking at the "approved December 28 2000,"
11 that reflects the date that it was signed by the
12 Mayor, not the date that it was passed by this
13 Council.

14 COUNCILMAN GOODE: So it's written
15 wrong. It's a mistake the way it's written.

16 MR. TRUJILLO: I don't believe it's a
17 mistake. It's just that the approval date
18 reflects the final approval; that is, the
19 signature date by the Mayor.

20 COUNCILMAN GOODE: I guess the question
21 I was really getting to is not really about that
22 date, but how amendable is this resolution?

23 MR. TRUJILLO: I'm sorry?

24 COUNCILMAN GOODE: How amendable is
25 this resolution?

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2 MR. TRUJILLO: It's difficult for me to
3 answer that question unless I see a specific
4 amendment before me. I believe that it is fairly
5 restricted.

6 This is -- as Madam President
7 indicated, this hearing and the review of this
8 Council is -- is fairly narrow in scope. And that
9 is, the resolutions are to either approve or to
10 disapprove the subleases, as 722 and 721
11 reflected. So it's difficult for me to answer
12 that in a broad sense unless there's some
13 specific --

14 COUNCILMAN GOODE: But the resolutions
15 are amendable based upon action we took in
16 December if it's consistent with the action we
17 took in December; is that correct?

18 MR. TRUJILLO: Councilman, again, I
19 would -- if there is an amendment that would be
20 offered, I'd be happy to look at the particular
21 amendment. I would prefer not to answer that
22 question in a vacuum.

23 COUNCILMAN GOODE: Okay, thank you.

24 COUNCIL PRESIDENT VERNA: The Chair
25 recognizes Councilwoman Tasco.

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2 COUNCILWOMAN TASC0: I have some
3 questions about the operation -- about the leases
4 around the oversight committee. Who's prepared to
5 testify to that?

6 MR. TRUJILLO: On the specific terms of
7 the leases, I believe Mr. Martin will be
8 testifying on that.

9 COUNCIL PRESIDENT VERNA: And he will
10 be testifying shortly.

11 COUNCILWOMAN TASC0: All right, thank
12 you.

13 COUNCIL PRESIDENT VERNA: Are there any
14 other questions, Councilwoman? Thank you.

15 The Chair recognizes Councilman Cohen.

16 COUNCILMAN COHEN: Mr. Trujillo, isn't
17 it a fact that if all of the parties were to
18 agree, everything could be amended?

19 MR. TRUJILLO: If all the parties --
20 this Council's powers are fairly broad with
21 respect to the resolution.

22 COUNCILMAN COHEN: I'm not talking
23 about this Council; I'm talking about an agreement
24 by all of the parties -- the sports teams, the
25 Mayor, and City Council. If all of us were in

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2 agreement, we could change anything; isn't that a
3 fact?

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5 MR. TRUJILLO: Well, I don't think so,
6 Councilman. I believe that the ordinances
7 constrain the extent to which any changes can take
8 place with respect to these leases.

8

9 COUNCILMAN COHEN: Could you say that
10 again?

10

11 MR. TRUJILLO: I believe that the
12 ordinances that were passed by Council in December
13 constrain what can be presented with the lease and
14 the subleases that are being presented today.

14

15 COUNCILMAN COHEN: But if all the
16 parties agreed, wouldn't it be possible to even
17 redo those ordinances?

17

18 MR. TRUJILLO: Well, if this Council --

18

19 COUNCILMAN COHEN: Who would there be
20 to complain?

20

21 MR. TRUJILLO: I can't comment on who
22 would be there to complain. I suspect that if
23 this Council wanted to undertake a legislative
24 process that included --

24

25 COUNCILMAN COHEN: But that's not my
question. My question has nothing whatever to do

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2 with the legislative process; it has to do with
3 basic contract law in the United States. The
4 parties to a contract can, unless third parties'
5 rights are being injured thereby, the parties to a
6 contract can always change it.

7 MR. TRUJILLO: Well, Councilman, the
8 parties to a contract can always agree to whatever
9 they want to agree to.

10 COUNCILMAN COHEN: That's right.

11 MR. TRUJILLO: You're absolutely right
12 there. That does not mean that this Council will
13 have or will approve that which is agreed to.

14 COUNCILMAN COHEN: Well, I have not
15 suggested that. All I've suggested is that if all
16 the parties were to come to an agreement on terms
17 and conditions, whatever they may be, or the
18 existence or nonexistence of ordinances, all of
19 that would be changed.

20 MR. TRUJILLO: I can tell you that on
21 the general question as to whatever parties can or
22 cannot agree to whatever they want, the answer to
23 that is yes. The enforceability of that is quite
24 another question.

25 COUNCILMAN COHEN: All right, thank

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2 you.
3 Thank you, Madam President.
4 COUNCIL PRESIDENT Verna: I would just
5 like to follow through on that if I may. Wouldn't
6 the ordinances have to be amended? So we would
7 have to take the ordinances back to amend them;
8 they could not be amended under a resolution.
9 MR. TRUJILLO: No. And, Madam
10 President, that is why my response is, You and I
11 can agree to do whatever you and I want to do, but
12 that doesn't mean that it's enforceable.
13 COUNCIL PRESIDENT Verna: Thank you.
14 Are there any other questions of the
15 City Solicitor?
16 (No further questions.)
17 COUNCIL PRESIDENT Verna: Thank you
18 very much.
19 MR. TRUJILLO: Thank you, Madam
20 President.
21 COUNCIL PRESIDENT Verna: William
22 Martin?
23 (Witnesses come forward.)
24 COUNCIL PRESIDENT Verna: Good morning.
25 MR. MARTIN: Good morning. Copies?

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2 COUNCIL PRESIDENT Verna: Good
3 morning. Kindly identify yourself for the record
4 for the record and proceed with your testimony.

5 MR. MARTIN: Good morning, Council
6 President Verna and members of City Council. My
7 name is William F. Martin. I am a former member
8 of the City's Law Department and am now an
9 attorney in private practice in Philadelphia. I
10 represent the Administration regarding the sports
11 stadium development project.

12 I'm here today to testify in support of
13 Resolution 010020, approving the Philadelphia
14 Phillies lease and development agreement submitted
15 to City Council pursuant to Bill No. 000721-A; and
16 in support of Resolution 010022, approving the
17 Philadelphia Eagles lease and development
18 agreement submitted to City Council pursuant to
19 Bill No. 000722-A. The Administration does not
20 support Resolutions 010021 and 010022 and
21 respectfully requests that City Council not
22 approve them.

23 I am joined today by Marilyn Cutler,
24 who is an attorney representing the Philadelphia
25 Authority for Industrial Development. As you're

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2 aware the City Solicitor Ken Trujillo and Finance
3 Director Janice Davis are available today to also
4 answer questions that may arise from my testimony
5 that are appropriately directed to them. There
6 are also representatives here today of the
7 Philadelphia Eagles and Philadelphia Phillies, who
8 will be available to answer questions as may be
9 requested by members of City Council.

10 On December 20, 2000, City Council
11 approved Bill No.'s 000721-A A an 000722-A to
12 authorize the underlying lease and financing
13 structure necessary to proceed with the expansion
14 of the Sports Stadium District in the construction
15 of a new baseball park for the Philadelphia
16 Phillies and a new football stadium for the
17 Philadelphia Eagles. The underlying leases
18 between the City and PAID contemplated that PAID
19 would enter into a lease and development agreement
20 with each team, specifying the details of the
21 transaction.

22 The bills require that the lease and
23 development agreements "conform in all material
24 respects" to the terms and provision of the lease
25 terms document attached to each bills as exhibits

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2 and further require that they may contain "such
3 other terms and conditions that are not
4 inconsistent therewith." " The bills provided that
5 lease and development agreements must be filed
6 with the Chief Clerk, and the City Council shall
7 have ten days from the date of filing to approve
8 or disapprove the agreements. The agreements were
9 filed on Monday, January 22, 2001, and the ten-day
10 period conclude on February 1, 2001.

11 As you are all aware, each team is on a
12 very tight schedule in order to meet their planned
13 opening dates of 2003 for the Eagles and 2004 for
14 the Phillies. In light of the limited time, the
15 parties their intensified efforts to complete the
16 drafting of these agreements immediately upon
17 passage of the bills, continued intensive
18 discussions through the holidays and came to
19 closure a bit more than a week ago today, when the
20 agreements were filed with the Chief Clerk and
21 distributed to the Council President.

22 Although discussions were intensive,
23 they were a at all times within the limits placed
24 on us by City Council and the approved terms
25 sheets. As you have heard, the Finance Director

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2 and City Solicitor have each reviewed the
3 agreements and agreed that they are consistent
4 with the terms sheets adopted by this body and
5 have not in any way expanded the City's
6 investment, as contemplated by the bills.
7 In addition to memorializing the
8 agreements, the City's been required to pursue
9 acquisition of certain parcels in order to
10 maintain the teams' critical pass schedules. The
11 team purchased the Acme warehouse site last week
12 and has entered into an agreement in lieu of
13 condemnation for the T-Warehouse. We have
14 concluded preliminary negotiations to relocate the
15 Jetro cash-and-carry business to the Acme property
16 and expect to finalize this transaction shortly in
17 order to make the property available for
18 demolition by the Phillies late this summer or
19 this fall. The Eagles expect to commence
20 demolition work almost immediately upon taking
21 possession of the T-Warehouse, which is expected
22 to occur within the next 30 days.
23 With respect to the agreements, please
24 note that each includes time periods within which
25 various conditions must be met for the transaction

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2 to proceed. In both cases, these include items
3 that will require further action by City Council.
4 In particular, the Administration expects to come
5 before this body with proposed bills to close
6 Tenth Street, amend the existing Veterans Memorial
7 Stadium lease, and to amend the existing agreement
8 between PAID and Spectrum Area Limited Partnership
9 as regards parking arrangements for the sports
10 complex.

11 As you may be aware, the City has been
12 sued by several groups and individuals requesting
13 injunctive relief to the City from proceeding with
14 the transaction. Without further comment, I would
15 like to state simply that the City believes the
16 suit is without merit and expects to be in a
17 position to proceed with financing shortly,
18 shortly without material damage to the Eagles' and
19 Phillies' respective critical pass schedules.

20 In closing. I would like to reiterate
21 the several benefits of this transaction
22 circumscribed by the terms sheets and included in
23 the lease and development agreements. These
24 documents unequivocally require each team to play
25 in their respective stadiums for 30 years from

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2 opening day. They require each team to make
3 certain tax payments to the City and School
4 District of Philadelphia, and include donations of
5 \$1 million each team annually for the Children's
6 Fund and \$375,000 each annually to the Special
7 Services District throughout the lease terms.
8 Furthermore. The City is ridding itself of
9 operational responsibility for Veterans Stadium
10 upon completion of the new stadiums and limits its
11 exposure to only potential Board of View risk on
12 property acquisition.

13 The increased efficiencies of an
14 expanded sports complex will benefit the
15 surrounding community and the addition of two
16 world class facilities will result in a complex
17 that is unique in this country. The
18 Administration fully supports the agreements, and
19 I would respectfully request that City Council
20 approve each agreement either by resolution or
21 simply by letting the ten-day period lapse.

22 I would happy to answer any questions
23 that Councilmembers may have at this time.

24 COUNCIL PRESIDENT VERNA: I believe
25 there are a number of Councilmembers that would

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2 like to ask some questions. I would like to start
3 with them.

4 Can you assure us, Mr. Martin, that the
5 leases are in conformity with the terms sheets
6 adopted in Bills 721 and 722?

7 MR. MARTIN: Yes, Madam President. As
8 we were negotiating the leases with the teams,
9 that was the touchstone of our efforts, to make
10 sure that they were consistent with the terms
11 sheets, and we have concluded that they are.

12 COUNCIL PRESIDENT Verna: Thank you.

13 The terms sheet requires the approval
14 of an affordable seating plan by both the State
15 and City; the leases provide that whatever plan is
16 acceptable to the State shall be acceptable to the
17 City. Doesn't that lease language essentially
18 override the terms sheet requirement of an
19 approval process by both the State and the City?

20 MR. MARTIN: No, I do not believe it
21 does, Madam President. The lease contemplates
22 that the affordable seating plan will be reviewed
23 and approved, consistent with the requirements of
24 the Commonwealth. These requirements were
25 embedded in the statutory requirements imposed by

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2 the Commonwealth in connection with the
3 Commonwealth grant, and we're comfortable that
4 their requirements will be appropriate for the
5 City, and as appropriate, representatives of PAID
6 and the City will be in dialogue with the
7 Commonwealth's attorneys regarding what they will
8 anticipate from the teams.

9 COUNCIL PRESIDENT VERNA: Mr. Martin,
10 can you tell us, why do Phillies get the proceeds
11 from salvage remains of the Vet since the Vet is
12 City property and the City is paying most of the
13 demolition cost?

14 MR. MARTIN: Mrs. Verna, when we
15 structured the transactions, one of the benefits
16 to the City was that we are imposing upon the
17 teams respectively the obligations to fully
18 complete certain site development work at their
19 risk based upon a certain allocation of cost,
20 which is an allocation which is being made by the
21 team.

22 So the Phillies, for example, are
23 undertaking broad ranges of obligations in the
24 area north of Pattison Avenue to demolish, to
25 build parking, to prepare that site as anticipated

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2 by their plans. And one of the sets of
3 obligations that they are undertaking is the
4 demolition of the Vet. While there has been a
5 number allocated for that, it is the Phillies who
6 have the risk if that number is exceeded.

7 In connection with that, a
8 determination was made that since the City -- it
9 was questionable whether the City wanted to
10 undertake an obligation to remove the debris, to
11 go through the debris to determine what was
12 salvageable. So we thought that it was most
13 efficient to allow the Phillies to have both that
14 risk and the potential benefit of salvage value.

15 COUNCIL PRESIDENT VERNA: Please
16 explain the status of conditions, precedents set
17 forth in the leases. Specifically, have financial
18 commitments been made at this time sufficient to
19 meet the parties' obligation under the lease?
20 Particularly, what is being done to close the
21 \$53 million gap?

22 MR. MARTIN: There exist a number of
23 conditions in the lease, including, as you point
24 out, the condition relating to the conditional
25 contributions, or "the gap," as you referred to

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2 it.

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4 We have continued discussions, not only
5 with the State, which, as most people are aware,
6 has committed -- the State's committed at this
7 point \$10 million of additional contributions and
8 has held open to the City its willingness to
9 entertain other possibilities to the extent that
10 may be necessary.

11

12 There are other parties that the City
13 has been in dialogue with, both private and
14 quasi-public. We're not at this point able to
15 identify the parties, out of consideration for
16 their respective processes. We are encouraged by
17 the feedback that we have received, both in the
18 private party and from the other party.

19

20 We believe that all, or close to all,
21 of the additional contributions will be
22 forthcoming to allow the project to proceed. We
23 believe the numbers will be identified, we would
24 hope, in the next 30 to 45 days, with
25 specificity. And the Mayor has confirmed to me,
and we have confirmed to the teams throughout,
that no portion of the additional contributions
will come from City funds, that this is a

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2 tradition to proceeding that will not come from
3 City monies.

4 COUNCIL PRESIDENT VERNA: Thank you.
5 Can you define "City funds" for us?

6 MR. MARTIN: I phrased it that broadly
7 because we think it's a broad description. It's
8 -- the City Council staff from time to time has
9 suggested to us that there could be approaches
10 which would be inconsistent with the commitment
11 which has been made, and the commitment is
12 intended to be a broad one. It won't be City
13 money either directly or indirectly being used to
14 fund this gap.

15 COUNCIL PRESIDENT VERNA: Thank you.
16 You also indicate in your testimony
17 that a bill will be forthcoming to amend the Vet
18 lease?

19 MR. MARTIN: Yes. One of the
20 conditions to the transaction is the amendment to
21 the Veterans Stadium lease required by the fact
22 that the teams will be leaving, that we have to
23 anticipate what will happen with those facilities
24 during the transition period, and we have not
25 negotiated those provisions with the teams at all.

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2 And it's our expectation that very promptly, after
3 we conclude this process, that we will be in
4 negotiations with the teams, and we'll be back in
5 front of this body shortly, seeking its approval
6 for Vet lease amendments.

7 COUNCIL PRESIDENT Verna: So you don't
8 have an answer to the following question:

9 Assuming the Eagles vacate Vets stadiums prior to
10 the Phillies, how will the Eagles rent obligations
11 be affected? We don't know at this point in
12 time.

13 MR. MARTIN: We do not know at this
14 point in time.

15 COUNCIL PRESIDENT Verna: Is approval
16 by major league baseball needed for this deal to
17 go forward? If so, what is the status of the
18 approval request?

19 MR. MARTIN: There is a condition for
20 major league baseball approval. That process --
21 the approval of the -- there's two questions, both
22 the question of the approval of the lease and sort
23 of a broader approval of the transaction.

24 The lease has been subject to informal
25 review by major league, and major league baseball,

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2 through the Phillies, requested certain changes in
3 the negotiating process. Some of those we were
4 able to address, some of them we had to say no,
5 and major league baseball accepted those answers.
6 But I do believe the formal approval is still
7 forthcoming.

8 COUNCIL PRESIDENT VERNA: Thank you.

9 I have several other questions, but I
10 know many of my colleagues want to be recognized.
11 So I'll just ask this question for now: Eight
12 million dollars of the \$53 million gap is
13 dedicated for the purpose of demolishing the Naval
14 Hospital and building parking on the site; yet the
15 lease provides that the City has an obligation to
16 perform that work, whether or not the \$8 million
17 is forthcoming. Doesn't that mean, contrary to
18 the terms sheets, that the City may have to
19 provide some portion of the missing \$53 million,
20 namely, \$8 million for Naval Hospital clearance
21 and parking?

22 MR. MARTIN: I don't believe that the
23 conclusion you suggest is required by that
24 language.

25 As I indicated previously, the

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2 additional contributions and the provision of
3 those monies are a condition to the teams'
4 obligation and to the City's obligation to
5 proceed. Until those monies are received, or
6 perhaps until the teams waive some portion of the
7 requirement that those monies be provided, PAID
8 and the City will not allow these transaction to
9 proceed.
10 So it is intended that the Naval
11 Hospital site will be demolished, that the interim
12 parking will be provided, and that it will not
13 come from City funds.
14 COUNCIL PRESIDENT Verna: And how soon
15 do you see the hospital being demolished?
16 MR. MARTIN: It is our schedule that
17 the demolition and construction of parking will
18 occur by November 1, 2001.
19 COUNCIL PRESIDENT Verna: Thank you. I
20 have other questions, but I don't want to dominate
21 this.
22 The Chair recognizes Councilman Rizzo.
23 COUNCILMAN RIZZO: Thank you, Madam
24 President.
25 Could you, based on the new leases, the

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2 working relationship that the Administration has,
3 the Recreation Department will have, the role that
4 they will have with these new facilities will
5 obviously affect the current employees at the
6 Veterans Stadium. Could you please for the record
7 just let us know how the Administration and
8 Recreation Department plans to deal with the
9 current workforce at Veterans Stadium? I believe
10 there are 35, 40 people associated with the
11 Veterans Stadium at this time.

12 MR. MARTIN: Councilman, I'm not sure
13 of the exact number, but you're right that, unlike
14 today, where City employees are responsible for
15 the ongoing maintenance of the facility, once the
16 new buildings are complete, it will be employees
17 or representatives of the two teams that have that
18 responsibility.

19 This issue was raised informally last
20 week, and contact was made with Managing Director
21 Joe Martz, and Mr. Martz confirm that the
22 employees -- or currently, the Recreation
23 Department employees who work out of the Vet, that
24 their jobs will not be at risk because of this
25 changeover from the public Veterans Stadium to the

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2 private baseball and football; but rather,
3 consistent with the union contracts for those who
4 are unionized, and otherwise for those who are not
5 unionized, other opportunities will be made
6 available to those individuals within City
7 government, either within the Rec. Department or
8 otherwise as appropriate with their skills.
9 COUNCILMAN RIZZO: Thank you. Thank
10 you for that.
11 Thank you, Madam President.
12 COUNCIL PRESIDENT VERNA: You're
13 welcome.
14 The Chair recognizes Councilwoman
15 Miller.
16 COUNCILWOMAN MILLER: Madam President,
17 I didn't have my button on.
18 COUNCIL PRESIDENT VERNA: I beg your
19 pardon?
20 COUNCILWOMAN MILLER: I didn't have my
21 button on.
22 COUNCIL PRESIDENT VERNA: Okay, thank
23 you.
24 And Councilman Ortiz's light is on.
25 Would you please push the button.

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Councilwoman Tasco?

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COUNCILWOMAN TASCO: Yes, just a follow-up on that question. Has there been a plan developed that could be shared with us relative as to what will happen to those City Recreation Department employees?

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MR. MARTIN: Councilwoman, I'm not aware of a specific plan. And as Councilman Rizzo indicates, the number is relatively modest: it's a few dozen. I'm not aware of there being a specific plan in terms of where they would be utilized within the City government. Certainly they're insisting positions will be needed, presumably at least through the end of the 2003 baseball season, so you're probably talking at least until September or October -- for the minimum, September or October of 2003, there's going to be a need for the City employees down there. But I do not believe that there's a -- I'm not aware yet of a specific plan for reallocation of those managers.

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COUNCILWOMAN TASCO: Okay. What will the recruitment mechanism to reach the goals in the lease for the union OIC and apprenticeship

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2 program? There are goals outlined for minority
3 participation; what is the mechanism to reach
4 those goals?

5 MR. MARTIN: Councilwoman, as I'm sure
6 you're aware, both with the terms sheets that were
7 approved in early December, in the first of the
8 terms sheets that were approved in early December,
9 there was an economic opportunity plan applicable
10 to both the baseball park and the football
11 stadium, which was attached as an exhibit to those
12 terms sheets.

13 Consistent with the requirements of the
14 terms sheets, those plans have now been
15 incorporated as exhibits respectively to the
16 Phillies and Eagles leases. And in each of the
17 documents, there is an Exhibit A to the economic
18 opportunity plan, which specifies economic
19 opportunity procedures for identifying
20 subcontractors and employees.

21 I think that to the extent it is --
22 you're seeking more detail about the recruitment
23 process, that may be a question appropriate when
24 the teams' representatives come up.

25 COUNCILWOMAN TASCIO: Okay. Well, can

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2 you answer the questions about the oversight
3 committee?
4 MR. MARTIN: Well, the oversight
5 committee. . .
6 The oversight committee is called for
7 in each of the economic opportunity plans.
8 COUNCILWOMAN TASC0: Well, how will
9 they be -- who will make the appointments?
10 MR. MARTIN: I believe it will be a
11 collegial decision by the teams, by PAID, and also
12 with the assistance of Greater Philadelphia Urban
13 Affairs Coalition, who's going to be the monitor
14 as to each of the plans.
15 COUNCILWOMAN TASC0: Okay, you don't
16 have any details of how that committee will
17 operate?
18 MR. MARTIN: No, I don't.
19 COUNCILWOMAN TASC0: Okay. And so we
20 should ask PAID about that?
21 MR. MARTIN: I think you may want to
22 consider asking representatives of the teams.
23 COUNCILWOMAN TASC0: Okay. I'll just
24 hold my questions.
25 Thank you.

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2 COUNCILWOMAN Verna: Thank you.

3 The Chair recognizes Councilman Cohen.

4 COUNCILMAN COHEN: Thank you, Madam

5 President.

6 What's the scope of the new

7 negotiations with the teams?

8 MR. MARTIN: Councilman, your question

9 would suggest that the negotiations -- are you --

10 is this as to Veterans Stadium? I'm sorry, I was

11 assuming.

12 COUNCILMAN COHEN: The scope of the new

13 negotiations following, say, if there's final

14 approval here. You talked about new negotiations

15 with the teams and you've indicated that there's

16 been no work done on that new negotiation yet;

17 what in general will be the scope of those

18 negotiations, what are they intended to cover?

19 MR. MARTIN: My earlier reference,

20 Councilman, was to the anticipated amendment to

21 the Veterans Stadium lease.

22 COUNCILMAN COHEN: Right.

23 MR. MARTIN: And we need to anticipate

24 in that document how the lease needs to be amended

25 in response to the fact that there is going to be

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2 an early termination -- an early departure of the
3 teams. There is not an existing scope because we
4 have not yet commenced those negotiations.

5 COUNCILMAN COHEN: Have the teams
6 indicated any specifics that they want the City to
7 reconsider? Or to change?

8 MR. MARTIN: There have been -- we have
9 made a purposeful effort not to get into that.

10 COUNCILMAN COHEN: Not to be --

11 MR. MARTIN: We have purposefully not
12 gotten into the Veterans Stadium lease issues
13 because we thought that it was more essential to
14 conclude the lease discussions as to the new -- as
15 to the new ballpark and the new stadium. Each of
16 these documents have a variety of conditions which
17 need to be satisfied. We have a Veterans Stadium
18 condition. We have had someone undertake the
19 responsibility of commencing a first draft, which
20 is still to be reviewed by the City team and has
21 not yet been shared with either the Phillies or
22 the Eagles.

23 COUNCILMAN COHEN: (Inaudible.)

24 As of now, has there been anything in the existing
25 lease that was about to become new with respect to

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2 the superboxes? Has there been any discussion at
3 all with respect to that?

4 MR. MARTIN: That issue we've sometimes
5 in shorthand refer to as the "flip," and we have
6 not had discussions about them. And, in fact, we
7 have affirmatively made the point to the teams
8 that there are no commitments on that issue at
9 this time.

10 COUNCILMAN COHEN: I raise it
11 specifically 'cause I was a member of the Council
12 at the time that issue came up and that was very
13 specifically --

14 COUNCIL PRESIDENT Verna: I'm sorry,
15 Councilman, you're going to have to speak into the
16 microphone. The stenographer cannot hear you.

17 COUNCILMAN COHEN: Thank you, Madam
18 President.

19 I raise this issue because the payment
20 to the City of the superboxes, the Vet estimated
21 to bring in \$6 million of revenue annually to the
22 City was the major selling point by Mayor Goode to
23 the Council on the ground that the contract with
24 the teams was backloaded but that the time would
25 come, and we have arrived at the time when the

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2 City would receive substantial income from the
3 stadiums.
4 Now, has there been any -- any
5 commitment by the City in any way to change those
6 terms?

7 MR. MARTIN: No, sir.

8 COUNCILMAN COHEN: There was a case
9 approximately ten years or so ago, maybe a little
10 longer, in which the Pennsylvania Supreme Court
11 referred in an opinion on an ethics matter in
12 which the position of the City Council was being
13 sustained. The Supreme Court referred to the fact
14 that there are certain powers that the City
15 Council has which are not subject to delegation.
16 There have been other cases in which the
17 Pennsylvania Supreme Court has ruled that the
18 State legislative body is unable to delegate
19 certain powers.

20 Is there any such concern on the part
21 of the City with respect to the one thing this
22 very limited review that the ordinance provides
23 that City Council may have in which City Council
24 is not free to exercise under the terms of the
25 original ordinance its judgment to bring about

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2 amendments but must vote up or down the lease
3 agreements. Is there any concern at all on the
4 City's part that this may constitute an illegal
5 delegation of power by the City Council?

6 MR. MARTIN: Madam President, the
7 Councilman asked a question which I think is
8 probably more appropriately directed to the City
9 Solicitor. Would it be appropriate, if he's still
10 here, to ask whether the Solicitor would --

11 COUNCILMAN COHEN: Well, you were a top
12 and very respected member of the City Solicitor's
13 Department. If I recollect, at times you've been
14 the acting City Solicitor. Would you have any --

15 MR. MARTIN: Thank you for that
16 characterization, Councilman.

17 My opinion is that the approach that
18 was utilized by Council in the early December
19 ordinances, which were passed, is consistent with
20 existing State law that the approach -- the up or
21 down approach, which you're suggesting Council
22 faces, is a result of ordinances which Council
23 passed. I think it's also worth pointing out that
24 the leases, which are the subject of the review
25 here in the leases between PAID and the teams

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2 normally would not require any approval of this
3 body; but, rather, the approval by resolution was
4 a requirement developed by the early-December
5 ordinances.

6 So, no, I don't believe that Council,
7 as it has acted in early December and is acting
8 now, is doing anything which is contrary to
9 existing law.

10 COUNCILMAN COHEN: Are you -- are you,
11 in your role as an attorney, concerned by the fact
12 that this is a transaction in which there are four
13 different leases that at times the City plays the
14 role of the landlord, at times the City plays the
15 role of a tenant in these leases, and that this
16 very complicated, and maybe arcane, system has
17 been worked out, I'm sure, by very competent
18 attorneys, but it indicates that the deal is
19 extremely complex, extremely questionable, may be
20 so arranged to avoid the application of laws of
21 the City that might other apply? Does that cause
22 any matter of concern?

23 MR. MARTIN: I would agree that you
24 described it as complicated, which I would agree.
25 I would disagree with your characterization as

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2 questionable.

3 The approach that has been utilized in
4 this transaction is not inconsistent with

5 approaches that have been utilized previously by
6 the City in transactions where it's utilized its

7 economic development authority. The creation of

8 PAID by State statute, I think, anticipates uses

9 of the type which is contemplated by this

10 transaction. There have been, as I noted in my
11 opening statements, there is pending litigation.

12 Certainly we, in the structuring of the

13 transaction, the potential claims that were raised

14 in the litigation were contemplated, and we are

15 confident that the litigation is without merit,

16 and the transaction, as structured, can proceed.

17 But I'm also confident that through the

18 effort of people working on behalf of the City,

19 people in the Law Department, attorneys on behalf

20 of PAID, that this transaction's been structured

21 in a way to properly protect the interests of the

22 City and properly protect the interests of PAID.

23 COUNCILMAN COHEN: But has there ever

24 been any transaction that has approximated the

25 huge sums of money involved in this transaction,

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2 where this kind of arrangement's been made with
3 leases and -- I was going to call them counter-
4 leases, they're not so defined, but there are four
5 sets of leases, I understand, involved here,
6 leases from the City to PAID, leases back again,
7 and I think there's another leaseback to PAID.

8 It seems to me that legal precedence,
9 if any, have not dealt with this issue. And as
10 far as I know, the lawsuit that has been filed to
11 date does not include the question of unlawful
12 delegation of power by City Council. I'm not
13 certain of that, 'cause I haven't studied that
14 lawsuit thoroughly as of yet, but it seems to me
15 that that's the question that's not been raised as
16 yet.

17 Does Council have the right, for
18 example -- Council would normally feel in a
19 transaction of this kind that it has the right --
20 in fact, the obligation -- to review every aspect
21 of every final lease agreement. Yet Council
22 itself agreed that its own review would be
23 limited. I think that might be questionable. And
24 in fact, Council went beyond that by passing the
25 most basic ordinance solely on a laundry list of

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2 what are the terms and conditions, some of which
3 there can be questions as to whether they've been
4 fulfilled, but the question also be raised that
5 the Council had that power.

6 And you say you have no concern about
7 those issues?

8 MR. MARTIN: I'm confident that the
9 transaction has been structured in a way that is
10 consistent with State and local law and that the
11 current lawsuit would be defeated. And if there
12 were to be additional litigation based upon the
13 types of concerns that you've articulated, that
14 the transaction would withstand that type of
15 attack.

16 COUNCILMAN COHEN: And there are going
17 to be bonds that are to be issued in connection
18 with financing by various parties to this
19 agreement, to these series of leases; is that not
20 a fact?

21 MR. MARTIN: Yes.

22 COUNCILMAN COHEN: And in the
23 prospectus in those bond issues, will there be
24 requirements with respect to putting forth the
25 issues that have been raised by critics who claim

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2 that there are questions about the validity of the
3 actions taken by Council? Would that have to be
4 referred to in those bond issues?

5 MR. MARTIN: There would exist a
6 requirement of disclosure of any pending
7 litigation.

8 COUNCILMAN COHEN: And what is the
9 feeling of the -- if you know it, of the bond
10 authorities with respect to the effect of those
11 disclosures on the saleability of the bonds and
12 with respect to the interest rates those bonds may
13 require?

14 MR. MARTIN: As to the commercial paper
15 issuance, which is anticipated during the month of
16 February, we continue to review the litigation and
17 prepare changes to the bond documents to reflect
18 the litigation. We're comfortable that that
19 aspect of the financing will proceed without
20 interruption, and we believe that it will proceed
21 without impact upon the interest rates on the
22 paper.

23 The circumstance that we're facing here
24 is not dissimilar to one that occurred in the
25 early '90s in connection with litigation that was

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2 raised by Mr. Weiner against the Convention Center
3 transaction. And in that case, while the
4 litigation was pending prior to its final
5 adjudication by the State Supreme Court, the
6 Convention Center Authority was able to proceed
7 with the financing of that transaction.
8 COUNCILMAN COHEN: Are you troubled by
9 the fact that even in the -- what's generally
10 referred to as the "prime lease," and as I wind my
11 way through these leases trying to figure them out
12 and have developed my own -- maybe it's my own
13 numbering system, I would call that "lease no. 2
14 of the 4," in which the City is the tenant, not
15 the owner in lease no. 2, there is this clause in
16 that lease agreement. It says that -- and it's
17 Section 19.15(d), as in David, of the Eagles prime
18 lease between the City and PAID and states that
19 the City and PAID can enter into amendments to
20 that lease, quote, without the consent of any
21 other parties in order to quote, add to the
22 covenant and agreements of the City herein
23 contained or to surrender any right or power
24 herein reserved to confer upon the City, end
25 quote.

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3 In simple language, that seems to me to
4 say that at any time, without ever coming to City
5 Council, new agreements could be entered into, old
6 agreements could be changed by the parties at any
7 time without notice to anybody, certainly not to
8 Council and without any action by Council.

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9 Now, do you agree or disagree with my
10 interpretation of that clause? And if you
11 disagree, then tell me how it's limited in any
12 fashion.

12 MR. MARTIN: I think that the relevant
13 limitation is in the leaseback lease agreement,
14 which is sort of the next sequence of the
15 documents between the City as landlord and PAID as
16 tenant, where we provide that the Authority will
17 not amend the lease -- it will not amend the team
18 leases in a way that would materially affect the
19 obligations of the Authority, without the prior
20 written consent of the City acting through
21 City Council. And we believe that the structure,
22 as adopted, allows for the transactions which are
23 contemplated by the team leases and by the terms
24 sheets and protects the City from amendments to
25 the lease structures, which would materially

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2 increase any obligation to the City.

3 COUNCILMAN COHEN: Well, if that's the
4 interpretation, why isn't that language made clear
5 in this prime lease? Why do you need another
6 separate agreement to limit something -- why do
7 you need lease no. 3 to indicate how lease no. 2
8 is limited? Why is that limitation in lease no. 2
9 itself?

10 MR. MARTIN: I'm trying to get a hold
11 of that document, Councilman.

12 COUNCILMAN COHEN: Thank you.

13 Mr. Mart, is someone's there who
14 apparently knows the answer? Can he or she come
15 to the witness table and respond.

16 MR. MARTIN: Councilman, your prior
17 reference was to which section? I'm sorry.

18 COUNCILMAN COHEN: My prior reference
19 was to section 19.15(d) of the Eagles prime lease,
20 in which the City is the tenant to further
21 identify the particular lease. If you're
22 numbering and my numbering don't agree, I wanted
23 to make clear which lease it was. It's the lease
24 in which the City is the tenant.

25 MR. MARTIN: The section which -- which

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2 relates to amendments was, I believe, crafted to
3 -- because the lease structure that you've
4 described is being relied upon to some extent by
5 the bondholders and also by the teams in ensuring
6 that their rights are as they anticipate by the
7 sublease agreements that we're reviewing today,
8 this amendment, or this language, indicates that
9 while PAID and the City can enter into amendments
10 as between themselves, it is limiting the right to
11 enter into such amendments so that it does not
12 impair the security of the lenders.

13 So I don't see this section as
14 materially increasing -- either posing a risk to
15 the City because of actions of other parties. I
16 mean, it's -- as you were mentioning earlier, most
17 agreements allow that the parties can amend, as
18 between each other, and that's what this is
19 saying, except putting certain limitations upon
20 that amendment, right.

21 COUNCILMAN COHEN: Well, what you're
22 saying, it seems to me, is that what we have are
23 today's version of the leases, but we don't know
24 what tomorrow's version might be, because Council
25 is obviously a necessary party to the -- all of

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2 these transactions. And what you've just said is
3 that the parties may at anytime change those
4 agreements. And yet, we're told that this is the
5 final agreement. And I know of nothing that
6 requires -- if these agreements change, I know of
7 nothing that currently requires this matter to
8 come before the Council again.

9 MS. CUTLER: Councilman Cohen, if I can
10 try and answer. The section --

11 COUNCIL PRESIDENT VERNA: Excuse me.
12 You're going to have identify yourself for the
13 record, Marilyn.

14 MS. CUTLER: Okay. I'm Marilyn Cutler,
15 and I've acted as counsel to PAID during these
16 negotiations.

17 Councilman Cohen, I think you're citing
18 Section 19.15, which deals with amendments and
19 which has been specifically written to discuss
20 those circumstances under which there may be
21 changes made that affect the rights of -- or the
22 security of the holders, and those are the people
23 who have certain rights under the bond indenture,
24 because the complex set of leases, or the
25 structuring of the deal that you referred to

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2 earlier, is in fact to allow the financing to
3 proceed through PAID's issuance of notes and
4 bonds.

5 The section in 19.15 talks about those
6 circumstances, and I think you can see at the
7 introduction of the section that it states that
8 it's specifically only for the following purposes;
9 and, therefore, limits the circumstances under
10 which there can be changes made that may affect
11 the holders, the people under the bond indenture.

12 The beginning of the sentence talks
13 about the parties agreeing to an amendment. As
14 you're well aware, the City of Philadelphia is a
15 party to this agreement, and because the City is a
16 party, it would have to agree to any amendment,
17 and since these documents were approved by City
18 Council, the documents that we have here that were
19 approved in December, City Council would have to
20 approve any material change to the documents that,
21 in fact, had been voted on in December.

22 So to the extent you are asking us
23 whether you are adequately protected and whether
24 you would have an opportunity to see any kind of
25 material change to these documents, I believe that

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2 19.15 allows you, and in fact requires, that that
3 approval would come back to you.

4 COUNCILMAN COHEN: Well, it would be a
5 little bit reassuring, at least with respect to
6 this particular issue, if there were an opinion of
7 the City Solicitor basically stating that if there
8 are any material changes which affect the existing
9 basic terms and agreements to which the City's a
10 party, that if there are such changes, that they
11 have to come back to City Council for approval.

12 Because as I read it, that's not the
13 case now. And further, what I'm concerned about
14 is there's a wide area of interpretation as to
15 whether or not this is in fact a material change
16 and is it the kind of change that would have to
17 come back to City Council. I would prefer to see
18 an opinion stating clearly, without all of these
19 reservations, that if there are any changes, that
20 they have to come back. Because, otherwise, I
21 just think Council has, you know, shorn itself of
22 the power to protect the taxpayers here, to
23 whatever extent there is still any room for
24 protection of taxpayers. This clause seems to me
25 to be a threat to, you know, the most basic rights

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2 of taxpayers. So I'm going to be requesting that.

3 Now, Section 1 of Bill 721 states that

4 the City must "pay all obligations of PAID as

5 required under the Eagles leases." Couldn't this

6 provision added to the provision I mentioned

7 previously allow or require the City to provide

8 additional financial support beyond what has been

9 agreed to for this deal?

10 And I would ask in that answer to tell

11 us what the absolute financial requirement of the

12 City is. What is the maximum that the City funds

13 directly or indirectly, as has been referred to in

14 the previous answer to some question, I think of

15 Councilwoman Tasco, what is the absolute, final

16 liability of the City in this transaction?

17 MR. MARTIN: Councilman, as --

18 COUNCILMAN COHEN: And that assumes, of

19 course, that we will have gotten an opinion from

20 the City Solicitor saying that there can be no

21 changes without things coming back to City

22 Council, because if you can make changes, then you

23 can change entirely the City's obligation without

24 ever coming back to City Council. So that's why

25 the City Solicitor's opinion would be needed in

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2 the first instance to establish a base figure,
3 whatever that figure is, and now I would ask you
4 for that base figure as to the cost to the City.
5 And that, of course, does not include the annual
6 interest payments; that's another matter. But the
7 basic initial dollar cost.

8 MR. MARTIN: Councilman, first, I'll go
9 back to the question that you posed at the
10 beginning of your series of questions having to do
11 with how -- how Council is to receive comfort,
12 that there's not incremental obligations that will
13 be imposed upon the City beyond what's being
14 approved here. And I guess there's two thoughts,
15 and I'll get back to the numbers in a second.

16 We believe that it is clear that the
17 subleases which were presented are consistent with
18 the financial obligations that were included and
19 presumed by the financial presentations made back
20 in December by Mr. Hankowsky regarding what the
21 City has to put into the deal. Beyond that,
22 again, the leaseback lease agreement between the
23 City as landlord and PAID as the tenant indicates
24 that the Authority is not permitted to amend the
25 Eagles lease or the Phillies lease in a way that

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2 would materially adversely affect the obligations
3 of the Authority as landlord without the prior
4 written consent of the City acting through City
5 Council.

6 So in terms of the City's obligations,
7 what exists is what is embedded in these
8 documents, period. And it can only be added to
9 through amendments, which would require the
10 consent of the City acting through City Council.

11 In terms of the numbers, the numbers
12 that were presented to Council back in December
13 indicated that the bond issue, which is
14 contemplated by this transaction, will be
15 \$304 million, that the present value of the future
16 operations and maintenance obligation which is
17 being incurred vis-a-vis the Eagles under the
18 Eagles lease is \$90 million. So you have 394
19 $(304+90=394)$, and the only potential unknown,
20 which I tried to reference in my opening
21 statement, would be in the event that land
22 acquisitions were not completed amicably and went
23 to the Board of View. And if the Board of View
24 imposed acquisition costs, those costs
25 theoretically could result in the cost to the City

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2 exceeding the 394 number that I've just described.
3 COUNCILMAN COHEN: The Acme warehouse,
4 you indicate the transaction has been completed.
5 Does that mean that's one that will not go to the
6 Board of View?
7 MR. MARTIN: No, Councilman, to the
8 contrary. Let me describe that. The agreement
9 with Acme was that an amount was paid to the
10 current owner by agreement.
11 COUNCILMAN COHEN: It was paid by
12 whom?
13 MR. MARTIN: By the City.
14 COUNCILMAN COHEN: By the City.
15 MR. MARTIN: By the City. And in the
16 event -- the owner retained the right to challenge
17 the valuation before the Board of View. So the
18 essence of the transaction was that the owner was
19 not fighting the condemnation or questioning the
20 condemnation act, but was reserving the right to
21 challenge the valuation.
22 So there is potential risk associated
23 with the Acme site before the Board of View.
24 COUNCILMAN COHEN: Thank you.
25 You say other than. . . the estimated

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2 cost of land acquisition, which I assume is
3 included in that bond figure of 304 million?

4 MR. MARTIN: Yes. That --

5 COUNCILMAN COHEN: Is that where that
6 figure is included?

7 MR. MARTIN: Yes. There is a number of
8 between 90 and 100 million which is included as a
9 component of the 304 for land acquisition. There
10 is also a contingency for the benefit of the
11 public of PAID within the 304 -- not a contingency
12 relating to construction overruns because, as we
13 made the point, those construction overruns are
14 the obligations of the teams, but we have included
15 a contingency for potential overruns on cost
16 acquisition to the extent those two components are
17 exhausted and additional amounts would be imposed
18 by the Board of View.

19 That would be -- if you're asking what
20 the universe of potential risk to the City? that
21 is the only one which is not subject to specific
22 limitation here as we speak today, and that was
23 the one that was also identified by Mr. Hankowsky
24 in his testimony in December.

25 COUNCILMAN COHEN: Well, let me refer

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2 your answer back to what Miss Cutler said a few
3 moments ago.

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5 Can this City Council rely on the fact
6 that if, except for that one contingency of land
7 acquisition costs, that if the costs were ever to
8 exceed the \$394 million figure as outlined by you
9 as the cost to the City, that there would be
10 action to refer back to City Council for approval
11 of whatever element caused that change?

12 MR. MARTIN: Councilman, to answer your
13 question, it's -- yes, it's hard for me to
14 envision where PAID would secure the money to do
15 anything beyond the levels that we've talked about
16 here today. So, I mean, there is authority to
17 borrow the 304. The City has its ongoing
18 operations and maintenance cost. The Board of
19 View exception, I think, was scoped out
20 specifically in the ordinances that were already
21 approved.

22 Beyond that -- beyond that, I don't see
23 how PAID would have access to funds to do anything
24 more. It couldn't rely upon its lease with the
25 City because that is limited by --

COUNCILMAN COHEN: It asks for an extra

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2 appropriation from City Council.

3 MR. MARTIN: And I'm presuming that's
4 what it would do.

5 COUNCILMAN COHEN: Would the City have
6 the power, in your judgment, to waive any of the
7 requirements? For example, many of us take some
8 small solace from the fact that there's going to
9 be a million dollars for each of 30 years from the
10 teams to the Children's Fund, for example. Could
11 there be a waiver by PAID or the City of those
12 payments without there being action by City
13 Council to approve it?

14 MR. MARTIN: As far as --

15 COUNCILMAN COHEN: Because there's
16 language in the lease that talks about waiver.

17 MR. MARTIN: As far as it relates to
18 the Children's Fund, I believe it's anticipated
19 that the Children's Fund will be subject to a
20 bilateral agreement between the teams respectively
21 and the Philadelphia Foundation, which has been
22 selected as the administrative entity for the
23 Children's Fund.

24 So the City would not have the right to
25 waive payments under the Children's Fund because

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2 those obligations will be memorialized in a
3 bilateral agreement that the City is not a party
4 to.

5 COUNCILMAN COHEN: How about the pilot
6 payments, the payments in lieu the taxes? Did the
7 parties agree without coming back to Council?

8 MR. MARTIN: I don't believe so,
9 Councilman. I mean, it was in the terms sheet,
10 it's in the leases.

11 COUNCILMAN COHEN: We would like that
12 with respect to both answers on the Children's
13 Fund and on the pilot to be included within the
14 City Solicitor's opinion.

15 I think these are very severe areas of
16 concern. What is very troubling is this
17 unaccounted-for \$53 million. Was your earlier
18 answer to that a statement that under no
19 circumstance would there be any payment by the
20 City directly or indirectly through any
21 authority?

22 When you say "the City," are you using
23 the City as a term of art, separating it from
24 obligations of authorities? Authorities are
25 sometimes the City, sometimes they're not the

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2 City. And we would like to have it clear on the
3 record that when we talk about the City paying
4 money, that that includes PAID and PIDC and any
5 other theoretical body that now exists or may come
6 to exist in the future that serves basically as an
7 agency of the City.

8 MR. MARTIN: The problem, Councilman,
9 is, as you phrased that as broadly as you did, we
10 have to sate anticipate, for example, that the
11 Commonwealth grant that we're all aware of, which
12 is a component not only of the core financing for
13 this transaction but additions to that may be
14 filling a part of the gap. That money is likely
15 to come through PAID or through the City.

16 So that what happens is, you may have
17 grants of monies that may come from the
18 Commonwealth or may come from other quasi-public
19 entities which flow through PAID or flow through
20 the City into this transaction. So as you get
21 more and more precise with asking me to state, you
22 know, what the City and what all of these agencies
23 will not do, I don't want to -- I don't want to
24 mislead.

25 I don't think it's a complicated

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2 concept. There is money that is intended for this
3 transaction which may come via PAID or the City
4 and flow into the transaction. But the Mayor's
5 commitment here has been a general one, and I
6 don't think that it's intended to require
7 parsing. City money won't go in to fill the gap.
8 COUNCILMAN COHEN: Madam President, I
9 still have a number of questions and I'd like to
10 follow your precedent because there may be other
11 members --
12 COUNCIL PRESIDENT VERNA: There are
13 other members that would like to be recognized.
14 COUNCILMAN COHEN: I would like to hold
15 at this moment and then come back, Madam
16 President.
17 COUNCIL PRESIDENT VERNA: Thank you,
18 Councilman.
19 COUNCILMAN COHEN: Thank you, Madam
20 President.
21 COUNCIL PRESIDENT VERNA: Thank you.
22 At this time, the Chair recognizes
23 Councilman Nutter.
24 COUNCILMAN NUTTER: Thank you, Madam
25 President.

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2 Mr. Martin, just a quick question, if
3 you could refresh our memories. Who is
4 responsible, and what is the extent of the
5 responsibility, for any reporting requirements
6 related to either construction activity or the
7 ongoing operations of the facility, whether it's
8 the financials or who's doing what at the
9 particular sports complex relative to the two
10 stadiums? Were there some reporting requirements
11 in the documents that we dealt with last year?

12 MR. MARTIN: There are a variety of
13 obligations in the leases for the teams to solicit
14 approvals by PAID of a whole range of component
15 parts of their project. But I'm surmising you're
16 trying to get to something else, but I'm not
17 exactly sure.

18 COUNCILMAN NUTTER: I thought I
19 recalled in one of the terms sheets for both
20 transactions that certain reports had to be made
21 on some kind of regular basis with regard to the
22 progress of the project, how many people were
23 working at the project, who those people were,
24 where they were from, some type of demographic
25 analysis of who they were, who had contracts with

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2 the teams to do certain things, what the value of
3 those contracts were.

4 And then once the facility is up and
5 running, is there any requirement to make any
6 reports with regard to how the two facilities are
7 operating, who's there in terms of either
8 concessions, restaurants, or any other activity
9 outside of, obviously, the ballplaying that's
10 going on?

11 Did I read that somewhere in one of the
12 terms sheets?

13 MR. MARTIN: Yes, you did, Councilman.
14 That would have been in the economic opportunity
15 plan in Section 2(d), and that section, again, is
16 incorporated also -- that plan is incorporated as
17 an exhibit to the lease, and it indicates that
18 after the commencement of project operations, the
19 team will forward to the Mayor, the President of
20 City Council, and PAID semiannual updates of
21 employment and contracting activities for the
22 project in appropriate form.

23 COUNCILMAN NUTTER: Tell me that term
24 again. You said upon the completion of what?

25 MR. MARTIN: The phrase used is "after

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2 commencement of project operations."

3 COUNCILMAN NUTTER: What does that
4 mean?

5 MR. MARTIN: The project is described
6 as the development, construction and operation of
7 -- and in one case, it's a ballpark, and in the
8 other case, it's a football stadium.

9 COUNCILMAN NUTTER: And what are the
10 dates that trigger this commencement terminology?
11 When does this start?

12 MR. MARTIN: Well, I think that it
13 would be different as to -- I mean, there are not
14 dates specific; it would be based upon an
15 interpretation of.

16 COUNCILMAN NUTTER: Well, there must be
17 some trigger. I mean, what does that -- what does
18 that phrase mean?

19 MR. MARTIN: Given the status of the
20 projects currently, Councilman, I would believe
21 that the projects will have been commenced at the
22 point these leases are signed. If the question is
23 development construction and operation, I would
24 think that these projects are clearly currently
25 under development.

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2 COUNCILMAN NUTTER: I was going to say,
3 some of this activity has already started, right?
4 MR. MARTIN: Right. So the obligations
5 embedded in what is being suggested here are part
6 and parcel of the lease, so they won't --
7 COUNCILMAN NUTTER: So when would you
8 consider -- if some of these activities in that
9 phraseology have all right started, what would you
10 consider the start date of -- what's the phrase,
11 "commence, "operate"?
12 MR. MARTIN: After commencement of
13 project operations.
14 COUNCILMAN NUTTER: After commencement
15 of project operations, all right. So what's the
16 -- what was the first day of the commencement of
17 -- I'm sorry, tell me that again?
18 MR. MARTIN: Of project operations.
19 COUNCILMAN NUTTER: Of project
20 operations, thank you. What was the first day?
21 MR. MARTIN: I think we could probably
22 debate that, Councilman, but this is triggering a
23 reporting requirement, and I would surmise that
24 after --
25 COUNCILMAN NUTTER: Well, if you have a

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2 reporting requirement that's a semiannual --

3 MR. MARTIN: It would suggest that it
4 could be no more than six months.

5 COUNCILMAN NUTTER: I always get the
6 semi-annuals and biannuals a little mixed up, but
7 what's --

8 MR. MARTIN: Semiannual is every six
9 months.

10 COUNCILMAN NUTTER: Right, okay. Well,
11 if you're going to do something in six months, you
12 got to have a date from which you start, then you
13 get six months. So what was the date?

14 MR. MARTIN: Well, it could be no later
15 than the execution of the leases.

16 COUNCILMAN NUTTER: So is your
17 testimony that if this all gets wrapped up on or
18 by February 1st, that you have until, what, the
19 end of August?

20 MR. MARTIN: Well, it's being pointed
21 out to me, Councilman, that --

22 COUNCILMAN NUTTER: In July?

23 MR. MARTIN: -- That I what I called
24 to your attention was the reporting requirement as
25 it related to operations, and there's a separate

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2 reporting requirement relating to design and
3 construction.
4 COUNCILMAN NUTTER: What are those
5 operations? What are those requirements?
6 MR. MARTIN: The teams will similarly
7 forward to PAID, the Mayor, and the President of
8 City Council in formats reasonably agreed upon
9 monthly updates.
10 COUNCILMAN NUTTER: Oh, so we got
11 monthly updates, okay. And when do those start?
12 MR. MARTIN: I would imagine as soon as
13 we sign.
14 COUNCILMAN NUTTER: I'm sorry?
15 MR. MARTIN: I would imagine as soon as
16 the leases are executed.
17 COUNCILMAN NUTTER: Wasn't it your
18 statement that some of this activity, in that
19 phraseology, has already started?
20 MR. MARTIN: Yes.
21 COUNCILMAN NUTTER: So then the
22 reporting requirements have started, right?
23 MR. MARTIN: Well, the reporting
24 requirements are part and parcel of commitments
25 that are being made in connection with the lease.

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2 COUNCILMAN NUTTER: Right.

3 MR. MARTIN: If the lease isn't

4 executed, I'm not sure that we can get a hold of

5 the teams that are reporting requirements.

6 COUNCILMAN NUTTER: I'm sorry, I didn't
7 hear what you said.

8 MR. MARTIN: Without the lease being

9 signed, I'm not sure what the basis would be upon

10 which to hold the teams to the reporting

11 requirements.

12 COUNCILMAN NUTTER: Let me sure I

13 understand this. We have certain terms and

14 conditions in the lease that say that you have to

15 make certain reports to us when you start certain

16 activities; is that correct?

17 MR. MARTIN: Yes.

18 COUNCILMAN NUTTER: Okay, and just so I

19 understand, those activities have started, right?

20 MR. MARTIN: Those activities have

21 started, in essence, by the teams in anticipation

22 of these leases being signed sort of on their own

23 nickel, yes.

24 COUNCILMAN NUTTER: Right, I

25 understand. They took a certain amount of risk,

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2 but starting before things were well in hand. But
3 now you're saying that we can't request the
4 information that we requested to have in the
5 lease, and even though they started doing certain
6 activities which would be a trigger date for those
7 reports, we can't have any of that information
8 until after the lease is signed. Is that your
9 testimony?

10 MR. MARTIN: No, it would never be my
11 testimony, Councilman, that you can't request
12 something.

13 COUNCILMAN NUTTER: Okay.

14 MR. MARTIN: Certainly the teams can
15 respond to any requests issued by you or any
16 member of City Council.

17 COUNCILMAN NUTTER: Okay, all right.
18 Who's responsible for gathering the data and
19 information for these reports?

20 MR. MARTIN: There are contact people
21 indicated within each of the plans on behalf of
22 each of the teams. As to the Eagles, the contact
23 people include Mr. Montgomery, the President, and
24 the Project Manager for the --

25 COUNCILMAN NUTTER: That would be for

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2 the Phillies, I assume.

3 MR. MARTIN: I'm sorry, for the
4 Phillies, Dave Montgomery, John Stranicks (ph.)
5 are listed. And as to the Eagles, I believe
6 Mr. Banner and Mr. Simmon (ph.).

7 COUNCILMAN NUTTER: Well, this is the
8 last part of the question. What are the three
9 terms, development, operations and something
10 else?

11 MR. MARTIN: As to the reporting
12 requirements under design and construction --

13 COUNCILMAN NUTTER: Mm-hmm.

14 MR. MARTIN: -- it indicates "over the
15 estimated design and construction period," which,
16 in the Phillies document, is indicated to be of
17 34 months.

18 COUNCILMAN NUTTER: Right. Which
19 commences when?

20 MR. MARTIN: I think that would have to
21 be a -- I would suggest that you need -- that
22 question would be better answered by the teams'
23 representative in terms of when they anticipate
24 that --

25 COUNCILMAN NUTTER: The 34 months, can

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2 you tell us what's happened so far?
3 MR. MARTIN: The Phillies have
4 commenced a design process for the ballpark on the
5 new location that was specified in -- back in
6 November. That design work, I know, is ongoing.
7 The Eagles --
8 COUNCILMAN NUTTER: Okay, does that
9 mean that they have a contract with someone to do
10 that?
11 MR. MARTIN: Again, I would suggest
12 that you ask the Phillies to give you details
13 about that.
14 COUNCILMAN NUTTER: Okay.
15 MR. MARTIN: The Eagles project is
16 further along.
17 COUNCILMAN NUTTER: Right.
18 MR. MARTIN: Because their stadium is
19 located on the T-Warehouse site.
20 Getting back to your earlier question,
21 Councilman, the language in the Eagles document is
22 similar, except the construction period is noted
23 to be 30 months instead of 34 months.
24 COUNCILMAN NUTTER: Okay. And so
25 whether it's the monthly reports or the semiannual

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2 report -- now, the semiannual was a part of the
3 economic opportunity plan and the monthly was a
4 part of -- what was that, design?
5 MR. MARTIN: These are different
6 sections of the economic opportunity plan.
7 COUNCILMAN NUTTER: I understand. Who
8 is responsible for producing -- gathering the
9 information and producing these reports.
10 MR. MARTIN: The teams.
11 COUNCILMAN NUTTER: So on a monthly
12 basis or a semiannual basis, they have to get
13 together all this information and forward it to
14 the Mayor, the Council President, and PAID?
15 MR. MARTIN: Yes, yes.
16 COUNCILMAN NUTTER: And would you
17 consider that to be a material term of the lease?
18 MR. MARTIN: Yes.
19 COUNCILMAN NUTTER: Is there any
20 particular penalty for not forwarding the
21 information?
22 MR. MARTIN: I think it would be
23 handled similarly with any other breach of the
24 respective leases.
25 COUNCILMAN NUTTER: Is it considered a

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2 breach not to forward the information?
3 MR. MARTIN: Presumably, after
4 exercising the notice and cure provisions that
5 would be in the contract, yes.
6 COUNCILMAN NUTTER: So if they didn't
7 send us the information and we notified them that
8 we haven't received your monthly or semiannual
9 report, they have an opportunity to cure that
10 deficiency before you would take any other action.
11 MR. MARTIN: Yes.
12 COUNCILMAN NUTTER: Okay, all right.
13 Thank you, Madam President.
14 COUNCIL PRESIDENT Verna: Thank you.
15 The Chair recognizes Councilwoman
16 Miller.
17 COUNCILWOMAN MILLER: Thank you, Madam
18 President.
19 Madam President, I was wondering if
20 anyone from the Greater Philadelphia Urban Affairs
21 Coalition will be here to testify?
22 COUNCIL PRESIDENT Verna: I haven't --
23 I'm not aware that they will be.
24 COUNCILWOMAN MILLER: Or MBEC. I have
25 some questions that talks about the implementation

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2 of the MBE/WBE contracts.
3 COUNCIL PRESIDENT Verna: Mr. Martin,
4 aren't you in a position to answer those
5 questions?
6 COUNCILWOMAN MILLER: No.
7 COUNCIL PRESIDENT Verna: No?
8 MR. MARTIN: The Councilwoman's
9 answered that question.
10 COUNCIL PRESIDENT Verna: Pardon me? I
11 didn't hear what he said.
12 COUNCILWOMAN MILLER: Well, because,
13 you know why? 'Cause some of the questions that
14 people are asking he's referring to the team, and
15 that's probably true, but I also think that
16 someone from MBEC or/and the Greater Philadelphia
17 Urban Affairs Coalition should be here because
18 they are a part of the implementation.
19 MR. MARTIN: I think we'll make inquiry
20 of --
21 COUNCIL PRESIDENT Verna: I'm sorry. I
22 can't hear a word you're saying.
23 MR. MARTIN: We'll look into if
24 somebody from MBEC could be available today.
25 COUNCILWOMAN MILLER: Well, we want

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2 them and we also want someone from the Greater
3 Philadelphia Urban Affairs Coalition.

4 COUNCIL PRESIDENT Verna: Can a call be
5 made for both of those organization to be here
6 please?

7 MR. MARTIN: Yes. We'll take care of
8 that.

9 COUNCILWOMAN MILLER: Thank you.

10 That's all, Madam President.

11 COUNCIL PRESIDENT Verna: Thank you.

12 I just have a few more questions that I
13 would like to ask. The terms sheets require the
14 teams to provide capital repairs to the stadiums
15 during the entire length of the lease terms. The
16 leases cut that requirement to 25 years. How do
17 you reconcile these provisions?

18 MR. MARTIN: The provision that was in
19 the terms sheet -- bear with me for a second.

20 The terms sheet provides -- requires
21 that the teams to be responsible for capital
22 repairs without any precise delineation as to a
23 time frame. And as we got into the negotiation of
24 the lease, we needed to contemplate a circumstance
25 where there would be a requirement of capital

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2 repairs that would require an investment with
3 useful life beyond the then-remaining period of
4 the lease. And we went back and forth with the
5 teams in our negotiations.

6 And the conclusion was that we needed
7 to provide for the possibility that there would be
8 a need for a capital repair, especially
9 potentially an emergency capital repair in the
10 last five years. And we anticipate that if that
11 occurs, there will be a division of the cost for
12 the period remaining in the lease, which will be
13 the responsibility of the teams, as against a
14 longer period, which may be the responsibility of
15 PAID.

16 This, as negotiated we, believe, was
17 fairly anticipated by the terms sheet. It was
18 standard for long-term commercial leases of this
19 type. And we think it appropriately balances the
20 interests of the public and the teams in this
21 regard.

22 COUNCIL PRESIDENT VERNA: Well, how
23 does PAID pay for that?

24 MR. MARTIN: Well, if -- again, I need
25 to emphasize that the teams' maintenance

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2 obligation continues over the entire 30-year
3 period, that we're dealing only with potentially
4 emergency repairs, and that determination
5 regarding the payment is going to have to be made
6 at the time.

7 COUNCIL PRESIDENT VERNA: But that
8 would be by the City?

9 MR. MARTIN: No. PAID could also
10 decline to make the payment. It's hard to
11 anticipate how that would, with precision, work
12 out, because we are talking about the period
13 probably 2029 to 2034, you know, where we're
14 dealing with periods that are probably 28 to 32
15 years out from now.

16 COUNCIL PRESIDENT VERNA: Are there
17 limitations in the leases on the obligations of
18 the teams to make repairs in the event of
19 casualty? How do you reconcile these provisions
20 with the capital repair provisions of the terms
21 sheets?

22 MR. MARTIN: I think the limitations,
23 Mrs. Verna, that you're referring to are included
24 in the insurance provisions, and the insurance
25 provisions were the topic of negotiations between

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2 the City's risk managers and their representatives
3 and the teams and, again, we believe are pretty
4 much standard for commercial transactions of this
5 type. And the limitations, to the extent they
6 exist on the teams' casualty obligations, are not
7 inconsistent with the terms sheet.

8

9 COUNCIL PRESIDENT VERNA: Mr. Martin,
10 are there any circumstances under which the teams
11 can legally escape their covenant to play their
12 home games at the new stadiums?

12

13 MR. MARTIN: The preservation of the
14 play covenant was paramount in our drafting of
15 the documents, and the only place that occurs to
16 me as a spot where the play covenant might be
17 subject to avoidance is where the City fails to
18 make its cash payments that are required.

18

19 You know, for example, we have the
20 \$10 million payment that is required to the Eagles
21 in June. There are a couple of other places
22 where, under certain circumstances, the City has
23 requirements to make cash payments -- excuse me
24 PAID has requirements to make cash payments. And
25 I also think that under certain casualty events,
if the buildings were to be destroyed or

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2 condemnation, if the City were to condemn the
3 properties, those arguably may result in an impact
4 on the play covenant. But the preservation of
5 the play covenant was paramount in the
6 preparation of the leases.
7 COUNCIL PRESIDENT Verna: Thank you.
8 I believe Councilwoman Blackwell, you
9 wanted to be recognized?
10 COUNCILWOMAN BLACKWELL: Thank you,
11 Madam President.
12 This is a follow-up to a question and a
13 dialogue with Councilman Cohen. The O&M costs you
14 mentioned were about \$90 million. Is this a net
15 present value basis?
16 MR. MARTIN: Yes.
17 COUNCILWOMAN BLACKWELL: Thank you.
18 COUNCIL PRESIDENT Verna: The Chair
19 recognizes Councilman Cohen.
20 COUNCILMAN COHEN: Thank you, Madam
21 President.
22 Mr. Martin, there's a job difficulty
23 that those of us who are members of the bar face,
24 and that's talking plainly and not being
25 considered as if we're trying to hide things by

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2 the words that we use. I'm a little troubled
3 because I read your statement on the Acme
4 warehouse, and in this statement that Mr. Martin
5 read, he said that the City purchased the Acme
6 warehouse.
7 Now, you know, I'm both a lawyer and a
8 non-lawyer simultaneously. And "purchase" means
9 to me "buy it." And then you gave an answer that
10 indicated, Well, we really didn't. All they did
11 was agree to not fight us if we move ahead and
12 condemn the property. If we bought it, there has
13 to be a purchase price; and on that purchase
14 price, we have something we can examine and decide
15 whether or not it comports with what the estimate
16 had been.
17 So did we buy it or didn't we buy it?
18 MR. MARTIN: We --
19 COUNCILMAN COHEN: Why did Mr. Martin
20 say that we purchased it? There's no other
21 adjective in it. The City purchased the Acme
22 warehouse site last week, and I read from Page 4
23 of Mr. Martin's statement, and has entered into an
24 agreement in lieu of condemnation for the
25 T-Warehouse site, but the Acme is a straight,

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2 all-out purchase. And if it's not, I don't think
3 it should have been stated as an all-out purchase.

4 MR. MARTIN: Let me attempt to

5 clarify. I'm sorry if I left you confused.

6 There was an agreement with respect to

7 condemnation entered into with the equitable

8 owners of the Acme warehouse. That provided --

9 COUNCILMAN COHEN: Well, can you tell
10 us what "equitable owners" means, because we're
11 talking to citizens of Philadelphia, and not just
12 lawyers.

13 MR. MARTIN: Okay. Acme owned the
14 property, Acme entered into an agreement with
15 another party to sell the property to them. Our
16 agreement was with that buyer, to take its rights
17 to purchase. So that -- so that the City could
18 acquire the property.

19 COUNCILMAN COHEN: Well, did he agree
20 on a sail price or not?

21 MR. MARTIN: He agreed as to an amount
22 to be tendered to him in connection with the City
23 taking control of the property. And that's what
24 occurred last week.

25 COUNCILMAN COHEN: And there was no

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2 talk of any dollar-amounts?

3 MR. MARTIN: No. There was an amount
4 that -- an amount has been tendered to that party
5 at the end of last week, and now the City --

6 COUNCILMAN COHEN: Well, why can't we
7 (inaudible) the amount?

8 MR. MARTIN: Huh?

9 COUNCILMAN COHEN: If it's been
10 tendered to him, why can't it be stated on the
11 record?

12 MR. MARTIN: I could state it on the
13 record. I guess I'm a little reluctant because as
14 we're continuing to deal with all of the other
15 parties, we're attempting to continue
16 negotiations. And the less information that is
17 out there regarding what we've done with other
18 property owners may leave us in a bit better
19 position.

20 And if you would be willing to take
21 that information privately, I'd be happy to give
22 it to you privately.

23 COUNCILMAN COHEN: Well, let me ask you
24 this: Is the agreement -- whatever it is, it was
25 something less than a full purchase. Is there any

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2 circumstance under which the City would not be
3 able to acquire ownership?
4 MR. MARTIN: No. The City has acquired
5 ownership. The only question now is if this party
6 challenges the amount which has been paid as fair
7 consideration under the agreement with respect to
8 condemnation and that challenge runs to the Board
9 of View, does the Board of View make a subsequent
10 ruling that more money is due?
11 COUNCILMAN COHEN: Well, has there been
12 any payment up front?
13 MR. MARTIN: Yes.
14 COUNCILMAN COHEN: Where did those
15 funds come from?
16 MR. MARTIN: Those funds were monies
17 that were --
18 COUNCILMAN COHEN: There's a new bond
19 issue, right, as of now?
20 MR. MARTIN: Correct.
21 COUNCILMAN COHEN: Well, where did the
22 money come from, whatever amount it was?
23 MR. MARTIN: Those were funds which
24 were available from the City. My understanding is
25 that they constituted repayment of a -- under a

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2 State grant. They were monies otherwise available
3 to the City for its use, and they will be
4 reimbursed out of the bond proceeds when the
5 commercial paper closing occurs.
6 COUNCILMAN COHEN: You mean it was
7 money from a State grant unrelated to that
8 legislation that gave \$85 million for each stadium
9 from the State?
10 MR. MARTIN: Yes.
11 COUNCILMAN COHEN: And that was
12 borrowed? Did you have to get State approval for
13 that? Did the City have to get State approval?
14 MR. MARTIN: No.
15 COUNCILMAN COHEN: If you know, if you
16 know.
17 MR. MARTIN: The answer is no.
18 COUNCILMAN COHEN: And the arrangement
19 is to repay it --.
20 MR. MARTIN: Yes.
21 COUNCILMAN COHEN: When the bonds
22 are --
23 MR. MARTIN: The amount I referred to
24 previously of the \$90-some odd million, which has
25 been budgeted for land acquisition, this is a

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2 subset of that amount. When the commercial paper
3 is issued and the proceeds are available, the
4 first payment will be back to replenish these
5 funds.

6 COUNCILMAN COHEN: Was it the total
7 amount that had been agreed upon that was paid or
8 a partial payment?

9 MR. MARTIN: It was -- it was the total
10 amount that was paid by the City.

11 COUNCILMAN COHEN: By the City?

12 MR. MARTIN: Yes.

13 COUNCILMAN COHEN: Subject to what, the
14 Board of -- I don't know what they call that.

15 MR. MARTIN: Board of View.

16 COUNCILMAN COHEN: The Board of View?

17 MR. MARTIN: Yes.

18 COUNCILMAN COHEN: You know, that's an
19 interesting concept. I expect there are all kinds
20 of grants from State and federal government that
21 come into the City, and we hope and we pray that
22 that's not going to change effective a week ago or
23 so. But the concept is that that money is
24 available for other purposes?

25 It seems such an easy way to frustrate

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2 the City Council. City Council likes to feel the
3 City Charter has placed upon it a responsibility,
4 which often is a burden of, you know, being held
5 to account for payments made by the City, because
6 we appropriate the money. But if we have not
7 appropriated the money, somehow the City, meaning
8 the Executive Department of the City government,
9 still can have money available to itself to do
10 things.

11 MR. MARTIN: In this case, the funds
12 that were available were available for use by the
13 executive branch for this purpose. I'm not -- I
14 don't want to suggest that there's a broader -- a
15 broader principle at work. It was isolated as to
16 these monies.

17 COUNCILMAN COHEN: I don't think that
18 can -- I know what you're trying to do, but I
19 don't think we can do it at public hearings. You
20 know, there's money that the City Council has not
21 made available yet for the stadiums that we
22 haven't even completed all of our actions.

23 MR. MARTIN: Well --

24 COUNCILMAN COHEN: I think there has to
25 be a better answer than that. And I say that

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2 respectfully, sir, but --
3 MR. MARTIN: And I understand that,
4 Councilman.
5 Would it be appropriate to suggest that
6 someone else from the Administration try to speak
7 more precisely on this question at this point? Or
8 would --
9 COUNCILMAN COHEN: I'll leave that the
10 discretion of the President.
11 COUNCIL PRESIDENT Verna: Who from the
12 Administration would be able to speak on this
13 precisely?
14 MR. MARTIN: Perhaps the Solicitor.
15 COUNCIL PRESIDENT Verna: If he's here,
16 perhaps he should come to the table.
17 (Mr. Trujillo returns to the witness
18 table.)
19 MR. TRUJILLO: Good afternoon, Madam
20 President. I'm Ken Trujillo, the City Solicitor.
21 Good afternoon, Councilman. I was in
22 the back and so I heard a little bit of the
23 exchange, and I am happy to answer any questions
24 you might have.
25 COUNCILMAN COHEN: Well, you heard the

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2 question?

3 MR. TRUJILLO: Well, I'm sorry, I did
4 not hear all of it. I was literally in the back
5 corner.

6 (Mr. Martz repeats the question to
7 Mr. Trujillo off the record).

8 MR. TRUJILLO: It's my understanding
9 that there was already an appropriate for, I
10 believe, up to almost a hundred million dollars
11 for the purpose of acquisition for the real estate
12 property acquisition that was made by this Council
13 in December.

14 COUNCILMAN COHEN: Mr. -- the witness
15 testified before that he believed that it was
16 money from the State, which was available for use
17 for this purpose.

18 MR. TRUJILLO: Oh, if what you're
19 talking about is the actual funding of the
20 purchase --

21 COUNCILMAN COHEN: Of the Acme
22 warehouse.

23 MR. TRUJILLO: And what were the
24 dollars being --

25 COUNCILMAN COHEN: You know, having a

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2 lawyer's discussion is to the need for lawyers to
3 speak in language which citizens can understand
4 and rely on and not feel is questionable language
5 intended to cover rather than to explain and open
6 the situations, because I point out to the
7 conflict in testimony as to what appeared to be a
8 flat statement of purchase of the Acme warehouse,
9 and later on, it was indicated, Well, we sort of
10 purchased it, but we don't know what the final
11 price might yet be, all depending on whether the
12 matter goes before the Board of View, which
13 apparently the so-called equitable owner has
14 reserved the right to do, you know, and awaiting
15 the final judgment of the Board of View, if he
16 actually proceeds with that.

17 And then, it turned out -- I raised the
18 question to ordinary people -- "purchase" means
19 that you put down the money. And the witness
20 said, Yes, we have paid the amount the City had
21 agreed on, subject to what may happen later. And
22 I wanted to know where did the money come from?

23 MR. TRUJILLO: Let me first respond --

24 COUNCILMAN COHEN: 'Cause I thought
25 that this matter, you know, that money matters by

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2 the City were being held in obedience. I would
3 like to hope that the decision of City Council is
4 not for or against in advance, that these hearings
5 have a purpose, to both inform the public and to
6 permit Council to consider and then to permit
7 Council to vote. And if it turned out that the
8 vote was against this ultimately, that there would
9 be no expenditures of monies.

10 But, apparently, that was just -- I
11 guess I was still naive, after all of these years
12 in City Council, in believing that Council had the
13 power yet to act.

14 MR. TRUJILLO: Sir, first of all, I
15 know one thing, and that is that you are not
16 naive.

17 Let me start with your first question.
18 And once the declaration of taking is filed, once
19 the declaration of taking is filed, ownership of
20 the property does in fact change hands then.

21 COUNCILMAN COHEN: And has that been
22 done?

23 MR. TRUJILLO: That has been done. And
24 so if we were incomplete or inarticulate in
25 phrasing that, I apologize, but the declaration of

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2 taking has been filed. And so ownership of the
3 property is in the City's hands.

4 As Mr. Martin, I believe, was trying to
5 make clear, that does not -- that does not end the
6 question as to price, because the seller kept the
7 right to go to the Board of View so that is --

8 COUNCILMAN COHEN: Well, is that a
9 purchase? If we require ownership by a
10 declaration of taking, is that a purchase of
11 property?

12 MR. TRUJILLO: Well, it's -- I'm not a
13 real estate; I would defer to real estate lawyers
14 and I get some more information on that.

15 My understanding is, however, once we
16 have filed the declaration of taking, equitable
17 ownership goes to the City. And so title has
18 passed, and title has passed to the City.

19 As to --

20 COUNCILMAN COHEN: Is that title
21 subject to being recovered again? Is there any
22 legal action which can reverse that? ?

23 MR. TRUJILLO: The only issue at this
24 stage is the question of what is just compensation
25 for the property? And that is what would be in

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2 the hands of the Board of View. The Board of View
3 would then make a determination, if the seller
4 chooses to go to the Board of View, as to whether
5 or not the price, as has been paid by the City,
6 was just compensation.

7

8 COUNCILMAN COHEN: Did we have to
9 establish any right to file this declaration of
10 taking? Or does it mean the City legally has the
11 power at anytime to file a declaration of taking
12 against anybody's ownership of any property and
13 thereby require legal ownership?

13

MR. TRUJILLO: Councilman --

14

15 CHAIRMAN COATES: I'm just trying to
16 understand what form of acquisition of property
17 was involved here.

17

18 MR. MARTIN: In December, among the
19 ordinances that were approved by Council as it
20 relates to the stadium transaction were five
21 different ordinances which authorized the City to
22 acquire each of the five parcels required for
23 stadium development, and those parcels were
24 permitted to be acquired either by condemnation or
25 by amicable negotiates. So the authority of the
City to file condemnation on the properties that

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2 we're talking about here were part and parcel of
3 what was approved by this Council in early
4 December.

5

6 COUNCILMAN COHEN: You know, let me
7 explain one thing: The basis to some of these
8 questions is, we know that in private transactions
9 involving private money, all sorts of things take
10 place -- let's assume they're all even legal, but
11 there are all kinds of actions that take place.

12

13 But when you're dealing with public
14 monies, taxpayers have this old-fashioned, quaint
15 notion that they kind of have a right to know
16 what's going on and how their money is being used,
17 and they even have a right to express an opinion
18 whether they think it's right or wrong and whether
19 or not they have legislative power, you know, to
20 effectuate those feelings or not.

21

22 But these are important issues to
23 people in Philadelphia, and that's the reason I'm
24 trying so hard to get to the bottom of what have
25 we actually done and what are the powers of the
26 Council. And that's the reason I raise the
27 questions.

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29 We hope that in telling us what's going

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2 on, that the language is clear and simple, and
3 that ordinary conclusions can be safely drawn
4 without our later being told, Oh, but we used this
5 word. You know, we were very careful not to say
6 something else. And we're trying to avoid that.

7 Thank you for the explanation,

8 Mr. Solicitor.

9 MR. TRUJILLO: Thank you very much,
10 Councilman.

11 COUNCILMAN COHEN: We appreciate that.

12 So the City owns the property, but
13 we're not certain yet or not whether the estimate
14 as to the cost of the property, the estimate that
15 the City made, will prevail, but I assume the
16 payment is within the limits of the City's
17 estimate of what it costs, so we don't yet know of
18 any overrun on acquisition of property.

19 Would that be a fair conclusion to say,
20 without revealing the amounts?

21 MR. MARTIN: Yes. They're -- on the
22 two parcels where prices have been established,
23 first the Acme, and there is a risk that it may be
24 increased, and as to T-Warehouse, which is a set
25 amount still to be funded, those two numbers, as

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2 agreed upon, constitute a slight increase as to
3 what was budgeted. But the vast -- the majority
4 of the contingency, which I previously described,
5 continues to be available to the transaction.

6 So we weren't right --

7 COUNCILMAN COHEN: So it's well within
8 the contingency figure.

9 MR. MARTIN: Yes. And we were wrong
10 within the contingency; we weren't right on in
11 terms of the numbers, but perhaps over by a couple
12 million dollars total.

13 COUNCILMAN COHEN: And I guess in
14 transactions involving the latest estimate, I
15 understand, of the immediate cash going in is
16 something like 1.3 billion from all parties, not
17 just the City, that this is now being described as
18 a \$1.3 billion project and, as I calculate it,
19 with some 6 to 700 millions of dollars in tax
20 money being require over the next 30 years to pay
21 for the cost of bonds. I would call it from my
22 arithmetic a \$2 billion project from the point of
23 view of the total costs.

24 Do you disagree with that?

25 MR. MARTIN: Well, you can calculate

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2 the value of the transaction in any number of
3 ways, Councilman, and I'm sure that if you accept
4 certain premises, your calculations are accurate.
5 COUNCILMAN COHEN: So I pass the
6 arithmetic test.
7 (Laughter.)
8 COUNCILMAN COHEN: Okay, very good.
9 Thank you.
10 Thank you, Mr. City Solicitor.
11 MR. TRUJILLO: Thank you, Councilman.
12 COUNCILMAN COHEN: Now, back to -- what
13 is the indenture? There is reference made to
14 indenture. In the leases for example, there is
15 this very intriguing language, I think, worthy of
16 a detective novel.
17 Section 18.4(a), I mean that
18 designation is enough to scare away lawyers as
19 well as citizens from reading further. Section
20 18.4(a) of the Eagles prime lease states that the
21 City must abide by all of the lease documents,
22 plus the obligations imposed on the City pursuant
23 to the indenture.
24 Now, that raises a whole new question.
25 What is the indenture and what's going to be the

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2 impact of the indenture on everyone? What do the
3 lease agreements mean by the word "indenture"?
4 MS. CUTLER: Councilman, the indenture
5 refers to the document that will be central to the
6 bond or note financing by PAID, and it is a
7 document that sets forth the terms under which the
8 bonds or notes or commercial paper will in fact be
9 sold and the rights and obligations of the parties
10 concerning that.
11 COUNCILMAN COHEN: When I went to law
12 school back in the '30s, "indenture" meant a deed.
13 MS. CUTLER: No.
14 COUNCILMAN COHEN: It no longer just
15 means a deed.
16 MS. CUTLER: In this case, it does not
17 mean a deed.
18 COUNCILMAN COHEN: It does not mean a
19 deed.
20 MS. CUTLER: It's not a deed to the
21 real estate.
22 COUNCILMAN COHEN: And it's not a
23 bond?
24 MS. CUTLER: No. It's a document that
25 would be used if the financing transaction. If,

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2 in fact, you denied greater detail than that, I
3 would get one of the bond lawyers to respond, but
4 it's not the deed for the real property.

5 COUNCILMAN COHEN: And it's not the
6 bond.

7 MS. CUTLER: The bond itself? No.

8 COUNCILMAN COHEN: Well, could you,
9 without going into detail, tell us generally what
10 does the indenture relate to? Why is there such a
11 thing as indenture? Why weren't the leases
12 enough?

13 MS. CUTLER: Well, because we have
14 different parties. The leases in the first
15 instance, the underlying leases, are between the
16 City and PAID, the layers of leases that you
17 referred to in your earlier question.

18 COUNCILMAN COHEN: Right.

19 MS. CUTLER: The next layer of leases
20 are those between PAID and the two teams
21 respectively. As you're aware, there are
22 subleasing development agreements between PAID and
23 the Eagles and between PAID and the Phillies, and
24 they set out the respective rights and obligations
25 of PAID and the teams to each other as landlord

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2 and tenant for the new facilities.

3 COUNCILMAN COHEN: And is that the

4 indenture?

5 MS. CUTLER: No. Those are the leases
6 that I've just gone through.

7 COUNCILMAN COHEN: Okay.

8 MS. CUTLER: The indenture -- and then
9 there are a variety of other documents -- are
10 documents that will be used by PAID to obtain the
11 funds necessary to make the various payments that
12 are necessary in the transaction.

13 So, for example, the terms sheets that
14 Council approved in December anticipated that the
15 City would provide, through PAID, money for, for
16 example, with the Phillies, the construction of
17 their stadium. PAID will borrow those funds in
18 order to have them available to make that
19 investment in the stadium. The borrowing
20 documents include the indenture.

21 So the indenture is not --

22 COUNCILMAN COHEN: Is the indenture a
23 contract?

24 MS. CUTLER: Yes, it is.

25 COUNCILMAN COHEN: Who are the parties

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2 to the indenture?

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MS. CUTLER: I think it is actually,
4 Councilman, the contract between PAID and the
5 bondholders. So it is the document that sets
6 forth that PAID will borrow the money and the
7 terms under which it will repay the money.

8

COUNCILMAN COHEN: Well, if it's
9 between the bondholders and PAID, then it's an
10 obligation running to the bondholders.

11

MS. CUTLER: Yes.

12

COUNCILMAN COHEN: Are they the only
13 parties that can enforce the terms of the
14 indenture?

15

MS. CUTLER: Yeah, the trustee, under
16 the indenture, can also enforce, and usually would
17 be the party enforcing, on behalf of bonds
18 holders.

19

COUNCILMAN COHEN: Well, then, tell me,
20 how does that impact -- or does the indenture come
21 before City Council at some point?

22

MS. CUTLER: No, the indenture does not
23 come before City Council because City Council is
24 not a party to it. The underlying leases --

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COUNCILMAN COHEN: Then why -- if the

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2 City is not a party to it, then why does that
3 section that I read, Section 18.4(a) say that the
4 City must abide by all of the lease documents --
5 that I understand -- plus, quote, the obligations
6 imposed on the City, pursuant to the indenture?

7 MS. CUTLER: Because --

8 COUNCILMAN COHEN: You mean there are
9 going to be obligations imposed on the City that
10 we know nothing about?

11 MS. CUTLER: No. These are the
12 obligations, in fact, that will result from these
13 underlying leases being used as the vehicle for
14 funding those dollars necessary so that PAID will
15 be in a position to repay the borrowings that it
16 makes in order to develop the stadiums.

17 COUNCILMAN COHEN: Well, I understand
18 that, but why -- this language indicates that
19 there are going to be, or may be, additional
20 obligations; otherwise, there's no need for that
21 language.

22 The City and PAID are going to have
23 various kinds of obligations through the lease
24 agreements, but this says that the City must abide
25 by all of the lease documents and, in addition,

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2 must abide by the obligations imposed on the City
3 pursuant to the indenture. Now, if there are
4 obligations already imposed on the City by the
5 leases, then there is no purpose to having them
6 impose a second time pursuant to the indenture.

7 So this, to make sense, must refer to
8 the possibility of there being other obligations
9 not imposed by the lease which may be further
10 imposed upon the City by the indenture,
11 obligations which we know nothing about.

12 MR. MARTIN: Councilman, it may be
13 worth, in terms of getting the broader picture, to
14 go back to Section 4.6 of the prime lease, which I
15 think is the document that you're. And 4.6
16 indicates that the terms and conditions of the
17 indenture, the credit facility, the identity of
18 that provider, the form of the bonds, collateral,
19 security, all of that is subject to the prior
20 written approval of the City acting through its
21 Director of Finance, which may be granted or
22 withheld in its sole discretion.

23 So, again, this is a necessary
24 component of the overall financing structure, but
25 the prime lease has been structured in a way to

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2 ensure that there is nothing about the indenture
3 or the bonds or any of the documents collateral to
4 the indenture or the bonds which will impact the
5 City or impose any obligations upon the City other
6 than ones that we're anticipating by the sublease
7 agreements.

8 COUNCILMAN COHEN: You know, I don't
9 mean to be disrespectful in any sense, but it just
10 sounds like pabulum. In one place, there is clear
11 language that there may be new obligations, which
12 we know nothing about that are going to be imposed
13 upon us by a document -- in this case called the
14 indenture. And then we're told that somewhere
15 else in the document is something that says you
16 can go back to sleep peacefully, don't worry about
17 because actually, even though it sounds like we're
18 doing something, we really haven't done anything
19 at all. You know, we haven't added anything that
20 you haven't already agreed to.

21 Now, I just have enormous difficulty
22 with that. I'm not going to pursue that further
23 but I think you can understand why it raises so
24 many -- so many questions in our mind, because
25 what we see -- let me speak for myself. What I

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2 see is the possibility at sometime, when there may
3 be other people representing the City, when maybe
4 there may be other City officials, they're coming
5 in and they're saying, Well, it was plain as day
6 that the indenture said that it had the right to
7 impose other obligations on the City. And as a
8 matter of fact, we went through the Council's
9 transcript, and you even discussed that. Why are
10 you complaining now that there are other things?
11 And then we'll say, Yeah, but at the same time, we
12 were told that it really doesn't mean anything,
13 because there was another clause that was supposed
14 to have made the first one that troubled you
15 utterly meaningless.

16 You know, I think that that puts
17 taxpayers in a very uncomfortable situation 'cause
18 I don't-- I really don't know what the answer is.
19 When you draft a document -- and I've done many in
20 my lifetime -- everything you say has a meaning by
21 the drafter. Maybe other people don't know what
22 the meaning is, but the drafter knew what it was
23 that he or she wanted to achieve. And it kind of
24 doesn't make sense to say that phrases like
25 imposing additional obligations in the indenture

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2 upon the City, saying that that's there but it
3 doesn't mean anything.
4 At this point, I have no further
5 questions, President Verna.
6 COUNCIL PRESIDENT VERNA: Are you sure,
7 Councilman?
8 (Laughter.)
9 COUNCILMAN COHEN: Well, for a moment,
10 I'm sure as I contemplate this intricate pattern
11 of leases and indentures and imposition of
12 obligations, but not really. You know, we're only
13 putting it in words.
14 COUNCIL PRESIDENT VERNA: We'll be
15 back.
16 COUNCILMAN COHEN: But we'll put in
17 words that will eliminate the effect.
18 Thank you, Madam President, for your
19 patience.
20 COUNCIL PRESIDENT VERNA: Thank you.
21 Are there any other questions of this
22 witness?
23 (No further questions.)
24 COUNCIL PRESIDENT VERNA: You're going
25 to stay with us for the remainder of the hearing,

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2 I'm sure.
3 MR. MARTIN: Whatever is your pleasure
4 Mrs. Verna.
5 COUNCIL PRESIDENT VERNA: Please,
6 Mr. Martin, I would appreciate it.
7 MR. MARTIN: Okay.
8 COUNCIL PRESIDENT VERNA: Our next
9 witness is Mr. Hardy. And I would recommend that
10 Mr. Hardy take whoever he wants to the witness
11 table.
12 (Witnesses come forward.)
13 COUNCIL PRESIDENT VERNA: Good
14 afternoon. And may I thank you for your
15 patience. Many of the Councilmembers are in their
16 offices, and they can hear the testimony.
17 You have a letter, a copy of which is
18 now being distributed to each of the
19 Councilmembers.
20 MR. HARDY: Thank you, Council
21 President. My name is Chuck Hardy, and I'm here
22 with my associate Tyler Wren, who is going to
23 start out giving the testimony that we are giving
24 today on behalf of some of the community groups
25 who live in the area most affected by the proposed

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2 new ballpark and new stadium.

3 Mr. Wren?

4 MR. WREN: Good morning, Council

5 President Verna and Councilmembers.

6 COUNCIL PRESIDENT VERNA: Good morning.

7 MR. WREN: My name is Tyler Wren. I'm

8 an attorney with the law firm of Sprague & Sprague

9 here in Philadelphia.

10 We are testifying here today on behalf

11 of the various community organizations which

12 represent the South Philadelphia residential

13 communities that will be most affected by proposed

14 new Eagles stadium and new the Phillies ballpark.

15 Specifically, our clients are the Veterans Stadium

16 Neighbors, the Stadium Community Council Inc.,

17 South Philadelphia Community Civic Association,

18 Broad Street West, and the Packer Park Civic

19 Association.

20 Our clients -- your constituents --

21 have suffered more than 30 years from the effects

22 of the present Veterans Stadium: noise, traffic,

23 illegal parking, drunken and disorderly fans, and

24 a non-caring and unresponsive City government. It

25 was clear to everyone when we began the new

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2 process here of new stadiums that this sorry state
3 of affairs could not be repeated with the new
4 stadiums. This Council and this administration
5 made clear their resolve to not repeat the past
6 mistakes and to not ignore again the interests of
7 citizens of South Philadelphia in the construction
8 and use of the new stadiums that will replace
9 Veterans Stadium.

10 To this end, the neighbors, with our
11 representation, spent many hours in discussions
12 and negotiations with the City and with the teams
13 to develop a plan that will provide a reasonable
14 and profitable venture for the teams, but one that
15 will minimize the impact on the neighbors.

16 This was not an easy process, but we
17 were eventually successful in obtaining promises
18 from the teams and the City, which we feel go a
19 long way to address our community needs,
20 particularly with respect to the types and
21 locations of uses within the Stadium District.
22 There was no litigation by the neighbors; we
23 worked out our differences.

24 In December, this Council passed Bills
25 000721-A, 000722-A and the various other bills

1
2 necessary to authorize the stadium development.
3 The deal, as embodied in these bills, was
4 satisfactory to the City, the teams, and the
5 neighbors.

6 Before this Council at this time are
7 the actual leases and development agreements for
8 which the City and the teams seek final approval
9 from this Council. As Council is aware, and the
10 other witnesses have reminded Council, under the
11 December bills, these final leases are supposed to
12 conform in all material respects to the terms and
13 provisions set forth in the December bills and may
14 contain other terms and conditions as are not
15 inconsistent therewith.

16 These final leases were negotiated
17 between the teams and the PAID representatives.
18 The neighbors and Council not included in this
19 process. We did not see the proposed final leases
20 until they were filed with Council last week and a
21 ten-day approval process began. We have now
22 reviewed the leases and have found a number of
23 critical provisions which do not clearly embody
24 the terms as authorized by Council and related
25 promises benefitting the neighbors which the

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2 Administration has made to Council.

3 In reviewing the leases, we found that

4 the leases did not explicitly provide, as

5 previously agreed, for buffer zones between the

6 stadiums and the neighborhoods. The leases did

7 not provide, as previously agreed, on the

8 limitations for the use of parking in the nearby

9 Naval Hospital site. We also noted that the

10 leases did not provide for review by the neighbors

11 of development plans as they would be generated by

12 the teams.

13 We found that the leases before you

14 also appear to improperly allow PAID in many in

15 many critical areas to modify or waive in its sole

16 discretion the teams' commitments in a way that

17 would violate the promises to the neighbors in the

18 December bills and ultimately in a way that would

19 thwart the will of City Council.

20 Lastly, we found that the provisions in

21 Section 7.15.2 of the Phillies lease, dealing with

22 their rights as so signage and advertising at the

23 stadium site, revealed that the Phillies intend to

24 erect what would be a second so-called theme

25 tower. This is a free-standing, massive two-sided

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2 electronic billboard with faces that easily would
3 be 30 feet square. Such a massive tower already
4 exists at the stadium site. Somewhat to the west
5 of Tenth and Packer, there is this large,
6 approximately 120-foot tall electronic billboard
7 that is designed to catch the eye of the motorists
8 as they travel on I-76. This operates 24 hours a
9 day, 7 days a week. The Phillies wish to erect a
10 second so-called theme tower. It is an
11 advertising billboard.

12 The Phillies maintain that they, under
13 the lease, have the right to erect the second
14 tower anywhere they like within the district,
15 including within the parking-only zones and in the
16 limited-activity parking zone, which was worked
17 out by the neighbors and the teams and is embodied
18 in the December ordinances as an exhibit to the
19 terms sheet.

20 A second such tower in this location
21 was never agreed to by the neighbors and, indeed,
22 was never even does discussed with the neighbors
23 by the teams and the City. A second tower, any
24 tower to be located in this parking-only and
25 limited-activity zone is unacceptable.

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2 These are the areas on the western edge
3 of the site that are adjacent to the homes. And
4 the intention in working out the arrangements by
5 which uses in this area would be limited was that
6 there would be only parking, or, on occasion,
7 limited events by the Phillies that were
8 controlled in a way that would not generate excess
9 noise and other impacts on the neighbors. The
10 proposed theme tower, the 120-foot, 24/7 sign,
11 potentially on the very edge of this neighborhood
12 would undo many of those good restrictions which
13 we had worked out.

14 We've discussed our various concerns
15 with the teams and the City in the preceding week
16 since we've had these leases, and we are pleased
17 to report that, with the exception of the theme
18 tower issue, the neighbors' concerns have now been
19 met in a way that is acceptable to the neighbors
20 and which will not require the actual leases
21 before City Council to be modified. William
22 Martin, who has just testified here, acting as a
23 representative of the Administration and of PAID,
24 has today delivered to Council President Verna a
25 letter which recites that PAID and the teams will

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2 forego in the areas at issue rights which they
3 believe were given by the leases, which we believe
4 exceed the prior agreements with the neighbors and
5 the will of Council.

6 I would like -- in order to make these
7 commitments of record, I would like to distribute
8 to Council and read into the record the letter to
9 Council President Verna from Mr. Martin.

10 COUNCIL PRESIDENT VERNA: Please do.

11 MR. WREN: I think we've already
12 distributed those copies.

13 COUNCIL PRESIDENT VERNA: They have
14 been distributed.

15 MR. WREN: This letter is dated January
16 29, 2001 on Mr. Martin's letterhead of his law
17 firm. It's addressed to the Honorable Anna C.
18 Verna.

19 Dear Mrs. Verna: Thank you for the
20 opportunity on Friday evening to meet with you and
21 your constituents regarding their questions about
22 the sublease and development agreements herein
23 after the Phillies agreement and the Eagles
24 agreement relating to new stadium development
25 which have been submitted for review by City

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2 Council. I am writing to you in my capacity as
3 representative of Mayor Street's administration
4 and the Philadelphia Authority for Industrial
5 Development in connection with new stadium
6 development.

7 I believe Friday's exchange was useful
8 in allowing both PAID and the two teams to better
9 understand the concerns in the neighboring
10 community. After consultation with the teams, we
11 are able to respond to certain of the community's
12 concerns with clarifications of the manner in
13 which parties intent to implement the respective
14 agreements.

15 As to specific items raised by the
16 constituents, I can advise you as follows:

17 1. Phillies signage. The Phillies
18 have confirmed to PAID in writing that the team
19 will locate its video display and two of its three
20 electronic message boards on a portion of the
21 stadium premises, as defined in the Phillies
22 agreement, other than in the parking-only zone,
23 which is identified in Section 5A of Exhibit E to
24 the Phillies agreement. You will recall from our
25 discussions that the third electronic messages

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2 board is intended to be located on the northeast
3 corner of Broad and Pattison.

4

5 2. Buffer zones. The Phillies have
6 confirmed in writing that they will undertake the
7 construction of a 150-foot buffer zone along the
8 east and south sides of the Veterans Stadium
9 neighbors' community. The entire perimeter of the
10 buffer zone will be fenced with what is known as
11 "Eagles fencing," a high-quality fencing, or a
12 fencing of similar quality. Maintenance access
13 for the buffer zone will be from the parking lot
14 side only, with locked limited access gates. The
15 Phillies will advise the community regarding
16 design plans for the buffer so as to solicit its
17 input regarding appropriate landscaping and
18 lighting for the buffer.

19 Furthermore, the Phillies have
20 confirmed that maintenance of this buffer zone
21 will be a component of the Phillies maintenance
22 obligations, pursuant to Article 8 of the Phillies
23 agreement. PAID confirms that it will design,
24 create, and cause to be maintained a 200-foot
25 buffer zone at the Naval Hospital site, along
Hartranft Street and 20th Street, consistent with

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2 the existing buffer along Hartranft Street. Both
3 sides of the area will be fenced with Eagles
4 fencing on the street side and cyclone fencing on
5 the parking lot side. This undertaking shall be a
6 part of PAID's special construction obligation
7 under Section 6.2.2 of the Eagles agreement.

8

9 Category 3, Navy Hospital Lot. The
10 Phillies and the Eagles have advised PAID in
11 writing that they will not utilize the Naval
12 Hospital lot for construction staging, as may
13 otherwise be permitted by Section 7.12.3.3 of the
14 Phillies agreement and Section 7.21.3 of the
15 Eagles agreement.

16 By this letter, PAID confirms to you
17 that it will not permit utilization of the Naval
18 Hospital parking lot as a parking facility beyond
19 the periods anticipated by Section 7.12.3.3 A or B
20 of the Phillies agreement and Section 7.21.3 A or
21 B of the Eagles agreement. Nor will it approve
22 any other uses by the teams at anytime without the
23 prior written consent of the incumbent
24 Councilperson representing the 2nd Councilmatic
25 District.

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Category 4, Review of Plans. Within

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2 24 hours of its receipt of such plans, PAID will
3 make available for inspection at its offices by
4 representatives of the Special Services District
5 all schematic plans submitted by the teams to PAID
6 and all other plans submitted to PAID by the teams
7 for areas outside of the football stadium and
8 baseball ballpark. In addition, similarly
9 available for inspection will be relevant studies
10 and reports prepared directly by PAID or its
11 representatives -- for example, traffic studies.

12 The last category, number 5, General
13 Commitment. PAID confirms to you, as the local
14 District Councilperson, that PAID will not grant
15 any waivers, consents, or permissions, or make any
16 elections, which may otherwise be allowed by the
17 Phillies agreement and the Eagles agreement if the
18 grant of such waivers, consents, or permissions,
19 or the making of such elections would be violative
20 of the provisions of Exhibit E of the Phillies
21 agreement or Exhibit D of the Eagles agreement.

22 Mr. Martin concludes: I hope that the
23 confirmations and commitments set forth above are
24 helpful to you and your constituents in your
25 respective review of the two agreements. Copies

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2 of the written commitments of the teams are
3 enclosed. I'm happy to provide you or other
4 members of Council any additional information
5 which would be helpful in your review.

6 Signed, William F. Martin.

7

8 I'm advised that Mr. Martin -- that the
9 actual wherein commitment of the teams to which he
10 refers in the letter are not yet in hand but are
11 expected shortly. But he has indeed the verbal
12 commitments that he so relates in this letter.

13 Accordingly, the concerns which the
14 neighbors found in their review of the leases have
15 been addressed, with one exception: the issue of
16 the second theme tower which the Phillies wish to
17 erect literally potentially right on the line of
18 the neighborhood to the west.

19 The existing Phillies theme tower at
20 Tenth and Packer will remain. The neighbors do
21 not like the existing tower, it does operate 24/7,
22 with flashing lights, but will live with it.
23 Moreover, the neighbors have no problem,
24 recognizing the realities of this deal, with the
25 Phillies placing a second theme tower anywhere on
the site, but it must not be erected next to our

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2 clients' homes, on the western edge of the site.
3 To place a tower in this area, in our
4 view, will clearly violate the December
5 ordinances. It will violate Exhibit E to the
6 Phillies lease, which provides for a parking-only
7 zone and a limited-activity parking zone in this
8 area. To place the tower in this area will
9 intrude massively and unnecessarily into the lives
10 of the residents, your constituents, in the
11 affected neighborhoods. The tower will have a
12 huge display area, as we had said, operating 24
13 hours a day,
14 7 days a week with flashing lights.

15 We believe that locating this tower in
16 this area to the west of Tenth Street, as we had
17 said, would violate the ordinances. And it would
18 violate the promises to the neighbors, which City
19 Council adopted and embodied in the December
20 ordinances.

21 And in the agreement before you, the
22 commitments are referred to as the use, scheduling
23 and parking rules, an exhibit to the lease. As we
24 had said, this provides a parking-only zone and a
25 limited-activity zone in the area north of

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2 Hartranft and west of Tenth Street. We believe
3 that the Phillies siting the second tower in this
4 area would violate the lease and the will of
5 Council.

6 We do not wish to have to fight this
7 issue in the future. We want, and I think it is
8 in all parties' interests, to have this issue
9 resolved now by Council. The negotiation process
10 on this development has been a long one. Both
11 sides -- and I say the neighbors versus the team
12 and the City on occasion -- have come a long way.
13 A spirit of cooperation, supported at every turn
14 by this Council, has resolved most of the
15 neighbors' problems.

16 This remaining -- and these problems
17 are all quality-of-life issues. And the neighbors
18 were reasonable in their requests in this regard
19 of this Council, and Council supported the
20 neighbors.

21 We look again to Council to resolve
22 this last major issue. The final Phillies lease
23 does not have to be modified to resolve this
24 issue. Like was done to resolve the other issues
25 we have mentioned, PAID and the Phillies can

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2 provide to Council written assurances and
3 commitments that the Phillies will not request,
4 and PAID will not approve, the erection of a
5 second tower in the restricted parking zones next
6 to the residential neighborhoods, as identified in
7 Exhibit E to the lease.

8 Again, we look to this Council to
9 protect the neighborhoods by obtaining adequate
10 assurances from the parties here that this last
11 issue will be resolved.

12 Thank you much.

13 COUNCIL PRESIDENT Verna: Thank you.

14 The Chair recognizes Councilman Kenney.

15 COUNCILMAN KENNEY: Thank you, Madam
16 Chair.

17 Gentlemen, could you for the record
18 expand a little bit on any issue in the lease as
19 it relates to the neighborhood that would deal
20 with the scheduling of multiple events at the
21 stadium on the same evening or in the same 24-hour
22 period.

23 One of the major problems in that
24 community usually happens when there are
25 potentially four buildings -- three buildings now

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2 and potentially four buildings in use in one
3 particular 12-hour or 24-hour period. And could
4 you talk a little bit about what protections there
5 are for keeping that from not happening, or at
6 least what notifications are required if it's
7 intended to happen.

8 MR. HARDY: Councilman Kenney, there
9 are specific provisions in this lease intended to
10 address that very issue. And Mr. Martz, the
11 Managing Director's Office and parking and traffic
12 experts, Commissioner Timoney, members of this
13 Council, and representatives of both the Phillies
14 and the Eagles were involved in lengthy
15 discussions regarding just that issue.

16 There are several aspects which need to
17 be addressed in order to minimize the adverse
18 effects of simultaneous scheduling or overlapping
19 scheduling. One is planning, and there is written
20 into these leases, both of them, similar
21 provisions which require schedules be set in
22 advance and that information be exchanged and
23 available to everyone who might be affected.

24 The next issue is determining how long
25 particular events can go on, because, of course,

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2 the fact that an event occurs in a day doesn't
3 tell you whether traffic problems begin at 4 in
4 the morning or at 3 in the afternoon or when they
5 might end. So there are within this lease
6 particular restrictions on the time prior to and
7 after the intended length of the event in which
8 ancillary events in the parking areas on the
9 plazas might go on. The intention there being
10 that simultaneous events be put at a minimum and
11 that there not be overlap and that there not be
12 40,000 people trying to leave an area at the same
13 time that there are an additional 35,000 people
14 trying to get into the area.

15 One aspect of that planning that cannot
16 adequately be addressed solely in these leases is
17 the fact that there are two other venues down
18 there which are not directly covered by these
19 leases; namely, the Center and the Spectrum. And
20 there are provisions and intentions to come up
21 with a comprehensive plan that would include them.
22 They already do have some restrictions which the
23 neighbors have felt are not adequately enforced.

24 In addition, there is a sensitivity to
25 the limited amount of parking. And so the number

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2 of people who can be expected at an event has to
3 be limited to some extent by the amount of
4 parking. And the magic number that was reached --
5 as magic numbers often are, by compromises -- is
6 the number 84,000. And if the attendance at
7 simultaneous events is intended to exceed 84,000,
8 it is the neighbors' hope that those events will
9 not be scheduled simultaneously. If, in fact,
10 there is simultaneous events which exceed that
11 number, there is a penalty. So that there is an
12 incentive on the teams and the owners of the
13 venues not to have those simultaneous events. A
14 contribution has to be made to the Special
15 Services District.

16 COUNCILMAN KENNEY: Let me give you a
17 scenario, a potential situation at the complex.
18 I'm talking about all four buildings, as it's
19 envisioned.

20 The flyers win the Stanley Cup Finals,
21 hopefully, in June. The Phillies have scheduled a
22 Yankees game, which is always a big draw. The
23 Dave Matthews Band has booked the Eagles
24 facility. And the opportunity arises for Comcast
25 SpectraCore or the operators of the two buildings

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2 in the middle there, not involved in this
3 discussion directly but indirectly. The
4 opportunity arises to book another minor concert
5 that may also draw 10, 15,000. And it's done
6 without the prior time constraint notices that are
7 a part of this arrangement.

8 What's the penalty? Who begins the
9 penalty process? And what are the details about
10 that kind of potential happenstance?

11 MR. HARDY: If, in fact, there is a
12 violation of simultaneous scheduling by
13 over-booking events, there is a penalty of \$50,000
14 imposed for the event that goes over.

15 COUNCILMAN KENNEY: Imposed on whom?

16 MR. HARDY: It's imposed, under these
17 leases, both the Eagles and the Phillies, jointly
18 and separately.

19 COUNCILMAN KENNEY: But not the
20 operators of the other two buildings.

21 MR. HARDY: That's correct. They're
22 beyond the reach of these agreements.

23 That's for the first violation. To
24 prevent it from becoming a chronic situation,
25 there is a provision that for the second and every

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2 further violation, that penalty goes up to
3 \$100,000. So there's a great disincentive have
4 not to have that happen.
5 I will tell you this and to assure the
6 people of Philadelphia: that each time this
7 arose, it was the unanimous opinion of all of the
8 neighbors that if it was a World Series game or a
9 playoff game, that they only wish that would
10 happen. But nonetheless -- and there are some
11 exceptions for extraordinary circumstance like
12 that. But ordinary planning which results in
13 exceeding the limitations of 84,000 would result
14 in those penalties automatically.
15 And if, in fact, there isn't the amount
16 of parking that's been promised -- and this is the
17 major concern for the neighborhood, 'cause when
18 the parking lots are full, of course, the
19 neighborhood is full of cars seeking parking and
20 people circling the blocks -- that that 84,000
21 number is reduced by the number of parking spaces
22 that are not available, whether they haven't been
23 built or whether they're occupied by some other
24 thing.
25 COUNCILMAN KENNEY: I think the concern

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2 on my part and my experience with the history of
3 this complex, having worked at another job that
4 brought me involved with the construction at the
5 First Union Center, is that the goal of all of
6 these organizations, admirably, is to fill every
7 seat every night. That's what they're supposed to
8 do.

9 And I guess the concern that I have is
10 if we have locked in the Phillies and the Eagles
11 to certain constraints, how do we deal with the
12 potentiality that the operators of the two
13 buildings not involved in the agreement will hold
14 true to the goals and spirit of neighborhood
15 preservation?

16 MR. HARDY: Well, you do have yet to
17 come before you this stadium area limited
18 partnership agreement, which is supposed to be an
19 agreement among all four venues with regard to
20 parking and development and, I would, hope
21 scheduling issues, since they relate to parking.
22 And perhaps it's that opportunity. We don't see
23 an opportunity here. I think Comcast is not
24 (indiscernible).

25 COUNCIL PRESIDENT VERNA: And for the

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2 first time -- I don't mean to interrupt you. For
3 the first time, the community will have a board,
4 they will have a Special Services District.
5 It my understanding -- and I understand
6 your concerns, Councilman 'cause we've lived
7 through that, but it's my understanding that if in
8 fact there were a fine imposed. Eventually down
9 the road, all four venues would have to pay.
10 Fifty percent of the penalty would go to the
11 Special Services District, the other 50 percent
12 would go to the Children's Fund.
13 MR. HARDY: That's correct.
14 COUNCILMAN KENNEY: Part of this, and
15 Council President Verna knows it very well, is
16 credibility with the community. When we first
17 hashed out the agreement to allow for the
18 construction of the First Union Center, the late
19 Governor Casey at the time came down and talked to
20 the neighbors in the basement of the
21 (indiscernible) school on a rainy Saturday or
22 Sunday and made assurance on these issues of
23 multiple events and numbers people. It never
24 seemed to have ever been enforced. And I do
25 understand why people feel that -- there's some

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2 skepticism. Despite the hard work Council
3 President and the Mayor's Office and the teams,
4 there's some skepticism as to its long-term
5 enforceability, especially as it relates to the
6 two buildings, 'cause we've run into problems in
7 the past there, where the operators of the First
8 Union Center and Spectrum decide without notice,
9 for example, to have an outdoor concert with a
10 heavy-metal band. And it kind of seems that that
11 industry will book things at the last minute, when
12 opportunities arise, different from what the
13 Phillies and Eagles do because their schedules are
14 known and promulgated at least almost a half a
15 year or so in advance.
16 So it's not as much how many Phillies
17 games there's going to be or how many Eagles
18 games; we know that. Concerts, of course, impact
19 it in the larger arena, but I think the two
20 buildings -- the Spectrum and the First Union
21 Center -- have been kind of the uncontrollable
22 problem in last-minute scheduling, multiple-event
23 scheduling, and scheduling of events that break
24 the ceiling on what was prior agreed to for
25 limitations.

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2 MR. HARDY: Councilman Kenney, in fact,
3 under the leases that you are being asked to vote
4 on this week, there is a provision in Article 2 B
5 of these use rules which says that the teams,
6 Comcast, and PAID shall enter into an agreement
7 within 30 days, if possible, which agreement
8 provides for limited scheduling of simultaneous
9 events, and that's exactly addressing this issue.
10 So it is the goal to get this going right away.

11 But, again, as I said earlier, there
12 will be an opportunity for you to address it
13 directly with Comcast.

14 COUNCILMAN KENNEY: And I thank you for
15 the answers and I thank you for the hard work that
16 you've put in along with Council President to
17 assure the neighbors hopefully some credible and
18 consistent enforcement as we go forward.

19 MR. HARDY: Thank you. And the
20 neighbors are very grateful for your interest in
21 their concerns.

22 COUNCIL PRESIDENT VERNA: Thank you.
23 Councilwoman Blackwell, your light's
24 on. Did you want to ask a question?

25 COUNCILWOMAN BLACKWELL: No.

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2 COUNCIL PRESIDENT VERNA: No?
3 As I understand your testimony, you are
4 not saying that you are opposed to the second
5 theme tower; your concern is where the second
6 theme tower would be erected. Is that correct?
7 MR. WREN: That's correct.
8 COUNCIL PRESIDENT VERNA: Mr.
9 Montgomery, would you or your attorney feel free
10 to discuss this at this point in time? This one
11 issue, if you will?
12 And gentlemen, please stay where you
13 are, and we can just pull over two more seats.
14 (Mr. Montgomery and counsel come
15 forward.)
16 COUNCIL PRESIDENT VERNA: Mr.
17 Montgomery, I know you've been sitting here very
18 patiently --
19 MR. MONTGOMERY: My pleasure,
20 Councilwoman.
21 COUNCIL PRESIDENT VERNA: -- listening
22 to the testimony, and you have heard what the
23 concern is about the tower. Do you mind
24 addressing that one issue? And perhaps we can put
25 this last issue to rest.

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MR. MONTGOMERY: Well, Council President, I believe that we have -- first of all, my name is David Montgomery, and I'm joined by David Cohen of Ballard Spahr. I'm President of the Phillies, and David acts as legal counsel on our behalf on this issue. It's a pleasure to be here.

9

As far as the specific question that's been raised, I think our goal all along was to provide the neighbors with the opportunity to participate in the dialogue, and I think, as was testified earlier, the opportunity to clarify in those cases where the existing document did not provide clarification necessary, some of the issues that the neighbors raised upon their inspection of the full lease, which I guess took place during last week.

19

As far as the theme tower is concerned, you know that the existing team tower does in fact exist, as was testified, on an area which was already identified as the parking log-only or parking-only area or limited parking area, and it would be absolutely consistent with our understanding of our discussions with the City

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2 that we would have the opportunity to place a
3 second theme tower. I believe, in the initial
4 terms sheet, there was reference to theme towers
5 plural as far as our situation was concerned, and
6 it even referenced the existing team tower that's
7 there. So --

8 COUNCIL PRESIDENT VERNA: I'm sorry.
9 Where is the existing theme tower?

10 MR. MONTGOMERY: The existing theme
11 tower sits in the northeast corner of the North
12 Lot. Now, keep in mind, the North Lot is
13 approximately some 80-plus acres of square
14 footage. This happens to be very close to the
15 corner of Tenth Street and Packer Avenue. It sits
16 on a very thin base. I'm not sure that I could
17 verify the specifics as far as the description
18 that was made, as far as the size of the face.

19 But most of the theme tower is a tower
20 to a video display opportunity, which was
21 correctly identified as being something that
22 actually was there when the Vet was first built,
23 in 1971. That tower has existed from that time.
24 I believe the Phillies took over obligations
25 associated with it about seven or eight years ago.

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2 The first few years that the theme tower was
3 erected, I believe it took a couple of years for
4 it to become fully operational. And my
5 understanding is that it was an element of the
6 advertising display system in the initial design
7 of Veterans Stadium. And it was in part, I think,
8 funded by three sponsors at the time that were
9 also involved in putting up some dollars for the
10 initial scoreboards that were located in the
11 facility.

12 So it's been an element of Veterans
13 Stadium itself for a number of years. And as far
14 as our discussions with the PAID and the City
15 through Bill Hankowsky and then subsequently Bill
16 Martin, it has been an element that we talked
17 about from day one.

18 COUNCIL PRESIDENT VERNA: How many such
19 towers will the Eagles have?

20 MR. MONTGOMERY: My understanding is
21 that the Eagles lease provides them the
22 opportunity to have two such towers.

23 COUNCIL PRESIDENT VERNA: You know,
24 it's amazing, during all of the hours of
25 discussion, I don't know that this issue ever came

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2 up.

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MR. WREN: Council President, if I
could remind you, you were involved in many of
these discussions, and Mr. Montgomery stood in
front of that plot plan that showed, as best they
can now, their plans for the stadium and discussed
what it was they wanted to do and where they
wanted to do it. And our neighbors' concern was,
of course, particularly there in the segment to
the west of Tenth Street and as you approach Broad
Street, where, of course, the neighborhoods are.
And never did Mr. Montgomery indicate that he
wished to put a theme tower, a 120-foot electronic
billboard in the area near and adjacent to the
neighborhood.

This was an area which we worked out as
a parking-only area. In fact, the terminology
used continually in our negotiations was that this
be a pristine parking area.

Mr. Montgomery indicated he had -- the
Phillies had the need to have certain very limited
activities within the parking-only zone and what
was described as the limited-activity zone, which
was the area north of Hartranft, south of Packer,

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2 between 10th and 11th. In those zones, he
3 indicated his desire to have certain small events
4 at certain times. And the neighbors, realizing
5 the financial aspects, the necessary financial
6 aspects of the deal, agreed to all of this.
7 Never, not once, did Mr. Montgomery indicate a
8 desire to put a second theme tower in this area.

9 The language which we worked out, which
10 is embodied in the ordinance and now is part of
11 the lease, in our view, is clear. It provides for
12 a parking-only zone. That is the terminology.

13 They contend that they have the right
14 to put this theme tower there; we contend they
15 absolutely do not. We do not wish to, as we said,
16 fight about this in the future; it should be
17 resolved now.

18 But it is totally inconsistent with the
19 spirit and, we contend, the letter of the
20 agreement worked out between the neighbors and the
21 team and the City to ensure that the stadium, the
22 new stadiums, will not unnecessarily impact and
23 diminish the quality of life of the neighbors.

24 COUNCIL PRESIDENT VERNA: Thank you.

25 Mr. Montgomery? That was my

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2 recollection too, that there would be parking
3 only. However, let's talk about how we can
4 address this issue so that, as I said, hopefully
5 we could --

6 MR. MONTGOMERY: Council President, let
7 me just add, if I might, I agree that there was
8 very specific concern about what would occur in
9 what's called "parking lot activities." And
10 frankly, from the team's perspective, recognizing
11 there was an activity already known as a theme
12 tower that existed there, you can understand why
13 we did not necessarily feel the need to be more
14 specific on that subject. We felt that,
15 obviously, the documents that we had agreed to
16 specified that there would be multi-- the
17 opportunity for multiple theme towers.

18 As you know, we've had this
19 discussion. The club, at this time, has not
20 designed this facility. We have the right, it's
21 an important right, that the team felt was a key
22 element of its negotiation to have the opportunity
23 to do two theme towers. As far as the specific
24 siting of that, that is yet to come.

25 But I want to be very specific since it

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2 was represented that there was a great deal of
3 discussion on this. There was, indeed, a great
4 deal of discussion, but it comes under the heading
5 of "parking lot activities" and specifically what
6 they were.

7 And, again, if there was a burden on
8 our side to identify a second, I would suggest
9 there was a similar burden on the other side to
10 identify concern with the one that already existed
11 in the area that was identified.

12 MR. COHEN: Council President, my name
13 is David L. Cohen, a partner with Ballard Spahr
14 and am counsel to the Phillies in this
15 transaction. And let me try and respond, if I
16 can, to your last question, with some thoughts
17 about a potential resolution to this.

18 As Mr. Montgomery stated, the problem
19 for the Phillies is that they do not have a design
20 today for what this will look like, what these
21 areas will look like. And that, as Mr. Martin
22 testified -- I mean, a lot of this is about
23 flexibility. And we, the Phillies, do understand
24 the concern of the residents, your concern as
25 their representative and as Council President, and

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2 all of Council's concern about these issues.

3 And I would suggest that within the
4 framework that exists with the leases, as they are
5 currently before you, there is a relatively easy
6 way to deal with this, and it does require a
7 little bit of trust on both parties, on all of the
8 parties involved in this, and I would hope that we
9 could use that.

10 And that is an understanding of what
11 will happen when the Phillies do their design and
12 know where it is that they want to put this second
13 theme tower. And what happens under that system
14 is that there will have to be, first of all, an
15 approval process with PAID. Second, there will
16 have to be an amendment to the master plan, which
17 will require the Phillies to go before the
18 Planning Commission. We -- obviously, the Council
19 President would be aware of those proceedings.

20 I would suggest to you that if it would
21 be of assistance in improving the level of trust,
22 that the Phillies would be prepared to, either in
23 a letter to you or a letter to PAID -- we can
24 figure out the mechanics -- make crystal-clear
25 that the Phillies will communicate their plans

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2 with respect to the second theme tower to you and
3 to the residents before approval of PAID is
4 sought, and obviously before there is a Planning
5 Commission proceeding.
6 At a Planning Commission proceeding, as
7 you know, the community has the right to appear,
8 and most certainly, the Council President as the
9 representative of the community and of the
10 residents not only has a right to appear but the
11 right to offer an opinion and offer an opinion by
12 letter. And we in the Phillies certainly
13 understand that when the Council President says to
14 the Planning Commission, "I don't like this,"
15 there's a problem for the proponent.
16 And we're willing to rely on the trust
17 that we will be able to work with the residents
18 and with the Council President and her staff and
19 hopefully be able to have a plan that is
20 acceptable to everyone. And I think we'd ask the
21 residents to work with us with the same level of
22 trust that we can be able to work this through the
23 process at that time and not have a
24 black-and-white rule that it can't go here or it
25 can't go there, when no planning has been done.

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3 And, frankly, I mean, we don't know
4 what the buffer is going to look like and how the
5 buffer might protect these homes. Looking at it
6 within an entire design concept, people may have a
7 different attitude about it than they have about
8 it today.

8

9 And then, finally, I would note that
10 even if all of that didn't work, even if somehow,
11 the advance notification, the discussions that
12 would inevitably result, because I know the
13 Council President, if the neighbors are not
14 satisfied, are going to call and ask, can you come
15 in, and can you have Mr. Montgomery come in and
16 talk about this, we need to figure out a way to
17 try and resolve this.

18 If all of that doesn't work, if the
19 Planning Commission miraculously ignores an
20 adverse recommendation from the Council President
21 -- I'm not sure I recall the last time that
22 occurred, but if it miraculously happened, the
23 residents would still have their legal position
24 that they have expressed here today, and that is
25 that a theme tower -- that a second theme tower in
the parking-only or limited-activity parking zone

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2 would violate the provisions of the lease. And
3 there would be nothing to stop them from
4 exercising that litigation option, which itself
5 would bring the Phillies back to the bargaining
6 table yet again in an attempt to negotiate a
7 resolution.

8 So, the bottom line, I think if you put
9 just a morsel of trust on the table both ways --
10 and, by the way, I want to echo something Mr. Wren
11 said, because I know that the Phillies feel this
12 way: There's been a lot of progress made here.
13 The City has made progress and the teams have made
14 progress, and the residents have certainly made a
15 lot of progress. And I would hope that part of
16 the progress that has been made is an ability to
17 put little bit of trust on the table, that this
18 last remaining issue can be worked out through the
19 process in the way contemplated by the lease, as
20 currently drafted, and frankly, by our normal
21 administrative proceedings in the City government.

22 MR. WREN: Council President, the
23 Phillies maintain that under the lease, as
24 presently written, they will have the right, the
25 right to site this second theme tower anywhere

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2 they want in the district, including in the
3 parking-only zone and in the limited-activity zone
4 adjacent to the neighborhoods.

5 If down the road, when they decide
6 exactly where to site the tower, they then make a
7 presentation, of course, to PAID and say, We want
8 to site it here, please approve it, I am certain,
9 being that since they are good lawyers and
10 intelligent executives, that they would argue that
11 for PAID to refuse to site the tower in that area,
12 which they believe they have a right to do, would
13 be a bad-faith refusal by PAID, and they would
14 have the ability to go to court and further their
15 view before a court. We cannot trust the process,
16 but it should not be addressed in a way that
17 guarantees a lawsuit.

18 If you look at where it's -- now that
19 we know that they are contending that they want to
20 put a second tower anywhere they like, the most
21 likely location for this tower would then be at
22 the extreme western edge of the site, up against
23 the neighborhood. Because those towers, in order
24 to be effective for their purpose, would be as far
25 apart as possible on a line adjacent to the

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2 expressway. The motorists coming would see the
3 first sign, read it, and then come to the second
4 sign. You don't want have them too close together
5 because they won't be able to read by the
6 motorists.

7 So from hearing where they're coming
8 from now, it is our expectation that the location
9 will be at the northwest corner of the North Lot;
10 that is the location that they will come back to
11 PAID and say, Please approve this. It is
12 crystal-clear now, since we hear where they're
13 coming from, that they do not intend to honor the
14 parking-only zone that we worked out, that this
15 issue needs to be addressed now.

16 And there is no trust on this issue.
17 We thought we had a trust on many issues. This
18 second theme tower, their intention to locate it
19 in the North Lot, potentially the northwest
20 corner, is out of left field. We do not want to
21 have it resolved in that way.

22 This Council should address this issue
23 now and demand -- the Council should demand of the
24 teams that they honor the agreement that they
25 worked out with the neighbors before.

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2 And let me just say one other point.

3 I'm glad you mentioned the buffer zone. This, of
4 course, was the 150-foot area between the
5 neighborhood on the west and the activities and
6 the parking lot on the northwest corner portion of
7 the site. And, of course, one of the issues that
8 we had to raise in reviewing the leases was that
9 the buffer zones were not mentioned in the leases.
10 They now are going to be addressed. Obviously, it
11 was the intention of all parties that the buffer
12 zones exist.

13 Now, those buffer zones were intended,
14 among other things, to protect the neighborhood
15 from the noise and, in this case, light that would
16 come from activities at that portion of the
17 stadium site. To locate the second theme tower in
18 this portion of the site, which is likely to be as
19 tall as the one there, 120 feet, there's no
20 landscaping in a buffer zone that's going to
21 protect the neighborhoods from this massive,
22 24-hour/7 intrusive light, blinking lights all the
23 time.

24 It is totally unacceptable to the
25 neighbors, it was never discussed with the

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2 neighbors. Mr. Montgomery stood up and he never
3 said, "I want to do this here," when we had a
4 chance to negotiate it. We believe that the
5 language we worked out addressing a parking-only
6 zone means what it says, and there can never be a
7 second tower sited in this area. This issue
8 should be addressed and clarified now, not later
9 in a lawsuit.

10 COUNCIL PRESIDENT VERNA: Councilman
11 Kenney?

12 COUNCILMAN KENNEY: Thank you, Madam
13 Chair.

14 Just a few questions about the issue of
15 towers. How effective are they and how do they
16 fit into the overall revenue scheme? Are they
17 really necessary? And the only reason I raise
18 this is because I've lived in South Philadelphia
19 my whole life and have seen that 120-foot tower
20 that's there now. I mean, I don't know how
21 effective it is in informing me of anything.

22 You know, if you're -- I actually see
23 more information on the lighted billboard outside
24 the Spectrum driving there than I've ever seen
25 driving either on the 76 Bridge approaches or the

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2 Walt Whitman Bridge, or certainly I can't read it
3 from my house at 11th and Tasker.
4 I mean, how effective are they? And I
5 think you do recognize what potentially could be a
6 kind of conflagration of two towers in, you know,
7 the Eagles facility and two towers in the Phillies
8 facility. I mean, it seems like it would be
9 adverse to the design of a ballpark that we're
10 looking for, kind of a throwback ballpark, with
11 low-rise, and all of the things that was
12 attractive to us when we looked at the design. It
13 would seem antithetical to --

14 MR. MONTGOMERY: I think you've
15 identified a key point, Councilman, and we're not
16 necessarily overly proud of the design of the
17 existing theme tower. And part of our discussion
18 was to pursue the opportunity to design something
19 that would be perhaps more in keeping with the
20 facility.

21 As far as the --

22 COUNCILMAN KENNEY: I'm sorry. Does
23 that mean the intention is to take it down?

24 MR. MONTGOMERY: No. I said that we
25 were not -- we -- we are not necessary wedded to

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2 the existing architecture associated with the
3 current theme tower for some of the reasons you
4 said. It may not be the most esthetic
5 complementary structure to the ballpark that we're
6 talking about.

7 As far as the utilization is concerned,
8 we have said from day one that the theme towers
9 that were afforded us and to the other
10 organization are primarily highway signs. And as
11 a result, they cannot be used in the same manner
12 as the electronic message boards that you
13 identified outside, in front of the Spectrum, for
14 one good reason, which is that traffic moves
15 fairly quickly on highways such as I-95 and the
16 Walt Whitman Bridge approach. And so you can only
17 have a board that would have what I would call
18 very quick viewing, if you know what I mean,
19 opportunities.

20 And so it is for that reason, we have
21 stated and said this directly to the neighbors the
22 other night, that we're not sure we will follow up
23 and do this second theme tower. But the fact of
24 matter is that it was part of the display right
25 opportunities that we have been granted, and it is

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2 something that we want to preserve the right to do
3 where it would be most effective and --

4 COUNCILMAN KENNEY: Is it an issue of
5 -- is it an issue of publicity for the events an
6 issue of revenue for the signage? Or a
7 combination of both?

8 MR. MONTGOMERY: It's a combination of
9 both, but I would say in this case, revenue from
10 the signage, I mean, that's the obligation that we
11 took on with the current theme tower 'cause it had
12 fallen in such disarray, you know, it had gone, I
13 think, about at least a half dozen years where it
14 didn't work at all. And the City took the
15 position that they weren't anxious at that time to
16 rehab it and make it into an ongoing useful
17 message board.

18 COUNCILMAN KENNEY: I asked, but I
19 wasn't clear on the answer, whether or not there's
20 an intention or a possibility that the existing
21 team tower would come down and be replaced by
22 something different or the intention is that the
23 existing theme tower would stay in the same place
24 and same height, perhaps with some improvement.
25 Has there been a decision on whether it's --

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2 MR. MONTGOMERY: There has not,

3 Councilman.

4 (Unintelligible, parties talking over
5 each other.)

6 MR. MONTGOMERY: We wanted the

7 flexibility to have theme towers, and we are -- we

8 wanted the flexibility to retain the existing one.

9 We put ourselves a good bit of money into it not
10 that long ago. And at the same time, we wanted

11 the opportunity to investigate whether or not it

12 could be redesigned so that, as you pointed out,

13 it would be more esthetically pleasing.

14 COUNCILMAN KENNEY: Again, I'm not in

15 this business and I'm not in the advertising

16 business and I'm not in the sports promotion

17 business, but I mean, I just don't know any way to

18 gauge the real benefit of having them at all,

19 other than the potential revenue from whatever --

20 whoever is advertising on it.

21 MR. MONTGOMERY: Right. Again, I'm

22 certainly not ignoring the revenue associated with

23 it. I mean, after all, we've been asked to take a

24 significant North Lot obligation. It was asked

25 earlier about, you know, the 110 acres north of

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2 Pattison. There are opportunities, obviously,
3 that we wanted to at least have the ability to
4 pursue. At the same time, there are obligations
5 that the City wanted us to take, and very
6 significant obligations. And that was a major
7 part of the discussion.

8 If I might, it may be an appropriate
9 time while I'm here, just to clarify one question
10 that you raised earlier of these gentlemen. And
11 that was -- you talked about a scenario whereby we
12 were playing a baseball game at our venue, and at
13 the Eagles new facility, there was a concert. I
14 want to be perfectly clear that our document
15 specifically prohibits us from doing that, as
16 between just the two of us. Neither a team
17 sporting event nor a concert can occur at the same
18 time, Councilman.

19 COUNCILMAN KENNEY: Okay.

20 MR. MONTGOMERY: So I wanted to make
21 sure you were comfortable with that restructuring
22 on behalf of the neighbors.

23 COUNCILMAN KENNEY: Thank you.

24 MR. WREN: If I could make one
25 additional comment in response.

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3 I think you can redesign all you want a
4 tower, an electronic billboard, but it's still
5 going to be an electronic billboard tower. It's
6 going to be huge, it's going to be 24/7 blinking
7 lights, it will affect in a massive way the
8 quality of life of the neighbors.

8

9 These neighbors have borne the negative
10 effects of the Veterans Stadium for 30 years, and
11 the hope of all parties all the way around was
12 that this would be a new day dawning and that
13 there would not be this massive intrusion any more
14 than necessary into the neighborhoods.

15 This -- in our view, this intention by
16 the Phillies, which we are hearing now for the
17 first time, once these leases are presented to
18 Council, leases in which we had no involvement in
19 negotiation, in our view, could well undo
20 everything that we worked at in so many hours of
21 negotiation, by putting this massive presence
22 right in the windows and in the backyards of these
23 neighbors. This can't be allowed to happen.

23

24 We are sympathetic, of course, to the
25 Phillies' need for revenue. We do not have a
26 problem with the existing tower remaining where it

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2 is, on the eastern edge of the North Lot. We do
3 not have a problem with a second tower being
4 erected elsewhere, other than in the parking-only
5 and limited-activity zones. South of Hartranft is
6 fine.

7 This cannot be allowed to happen and
8 this will undo everything we worked so hard for
9 and that you, Council President Verna, and other
10 members of Council recognized and supported in a
11 way by agreement was the intention, and we did
12 arrive at agreements by which the new development
13 could go forward not contentiously, not with the
14 prospect of litigation, but by a consensus of a
15 development that would benefit all. This will be
16 undone if this is allowed to proceed.

17 COUNCIL PRESIDENT VERNA: The Chair
18 recognizes Councilman Rizzo.

19 COUNCILMAN RIZZO: Thank you, Madam
20 Chair.

21 I can understand the Phillies' desire
22 to have the second tower, and I also understand
23 the community's objection to it. And I'm
24 wondering if the Phillies would be in a position
25 to -- we hear the term "24/7." The one tower is

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2 running 24/7 at this point. If the second tower
3 was constructed in a location that would be
4 considered inappropriate to the community, could
5 there be some restrictions on its operational --
6 the hours of operation, where it would be limited
7 to game day, that it wouldn't need to operate
8 after a certain hour? Would there be some
9 considerations to limiting the hours of operation
10 or locating it in an area that would not be so
11 desirable.

12 So would there be a trade-off of
13 limiting its operation versus putting it in a
14 location that would be not desirable to the
15 Phillies?

16 MR. MONTGOMERY: Councilman, first of
17 all, again, we have not specifically identified
18 where this potential theme tower would be, nor
19 have we in fact decided to go forward with it.
20 However, I would tell you that the purpose of the
21 theme tower, as I answered Councilman Kenney's
22 question, is one that is primarily a highway
23 sign. And so to the extent that you would go
24 through the cost associated with the construction
25 and everything, you would end up needing to

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2 operate it 7 days a week and 24 hours a day.

3 So I would not want to mislead you in
4 that respect.

5 COUNCILMAN RIZZO: So it's fairly
6 obvious that if you do make a decision that would
7 impact the community, that you'll never get it
8 done?

9 MR. MONTGOMERY: Excuse me?

10 COUNCILMAN RIZZO: It appears to me
11 that if you decide, if your research decides that
12 it would go into the parking-only area, and that
13 would be your decision that that's where you'd
14 want it, you'd probably never get it there based
15 on what we're hearing here today.

16 MR. MONTGOMERY: Well, I think, as we
17 said earlier, we have -- we have to look at this,
18 I believe, in the context of the entire impact of
19 our facility, our ballpark, and other elements of
20 it. As far as the community is concerned, I
21 would, I guess, disagree with the characterization
22 that this is sort of a breach of an otherwise, I
23 think, effective dialogue between the community
24 and the club. We have clearly agreed to things
25 that probably at one time we were not necessarily

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2 thinking we were and I'm sure the community feels
3 the same way.

4 I think this is an element of it and I
5 think it's an important element, as far as the
6 team's concerned, to keep the option open. We
7 negotiated on a number of issues with the City
8 that we ended up being discouraged or displeased
9 about. And this is one that we have this
10 opportunity available to us and it's one that we
11 want to at least pursue.

12 COUNCILMAN RIZZO: I appreciate that,
13 but in all fairness, it's a lot different
14 negotiating before a lease than negotiating after
15 there's a lease signed. So I think the
16 community's concerned that once the document's
17 inked that it's going to be very, very difficult
18 to challenge the Phillies in exercising something
19 that's already been agreed to.

20 So I would hope that there would be a
21 way to work this out, but if that's not possible,
22 then we'll see what happens down the road.

23 MR. MONTGOMERY: Well, I just ask you
24 to make that comment in the context of all of the
25 other elements that we have reached agreement on.

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2 Thank you, Councilman.
3 COUNCILMAN RIZZO: Thank you.
4 COUNCIL PRESIDENT Verna: Does this
5 have to go before the Art Commission? I don't
6 know; I'm asking the question.
7 MR. MONTGOMERY: I would suggest that I
8 wouldn't be the best person to respond to that,
9 Council President.
10 COUNCILMAN DICICCO: The Planning
11 Commission would certainly have to sign off on it.
12 COUNCIL PRESIDENT Verna: I said the
13 Art Commission.
14 COUNCILMAN DICICCO: I'm not sure about
15 the Art Commission.
16 COUNCIL PRESIDENT Verna: Mr. Martin,
17 do you know?
18 MR. MARTIN: I don't believe it would
19 require Art Commission approval unless the team
20 was seeking to utilize this as part of their
21 contribution to fine arts.
22 COUNCILWOMAN Verna: I don't think so
23 either.
24 (Laughter.)
25 MR. WREN: Council President, it's my

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2 understanding that any structure that is erected
3 on City property -- and this is indeed City
4 property that's being leased through a number of
5 parties, ultimate to the teams, that any such
6 structure has to be approved by the Art
7 Commission. That's my understanding.

8 MR. COHEN: Council President, David
9 Cohen, again.

10 You could add the Art Commission into
11 this. Whether it's there or not, the fact of the
12 matter is that there will be a Sunshine City
13 administrative approval process for this, and
14 frankly, the concerns raised by Councilman Rizzo,
15 I mean, the Phillies understand that we're going
16 to have to go through that.

17 And with all due respect to Mr. Wren's
18 desire to resolve everything now, we may not be
19 able to do that. This is an issue that is
20 sufficiently small, that is sufficiently concrete,
21 and with the protections existing down the road,
22 that I think it is not an issue that has to be
23 resolved now, when the Phillies are without the
24 benefit of being able to make a comprehensive
25 pitch based upon what the entire design of the

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2 area north of Pattison Avenue looks like and how
3 it is that the neighbors' concerns have been taken
4 into account as a result of that design process.

5 That's really the difference that I see
6 happening as resolving it now, when frankly -- and
7 I don't object to Mr. Wren characterizing this
8 way, of a theme tower that looks exactly like the
9 existing theme tower being planted right next to
10 the buffer in the northwest corner of the
11 parking-only zone. I mean, that's the worst
12 nightmare for the residents, and that's what
13 they're trying to avoid.

14 But that is not at all what the
15 Phillies are contemplating. It's not that they
16 know what they're contemplating; they don't know.
17 I think they would just like the opportunity to
18 have a rational discussion about that once there
19 is a plan and it is a complete plan and everyone
20 can see what it looks like and they have the
21 opportunity to pitch that within the context of an
22 overall plan.

23 MR. HARDY: Council President Verna, I
24 will tell you that this is not a small issue to
25 the community. They've lived for decades with the

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2 sign blinking in their bedroom windows. There are
3 hundreds of homes affected, the sign is visible
4 across I-76 on the other side of the Schuylkill
5 Expressway to those neighborhoods in South
6 Philadelphia, as well as to the areas immediately
7 next to the parking lot and the areas on the other
8 side of Broad Street. Doubling the level of that
9 intrusion, moving it closer to even more homes by
10 three or more blocks is of major concern to the
11 community.

12 COUNCIL PRESIDENT VERNA: The Chair
13 recognizes Councilman DiCicco.

14 COUNCILMAN DICICCO: Thank you, Madam
15 President.

16 Mr. Montgomery, you referred to this as
17 a highway sign, and I've seen it a million times,
18 and actually from my home in South Philly -- I
19 live a little further north than Jim Kenny -- I
20 can actually see it 'cause I have a roof deck.
21 And I'm not offended by it, by the way.

22 Is there any other type of advertising
23 that goes on those signs, that is broadcast on
24 those signs besides what the events are?

25 MR. MONTGOMERY: What we have on there

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2 -- again, you cannot -- my point earlier was that
3 you cannot run a 10- or 15-second sequence, so you
4 can't say, for example, if it were Coca Cola or,
5 let's say, a bank that you cannot identify that,
6 you know, that loans are available at a certain
7 rate, et cetera.

8 COUNCILMAN DICICCO: Right, it has to
9 be a real quick message, right.

10 MR. MONTGOMERY: It basically works
11 just with logo orientation. We have, I believe,
12 two sponsors that exist on the triad that is the
13 lower portion of the board. I believe two of the
14 three spots are in use at the present time. I
15 believe Maxwell House Coffee and Verizon are the
16 two that come to mind. Frankly, I'm not sure who
17 the third is.

18 COUNCILMAN DICICCO: My point was, it
19 could be used, and it is used, for non-events.

20 MR. MONTGOMERY: Right. So primarily,
21 it talks about what's going on at Veterans Stadium
22 and then it does put up a Verizon logo, for
23 example.

24 COUNCILMAN DICICCO: I guess I'm
25 raising that because I'm getting into an area with

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2 some legislation -- one piece I've already
3 introduced and I hope to have some amendments to
4 it as it relates to outdoor advertising, and this
5 kind of falls within the same area or at least the
6 same concerns that neighbors would raise as to how
7 close the sign is to their residence and things
8 like that.
9 Isn't there something in this
10 agreement, or is there something we can do that
11 would just make certain that there is a process,
12 at least to the community. And I think you spoke
13 a little bit about that, David, but I think it
14 should be rather simple to figure out a way in
15 which we could put some language in here that will
16 assure at least that there is the community
17 involvement as to a process on the site of the
18 sign and where it gets placed.
19 MR. COHEN: And, Councilman, I believe
20 that under existing law, there is a process. The
21 City Planning Commission approval process is a
22 public Sunshine process for the community to be
23 involved and have an opportunity to object if they
24 don't like it.
25 And I say this -- and I'm not trying to

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2 overstate it but, I mean, you have been in front
3 of the Planning Commission. You know if the
4 District Councilperson is in front of the Planning
5 Commission and is arguing vehemently against what
6 a developer wants to do, the Planning Commission
7 does not just say, Well, it was nice hearing from
8 you, Councilman DiCicco, we're going to ignore
9 you. And where the District Councilperson is the
10 Council President, that is even more the case.
11 What I had suggested, as a possibility
12 to help improve the trust as to the quality of
13 this process, was that -- was for there to either
14 be a letter to the Council President, or maybe we
15 could figure out how to feed it into the PAID
16 process, that is in the PAID letter that Mr. Wren
17 read, and supplement it by a commitment letter
18 that we, the Phillies, would write to PAID,
19 underlying that letter, that there would be
20 advance notification to the Council President,
21 which I think, in this situation, is the
22 equivalent of to the community, which is what I'm
23 trying to accomplish here, before the approval of
24 PAID was sought under the terms of the lease. And
25 I chose that only because I think the PAID

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2 approval comes before the Planning Commission
3 action.

4 So I was trying to create the community
5 process that Councilman DiCicco was talking about,
6 where the community would have confidence that it
7 would have advanced warning of what was happening
8 here, an opportunity here to comment, to
9 participate.

10 The Phillies, knowing that that was
11 going to be the case, would then have every
12 incentive and, in fact, it would be -- it would be
13 unthinkable for this not to have happened, for
14 there to be a discussion with the community before
15 approval is sought of PAID, which would be well
16 before the Planning Commission approval was being
17 sought. And that is, I think, by definition,
18 community process.

19 So that there would be an opportunity
20 to make a presentation to the community within the
21 context of the overall plan to try and persuade
22 the community, if in fact the sign was being
23 located in this area -- and it might not be. But
24 if in fact it was, that it was okay with the
25 community, with the Phillies' understanding that

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2 if they could not get the community on their side,
3 that they were likely to have the Council
4 President telling PAID that she doesn't want PAID
5 to approve it and have the Council President
6 appearing in front of the Planning Commission
7 saying, "I don't want you to approve this," and if
8 all of that goes wrong, that there would still be
9 a litigation option from the perspective of the
10 community.

11 COUNCILMAN DICICCO: Thank you. And I
12 think that's where I was going. I would say you
13 more eloquently described what I would like to see
14 happen. And especially, again dealing with some
15 of the pieces of legislation that I'm going to be
16 dealing with shortly, as long as the community is
17 satisfied with what that process is, that's okay
18 by me. And I'm not speaking on behalf of the
19 Council President because the stadium is in her
20 district.

21 But I also think it's important to the
22 community that they have the final say in that as
23 it relates to them because, as you know, there are
24 other groups throughout the City that have taken a
25 position -- because I think someone could say that

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2 this is a billboard. I mean, you can call it what
3 you want, but someone may take that position, and
4 I think that that's the last thing we need to do,
5 is have someone who's from the Overbrook section
6 or some other section of the City deciding --
7 excuse me, Councilman Nutter, I'll pick another
8 area. Northeast Philadelphia, since the District
9 Councilperson is not here today, coming in and
10 deciding for the people who live in the Veterans
11 Stadium area what is good or not good for them.

12 But thank you, Madam President. Thank
13 you.

14 COUNCIL PRESIDENT VERNA: Thank you.

15 MR. WREN: Madam President, can I have
16 a brief response.

17 What Mr. Cohen is saying has some
18 facial appeal, but our fear is that when you get
19 into this and if you have these processes down the
20 road before PAID, before the City Planning
21 Commission, which, by the way is an executive
22 branch-administrated agency not controlled by City
23 Council, that they will begin these processes by
24 saying up front, We have a right, in their view,
25 as they've told you today, we have a right to

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2 place this tower anywhere in the District given to
3 us by City Council. We wish to put it here. Our
4 fear is in the northwest corner right next to the
5 neighborhoods.

6 And while the City Planning Commission
7 and PAID might say, Well, maybe you should make it
8 green rather than blue, the core issue will be, as
9 presented by them, we have a right to put it
10 there. And this should not be allowed, we should
11 not, in essence, be buying into litigation down
12 the road, or indeed, buying into a process that
13 when it's all said and done, the Phillies will be
14 able to prevail because any refusal to put it
15 where they seek will be, by their view and maybe
16 by the court's view, a bad-faith disapproval.

17 This has to be addressed now to protect
18 these neighborhoods.

19 COUNCIL PRESIDENT VERNA: Is Mr. Martin
20 still in the audience?

21 (Mr. Martin returns to the witness
22 table.)

23 COUNCIL PRESIDENT VERNA: Mr. Martin, I
24 know you've been listening to just about all of
25 the testimony. Can you tell me what the

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2 Administration's position is on this?

3 MR. MARTIN: Yes. First of all, we are
4 gratified by the discussions we had on Friday and
5 over the weekend that we're able to assuage the
6 neighbors' concerns on the vast majority of the
7 issues that they've raised.

8 I guess there's two points that I'd
9 like to make. One is, I reject Mr. Wren's
10 characterization of any of these issues as
11 constituting inconsistencies between the lease
12 terms and the lease agreements which have been
13 submitted for approval. There have been, in the
14 letter that he read that I provided to you, some
15 clarifications and other commitments, which I
16 think will be helpful to you in representing your
17 constituents to give the constituents some --
18 assuage certain of their concerns.

19 But that being said, I don't think that
20 they were necessary to deal with any
21 inconsistencies; they were rather just helpful in
22 trying to answer concerns that the neighbors and
23 their attorneys. That is to the general point.

24 As to the specific point of the theme
25 towers, I do think it's worth noting that the

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2 terms sheets specifically referenced theme towers
3 in the plural. It referenced the existing North
4 Lot theme tower.

5 The scheduling and use rules, which
6 were referred to, and the parking lot-only -- the
7 parking-only provision was in the context of
8 activities. And I don't believe it is the best
9 reading of that provision to suggest that that
10 parking-only zone, also by its terms, would
11 provide no theme towers, number one, because the
12 existing theme tower is and is not otherwise
13 addressed, and also because there will be a
14 variety of other things such as presumably parking
15 islands, lights, other things there that are not
16 parking-specific, but which I think were
17 contemplated by the parties.

18 Finally, regarding the reference to the
19 spirit within which the negotiations were handled,
20 we spent in excess of two dozen hours with the
21 attorneys from Sprague and Sprague negotiating
22 these provisions. And we spent approximately
23 25 hours dealing with significant levels of
24 detail, including where clowns could appear before
25 games and the exact square footage of outdoor

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2 tents and the numbers of decibels that music could
3 be performed at. So we went into great detail
4 through the scheduling and use rules.

5 And if it was a requirement of the
6 attorneys representing their neighbors that there
7 not be an additional theme tower, or either theme
8 tower, in some portion of this parking lot,
9 certainly there was significant opportunity to
10 raise that.

11 That being said, I would think that on
12 behalf of the Administration, some of the
13 solutions tendered by Mr. Cohen seem to make
14 sense, and perhaps they're an effective way to
15 balance the interests of the parties.

16 COUNCIL PRESIDENT Verna: Now, with all
17 of the hours that were spent dealing with this
18 issue with the community, I don't know that this
19 particular issue was ever raised. As a matter of
20 fact, I did not know that there was such a tower
21 presently in the North Lot.

22 MR. MARTIN: And I understand that.

23 COUNCIL PRESIDENT Verna: Would this
24 require that it go through L&I also? Would there
25 have to be an L&I permit? I mean, there's a lot

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2 of different steps this issue would have to take.

3 MR. MARTIN: There's a general
4 requirement that everything that is done by the
5 teams in connection with these leases be done in
6 connection with all applicable law, zoning and
7 otherwise. So if there's a requirement for such a
8 permit, they would have to procure it.

9 MR. WREN: But if they had a right
10 given by City Council to put it anywhere, L&I
11 would be obliged to let them site it there.

12 COUNCIL PRESIDENT VERNA: I don't think
13 we're agreeing to the fact that it could go
14 anywhere. Am I being misunderstood? Can it go
15 anywhere, Marilyn?

16 MS. CUTLER: No, you're correct,
17 Council President. The siting of all of this
18 signage is subject to approval by PAID. Their
19 plans and specs- - that is, the Eagles and the
20 Phillies -- must be submitted to PAID for review.
21 And, in fact, PAID provides review, particularly
22 with regard to signage as to the location and the
23 size, and I think that is indicated in the
24 document.

25 I understand that the lawyers for the

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2 community may have concerns about how those
3 approvals are granted, but I think that's why the
4 procedure that Mr. Cohen outlined in terms of the
5 Planning Commission having an opportunity to
6 review this in the context of the master plan, you
7 having an opportunity to know in advance that this
8 is coming and to know where the Phillies are
9 planning to site the sign will in fact allow
10 people to make sure that the approvals are not
11 given in a way that is willy-nilly or is somehow
12 arbitrary.

13 It doesn't necessarily mean that
14 everyone will agree, but it does mean that there
15 will be a public process that will be open under
16 the Sunshine Act and that people will be able to
17 participate in that process.

18 COUNCIL PRESIDENT VERNA: Okay.

19 Councilman Rizzo.

20 COUNCILMAN RIZZO: I'd like to, for the
21 record, since this is City property, do we -- does
22 the community waive any of its rights based that
23 this is City-owned property, where there would be
24 a loophole of what you just described wouldn't be
25 applicable because of the fact that the sign would

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2 be constructed on City property? Do we, Council,
3 does the community waive any of the protections
4 that if in fact this were being constructed on
5 private property?

6 MS. CUTLER: No, I think to the
7 contrary, Councilman Rizzo, there are additional
8 protections built into the document.

9 Council is not, by its approval of
10 these leases, approving a particular site or
11 saying that somehow you won't have to go to L&I
12 with full normal permits. The documents are very
13 clear, that neither action by PAID, nor action by
14 City Council replaces the normal approval and
15 permits that must be obtained by anyone who's
16 developing within the City, and that includes
17 areas of signage such as this.

18 COUNCILMAN RIZZO: Okay, thank you very
19 much.

20 Thank you, Madam President.

21 COUNCIL PRESIDENT VERNA: Thank you.

22 Gentlemen?

23 MR. HARDY: I would like to respond a
24 little further on that because I understand that
25 as part of the zoning approvals here that, in

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2 fact, anything that is permitted in the leases
3 that would otherwise require zoning approval would
4 be deemed an approved use within the Stadium
5 District. So the approval of these leases will,
6 to some extent, as I understand it, constitute
7 approval for zoning purposes of what's
8 contemplated by these leases.

9 I want to further say that I'm not sure
10 that we fully described what these towers are for
11 those of you who are not familiar with them. In
12 addition to having this blinking and flashing
13 24-hour signage to be visible from the highway,
14 there are very bright lights which shine downward
15 on the tower and do create a huge presence. The
16 closer you are to it, the more intrusive it
17 actually is. And that's the existing tower that's
18 here today.

19 I would also like to inform Council, if
20 you may not have heard this before, that when the
21 stadium area was finally concentrated and
22 attention was centered on putting both of these
23 facilities in South Philadelphia, the neighbors
24 were told that what the teams wanted to do was
25 have a first-class football stadium, a first-class

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2 ballpark, and the appurtenances that would go with
3 that and nothing more, and that they would come to
4 Council to get that approved.

5 For the first time with this sign, I

6 think what we're finding is that unrelated and not
7 appurtenant really to any of these sports team and
8 sports usages, we're looking for a separate profit
9 center and we want to put it anywhere we can in
10 the district, as intrusive as that might be. And
11 it really goes to the understanding that has
12 underlain the community's participation in this
13 process of developing a plan which, but for this
14 particular issue, the community is now willing to
15 live with.

16 Mr. Wren may have overstated it when he
17 said the community has no problem with the
18 existing tower. There are problems. What we're
19 saying is, we can live with those problems because
20 we understand the teams need to build what they
21 have planned here.

22 What we are saying is that this is an
23 unnecessary intrusion, very close, right up
24 against the community, for which you can't really
25 create the kinds of protection --

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2 COUNCIL PRESIDENT VERNA: Are you
3 talking about the existing one?

4 MR. HARDY: No, I'm talking about the
5 second tower in the northwest corner of that
6 parking lot.

7 COUNCIL PRESIDENT VERNA: I don't know
8 that a location has even been mentioned about the
9 second. Did I miss some statement?

10 MR. WREN: The issue is the Phillies'
11 contention here before this Council that they have
12 the right to site the second tower anywhere they
13 want within the district. And it our fear that
14 the most logical place, having heard that being
15 their position, is the northwest corner of the
16 North Lot, right up against the homes.

17 And that they are not prepared today to
18 say that they will not do that is, we view,
19 unacceptable. It shows gnat neighbors' fears will
20 be realized, that they will come and propose a
21 second theme tower, an advertising billboard right
22 there, and the neighbors will be stuck with it or
23 involved in long litigation, none of which should
24 be the way this matter is resolved.

25 COUNCIL PRESIDENT VERNA: At the same

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2 token, I believe that Mr. Martin has indicated
3 that the leases conform with the terms sheets. Is
4 that what I understand of you to say?

5 MR. MARTIN: Yes.

6 COUNCILWOMAN VERNA: So if we change
7 this one issue, where does that put us?

8 MR. MARTIN: Well, I certainly don't
9 think that the Administration would suggest that
10 there should be a change. Mr. Hardy used the
11 phrase "for the first time" in his comments a
12 couple minutes ago. Well, it's not for the first
13 time. When the terms sheets are presented to this
14 Council in the first week of December, the basic
15 ballpark elements were described to include, among
16 others things, quote, exterior message boards,
17 video displays, walkways and open spaces and theme
18 towers, including the existing theme tower of the
19 North Parking Lot adjacent to Veterans Stadium.
20 This is not the first time these elements of the
21 proposed development have been before the body and
22 in the public purview, going back seven weeks or
23 so.

24 And I think that the concerns
25 articulated by the neighbors are understandable,

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2 and I think that the Phillies' suggestion, which
3 is the ultimate location be reviewed in the
4 context of the plan as a whole and going through
5 the administrative process required by existing
6 law is consistent with the terms sheet, consistent
7 with the lease and, I think, consistent with the
8 spirit of the discussions we've had up till now.

9 COUNCIL PRESIDENT VERNA: And I know
10 that last week at the briefing, we were told that
11 we could not make any changes, and this would have
12 to be voted up or down. I think that was stated
13 at least three or four times. This indeed would
14 constitute a change, would it not?

15 MR. MARTIN: I believe so, Mrs. Vern,
16 yes.

17 MR. WREN: Council President, there is
18 also pending before City Council, or certainly
19 will be, this zoning ordinance, Bill --

20 COUNCIL PRESIDENT VERNA: 726?

21 MR. WREN: 727.

22 COUNCIL PRESIDENT VERNA: Oh, 727? I
23 think it's 726.

24 MR. WREN: And that is the vehicle by
25 which the teams -- and it was their desire that

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2 this ordinance be amended, this is the zoning for
3 the Stadium District, be amended in a way that
4 made clear that that which they had the right to
5 do under the lease uses would be specifically
6 approved by that zoning provision. And we had
7 worked out language and that was submitted to your
8 office.

9

COUNCIL PRESIDENT VERNA: Last week.

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MR. WREN: Which at that point in time,
11 we found acceptable, that would guarantee that
12 they would have the zoning for that which they had
13 the right to, provided that there was no violation
14 of the use and scheduling rules, the agreement
15 that the neighbors got with the teams.

16

This issue, now that we see that they
17 have a different view as to what would be allowed
18 to be done under the lease, this issue that we are
19 dealing with could be addressed in that zoning
20 ordinance without affecting -- without changing
21 one word of the leases. And that zoning ordinance
22 could say "except you may not construct a theme
23 tower or a similar structure in the geographic
24 area which is the parking-only and the limited-
25 activity parking zones."

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2 And so the Council could vote the
3 leases without any change if the teams and PAID
4 not willing to voluntarily, as they have done with
5 these other issues by way of clarification, if you
6 may, say we will not do certain things. If
7 they're not willing to do that with respect to
8 this theme tower issue, it can be addressed by
9 City Council by making the amendment to
10 specifically provide that they may not do that,
11 they may not site a second tower in that area
12 that's adjacent to the neighbors.

13 COUNCIL PRESIDENT VERNA: Councilman
14 Kenney.

15 COUNCILMAN KENNEY: Thank you, Madam
16 Chair.

17 I just need one question clarified. As
18 I read the agreement, it indicates that -- it says
19 outdoor message boards or outdoor display towers,
20 tower or towers, including the existing tower.
21 Does the potentiality exist for three?

22 MR. MARTIN: No. It is two, one of
23 which may be the existing one, or I believe it
24 would also be consistent with the reading of the
25 lease that they could eliminate the existing and

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2 build two new owns that, although doesn't seem to
3 be economically advantageous.
4 COUNCILMAN KENNEY: Do you see any
5 prohibition to three? Not that it's their
6 intention, just -- I mean, it is plural. It says
7 tower and in parentheses towers, you know "tower
8 or towers," and it specifically says "including
9 the existing tower."

10 MR. MARTIN: That is the language --
11 the "towers," plural language, is what is included
12 in the terms sheet. Then the lease provides more
13 detail and I think if you give me a second. . .

14 Section 15.2.1, a list of advertising
15 opportunities available to the Phillies and the
16 relevant language about ten lines into that
17 subsection, Councilman, says "two theme towers
18 (one of which may be the existing theme tower on
19 the North Lot)."

20 COUNCILMAN KENNEY: All right.

21 MR. MARTIN: So it's clear from that
22 language that's no more two.

23 COUNCILMAN KENNEY: Thank you.

24 MR. HARDY: You understand of course,
25 Councilman Kenney, that there are similarly two

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2 theme towers on the Eagles area. And they're
3 actually sited in that lease right adjacent to the
4 stadium.

5 COUNCILMAN KENNEY: Where are they
6 intending to site them, in the back?

7 (Unintelligible, parties talking over
8 each other.)

9 COUNCIL PRESIDENT VERNA: Sorry, sorry,
10 the stenographer cannot hear you unless.

11 MR. HARDY: They're on the south side
12 of the stadium up against -- between the stadium
13 and I-95 that side.

14 MR. WREN: Indeed, in the Eagles lease,
15 they have as an exhibit a plot plan that shows,
16 with notations, where they intend to put their two
17 theme towers. The Phillies lease does not have
18 such an exhibit, and they want to leave this issue
19 open and have this become a point of major
20 dispute, major dispute in the future.

21 COUNCILMAN KENNEY: Thank you.

22 COUNCIL PRESIDENT VERNA: Thank you.

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

25 (No further questions.)

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MR. WREN: If I could make one other general comment. This is an electronic billboard, which potentially could be 120 feet, under their view, in the air. And the existing one was built sometime in the '70s, I think is the understanding.

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You know, billboards, ones that don't flash, you know electronic, just regular billboards, even those have been a particular concern of this Council. And in 1991, I believe, this Council recognized the problems that billboard present for the City and had some new legislation addressing billboards.

And they said in their legislative history, this Council did, in deciding to go some restrictions, that "such signs are commercial by nature and while they may be appropriately located in certain commercial and industrial areas, they do not belong within or in close proximity to residential neighborhoods." And they went on to say, "Said signs jeopardize public safety by distracting pedestrians and, to a greater extent, passing motorists, since these signs, by their nature, are erected in areas intended to be seen

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2 by drivers of motor vehicles."
3 We have heard Mr. Montgomery say today
4 that's exactly what they want to do. That's the
5 only thing they want to do with these towers
6 direct it to the highway. This whole thing goes
7 against where Council has been for years on trying
8 to eliminate this kind of blight. And now the
9 Phillies want to put this -- another such sign
10 right on the highway, distract motorists, invade
11 the neighborhood, the homeowners in the adjacent
12 area. It's simply unconscionable, it's simply
13 unacceptable.
14 This Council, we submit, cannot let
15 this happen. We look to you, our elected
16 representatives, to prevent this and not let this
17 thing be resolved later on in what will surely be
18 litigation. If we go the route that they're
19 suggesting address it later, we'll address it
20 later, and it's totally unacceptable.
21 COUNCIL PRESIDENT VERNA: Sir, what are
22 you suggesting? You're suggesting that Bill 726
23 be amended?
24 MR. WREN: We submit that that's a
25 vehicle by which this issue could be addressed

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2 without voting down the leases.

3 As an alternative, the Phillies are
4 much, as we understand, less far along in their
5 whole development plans. The need to have a final
6 lease agreement for the Phillies, we believe, is
7 not as pressing as the Eagles have indicated. If
8 indeed this lease as presented, if we need to look
9 at it that way, the lease as presented, it is not
10 in conformance to the ordinance as passed by this
11 Council. And I submit this Council could vote
12 down the Phillies lease and they could resubmit it
13 and --

14 COUNCIL PRESIDENT VERNA: It is in
15 conformity.

16 MR. WREN: Council President?

17 COUNCIL PRESIDENT VERNA: It is in
18 conformity, from what we've just heard. Did you
19 look at it?

20 MR. WREN: We think on this -- well, we
21 think on this issue that -- our position is set
22 forth in the exhibit, which has these limitations
23 on uses within this parking-only and
24 limited-activity zone that, indeed, it's clear,
25 and that they cannot site the second tower there.

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2 They are telling this Council that they
3 think it's not clear in this regard, they think
4 that they can do that. We have an issue. We
5 think that the lease on this issue is clear and it
6 conforms to the ordinance. They think it
7 differently.

8 We shouldn't pass this ordinance and
9 let this issue remain.

10 COUNCIL PRESIDENT VERNA: Thank you.

11 MR. WREN: I will submit, as I said
12 earlier, that this can be resolved by addressing
13 it in the zoning ordinance. That is the easiest,
14 cleanest way to do this.

15 COUNCIL PRESIDENT VERNA: I would
16 strongly suggest that the attorneys -- I see that
17 Councilman -- or rather David L. is here, and I
18 see that Mr. Montgomery is here. Perhaps you
19 could go into the next room and try to thrash this
20 out, because I think everybody has worked very,
21 very hard on this. And I know you gentlemen have
22 put a great deal of time into it, as has the
23 Administration and the community, and I think it
24 would be almost sinful to have come this far and
25 for one issue to be outstanding.

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2 So I would really appreciate it -- I
3 know you've been sitting here all day -- if you
4 could just have like a little sidebar and see how
5 we could come to some agreement on this issue and
6 hopefully resolve it. I would appreciate it.
7 MR. WREN: Certainly.
8 COUNCIL PRESIDENT VERNA: Thank you.
9 I see Judge BonavitaCola returned.
10 Your Honor, are you interested in testifying on
11 this matter?
12 JUDGE BONAVIDACOLA: No, I think
13 they're handled it more than adequately.
14 COUNCIL PRESIDENT VERNA: Thank you.
15 And, Your Honor, perhaps you can join
16 the attorneys with Mr. Cohen? Because I don't
17 think you were here when Mr. Cohen made a
18 suggestion as to what avenue the community would
19 be able to take if in fact a second tower were
20 proposed.
21 JUDGE BONAVIDACOLA: (Nods head.)
22 COUNCIL PRESIDENT VERNA: Okay?
23 JUDGE BONAVIDACOLA: (Nods head).
24 COUNCIL PRESIDENT VERNA: I will be
25 here, so before I leave, I would like to know what

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2 you have decided upon. Thank you.
3 MR. WREN: Thank you, Councilwoman.
4 COUNCIL PRESIDENT VERNA: The next
5 witness is Dr. Robert Sklaroff.
6 (Witnesses come forward.)
7 DR. SKLAROFF: And also Michael.
8 COUNCIL PRESIDENT VERNA: Hello.
9 DR. SKLAROFF: We have copies here.
10 COUNCIL PRESIDENT VERNA: Dr. Sklaroff,
11 I think you were here earlier when I made my
12 statement that members of the public who wish to
13 testify today are to just give their opinion as to
14 whether or not the leases conform with the terms
15 sheets.
16 DR. SKLAROFF: Yes.
17 COUNCIL PRESIDENT VERNA: We cannot
18 discuss anything else.
19 DR. SKLAROFF: Yes.
20 COUNCIL PRESIDENT VERNA: Okay. So
21 please identify yourself for the record and
22 proceed with your testimony.
23 DR. SKLAROFF: Okay. My name is Robert
24 B. Sklaroff, MD, and I will confine myself to the
25 written text that you have before you, including

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2 the disclaimer that you just mentioned. The
3 commentary page, which does get into other issues
4 related to our litigation, is not a part of the
5 text. So the text starts essentially on Page 2 of
6 the handout.

7 On the other hand, I do have some
8 clarification points related to points that were
9 just discussed during the testimony about which I
10 had no opportunity to do any kind of advance
11 research, and I'll add them at the end. Here
12 comes the actual formal testimony, which takes
13 seven minutes.

14 Councilwoman Verna and Councilpeople,
15 thank you for holding this hearing and thank you
16 for being so patient while we listened to the
17 prior witnesses. I am Robert B. Sklaroff, MD, and
18 I am here today with my son, Michael David
19 Sklaroff, to voice opposition to approval of these
20 leases. As you know, we have testified against
21 the misplaced priorities represented by such a
22 massive commitment of public monies. And as you
23 know, I am co-plaintiff in pending in litigation
24 that was filed because the ordinances you passed
25 last month are illegal.

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2 The purpose of this presentation will
3 be to focus only on the leases and then to place
4 their potential disapproval within a larger
5 context. Thus, I will not again discuss my
6 rationale for building the Phillies ballpark
7 northwest of 30th Street Station, nor will I
8 discuss the reasons why the ordinances violate the
9 Pennsylvania Constitution, Pennsylvania law, and
10 the Philadelphia Home Rule Charter.

11 All key documents and filings may be
12 accessed through my Web site and, of course, I
13 remain available to elaborate upon anything I've
14 written or said that is felt to be unclear.

15 You're on, Michael.

16 MICHAEL SKLAROFF: I am Michael David
17 Sklaroff. I have listened to my dad complain
18 about these laws for a few months now. I just
19 don't think so much tax money should be spent on
20 buildings when so many addicted people need help
21 when they want to stop smoking. Jake here is a
22 former smoker and he would want you to remember
23 the proper priorities.

24 DR. SKLAROFF: This is Jake over here.
25 Okay, I would like to ask merely that

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2 you compare the two documents. If you then
3 conclude they are identical, then you will
4 probably vote the same way you voted last month.
5 Yet if you see substantial distinctions between
6 the lease terms memoranda and the sublease and
7 development agreements between PAID and the sports
8 teams, then you will conclude, as have I, that
9 major differences between the two render your
10 approval of all the stadia-related ordinances
11 "null and void and without legal effect."

12 Incidentally, note that I am quoting from
13 the memorandum dated 12/6/2000. This is the
14 edited version of what had been earlier circulated
15 through City Council with the unamended
16 ordinances.

17 I am going to use the football-related
18 documents as a basis for my discussion. It should
19 first be noted that the 12/26/2000 memo stated
20 that the stadium budget is estimated to be
21 \$393 million. Quote, but in no event less than
22 \$313 million if opening day is later than August
23 1, 2003. Further, the stadium complex project
24 budget is defined as the stadium budget plus the
25 \$258 million infrastructure budget is on Page 2.

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2 Therefore, the total cost is at least \$571 million
3 but is estimated to be \$651 million if opening day
4 is before August 1, 2003. Yet no ceiling is
5 established for this expenditure. And even after
6 I listened to the testimony today there still is
7 no ceiling established for this expenditure.

8 Furthermore, if the cost of

9 environmental remediation of the T-Warehouse site
10 and the Acme site exceeds the aggregate amount of
11 \$2 million, this team may request the City to fund
12 such excess -- that was in quotes.

13 And here comes another quote: If the
14 cost of environmental remediation of the Naval
15 Hospital site exceeds \$1 million, then PAID shall
16 have the option of either paying the excess or
17 terminating its obligations with respect to the
18 Naval Hospital side, end of quote, Pages 3 and 4.

19 Although the impact of the former is
20 left unspecified, the latter commits the City to
21 pay an unspecified amount of money. And, again,
22 no ceiling is established for this expenditure.
23 The public contribution section, quote, is stated
24 to be, quote, approximately \$205 million of local
25 funding, Page 5. Yet again -- still again, no

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2 ceiling is established for this expenditure.

3 These data must now be compared with

4 the lease. Quote, the aggregate amount of hard

5 cost, in quotes, of construction in connection

6 with the tenant construction obligation shall be

7 no less than \$240 million, and the aggregate cost

8 of the stadium premises shall not be less than

9 \$313 million, and this is Section 6.1.4, Page 48.

10 The terms differ between these two

11 documents, and although the same \$313 million

12 figure appears in both, it is either the minimum

13 stadium budget or the aggregate cost of the

14 stadium premises. Regardless, the Eagles, quote,

15 shall not be required to expend more than the

16 tenant hard construction cost obligation in

17 connection with the stadium premises construction,

18 end of quote. That's Section 6.6.2, Page 51

19 again, no public cost ceiling is specified.

20 The lease does not specify lease the

21 costs that may be incurred by PAID and, therefore,

22 by the public when buying the land. This

23 represents a black hole, which could commit the

24 City to an unknown and unlimited expenditure that

25 could predictably rise above budget.

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2 Now, we've heard today, after careful
3 cross-examination, that the money which has now
4 been censored, indeed goes over the budget, but
5 they say they have a contingency fund. It's nice
6 to find out about where all the money is hidden
7 perhaps beforehand instead of after all of these
8 approvals have gone through.

9 Regarding the environmental remediation
10 issue, the T-Warehouse and Acme sites are not
11 mentioned. The only reference to the Naval
12 Hospital site is, quote, under the Authority's
13 special construction obligation, end of quotes.
14 The latter states that PAID should either cover
15 any cost greater than a million dollars over
16 budget or terminate this obligation. That's
17 Section 6.2.2, Page 48. Unless on point citations
18 are buried elsewhere, again, no public cost
19 ceiling is specified.

20 Now, I listened to some of the other
21 discussion earlier and they were talking about
22 that there might be potential emergency repairs
23 and so forth and that the City's commitment is
24 general, not specific, and the rationalization was
25 that if there's any kind of a deadlock, then it's

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2 difficult to figure out the result ahead of time,
3 and this is coming from lawyers supposedly
4 representing the City and the City's interests.
5 Finally, the City should be obligated
6 to maintain the premises for 30 years in the
7 initial lease term, excluding optional extensions
8 rather than 25 years. For the Eagles to allow the
9 premises to fall in disrepair during these latter
10 years, the result five years later would be a
11 property that the City might deem unsuitable for
12 any human habitation. Recalling charges the Vet
13 suffers from deferred maintenance, the prospect is
14 remote that the Eagles would keep any stadium in
15 tiptop condition being obligated to so. It's as
16 if they would want to be given a new playground
17 every quarter century. Thus, the leases should be
18 disapproved. There are both substantial
19 differences between the proforma and the final
20 leases and substantial problems with the leases
21 themselves.
22 It is shameful the public still does
23 not know what the total cost of the projects is
24 expected to be despite the fact that the public is
25 inevitably beholden to pay its bondholders. Not

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2 only does this submission fail to, quote/unquote,
3 cure, end of quotes, the concerns raised in our
4 lawsuit, but it also constitutes further evidence
5 of the capitulation of the City to the sports
6 teams. Thus, although the resolution before you
7 is not amendable, a problem with which you're
8 currently wrangling regarding those signs, you
9 should pass another specifying that PAID, and not
10 the City, is responsible to all those who purchase
11 the bonds.

12 Now, I might add that when I read this
13 discussion regarding the signage, I also saw what
14 Councilman Kenney noted, which was initially
15 (indiscernible) over by the City lawyer. And that
16 is the word S was in parentheses. He just sort of
17 like read it as if everyone knew ahead of time
18 that it was a plural term, when actually it was
19 optional ambiguity.

20 If approved, these lease would
21 compromise a reasonable view of the public
22 interest. Also, they would compound the death
23 threat that was sounded by the City Controller.
24 Because I was told by Councilwoman Verna's staff
25 that Council had restricted testimony to leases,

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2 holding these hearings would not cure the third
3 count of our litigation regarding the absence of
4 proper public hearings prior to approval of the
5 ordinances. And, as noted previously, these
6 hearings fail to resolve their own
7 unconstitutionality and their illegality as
8 detailed in the first two counts of litigation.

9 Frankly, we wonder why City Council
10 would deign to approve anything without knowing
11 its total potential cost. Join me in
12 reformulating this commitment. You have time.
13 You have time is an important concept also because
14 I heard earlier that the Phillies were saying we
15 really didn't have enough time to flesh out all of
16 the details when, of course, they have had plenty
17 of time, both public and private.

18 And thank you for your attention.

19 One other point is that I hear is that
20 you can agree or disagree with certain terms,
21 depending upon how they're calculated, and I had
22 that problem initially when we were working on the
23 lawsuit because I found a fax sheet, which we
24 appended thereto differed numerically if you
25 looked at the proformas when I tried to add up the

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2 commitments of the Eagles and the Phillies and
3 then subtract the monies that were listed therein
4 that were supposedly the public commitments. So I
5 was somewhat confused by that.

6 A couple other point points. I would
7 submit that when the point was made earlier that
8 what we're doing here is not dissimilar to the
9 first CEPA lawsuit, I violently disagree because
10 we have dropped that language that the City would
11 be committed to pay the PAID costs. The issue of
12 unlawful delegation of power we didn't raise, I
13 should explain, because I thought it would be
14 presumptuous for private citizens to act in any
15 way, shape, or form on behalf of a person in City
16 Council.

17 I didn't like what I heard regarding
18 the issue of reports, when they start, how often,
19 and binding the results of the analysis thereof
20 would actually be in what I heard today. It was
21 also suggested that leases do not require Council
22 approval, which is, of course, not true, because
23 there's a reference in Section 8 of the
24 Philadelphia Home Rule Charter that mandates it.

25 COUNCIL PRESIDENT VERA: Doctor,

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2 Doctor.

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DR. SKLAROFF: What?

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COUNCIL PRESIDENT Verna: Can you

5 please come to some conclusion. Council has

6 approved the leases. We are just making

7 absolutely certain today by this resolution that

8 the leases conform with the terms sheets.

9

DR. SKLAROFF: I understand that. My
10 comments are only related to what I heard, which I
11 couldn't have, I told you, prepared ahead of
12 time.

13 The phrase "contingent liabilities"
14 came up related to any difference in costs that
15 were associated therewith, and I found that to be
16 another one of the black holes associated
17 therewith. Included in that phrase was the fact
18 that a lot of this language was written for the
19 benefit of the bondholders. And to me, you don't
20 write language to try to sell something. You try
21 to write language ahead of time that's applicable
22 to all of the issues that are before you.

23 There are a lot of other issues that
24 I'd like to raise, but I think in the interest of
25 time and in my son's not having had lunch --

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2 COUNCILMAN DICICCO: Point of
3 information.
4 DR. SKLAROFF: Yeah, sure.
5 COUNCILMAN DICICCO: I want to go off
6 on another area --
7 DR. SKLAROFF: Sure.
8 COUNCILMAN DICICCO: -- not related to
9 the lease.
10 DR. SKLAROFF: Okay.
11 COUNCILMAN DICICCO: And I know it's
12 not my role as a Councilperson to interfere in the
13 way someone raises their family, but I noticed
14 your son has been here since at least 9:30 this
15 more.
16 DR. SKLAROFF: Correct.
17 COUNCILMAN DICICCO: And I didn't see
18 him leave the room so I expect that he didn't have
19 any lunch. And I appreciate the fact that you get
20 involved in some of these public debates. Back in
21 December, you were here for the better part of 10
22 or 12 hours, and your son, David, accompanied you.
23 David, do you go to school?
24 MICHAEL SKLAROFF: Mm-hmm.
25 COUNCILMAN DICICCO: What school do you

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2 go to?
3 MICHAEL SKLAROFF: Solomon Schechter
4 (ph.).
5 COUNCILMAN DICICCO: Did they give you
6 the day off for this?
7 MICHAEL SKLAROFF: No.
8 COUNCILMAN DICICCO: I just was
9 curious.
10 DR. SKLAROFF: That's not true.
11 COUNCILMAN DICICCO: This is just of a
12 moral nature.
13 DR. SKLAROFF: Right.
14 COUNCILMAN DICICCO: How can you put
15 your son in this chamber for 8, 10, 12 hours a day
16 without a break? I think that is a disgrace.
17 DR. SKLAROFF: Okay.
18 COUNCILMAN DICICCO: And I'm not going
19 to debate you on that. I'm going to leave the
20 chambers, actually, but I just had to get it off
21 my chest.
22 DR. SKLAROFF: Okay. I'll explain to
23 you the answer.
24 COUNCILMAN DICICCO: As a parent that
25 you put your son through this, I don't think this

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2 fair to that boy.
3 DR. SKLAROFF: Okay, well, I'll tell
4 you --
5 COUNCILMAN DICICCO: And you can tell
6 me to mind my own business because it's not my
7 son, but I think I have a moral obligation. That
8 boy sat here for the better part of six hours
9 today to make a 30-second presentation. I think
10 it's a disgrace.
11 DR. SKLAROFF: Okay, well, now that you
12 have your point made, I'd like to comment.
13 COUNCILMAN DICICCO: I'm not going to
14 be here for your comment.
15 DR. SKLAROFF: All right. Well, I'm
16 going to put my comment on the record.
17 COUNCILMAN DICICCO: People like you
18 DHS goes after.
19 DR. SKLAROFF: Okay. Well, number one,
20 I told the principle of the school on Saturday
21 that this was going to occur. Number 2, I spoke
22 with the Council President's office and was told I
23 was going to be the first speaker.
24 COUNCIL PRESIDENT VERNA: Doctor,
25 Doctor, please. Your time should really be very

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2 limited. Just stick to the issue as to whether
3 you feel that the rest of the leases conform with
4 the terms sheets.
5 DR. SKLAROFF: Okay. As I stated in my
6 conclusion, I feel that neither do they conform to
7 the prior documentation -- and I gave you the
8 direct quotes -- nor are they desirable because of
9 the omissions and commissions therein.
10 COUNCIL PRESIDENT Verna: Thank you.
11 Any questions of this witness?
12 (No questions.)
13 COUNCIL PRESIDENT Verna: Our next
14 witness will be Tina Nelson from CEPA.
15 (Witness comes forward.)
16 COUNCIL PRESIDENT Verna: Good
17 afternoon. Thank you for your patience please
18 identify yourself for the record and proceed with
19 your testimony.
20 MS. NELSEN: My name is Tina Nelsen,
21 and I am speaking on behalf of CEPA, the Consumer
22 Education and Protective Association.
23 We urge Council to vote against the
24 approval of these leases, not just because the
25 City has greater priorities than stadia, not just

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2 because this is an example of corporate welfare
3 taking money from every income class so the
4 super-wealthy can have a playground, not just
5 because it shuts the City out of any possible
6 royalties from the sales of any memorabilia --

7 COUNCIL PRESIDENT VERNA: Excuse me,
8 excuse me. These leases were approved and the
9 hearing today is simply to make certain that the
10 leases are in conformity with the terms sheets.

11 MS. NELSEN: Right.

12 COUNCIL PRESIDENT VERNA: So that is
13 the purpose of this hearing today. It's not
14 whether we approved the leases or not.

15 MS. NELSEN: Okay. I don't mean who
16 will pay if there are overruns during
17 construction, but who will pay if the number of
18 tickets sold fall short of the estimates, if the
19 rental car tax revenues are smaller than
20 anticipated, and if, as a result of the
21 difficulty, PAID is currently paying the bonds it
22 floated to buy the old tax liens lead to higher
23 interest rates.

24 Who is ultimately responsible for the
25 debt? The City, PAID, or the wealthy team

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2 owners? Approving either lease is signing a blank
3 check, and the people of Philadelphia do not sign
4 blank checks, nor should City Council.
5 Please take your responsibility
6 seriously and vote against the lease until all of
7 these questions have been addressed.
8 Thank you for your time.
9 COUNCIL PRESIDENT Verna: Thank you.
10 Are there any questions for this
11 witness?
12 (No further questions.)
13 COUNCIL PRESIDENT Verna: Do we have
14 any one else to testify on these resolutions?
15 (No response.)
16 COUNCIL PRESIDENT Verna: Seeing no one
17 else to testify, this committee will stand in
18 recess until Wednesday, January 31st, at 2:30.
19 Thank you all very much.
20 (Adjourned at 2:49 p.m.)
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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Monday, January 29, 2001, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COUNCIL COMMITTEE OF THE WHOLE
RES. NO.'S 010020, 010021, 010022, 010023

_____,
JOSEPHINE CARDILLO,
Registered Professional Reporter

