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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING
BEFORE THE COMMITTEE ON LAW AND GOVERNMENT

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, 6/12/01
3:22 p.m.

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RES. 000476 - Authorizing the Committee on Law and Government to investigate whether the City-administered health plan current and in the past has provided the most comprehensive and cost-efficient coverage to City employees for the premiums paid, and whether the City could provide more comprehensive and less costly coverage to the approximately 8,000 employees and retirees currently covered by this plan if the other operation were pursued.

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PRESENT: COUNCILMAN DAVID COHEN, Chair
COUNCILMAN ANGEL L. ORTIZ, Vice Chair
COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN FRANK RIZZO
COUNCILWOMAN MARIAN B. TASCO
COUNCIL PRESIDENT ANNA C. VERNA

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

3 COUNCILMAN COHEN: The Committee on Law
4 and Government is now in session. There's a
5 continuing quorum, since this is a recessed hearing,
6 but the Chair notes the presence of: the President
7 of City Council; Councilman Michael Nutter, who's a
8 member of the committee; Councilwoman Marian Tasco;
9 and to my left: Councilman Rizzo, a member of the
10 committee; Councilman Ortiz, a member of the
11 committee; and myself, David Cohen, as chairman of
12 the committee. We're gathered today in a recessed
13 hearing for the purpose of learning to what extent
14 the Administration has been able to produce the
15 documentation requested by this committee.

16 And who is representing the
17 Administration today? Miss Berkowitz, please come
18 forward.

19 (Witness comes forward.)

20 COUNCILMAN COHEN: Miss Berkowitz,
21 please proceed and inform us of what you are
22 producing today and what you are not and when you
23 will be producing what you have not produced.

24 MS. BERKOWITZ: Councilman Cohen,
25 members of the committee, I'm here on -- I'm Linda

3 and I am here to discuss the additional information
4 that the committee requested at the hearing last
5 Thursday.

6 COUNCILMAN COHEN: Miss Berkowitz, let
7 me not be persnickety, but it's my understanding
8 that you're not here to discuss that material, you
9 are here to present the documentation.

10 MS. BERKOWITZ: That material,
11 Councilman Cohen, is being duplicated as we speak.
12 I apologize to the committee. The committee will
13 either get a package later this afternoon or early
14 tomorrow morning.

15 And if I could, I would like to read the
16 cover letter that will come to you with that package
17 of material that is signed by Joyce Wilkerson, Chief
18 of Staff to the Mayor.

19 COUNCILMAN COHEN: Well, before you do
20 that, I would ask for one other witness who's here,
21 Mr. Thomas Lamb, who I think has additional
22 information that may alter the request for
23 documentation, may increase the request for
24 material.

25 (Witness comes forward.)

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2 COUNCILMAN COHEN: Mr. Lamb -- you may
3 stay there, Miss Berkowitz.

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

6 MR. LAMB: My name is Thomas Lamb. I
7 administer law enforcement health benefits, which is
8 the FOP Blue Cross plan. And, regretfully, Richard
9 Costello could not be here today.

10 But there is an issue that we wanted to
11 bring to the attention of the committee which is
12 very important to us and a very serious issue, and I
13 would like to thank the committee, the chairman, and
14 the committee members for holding these meetings
15 because this is truly the only time that we feel
16 that we get a fair shake. We go into the contract
17 negotiations, we produce every last bit of evidence
18 that is requested, including audited financial
19 statements, medical professional reviews of our
20 program. We present it, and when we ask for
21 documentation from the City, we run into the same
22 exact thing that your committee is running into.

23 One of the very serious things that is
24 affecting us, as Richard had stated before, our new
25 Blue Cross increase is 28.56 percent at a time when

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2 the City capped our medical plan for the next two
3 years. One of the problems we have, we have

4 officers that are injured in the line of duty,
5 complete and injured on duty report, and in some
6 cases, these are officers that were killed in the
7 line of duty, and at the hospital, when they cut
8 their clothes off of them, they take their Blue
9 Cross card and bill Blue Cross, similarly to the
10 officers injured in the line of duty.

11 The City refused to give us
12 injured-on-duty records monthly as we requested.
13 The only time we received injured-on-duty records is
14 at the time of the contract under the discovery
15 law. We then input that into our computer.

16 And it's fairly clever the way the City
17 does it with their terminology. Scratches and
18 sprains was an officer that was thrown from his
19 horse into the wall with major facial bone breakage
20 and major dental work. Another one was a puncture;
21 well, it surely was a puncture -- it was a gunshot.
22 So it's awful hard to try to interpret the City's
23 terminology to what the officer really had, and in
24 some cases, we physically have to call the officer
25 to find out what the injury really was.

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2 We then get our paid claims tape from
3 Blue Cross every month. We then load the paid
4 claims tape with the data services and compare it to

5 the injured-on-duty dates. We then match them up
6 and since 1993, when the City capped our medical
7 plan financially, we've said to the City, There are
8 claims that you are responsible for for officers
9 injured in the line of duty, or even Worker's
10 Compensation, that you should assume the financial
11 responsibilities for. The problem for us is, you
12 have financially capped our plan and you're dumping
13 your financial responsibility for these officers
14 injured and killed into the line of duty into our
15 Blue Cross premium, 'cause the premium is governed
16 by your usage and the claims for injured-on-duty
17 officers are built into our usage.

18 We have been on the City since 1993.
19 They say they're going to agree to allow CSI Cop
20 Services, Inc. to review all of the injured-on-duty
21 claims with the Blue Cross personnel to identify the
22 dollars and the injuries that they are responsible
23 for and then we can work out a financial agreement
24 with Blue Cross. We get to the agreement; when it
25 comes down to sign the paper, the paper's never

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2 signed. This has been going on for three years.

3 So about eight months ago, our attorney,
4 Thomas Jennings, had to file legal action against

5 the City of Philadelphia to force them to assume
6 responsibility for the financial claims of injured-
7 on-duty officers. It has a severe impact on us
8 financially when as high as 8 percent of our premium
9 may be attributed to claims that the City
10 Philadelphia is truly responsible for.

11 COUNCILMAN COHEN: Miss Berkowitz, do
12 you have any comment with respect to that?

13 MS. BERKOWITZ: No, I don't, Councilman
14 Cohen.

15 COUNCILMAN COHEN: We would like to get
16 full information on that from the City's point of
17 view. It seems on the surface an outrageous action
18 by the City in imposing on the individual health
19 plan the responsibilities for what ought to be
20 employment claims for Workman's Compensation
21 payments for people, police officers injured or
22 killed in the line of duty. I can't understand
23 that.

24 I would hope that in the documentation
25 that you provide that you will include information

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2 with respect to the claim being presented to us by
3 Mr. Lamb. That's a matter which has been brought to
4 my attention today for the first time. And I wonder
5 how many other areas are suddenly going to be opened

6 up as areas hidden by the City.

7 MS. BERKOWITZ: Councilman Cohen, this

8 is the first that I'm aware of the issue. And if in

9 fact Mr. Jennings has filed legal action against the

10 City for these claims, then I would respectfully

11 submit, although I will go back and talk with the

12 City's attorneys, that that's the form in which it

13 needs to be resolved at this point. I don't know

14 what occurred after --

15 COUNCILMAN COHEN: Well, we like to --

16 (Unintelligible, parties talking over

17 each other.)

18 MS. BERKOWITZ: Excuse me?

19 COUNCILMAN COHEN: We would like to get

20 a report on the status.

21 MS. BERKOWITZ: I will be happy to give

22 you a report on the status.

23 COUNCILMAN COHEN: Because we just know

24 what Mr. Lamb has stated and it just seems totally

25 wrong.

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2 Councilman Rizzo?

3 COUNCILMAN RIZZO: Thank you.

4 Miss Berkowitz, you just indicated that

5 this is the first time that you're aware of an issue

6 that's been kicking around since 1993?

7 MS. BERKOWITZ: Councilman Rizzo, as

8 Joyce Wilkerson indicated last week, the issues that

9 have been raised by Council have created the need

10 for a special review of the City-administered health

11 plan, and I was just very recently asked to head

12 that review. I have not been involved with the

13 City's health plan previously -- certainly not going

14 back to 1993.

15 COUNCILMAN RIZZO: Who in the

16 Administration would you think knows about

17 Mr. Lamb's testimony? Who would you -- would the

18 Chief of Staff know?

19 MS. BERKOWITZ: I don't know if the

20 Chief of Staff would know. I would hope that our

21 Office of Labor Relations would know. If a suit has

22 been filed against the City, I'm assuming that the

23 Law Department would know.

24 But, again, this is the first I've heard

25 of it. Had I known before this hearing, I would

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2 have attempted to get some information in terms of

3 the status of that issue for the hearing. But this

4 came as a surprise to me today.

5 COUNCILMAN RIZZO: Thank you,

6 Mr. Chairman.

7 MR. LAMB: Mr. Chairman?
8 COUNCILMAN COHEN: Yes, Mr. Lamb.
9 MR. LAMB: Since 1993 when we received
10 the injured-on-duty claims every two years, you can
11 imagine the administrative hours that have to be put
12 in to input that into the computer. Currently, we
13 have 7500 injured-on-duty occurrences listed in our
14 computer, and the last information we received was
15 November of 2000. Where it stands now is, LEHB (Law
16 Enforcement Health Benefits), on behalf of the FOP,
17 has signed a waiver allowing Cop Services, Inc., who
18 represents the City on the injured-on-duty claims,
19 allowing them to review our members' claims.
20 The Blue Cross has signed the agreement
21 that they would be willing to do this. I understand
22 the holdup now in identifying the claims is the City
23 will not allow CSI to sign the waiver to identify
24 these claims. We have to expend our money to force
25 the City into court to get something that they are

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2 responsible for.
3 COUNCILMAN COHEN: It all makes no sense
4 whatever to me. It seems to me that government
5 ought to meet first of all the obligations it has to
6 its own employees who are protecting the people of

7 the City of Philadelphia. And I just can't
8 understand these methods of delay, these methods of
9 avoidance of responsibility. And that's the reason
10 in the first instance -- before we go beyond this, I
11 would like to have a full report. Is the City
12 informed of this? what is the City's position? and
13 when will the City deal with both the lawsuit and
14 with the claims?

15 I think it makes no sense whatever to
16 require a health and benefit plan to cover Workman's
17 Compensation claims or death claims if they occur in
18 the course of duty. I've never heard of any such
19 arrangement. Any private employer would not long
20 remain in business or possibly even remain out of
21 jail if he did those kinds of things.

22 So before I draw final conclusions, I
23 would want to give the City an opportunity to give
24 its version of the case because on the surface, it
25 is totally almost impossible to believe that a

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2 government would engage in such tactics.

3 So Miss Berkowitz, we're going to ask,
4 before we go more deeply into this, for you --
5 you've heard this testimony -- for you to pursue it
6 and to give a report. In view of the urgency of the
7 situation, I would like to ask that your report on

8 Mr. Lamb's allegations today be made back to this
9 committee on Thursday of this week, immediately
10 following our Council meeting. I'd like to set the
11 time at 12 o'clock now for a continued hearing just
12 for the purpose of -- we're not going to recess this
13 hearing, but I'm saying for the purpose of getting a
14 report, I think it requires urgent action. We would
15 at least like to know that the City knows of the
16 claim.

17 Now, secondly, that brings to my mind --
18 you mentioned hundreds of people that are involved,
19 Mr. Lamb. Is that the case?

20 MR. LAMB: There's thousands of people,
21 Mr. Chairman. There's over 7500 occurrences. Some
22 may be the same officer five or six times on
23 different dates of service, but there are over 7500
24 injured-on-duty occurrences that we have in our
25 computer.

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2 And if the chairman wishes, in the last
3 contract negotiations, as part of our exhibits, we
4 presented this issue and asked the arbitrator to
5 force the City to assume responsibility, and we also
6 presented an exhibit showing the confusing
7 terminology. If the committee members on this board

8 would like to have that, I will have it hand-
9 delivered tomorrow, the two exhibits, so the City
10 cannot say they were not aware of it because it was
11 presented during the FOP-City negotiations.

12 COUNCILMAN COHEN: I would like you to
13 proceed in the fashion you've indicated to present
14 it.

15 MR. LAMB: Thank you, sir.

16 COUNCILMAN COHEN: That brings to my
17 mind the question of the retirees. There was
18 testimony at the last hearing about the cutoff of
19 retirees' benefits. Miss Berkowitz, do you know,
20 how many retirees are there from the City?

21 MS. BERKOWITZ: I do not.

22 COUNCILMAN COHEN: Well, would it be
23 possible for you to, in addition to the information
24 requested -- we would like to have a list of them.

25 MS. BERKOWITZ: I believe that that

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2 information on the numbers of retirees is in the
3 information that you'll be getting either this
4 afternoon or tomorrow morning.

5 Again, Councilman, if I could go through
6 this letter and give you some indication of what
7 information you will be getting in the packet of
8 material, I think that might be helpful.

9 COUNCILMAN COHEN: All right. Suppose
10 we do that.
11 Thank you, Mr. Lamb.
12 MS. BERKOWITZ: Thank you.
13 Again, this is a letter to Councilman
14 Cohen from Joyce Wilkerson, Chief of Staff to the
15 Mayor.
16 "In response to your request at the June
17 7, 2001 hearing of the Committee on Law and
18 Government on the City-administered health plan,
19 additional information is enclosed. Initial
20 discussions have begun with the City Controller's
21 Office, which is receiving the same information as
22 well as the material provided you last week. The
23 Controller will have access to all existing
24 documents that he will require for his audit."
25 (And then this is the information that

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2 will come in the packet.)
3 "In addition to the 1992 agreement with
4 Mr. Stamitakis, we have requested from him a report
5 on the compensation that he has received since 1992
6 from the City's health plan providers.
7 Unfortunately, he was away from the City until today
8 and has not yet been able to respond.

9 "In addition to the RFPs for medical --
10 COUNCILMAN COHEN: On that, may I just
11 ask a question.
12 MS. BERKOWITZ: Yes.
13 COUNCILMAN COHEN: Won't the City
14 records show what the City has paid to him?
15 MS. BERKOWITZ: The City does not pay
16 Mr. Stamitakis. Mr. Stamitakis is compensated by
17 the prescription, dental, and vision providers, as
18 we indicated last week in the letter to you.
19 COUNCILMAN ORTIZ: He's supposed to be
20 working for us, isn't he?
21 COUNCILMAN COHEN: No.
22 COUNCILMAN ORTIZ: Isn't he supposed to
23 be a consultant for the City, isn't he?
24 MS. BERKOWITZ: He is a consultant to
25 the City.

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2 COUNCILMAN ORTIZ: So -- but he doesn't
3 get paid by the City?
4 MS. BERKOWITZ: He is compensated --
5 COUNCILMAN ORTIZ: He gets paid by the
6 individuals that we're contracting with?
7 MS. BERKOWITZ: That is correct.
8 COUNCILMAN ORTIZ: There is something
9 basically wrong with that. There is something that

10 doesn't rub me the right way there. If somebody's
11 paying me but I'm working for Dave Cohen and Frank
12 Rizzo's actually signing my check, I think Frank
13 Rizzo's going to have a little bit more to say about
14 what I do, okay?

15 MS. BERKOWITZ: Councilman Ortiz, one of
16 the things that going to be looking at during the
17 review that Miss Wilkerson talked about --

18 COUNCILMAN ORTIZ: Is the relationship.

19 MS. BERKOWITZ: -- was the --

20 COUNCILMAN ORTIZ: Does it give an
21 impression, a perception of -- that it might be
22 violating some sort of ethical question in there? I
23 don't know.

24 (Applause.)

25 COUNCILMAN ORTIZ: I mean, if he's

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2 working for us, let's pay him; if he's working for
3 them, let them pay him.

4 MS. BERKOWITZ: As we indicated last
5 week, that is one of the issues that we're going to
6 be looking at.

7 COUNCILMAN ORTIZ: This question never
8 popped up to anybody saying, God, this guy's working
9 for us but the other guy's paying him. There's

10 something wrong here, hold it a second. Nobody ever
11 asked that question?

12 MS. BERKOWITZ: Well, as a matter of
13 fact, a couple of us did ask that question several
14 weeks ago.

15 COUNCILMAN ORTIZ: Thank you. Several
16 weeks ago.

17 MS. BERKOWITZ: Yes, sir. Based on the
18 issues raised by City Council, which we have been
19 trying to respond to. We consider those issues to
20 be very serious and we're going to be looking at the
21 entire City-administered plan.

22 If I can just continue to read this into
23 the record, Councilman Cohen, I would appreciate
24 that.

25 COUNCILMAN COHEN: Well, I know you

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2 would, but we have very serious questions as to how
3 it could be that for years -- this isn't
4 Mr. Stamitakis's fault, he's apparently a very
5 successful salesman and he's doing what he does best
6 on behalf of the company that pays him, but I just
7 am floored at the concept that the City did not
8 understand that Mr. Stamitakis was working for the
9 company that paid him.

10 MS. BERKOWITZ: I think that there were

11 those in the City who did understand that and there
12 are those who -- because Mr. Stamitakis has been
13 working under an agreement with the City since 1992
14 so there's no doubt in my mind that there were
15 individuals in the City government who understood
16 that.

17 COUNCILMAN COHEN: Is that agreement in
18 writing?

19 MS. BERKOWITZ: That agreement is in
20 writing, and we provided that to you last week, as
21 well as information in the RFP for prescriptions for
22 our prescription manager that stated publicly, very
23 publicly, what his compensation was to be. That was
24 all provided you last week.

25 COUNCILMAN COHEN: All right, we'll go

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2 through that.

3 Let's let Miss Berkowitz finish her
4 letter. Go ahead.

5 MS. BERKOWITZ: Thank you very much.

6 COUNCILMAN COHEN: We'll try to restrain
7 ourselves but it's very difficult when things like
8 that come up.

9 MS. BERKOWITZ: I understand.

10 COUNCILMAN COHEN: Go ahead, Miss

11 Berkowitz.

12 MS. BERKOWITZ: "In addition to RFPs for
13 medical 1995 and prescription 1999 coverage provided
14 you last week, we are enclosing the 1995 RFP for
15 dental coverage and the 1997 RFP for vision
16 benefits. In addition to the current signed
17 agreements for dental and vision coverage provided
18 you last week, we are enclosing the signed
19 agreements for medical coverage for both active and
20 retired employees. The Personnel Department has
21 provided an explanation of the methods used to
22 calculate coverage rates."

23 (That would be in your package.)

24 "Additional information is provided on
25 the costs of medical coverage for active and retired

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2 employees for the years 1999, 2000, and 2001. We
3 have also enclosed a summary of payments made to the
4 various health plan vendors for FY 2000, including
5 the number of covered subscribers. We have enclosed
6 information regarding the survey ranking PCF highly
7 relative to other prescription benefit managers.
8 "We are reviewing the issue raised by a
9 retired employee at last week's hearing concerning
10 the process used by the City for determining the
11 health benefits available to retirees. As well as

12 the process used for open enrollment. We will be
13 happy to provide you with information on our
14 findings once Council convenience this fall,
15 although I am enclosing an explanation from Linda
16 Seyda, City Personnel Director, that may be helpful
17 to you in the interim.

18 "As I indicated last week, we intend to
19 review fully the City-administered health plan in
20 terms of process and benefits. The amount of
21 funding involved and the complexity of health
22 benefits dictate that with we conduct the review in
23 a thorough and thoughtful manner. In doing so, we
24 may request similar information from the unions for
25 comparative purposes and we would welcome your

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2 support to that end.

3 "Sincerely, Joyce Wilkerson."

4 COUNCILMAN COHEN: Thank you very much.

5 All right, there are a few questions
6 from staff.

7 MS. BRICKLIN: This is Shoshana
8 Bricklin. I work for the City Council's technical
9 staff.

10 Miss Berkowitz, we did have the
11 opportunity to speak before the hearing began. You

12 did indicate that Mr. Stamitakis was out of town so
13 we couldn't get that information. You did state in
14 today's letter, however, that you have a summary of
15 payments made to the various health plan vendors for
16 FY 2000. And given the fact that Mr. Stamitakis's
17 payment is key to the payments that the City makes,
18 wouldn't it be possible, and it might be preferable,
19 for the City to provide that information, even if
20 Mr. Stamitakis does so that we can compare the
21 accuracy of what he provides.

22 MS. BERKOWITZ: We will certainly
23 compare, but I cannot tell you when Mr. Stamitakis
24 received compensation and whether he received all of
25 the compensation due him. He would have to tell us

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2 that.

3 MS. BRICKLIN: But assuming that the
4 contract provided for, what is it, 1 percent of all
5 amounts billed to the City, you could easily provide
6 to this committee the bills from the City for the
7 period in question. We'd at least have a pretty
8 good ballpark figure about what the costs were for
9 this particular -- for the provision of our dental,
10 optical, and vision. And that would be preferable
11 than to waiting for weeks and weeks so at least we
12 could get started with some of this analysis.

13 MS. BERKOWITZ: That 1 percent provision
14 was in the 1999 RFP for prescription management. I
15 cannot tell you that that was the level of
16 compensation in prior years.

17 MS. BRICKLIN: Well, what about
18 immediately for '99, 2000, and 2001, which would
19 correspond to the question down here where we did
20 get for '99, 2000, and 2001?

21 MS. BERKOWITZ: In your material that
22 will come to you, you will see what the various
23 providers were paid in FY 2000. That was in answer
24 to the specific request from this committee. You
25 can take 1 percent of that and assume that that is

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2 what Mr. Stamitakis may have owed, but I can't sit
3 here and tell you that that's what he was actually
4 paid.

5 COUNCILMAN COHEN: Why was that a part
6 of the agreement?

7 MS. BERKOWITZ: Why was that part of the
8 agreement?

9 COUNCILMAN COHEN: If the City didn't
10 have to pay anything, I don't understand why the
11 contract with the City would contain such a
12 provision.

13 MS. BERKOWITZ: I can't tell you what
14 the origin of that provision was, Councilman Cohen.
15 That is one of the things that we're going to be
16 looking at.

17 COUNCILMAN COHEN: Do you know whether
18 such a provision existed prior to 1999?

19 MS. BERKOWITZ: I am assuming that
20 Mr. Stamitakis, pursuant to the original agreement,
21 was compensated by the vendors. I don't know to
22 what extent.

23 COUNCILMAN COHEN: Well, did we
24 undertake any responsibility to pay to the vendor
25 what Mr. Stamitakis received under that 1 percent

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2 contract provision?

3 MS. BERKOWITZ: I'm sorry, could you
4 repeat that, Councilman Cohen?

5 COUNCILMAN COHEN: Yes. It seems to me
6 -- I'll repeat it in another language. It seems to
7 me that if the 1 percent provision was there, it
8 must have meant that the City was going to make
9 payment to the company which employed Mr.
10 Stamitakis, in addition to all other costs they were
11 going to add, an additional 1 percent for
12 Mr. Stamitakis. Otherwise, the provision makes no
13 sense, isn't that right?

14 MS. BERKOWITZ: The health-care
15 providers do not employ Mr. Stamitakis. It is my
16 understanding that in this situation, he has acted
17 as a broker.

18 COUNCILMAN COHEN: But who paid the
19 1 percent?

20 MS. BERKOWITZ: The 1 percent, it's my
21 understanding, was paid by the dental, optical, and
22 prescription vendors.

23 COUNCILMAN COHEN: But you mean they
24 weren't recompensed for that?

25 MS. BERKOWITZ: Excuse me?

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2 COUNCILMAN COHEN: It doesn't make any
3 sense at all for them to provide in the contract
4 that part of the cost is going to be a 1 percent
5 brokerage commission, or whatever the form of the
6 language might have been, without it being the basis
7 for requests for payment by the City.

8 MS. BERKOWITZ: Councilman, I can't
9 defend or repudiate the arrangement until I have
10 looked into it.

11 COUNCILMAN COHEN: All right.

12 MS. BERKOWITZ: And that is on the list
13 of issues that I have been charged with reviewing.

14 COUNCILMAN COHEN: All right. Well, we
15 also have a responsibility for reviewing, and we are
16 very concerned, for example, in addition to all
17 else, by what's happened to the retirees, and this
18 committee's staff intends to communicate with each
19 retiree, and for that, we request -- in this
20 information, will there be a name and address, a
21 current address, for each retiree so that if the
22 committee decides to move in that direction, it can
23 communicate directly with the retiree?

24 MS. BERKOWITZ: I would like to think
25 that the Board of Retirement and Pensions has such a

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2 list, but I will be more than happy to check with
3 them.

4 COUNCILMAN COHEN: They must have such a
5 list.

6 MS. BERKOWITZ: I would think so since
7 they send out --

8 COUNCILMAN COHEN: Because they send out
9 checks.

10 MS. BERKOWITZ: Yes, I would think so.

11 COUNCILMAN COHEN: All right. Then
12 we're going to request that you obtain such a list
13 and forward it to the committee.

14 MS. BERKOWITZ: I will be happy to do

15 that.

16 COUNCILMAN COHEN: So that we can move
17 ahead with our job.

18 Now, Mr. Cronin from District Council
19 47, I understand, that you wish to be heard. Please
20 come forward and you may bring with you anyone. . .

21 (Witnesses come forward.)

22 MR. CRONIN: The administrator and
23 attorney.

24 COUNCILMAN COHEN: All right, the
25 administrator of your fund is going to be heard.

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2 Okay.

3 MS. PONGRACZ: Good afternoon,
4 Councilman Cohen. I'm Louise Pongracz and I'm from
5 the firm of Willig, Williams & Davidson, and we
6 represent both Local 22, the firefighters, and
7 District Council 47.

8 I just wanted to add to and echo
9 Mr. Lamb's comments and we thank him for raising the
10 issue of the City's continually shifting the cost of
11 claims of individual injured on duty who would have
12 both with Worker's Comp and IOD claims to the
13 several health and welfare funds, and I respectfully
14 request that you broaden the committee's request for

15 information regarding those claims to include not
16 only the FOP but also to Local 22 and District
17 Council 47. And I'm sure frankly, although I don't
18 represent District Council 33, I'm sure those claims
19 as well.

20 This is an ongoing issue,
21 notwithstanding what the committee's heard today
22 from the City. Each of the health and welfare funds
23 has, certainly during negotiations and in any number
24 of other conversations, raised the issue of
25 procuring accurate, auditable information regarding

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2 IOD and Worker's Comp claims that are shifted to the
3 health and welfare fund. So if I could ask you to
4 expand your request to the City regarding those
5 claims to the other three health and welfare funds
6 as well.

7 COUNCILMAN COHEN: Well, you represent
8 Local 22 and District Council 47?

9 MS. PONGRACZ: Yes, I do.

10 COUNCILMAN COHEN: Do you represent
11 District Council 33.

12 MS. PONGRACZ: No, I do not, but they're
13 not here.

14 COUNCILMAN COHEN: Well, any requests on
15 their behalf will have to come from them.

16 MS. PONGRACZ: Yes, I am sure.
17 COUNCILMAN COHEN: Yes.
18 MS. PONGRACZ: May I also just note --
19 if I might echo Mr. Cronin's request the last time,
20 his inquiry. I've been listening to
21 Miss Berkowitz's comments today. He had not heard
22 that the evidence underlying the claims regarding
23 the multi-million dollar savings had been produced,
24 and I was just wondering if that information was
25 included in either of the lists.

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2 COUNCILMAN COHEN: I'm having trouble
3 following. Would you repeat that last comment
4 maybe? Maybe talk a little bit slower.
5 MS. PONGRACZ: During the last set of
6 hearings, we had talked about that there was or was
7 not information regarding the alleged
8 multi-million-dollar that would have been
9 experienced by consolidating the health and welfare
10 funds. And Mr. Cronin and I, in listening to Miss
11 Berkowitz's testimony, had not heard either that the
12 information had been produced or that it was
13 forthcoming, and I was just wondering if we could
14 inquire into the status of that information request
15 made so well by Councilman Rizzo.

16 COUNCILMAN COHEN: That seems a fair
17 question. Questions were raised last time about the
18 so-called plan that the City announced during its
19 labor negotiations that it had that would
20 demonstrate the economy and the efficiency of
21 consolidating all of the plans into one.

22 Is there any information or
23 documentation on what you're producing or what you
24 explained you will produce at a later time that
25 would give us that information?

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2 MS. BERKOWITZ: Councilman Cohen, we did
3 respond to that last week when the question was
4 raised by saying that we do not have that
5 information available now. That is something that
6 the City intends to pursue and we will have that
7 information.

8 COUNCILMAN COHEN: Well --

9 MS. BERKOWITZ: We are not proposing
10 that we consolidate tomorrow. And we will have that
11 information.

12 COUNCILMAN COHEN: Well, are you saying
13 -- what I'm trying to get is just what is the state
14 of the existence of the plan? Are you saying that
15 there is no plan? If there has been a plan and it's
16 been discarded, we nonetheless would like to see the

17 plan that was discarded. If there is no plan and
18 never has been a plan, we'd like a plain statement
19 to that effect.

20 MS. BERKOWITZ: I can't say that there
21 was never a plan. I can tell that you I have never
22 seen a plan. I know that there were some
23 preliminary discussions during labor negotiations
24 last summer. I have not seen a -- what I would call
25 a full-fledged plan, and we said so last week. We

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2 can't say it in any other way that there is no
3 comprehensive plan.

4 COUNCILMAN COHEN: Well, while we check
5 this, Miss Bricklin says that in a June hearing in
6 the year 2000 that the witnesses for the City
7 testified that there was such a plan. But in any
8 event, I would like to ask for production of such a
9 plan. And if following your search -- you're rather
10 new in this. If you find no such plan, you will
11 tell us that to the best of your knowledge, there
12 never has been a plan or you've been unable to
13 locate the existence of any such plan.

14 We need to know something because a plan
15 has been referred to. And if it exists in whatever
16 form, partial or completed, full-scale or partially

17 scale, we would like to see it, we would like to
18 have it be made known to the committee so we could
19 consider it.

20 Councilman Rizzo.

21 COUNCILMAN RIZZO: Again, giving you the
22 benefit of the doubt that this is all new to you, as
23 a professional, it must be terribly embarrassing to
24 you to believe that a government could move forward
25 or have such an important part of a government, you

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2 must be terribly embarrassed to have to come here
3 and tell us that you don't have this, you don't have
4 that.

5 And, again, I don't want to put you on
6 the spot, I've done that enough, ask you to comment
7 on that, but I'm absolutely amazed, absolutely
8 amazed -- and I see you shaking your head -- that we
9 could be here today. Boy it's lame, it really is.
10 I'm not normally at a loss for words, but it's
11 really embarrassing to me that we could be in the
12 situation we're in.

13 Thank you.

14 COUNCILMAN COHEN: Well, I want to move
15 along and I haven't heard directly from District
16 Council 47.

17 MR. MCALLISTER: My name's Bob

18 McAllister. I'm the Benefits Administrator for
19 AFSCME District Council 47.

20 And, yes, there was a concept or a plan
21 put out by the City of Philadelphia to roll these
22 into one plan during our last negotiations. They
23 came to us with a concept of putting this in. Our
24 negotiating team, or members of our negotiating
25 team, met with the two lead lawyers from the City of

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2 Philadelphia to discuss the efficient manner in
3 which we deliver health-care benefits to our 4400
4 active and retired members. We then requested
5 information back from the City and the City's
6 attorneys on how did they deliver and the cost
7 associated on how they deliver their health-care
8 benefits to the non-reps. We are all waiting to
9 this day to get an honest answer to that question.

10 I want to refer to the last sentence on
11 Joyce Wilkerson's letter to you today. "In doing so,
12 we may request similar information from the unions
13 for comparative purposes and we would welcome your
14 support to that end."

15 They don't need your support; they have
16 a City trustee that sits on our board that chairs
17 and gets the same information with every union

18 trustee and is involved in making the decisions.
19 All's we need here is honesty back from the City.
20 We're not getting that.

21 (Applause.)

22 COUNCILMAN COHEN: But let me ask you
23 one question. In connection with Mr. Lamb's request
24 on behalf of Local 22 or on behalf of the Fraternal
25 Order of Police for the particular fund that he

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2 administers for them, he cited to us instances in
3 which injuries on duty or deaths on duty were being
4 pushed onto the health fund rather than treated as
5 work injuries or work deaths.

6 Are you saying to us that the same
7 situation exists in District Council 47?

8 MR. MCALLISTER: We are currently
9 reviewing the reports that we are now getting from
10 the City of Philadelphia listing injured-on-duty and
11 Workman's Comp cases. Through our Health and Safety
12 Director, Kathy Black, we are reviewing that
13 information to see if in fact our fund is absorbing
14 medical costs. I do not have a definite answer for
15 you at this time, but we are reviewing that
16 information.

17 COUNCILMAN COHEN: Well, if you find
18 that the same situation exists --

19 MR. MCALLISTER: Believe me, if we find
20 that that same situation exists, we will pursue it
21 by any means necessary to have that cost shifted
22 back rightfully to the City of Philadelphia.
23 COUNCILMAN COHEN: And we would be ready
24 to enlarge our request. We don't want to go on a
25 fishing expedition; we want to have a reason to

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2 believe that certain facts exist and ought to be
3 disclosed to us, so feel free to let us know as a
4 result of your study whether the same request ought
5 to be made to the City for that information.
6 Now, Miss Berkowitz, are you going to be
7 able to deal promptly with the question of the
8 retirees and their addresses? We would like to have
9 that information before we finish our business on
10 Thursday afternoon when Council recesses so we can
11 assign it to the staff for study.
12 MS. BERKOWITZ: Councilman, I can assure
13 you that I will call the Pension Board and speak
14 with the executive director personally. I can't
15 tell you whether they will be able to get the list
16 to me in order to give it to you by Thursday.
17 That's -- but I will be -- I will make that call
18 this afternoon.

19 COUNCILMAN COHEN: And you will express
20 a sense of urgency about it?
21 MS. BERKOWITZ: Absolutely, sir.
22 COUNCILMAN COHEN: Okay. And then you
23 would let my office know the result?
24 MS. BERKOWITZ: Your office will --
25 COUNCILMAN COHEN: We're going to be

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2 meeting here right after -- we'd like you to be here
3 Thursday approximately at noon. That's our best
4 estimate as to when the session may end. Sometimes
5 we're optimistic about our time expectations like
6 today and we ask everybody to forgive us, but we
7 can't control it.
8 MS. BERKOWITZ: I will --
9 COUNCILMAN COHEN: But at the end of
10 that session, we would like to have a brief recessed
11 session of this committee for the purpose of getting
12 whatever documentation you have available by that
13 date.
14 MS. BERKOWITZ: Councilman, I will be
15 there and I will let your office know tomorrow
16 morning about the list of retirees with addresses.
17 COUNCILMAN COHEN: Thank you.
18 MS. BERKOWITZ: You're welcome.
19 COUNCILMAN COHEN: Yes, sir?

20 MR. MCALLISTER: Yes, Bob McAllister
21 again.
22 What I would like to state, I've been
23 notified that the IOD requests that we've been
24 receiving from the City of Philadelphia are only for
25 the past two years, and we would like to reserve the

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2 right to get that information going back to 1992,
3 1939, whatever, just as the LEHB is doing and review
4 any costs that we may have been paid, which should
5 have been rightfully borne by the City of
6 Philadelphia. So we will be requesting that
7 information from the City of Philadelphia for those
8 IOD reports to go back to the 1992-1993 time.

9 COUNCILMAN COHEN: And if you have any
10 problem getting it, you will let us know.

11 MR. MCALLISTER: Yes, sir.

12 COUNCILMAN COHEN: Okay.

13 COUNCILMAN RIZZO: Mr. Chairman, can I
14 make a recommendation?

15 COUNCILMAN COHEN: What's that?

16 COUNCILMAN RIZZO: We keep referring to
17 Mr. Stamitakis. Mr. Stamitakis has a company's
18 name, right?

19 MS. BERKOWITZ: Yes, he does.

20 COUNCILMAN RIZZO: Well, why aren't we
21 using the company's name? Why do we have to keep
22 throwing his name around? Can you start using the
23 name of the company?

24 MS. BERKOWITZ: Capital Management.

25 COUNCILMAN RIZZO: Well, I think that

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2 that's appropriate. We don't refer to the head of
3 Blue Cross Blue Shield, so let's bring it back to
4 the name of the company, okay?

5 MS. BERKOWITZ: I'd be happy to do that.

6 COUNCILMAN RIZZO: Thanks.

7 COUNCILMAN COHEN: Right.

8 The problem isn't totally that simple
9 because his name has been raised by the
10 Administration. When we've asked the Administration
11 about what services are given to the people, they've
12 told us and have referred numerous people to
13 Mr. Stamitakis for the handling of problems. That's
14 how his name came into the picture originally.
15 Mr. Stamitakis was presented as a consultant to the
16 City to represent employees if they had problems;
17 when, in fact, apparently, he is an employee of a
18 company and would owe his first duty to that
19 company, which should have been obvious to everybody
20 in the City.

21 And, therefore, what was needed by the
22 City was somebody who represented the City employees
23 and it had to be somebody paid by the City to do
24 that particular job. I don't think it was proper to
25 put Mr. Stamitakis in that position where he had two

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2 bosses. In fact, we think he only had one boss and
3 that boss, as Councilman Ortiz pointed out, was the
4 one who writes the checks, and that was Rite Aid
5 Corporation.

6 COUNCILMAN RIZZO: But the check was
7 made, to the best of my knowledge, not to
8 Mr. Stamitakis but to Capital Management. So I
9 think in all fairness --

10 COUNCILMAN COHEN: I see, okay.

11 COUNCILMAN RIZZO: -- we should be
12 referring --.

13 (Unintelligible, parties talking over
14 each other.)

15 COUNCILMAN RIZZO: I think we should be
16 referring, when we're discussing this transaction,
17 that a company, Capital Management, rather than
18 identifying --

19 COUNCILMAN COHEN: No.

20 COUNCILMAN RIZZO: It's not a problem.

21 I'm just trying to --

22 COUNCILMAN COHEN: I think you're right.

23 I think that sounds --

24 COUNCILMAN RIZZO: I want to have that

25 sealed in plastic.

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2 COUNCILMAN COHEN: Yes.

3 COUNCILMAN RIZZO: Thank you.

4 COUNCILMAN COHEN: City Council is about

5 to recess. It looks like as if a lot of the

6 material is going to be coming in following our

7 recess. We want to be able to move ahead when we

8 get back from the recess, and the summertime is

9 going to be a very good time for the staff to work.

10 Now, we've been trying to get a lot of

11 information and we have not yet. We're hopeful that

12 we're going to get some, but I'm going to request --

13 I think we've all on the committee tried to get the

14 information, and I think we want to examine what you

15 have produced, but in the event that the material is

16 not produced in full or there seems to be an effort

17 not to make available what ought to be made

18 available, I'm going to ask this committee for the

19 authority to issue subpoenas to obtain the material

20 needed.

21 (Applause.)

22 COUNCILMAN COHEN: And I'm going to ask
23 -- because I want this to be really finished in
24 getting the material by the summer.
25 So is there motion to that effect?

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2 COUNCILMAN ORTIZ: I move that the
3 Committee on Law and Government authorizes the
4 Chair, Councilman David Cohen, to issue subpoenas
5 for the production of documents or other information
6 that is necessary to carry out the employees's
7 investigation pursuant to Resolution 000476.
8 (Duly seconded.)
9 COUNCILMAN COHEN: A motion's been made
10 and seconded.
11 Any discussion?
12 If not, all in favor please say aye.
13 Any nays?
14 The ayes have it, and the Chair of the
15 committee is authorized to issue subpoenas.
16 We hope it won't be necessary, Miss
17 Berkowitz. We would hope that we can get everything
18 by cooperative agreement. But if not, it's just
19 urgent that we get this material so that we can draw
20 the necessary conclusions and get a program that
21 won't be embarrassing to you or to the City of

22 Philadelphia and that will provide protection to the
23 City employees and to the retirees and to all of the
24 individual funds that currently have the
25 responsibility.

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2 MS. BERKOWITZ: Councilman, I can assure
3 you that if the information is available, this
4 committee will receive it.

5 COUNCILMAN COHEN: Well, we thank you.

6 Now we're going to recess this hearing
7 until Thursday at noon and/or immediately following
8 the Council session that day. And we expect to hear
9 from you, Miss Berkowitz.

10 Thank you all very much.

11 (Adjourned 4:12 p.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Tuesday, June 12, 2001, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COUNCIL COMMITTEE ON LAW AND GOVERNMENT
RES. NO. 000476

_____,
JOSEPHINE CARDILLO,

23	Registered Professional Reporter
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