

COUNCIL OF THE CITY OF PHILADELPHIA  
COMMITTEE ON TRANSPORTATION AND  
PUBLIC UTILITIES

Room 400, City Hall  
Philadelphia, Pennsylvania  
Friday, June 6, 2014  
1:20 p.m.

PRESENT:

COUNCILMAN KENYATTA JOHNSON, CHAIR  
COUNCILMAN WILLIAM K. GREENLEE  
COUNCILMAN BOBBY HENON  
COUNCILWOMAN BLONDELL REYNOLDS BROWN

BILLS 140141 and 140449  
RESOLUTION 140027

- - -

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COUNCILMAN JOHNSON: Good  
afternoon, everyone.

4

Good afternoon, everyone.

5

(Good afternoon.)

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COUNCILMAN JOHNSON: My name is  
Councilman Kenyatta Johnson. I'd like to  
call this meeting to order. This is a  
public hearing of the Committee on  
Transportation and Public Utilities.

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A quorum is present with the  
presence of Councilwoman Blondell  
Reynolds Brown, Councilman Bill Greenlee,  
and Councilman Bobby Henon.

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Will the Clerk please read the  
title of the first bill.

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THE CLERK: Bill No. 140141,  
authorizing the Procurement Commissioner  
to enter into purchase obligations for  
the delivery of electric, natural gas and  
motor fuel energy supplies for use by  
facilities owned and leased by the City,  
including agreements that obligate  
payments for delivery of such energy  
supplies in future fiscal years, all

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       under certain terms and conditions.

3               COUNCILMAN JOHNSON: Will the  
4       Clerk please call the first witness,  
5       please.

6               THE CLERK: Andrew Stober.  
7               (Witness approached witness  
8       table.)

9               MR. STOBER: Good afternoon,  
10       Chairman Johnson and members of the  
11       Committee.

12              COUNCILMAN JOHNSON: Good  
13       afternoon, Andrew. Just state your name  
14       for the record, Andrew, please.

15              MR. STOBER: My name is Andrew  
16       Stober. I serve as the Chief of Staff in  
17       the Mayor's Office of Transportation and  
18       Utilities. I'm here to support Bill  
19       140141. You have my written testimony  
20       and I'll summarize that for you.

21              In 2010, City Council  
22       authorized the City to make electricity  
23       purchases for Fiscal Year '11 through  
24       Fiscal Year '14. In 2012, Council  
25       extended that authorization through

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       Fiscal Year 2015 and has continued  
3       granting authorizations in subsequent  
4       years.

5                   The City government's  
6       electricity, natural gas, and motor fuels  
7       costs are significant, and the cost for  
8       all City funds - the General Fund,  
9       Aviation Fund, and Water Fund - for  
10      electricity were approximately \$64  
11      million in Fiscal Year 2013 and the cost  
12      to the General Fund was \$33 million, with  
13      13 million of that going to street  
14      lighting and traffic signals.

15                  The electricity supply portion  
16      of our bill accounts for about two-thirds  
17      of the total cost, and the remaining  
18      third of the costs is made up of PECO  
19      distribution charges and other related  
20      charges.

21                  The City has successfully  
22      managed our supply costs by purchasing in  
23      the wholesale electricity market and  
24      staggering our purchases over time to  
25      limit the risk of paying a premium for

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       electricity.

3               The proposed ordinance would  
4       authorize the City to make agreements for  
5       delivery of electricity through FY17  
6       through a state-regulated licensed  
7       service provider. Our licensed service  
8       provided was selected through a  
9       competitive process and acts as the  
10      City's agent in making those purchases.

11             The Pennsylvania Public Utility  
12      Commission allows natural gas customers  
13      with large interruptible accounts such as  
14      the City to purchase gas from the  
15      competitive market. Those are accounts  
16      that can switch from natural gas to an  
17      alternative fuel whenever there is a  
18      temporary need for curtailment of natural  
19      gas use. The largest buildings -- the  
20      City's largest buildings have accounts  
21      that qualify for access to the  
22      competitive market for natural gas  
23      supply, and PGW is supportive of this  
24      approach, as it's in the interest of all  
25      ratepayers for large account customers to

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       purchase in the competitive market.

3               The proposed ordinance would  
4       authorize the City to make agreement for  
5       the delivery of natural gas through FY17  
6       with a state or federally licensed  
7       provider, and our current provider was  
8       selected through a competitive process.

9               This year we've added the  
10      ability of the City to purchase motor  
11      fuel in a similar fashion to electricity  
12      and natural gas.

13              Building on the strong and  
14      growing relationship that we have with  
15      the Philadelphia Energy Authority, I am  
16      pleased that this ordinance includes a  
17      provision that requires the  
18      Administration to inform a designated  
19      representative of the Authority of the  
20      City's intent to make purchases, and we  
21      fully consider their timely advice.

22              I anticipate that this  
23      procurement approach will continue to  
24      lower the City's electric, natural gas,  
25      and motor fuel bills while protecting the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       City and its taxpayers from a rapid  
3       escalation in energy prices over the next  
4       several years. It will contribute to  
5       both competitive prices and budget  
6       certainty for City utilities.

7               Thank you for the opportunity  
8       to testify today. I respectfully request  
9       that the bill be reported out of  
10       Committee and that the rules of Council  
11       be suspended to allow for first reading  
12       at the next session of Council. I'm  
13       happy to answer any questions.

14               COUNCILMAN JOHNSON: Thank you,  
15       Andrew.

16               Any questions from members of  
17       the Committee?

18               (No response.)

19               COUNCILMAN JOHNSON: Thank you,  
20       Andrew.

21               Anyone else here to testify on  
22       this bill?

23               (No response.)

24               COUNCILMAN JOHNSON: Thank you.

25               Will the Clerk please read the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       title of the next bill.

3               THE CLERK: Bill No. 140449,  
4       authorizing the Procurement Commissioner,  
5       on behalf of the City, to enter into an  
6       agreement with Bicycle Transit Systems  
7       for the delivery of a bicycle sharing  
8       system, under certain terms and  
9       conditions.

10              COUNCILMAN JOHNSON: Will the  
11      Clerk please call the first witness.

12              THE CLERK: Andrew Stober.

13              MR. STOBER: I'm back.

14              COUNCILMAN JOHNSON: Welcome  
15      back.

16              MR. STOBER: Thank you.

17              COUNCILMAN JOHNSON: Excuse me  
18      just one second.

19              Councilwoman Blackwell --  
20      Councilwoman Blondell Reynolds Brown.

21              COUNCILWOMAN BROWN: That's a  
22      compliment. I have enormous respect for  
23      her. Thank you. Enormous. Thank you,  
24      Mr. Chairman.

25              On May 15th, 2014, I introduced

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       Bill No. 140449. Bill 140449 authorizes  
3       Bicycle Transit Systems to plan and  
4       operate a bicycle sharing program in the  
5       City of Philadelphia and B-Cycle to  
6       provide bicycles, stations, and  
7       technology platforms for the system.  
8       Bicycle Transit Systems is a  
9       Philadelphia-based -- that should be  
10      underscored -- Philadelphia-based  
11      business that has experience operating  
12      bike-sharing programs in Washington, DC,  
13      Boston, and Chicago. This bill is the  
14      result of over six years of collaborative  
15      research, planning, and advocacy from  
16      bike enthusiasts like those who we'll  
17      hear from this afternoon.

18                   In January 2008, I introduced a  
19      resolution calling for a joint hearing of  
20      City Council's Committees on the  
21      Environment and Transportation to first  
22      investigate the creation of a bicycle  
23      use -- public use bicycle program. There  
24      is a shared belief that bike sharing will  
25      bring Philadelphia to the next level of

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       bike friendliness, sustainability, and  
3       put us on par with tourism and  
4       hospitality destinations across the  
5       world.

6               Research further shows that  
7       when citizens choose bikes over cars, it  
8       is a win-win on multiple levels,  
9       promoting exercise, fostering fitness,  
10      boosting tourism, all while reducing our  
11      carbon footprint. Tourists and citizens  
12      alike will find it easier to attend the  
13      hundreds of cultural assets which are  
14      spread across our city.

15             Furthermore, it is important to  
16      note that the program will be funded  
17      through the City's Capital Budget,  
18      ensuring that we are not placed in an  
19      either/or discussion pitting bike sharing  
20      against our school funding crisis or  
21      other requests from the General Fund.

22             Lastly, this legislation is  
23      another step in the right direction to  
24      ensure the City of Philadelphia's  
25      long-term commitment to protecting the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       planet for our young people and making  
3       Philadelphia again one of the greenest  
4       cities in the nation.

5                   For that reason and more, I'm  
6       asking for support today from my  
7       colleagues. I do want to say a huge  
8       thank you to my staff, to the  
9       Administration, particularly Andrew  
10      Stober, for all of the work that's been  
11      done already on this bill.

12                   Thank you, Mr. Chairman.

13                   COUNCILMAN JOHNSON: Thank you,  
14      Councilwoman Brown. I want to commend  
15      you for your efforts, and I'm always -- I  
16      have always been an advocate of bringing  
17      a bike share program here to the City of  
18      Philadelphia, having the opportunity to  
19      witness the program in New York as well  
20      as in Israel, and I was excited when I  
21      received the initial announcement about  
22      the unfolding of this program here. So I  
23      commend you. I commend our Mayor, Mayor  
24      Michael Nutter, for his vision, his  
25      advocacy on this issue, as well as Andrew

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       Stober and Deputy Commissioner of  
3       Transportation, Rina Cutler, for their  
4       efforts in advocating for such a program.  
5       And so I just want to thank you.

6               Andrew, proceed with your  
7       testimony, please.

8               MR. STOBER: Thank you very  
9       much, Chairman. Good afternoon, Chairman  
10      and members of the Committee. My name is  
11      Andrew Stober. I serve as the Chief of  
12      Staff in the Mayor's Office of  
13      Transportation and Utilities. I am here  
14      in support of Bill 140449.

15              Our work to bring bike share to  
16      Philadelphia began five years ago with  
17      the leadership of Council and bringing us  
18      together to do a bike share feasibility  
19      study. In 2013, City Council approved an  
20      expenditure of \$3 million in City capital  
21      funds to develop a bike share system, and  
22      since that approval, our office has  
23      secured more than \$2 million in  
24      additional federal and foundation funding  
25      and has grants submitted for an

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       additional \$8 million in funding to  
3       support the program. Today we're ready  
4       to take an important step forward in  
5       making bike share a reality in  
6       Philadelphia.

7                 Bike share will provide a new,  
8       convenient, affordable, and healthy way  
9       for people to travel, as it has in many  
10      cities around the world. After bike  
11      sharing launches in spring of 2015,  
12      system members will check out bikes from  
13      one of 60 conveniently located stations,  
14      from the Navy Yard north to Temple  
15      University, from the Delaware River to  
16      52nd Street, and return them to any other  
17      station in the system. In the first two  
18      years, it's expected that the system will  
19      grow to a final size of 150 to 200 bike  
20      share stations with 1,500 to 2,000 bikes  
21      that will serve the core of Philadelphia  
22      and beyond.

23                As Councilwoman Reynolds Brown  
24      mentioned, the City has selected Bike  
25      Transit Systems to provide, operate, and

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       maintain the system, and the team that  
3       we've assembled represents the best in  
4       the industry. B-Cycle grew out of  
5       America's largest bike manufacturer, Trek  
6       Bicycles, and Philadelphia will be the  
7       first city to launch B-Cycle's newly  
8       designed stations, which improve upon  
9       both the appearance, flexibility, and  
10      functioning of the current equipment.  
11      And we're very pleased that system  
12      planning will be completed by a  
13      Philadelphia-based MBE, Rodriguez  
14      Engineering, with the support of a  
15      Maryland-based WBE, Toole Design Group.  
16      We're pleased that from day one, minority  
17      and women-owned businesses will play a  
18      critical role in the development of the  
19      system.

20                   It's residents with low incomes  
21      that stand to benefit the most from a new  
22      low-cost transportation system. The  
23      system will launch service in  
24      neighborhoods beyond the business  
25      districts, specifically seeking to

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       provide convenient and affordable  
3       transportation in neighborhoods with many  
4       residents with low incomes. And I'm very  
5       pleased to report that yesterday the City  
6       received a \$3 million grant from the JPB  
7       Foundation, which is a family foundation  
8       out of New York, specifically to fund  
9       these efforts, including a million  
10      dollars to deploy bike share stations in  
11      low-income census tracts. It's part of a  
12      larger \$5.9 million grant that is going  
13      to be working on making sure that bike  
14      share systems around the country help us  
15      serve as a vehicle to create a more  
16      equitable society.

17                   It's important for me to note  
18      that I would not be in front of Council  
19      today with this excellent contract  
20      opportunity were it not for the advice  
21      and encouragement of many partners,  
22      including the Delaware Valley Regional  
23      Planning Commission, the Bicycle  
24      Coalition of Greater Philadelphia, the  
25      Pennsylvania Environmental Council, the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       Pennsylvania Department of  
3       Transportation, members of our Bike Share  
4       Strategic Business Plan Private Sector  
5       Advisory Group, many members of this  
6       Council, particularly Councilwoman  
7       Reynolds Brown, and, of course, Russell  
8       Meddin.

9                   Thank you for the opportunity  
10       to testify. I respectfully request that  
11       Bill 140449 be amended to include the  
12       full agreement with Bicycle Transit  
13       Systems, which is not substantially  
14       different from Exhibit A, the term sheet,  
15       which was introduced with the bill.  
16       Additionally, I respectfully request that  
17       the bill be reported out of Committee and  
18       that the rules of Council be suspended to  
19       allow for first reading at the next  
20       session of Council. And I'm, of course,  
21       happy to answer any questions you may  
22       have.

23                   COUNCILMAN JOHNSON: Any  
24       questions or comments from members of the  
25       Committee?

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   Councilwoman Brown.

3                   COUNCILWOMAN BROWN:

4       Congratulations.

5                   MR. STOBER: Thank you.

6                   COUNCILWOMAN BROWN: That's

7       huge. And to know that this opportunity

8       will be accessible for all citizens

9       across the City where zip code is not a

10      factor is quite outstanding. So that

11      should not go unrecognized.

12                  MR. STOBER: Thank you.

13                  COUNCILWOMAN BROWN: Thank you

14      very, very much.

15                  Thank you, Mr. Chairman.

16                  COUNCILMAN JOHNSON: You're

17      welcome.

18                  Any other questions from

19      members of the Committee?

20                  (No response.)

21                  COUNCILMAN JOHNSON: If not,

22      we'll proceed to the next witness on the

23      list. Mr. Russell Meddin, founder of

24      Bike Share Philadelphia.

25                  Thank you, Andrew.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   Just for the record, I just  
3       want to note I said Deputy Commissioner  
4       Rina Cutler. It's Deputy Mayor of  
5       Transportation Rina Cutler.

6                   (Witness approached witness  
7       table.)

8                   COUNCILMAN JOHNSON: Russell,  
9       please state your name for the record and  
10      proceed.

11                  MR. MEDDIN: My name is Russell  
12      Meddin. I am the founder of -- I'm a  
13      resident of Philadelphia and founder of  
14      Bike Share Philadelphia. Good afternoon,  
15      Chairperson Councilman Johnson,  
16      Councilwoman Reynolds Brown, Councilman  
17      Henon, and Councilman Bill Greenlee.

18                  First of all, I'd like to thank  
19      you very much for this opportunity to be  
20      in front of the Committee of  
21      Transportation and Public Utilities to  
22      give testimony on Bill No. 140449, an  
23      ordinance authorizing the Procurement  
24      Commissioner, on behalf of the City, to  
25      enter into an agreement with Bicycle

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       Transit Systems for the delivery of a  
3       bicycle sharing system.

4               This was introduced into City  
5       Council by your fellow Committee member  
6       Councilwoman Blondell Reynolds Brown and  
7       co-sponsored by Council President Darrell  
8       Clarke. As you know or have heard in  
9       testimony, bike sharing is a system where  
10      bicycles are set out in locations called  
11      stations throughout the City. The  
12      bicycles are available to the public to  
13      use for both residents and visitors by  
14      registering in advance or at these  
15      stations. The bicycles are used as  
16      transportation to get from Point A to  
17      Point B or for recreation or exercise.  
18      It's considered public transportation  
19      that gives personal mobility.

20             Eight years ago I had a vision,  
21      along with Honorary French Consul from  
22      Philadelphia Danielle Thomas Easton,  
23      university students Brittany Bonnette and  
24      Daniel Delaney, to bring bike sharing to  
25      Philadelphia. At that time, we worked

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       very hard to educate as many people as we  
3       could, both in government and general  
4       public, on the benefits that this type of  
5       program would have on Philadelphia.

6                 We knew it would complement  
7       Philadelphia's existing transit systems  
8       as a solution to the first mile-last mile  
9       conundrum of fixed route train, buses,  
10      and subways. We knew it was a way to  
11      increase the physical exercise level of  
12      ordinary Philadelphia citizens and thus  
13      reduce obesity, except for mine, levels  
14      and the occurrences of Type 2 diabetes.  
15      We knew it was a way to reduce automobile  
16      congestion and reduce carbon emissions in  
17      our city by giving more transit options.  
18      We all knew that this was a good option  
19      for our city and it would be part of our  
20      future.

21                This concept was so well  
22      received by this Council that in January  
23      2008, it unanimously passed Resolution  
24      No. 080055 to investigate the creation of  
25      a bike sharing program in Philadelphia.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       This was introduced by your fellow  
3       Committeewoman once again Blondell  
4       Reynolds Brown and co-sponsored by former  
5       Transportation Committee Chair Councilman  
6       Curtis Jones, Jr.

7                 Then again in June 2008, City  
8       Council unanimously passed Resolution No.  
9       080581 calling for the commissioning of a  
10      study to provide recommendations on  
11      location, demand, and usage for bike  
12      sharing stations for the entire area  
13      encompassed by the City limits of  
14      Philadelphia and to explore the various  
15      business models used for such systems,  
16      which was to be delivered to City Council  
17      within six months. This was introduced  
18      also by your fellow Committee  
19      Councilwoman Blondell Reynolds Brown.

20                I ask you now on this Committee  
21      to act favorably upon Bill No. 140449 and  
22      move it out of this Committee so that it  
23      can have a favorable vote in front of  
24      full City Council, thus enabling the  
25      process to create a bike sharing system

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       for Philadelphia, long overdue, for  
3       spring 2015.

4                   In the ensuing years, there has  
5       been an explosion in the amount of cities  
6       adopting bike sharing for public transit.  
7       There are now over 700 cities worldwide  
8       with operating bike sharing systems, with  
9       a worldwide fleet of over 840,000  
10      bicycles. In the United States, when  
11      City Council first began exploring bike  
12      sharing, there was only one bike sharing  
13      program in Tulsa, Oklahoma. Now there  
14      are over 50 U.S. cities operating bike  
15      sharing systems and there are 65 other  
16      U.S. cities either constructing or  
17      planning systems for the near future.  
18      Big cities like New York, Chicago, and  
19      Washington, DC have had millions and  
20      millions of rides on their systems.  
21      Small cities like Spartanburg, South  
22      Carolina and Aspen, Colorado are looking  
23      to expand their systems as soon as they  
24      can. Bike sharing has been an  
25      unqualified success in the United States.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   It is an attraction to the  
3       younger generation that has eschewed  
4       total reliance on automobiles. It has  
5       become a must-have amenity for the new  
6       American connected city. With varying  
7       degrees of success, it has fulfilled in  
8       all the other cities it has been tried  
9       the points that we said it would fulfil  
10      here for Philadelphia.

11                  In recent years, a lot of work  
12      has been done in trying to find a way to  
13      make Philadelphia's bike sharing system  
14      outstanding through a service available  
15      to all strata of society in our city.  
16      Through a long competitive selection  
17      process, Bicycle Transit Systems, a  
18      company with a team that has extensive  
19      experience in launching and running bike  
20      sharing systems, was chosen as the system  
21      operator for Philadelphia. It will be  
22      using the U.S. equipment supplier B-Cycle  
23      whose products have been proven in over  
24      25 bike sharing programs in the Americas.

25                  With your favorable opinion on

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       this bill, it will help make it possible  
3       for all of you, for me, our fellow  
4       citizens, visitors to Philadelphia take  
5       advantage of bike sharing and bicycling,  
6       which we all know is by far the best way  
7       to get around our city.

8                   If you have any questions, I'll  
9       be delighted to answer them.

10                  COUNCILMAN GREENLEE: Thank  
11       you, Mr. Meddin. Geez, I never knew you  
12       were interested in bike sharing.

13                  MR. MEDDIN: Oh, Bill, come on.

14                  COUNCILMAN GREENLEE: Only  
15       kidding.

16                  Questions or comments?

17                  Councilwoman Reynolds Brown.

18                  COUNCILWOMAN BROWN: I would be  
19       remiss not to seize the moment here and  
20       use this forum first to say thank you.  
21       Your unwavering advocacy is -- it's  
22       really wonderful in that you, I think  
23       Mahatma Gandhi said, be the change you  
24       want to see in this world, because you  
25       made many of us believers. Not me

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       included. I was already there, let the  
3       record show.

4                   MR. MEDDIN: From the  
5       beginning.

6                   COUNCILWOMAN BROWN: Your  
7       diplomacy in making many of us believers  
8       has made a difference when you look at  
9       where we are today. So the ask going  
10      forward is that you work your magic and  
11      help us figure out how we can help bikers  
12      be more courteous, if you will. Maybe  
13      you can craft a program that we can take  
14      citywide for those who sign up, they sign  
15      a pledge that they will work with all the  
16      drivers so that we can make downtown far  
17      safer. Would you agree?

18                  MR. MEDDIN: I think that was a  
19      wonderful idea and would be delighted to  
20      take up the challenge.

21                  COUNCILWOMAN BROWN: Do you  
22      know if other cities have programs like  
23      that?

24                  MR. MEDDIN: Most cities --  
25      actually, most cites on the bicycles

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       themselves, on the handlebars, there are  
3       rules of the road.

4               COUNCILWOMAN BROWN: Is that  
5       right?

6               MR. MEDDIN: What you should be  
7       doing. Also, when you sign up, basically  
8       you're given information on what each  
9       city's laws are.

10              I'd love to be able to say we  
11       can stop every bicyclist from running  
12       every red light that they do or in riding  
13       on the sidewalk, but I'd like to say the  
14       same thing for automobilists and  
15       pedestrians who don't obey either. So  
16       it's a major, major problem for everyone.

17              COUNCILWOMAN BROWN: Indeed.  
18       Well, thank you again and congratulations  
19       on your important work.

20              MR. MEDDIN: Thank you.

21              COUNCILMAN GREENLEE: Thank  
22       you. You know he's going to tell  
23       everybody you compared him to Gandhi.  
24       You know that?

25              Mr. Chairman, I don't think

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       there's any other questions.

3               COUNCILMAN JOHNSON: Thank you,  
4       Councilman Greenlee.

5               Next can we have up Alex Doty.  
6               (Witness approached witness  
7       table.)

8               COUNCILMAN JOHNSON: Please  
9       state your name for the record and  
10      proceed.

11              MR. DOTY: Alex Doty, Executive  
12      Director of the Bicycle Coalition of  
13      Greater Philadelphia.

14              Thank you for the opportunity  
15      to testify in support of the proposed  
16      contract with Bicycle Transit Systems and  
17      B-Cycle. There's been a lot of  
18      discussion about the benefits of bike  
19      share, of which I could mirror and echo  
20      many of them, but I wanted to take a  
21      moment to talk about the process by which  
22      the Mayor's Office of Transportation and  
23      Utilities came to select this contractor  
24      and how impressed we have been with that  
25      process. It's not enough just to say

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       that we want to bring bike sharing to  
3       Philadelphia across the country. You  
4       could see that every city has put  
5       together bike share in a slightly  
6       different way and with different kinds of  
7       contracts to varying levels of success,  
8       and that the staff at MOTU took the time  
9       in order to find out -- review contracts  
10      in other cities, talk to those cities  
11      about what the pros and cons were of what  
12      they experienced with their bike sharing  
13      systems, and made decisions that I think  
14      put us in a position to have a very  
15      successful bike share system in  
16      Philadelphia.

17               As an example of one of those  
18      things, MOTU I think rightly came to the  
19      conclusion that almost every bike  
20      share -- or universally every bike share  
21      system in the United States has  
22      undervalued their sponsorship. And so  
23      we've gone about getting sponsorships in  
24      a different way for the City of  
25      Philadelphia. So the key preliminary

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       investment from capital money from the  
3       City of Philadelphia allows us to go  
4       through a better pricing system or a  
5       better selling system for sponsorships,  
6       allows us to have some more flexibility  
7       so that we don't have to wait for that  
8       title sponsorship in order to proceed,  
9       and I think that that will result in our  
10      having sponsorships, since they are going  
11      to be valued and sold by a company that  
12      specializes in sponsorships, bring more  
13      money into the system, so that we're  
14      going to be much better leveraging that  
15      initial capital investment that the City  
16      has made into bike sharing.

17               I also think that we can see  
18      that -- just see what's happened in New  
19      York and the problems that competitors  
20      who are using the Bixi systems are having  
21      now, and we are very thankful that that's  
22      not a system that we chose to go with in  
23      Philadelphia. So we have a great  
24      supplier. We have a Philadelphia-based  
25      new bicycle transit system company, but

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       one which has deep experience in bike  
3       share because of the experience of the  
4       team that Alison Cohen has brought  
5       together, and that's a team that we're  
6       really excited to be working with.

7               We are also very excited about  
8       the opportunity to bring bike share to  
9       low-income communities in the City of  
10      Philadelphia and are very pleased that  
11      the City of Philadelphia has set that as  
12      an important goal for this system to  
13      accomplish and that the almost \$6 million  
14      grant that has come to the City through  
15      the JPB Foundation that Andrew was  
16      referring to that we got approval of  
17      yesterday includes substantial funding  
18      for the Bicycle Coalition to do outreach  
19      in those communities and so that we are  
20      selling the idea of bike share. No other  
21      city has tried to do this kind of  
22      marketing around bike share. In fact,  
23      almost no other city has done any kind of  
24      marketing around bike share, but to be  
25      doing this in low-income communities we

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       think is going to -- something that makes  
3       the Philadelphia system particularly  
4       useful to the community and special in  
5       the world. So we are very much in favor  
6       of this contract and this system moving  
7       forward.

8                     Thank you for the opportunity  
9       to testify.

10                    COUNCILMAN JOHNSON: Thank you.

11                    Any questions from members of  
12       the Committee?

13                    (No response.)

14                    COUNCILMAN JOHNSON: I just had  
15       a couple questions regarding -- can you  
16       give us a brief overview of how the  
17       actual system will work. And also I know  
18       you mentioned a few times regarding the  
19       low-income community, how the program  
20       specifically also will provide  
21       opportunities for access for the  
22       low-income community piece as well.

23                    MR. DOTY: Sure. So bike share  
24       is composed of stations that are based  
25       every few blocks. Out in the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       neighborhoods, it might be a little bit  
3       further apart, but the whole point is  
4       accessibility so you don't have to go far  
5       in order to get to a station. You have  
6       to have a membership card, and with that  
7       membership card you can check out bikes.

8               The pricing structure of how it  
9       is that you use those bikes is different  
10      in different cities, but usually involves  
11      being able to use the system or the bike  
12      for half an hour for free. The idea is  
13      to encourage short trips. This is not  
14      the equivalent of a bike rental.

15             But there are two things where  
16      bike share can be particularly useful  
17      within a transportation system. One of  
18      them is that it's solving the last mile  
19      problem that you have with transit. We  
20      know that every time you have someone do  
21      a transfer within the transit system,  
22      within public transit, that you lose a  
23      certain number of riders, and that's also  
24      where you introduce delays or you  
25      lengthen the trip. So if a bike share --

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       if you're taking a bus that may only --  
3       you may only take that bus for five or  
4       ten minutes in order to hook into the  
5       Broad Street line or to connect to  
6       another bus. If you can use bike share  
7       for one leg of a two- or three- or  
8       four-leg transit ride, then you have made  
9       that ride shorter, which certainly can  
10      help somebody who is trying to get to  
11      work be able to shorten their commute,  
12      and it also may open up opportunities for  
13      you to be able to go to shopping or doing  
14      other things that are outside of your  
15      neighborhood where there may be cheaper  
16      goods or better access to food,  
17      what-have-you.

18                   The challenge to having  
19      low-income people access the system is  
20      that the system needs to know -- each  
21      person that uses it, unlike a SEPTA  
22      transit card, SEPTA doesn't care who you  
23      are. They want to know that you paid to  
24      get on the bus, but we don't care whether  
25      you're Bob or Jane. But if you have a

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       bike that costs \$1,500 to replace, we  
3       care very much who you are. The system  
4       needs to be able to trace the bike back  
5       to a person. And so far, every system  
6       has done that through the use of credit  
7       cards. And what Philadelphia is doing  
8       which is unique is to set up a system  
9       where we have -- other systems have tried  
10      to get people who are not banked to get  
11      bank accounts. And if somebody hasn't  
12      gotten a bank account, access to bike  
13      share is not the thing that's going to  
14      push them to suddenly get a bank account.  
15      So we have to figure out a way to be able  
16      to do this where you don't require a  
17      credit card or a debit card.

18               So can we do this around some  
19      other organization that you have an  
20      affinity with, that you're a member of,  
21      whether that's the Y or a check-cashing  
22      store or a community group or maybe even  
23      a church or something where there's a  
24      group that can say, We know who this  
25      person is. And then there is a fund

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       that's being funded by this grant that is  
3       there for the operator to draw on if  
4       something goes wrong with a bike or  
5       what-have-you when they would charge a  
6       credit card. Instead they can go and  
7       draw on this fund.

8                   And then, of course, if  
9       somebody is abusive of the system,  
10      there's two things that can happen. One  
11      is, we know who you are and so we can  
12      send a police officer to go ask you where  
13      the bike is. And the other thing is, we  
14      can shut down your membership and not  
15      allow you to have acces to the system in  
16      the future.

17                   So it's a new way of doing it.  
18      There's a bunch of stuff for us to sort  
19      of figure out, but on the face of it, it  
20      really makes sense. And, of course, we  
21      need to solve this problem, because the  
22      people who need this system the most --  
23      if you're low income, you're spending a  
24      higher proportion of your income on  
25      transportation than anyone else. And so

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       what we need to do in order to bring  
3       people -- lift people up out of poverty  
4       is to reduce the amount of money that  
5       they're spending on transportation, and  
6       bike share is a great way to do that.

7               The other economic benefit that  
8       comes from bike share is that not  
9       necessarily displacing other trips, but  
10      generating trips that would not have  
11      otherwise have happened. And this may  
12      happen in low-income communities. It  
13      certainly is going to happen in other  
14      communities, is that at lunch hour, I may  
15      go to Northern Liberties to go to lunch  
16      at a restaurant there that I wouldn't  
17      have otherwise done because you're  
18      driving to a place where I can't find a  
19      parking spot, it's a little -- the  
20      transit ride is a little bit too long,  
21      it's a little too far to walk, but it's a  
22      great bike ride. So ten-minute bike  
23      ride, 15-minute bike ride. So what other  
24      cities have seen is that bike share often  
25      generates economic activity by generating

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       trips that would not otherwise have  
3       happened.

4                   COUNCILMAN JOHNSON: So just to  
5       be clear, the low income part of this  
6       actual project is a work in process?

7                   MR. DOTY: It's a work in  
8       process because no other city has tried  
9       to do this at the scale that the City of  
10      Philadelphia is going to try and do it.  
11      And I would emphasize that there is an  
12      important technical piece to be solved,  
13      which is how it is that you have  
14      people --

15                  COUNCILMAN JOHNSON: How do you  
16      pay for it.

17                  MR. DOTY: -- without credit  
18      cards. The Bicycle Coalition is taking  
19      on, I think, an equally challenging piece  
20      of this, which has nothing to do with the  
21      technology. It's just trying to have  
22      neighborhood ownership of bike stations  
23      and a feeling that this is something that  
24      works for us and is useful to us. And so  
25      we are focused on trying to do marketing,

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       which is separate -- the bike share  
3       system will do its marketing to the  
4       system as a whole. We're going to be  
5       focused on a portfolio of stations that  
6       meet a certain criteria in low-income  
7       neighborhoods. We're going to be  
8       recruiting station champions out of the  
9       neighborhood reach, one of those  
10      stations, organizing activities at those  
11      stations so that people can come, get  
12      familiar with it, learn how to use it,  
13      and then we can introduce them to  
14      discounted memberships and try and get  
15      them to use the system.

16                   COUNCILMAN JOHNSON: I think  
17      the neighborhood partnership component  
18      where you talk about station champions, I  
19      think that's an excellent approach.  
20      Organizations such as the YMCA,  
21      organizations such as SOSNA can be very  
22      helpful. I know we've done some work --  
23      I'm very familiar with Bike Works as well  
24      that help young people get bike  
25      ownerships.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   So I think that's great, and  
3       any way that I can be supportive as you  
4       move forward and working in partnership  
5       with Councilwoman Blondell Reynolds  
6       Brown, I'm all for it.

7                   I want to thank my good friend  
8       Russell who helped me organize a  
9       neighborhood bike tour on June the 21st  
10      throughout the 2nd Councilmanic District.  
11      I have a Trek. My wife has a Schwinn.  
12      And so we love the Schuylkill River  
13      trail. And so I think this is great, and  
14      I applaud all of you for your efforts.

15                  Thank you very much.

16                  MR. DOTY: Thank you.

17                  COUNCILMAN JOHNSON:

18      Councilwoman Brown.

19                  COUNCILWOMAN BROWN: This is in  
20      every way a very unprecedented, exciting  
21      opportunity, and I do want to commend the  
22      Administration for hearing us and our  
23      concern to ensure that we take this  
24      across the board. Again, that can't be  
25      understated at all. And to know now that

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       the collaboration that your organizations  
3       will have with the Administration to  
4       ensure we meet the criteria of that grant  
5       is huge. So it's a good problem to have  
6       and, again, congrats for working together  
7       to make this happen for citizens across  
8       the City.

9                     Thank you very much.

10                    MR. DOTY: Thank you. I mean,  
11       the bike share system will not be able to  
12       reach the entire city.

13                    COUNCILWOMAN BROWN: Of course.

14                    MR. DOTY: But what it will do  
15       is reach a cross-section of the City in a  
16       large part of the City.

17                    COUNCILWOMAN BROWN: Yes.

18                    MR. DOTY: And the partnership  
19       with MOTU has had time to develop around  
20       bike share. We certainly have -- you  
21       spent years trying to figure out how to  
22       bring this here, but that's also  
23       something I think that has built up a  
24       great partnership that we look forward to  
25       working on as we implement.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   COUNCILMAN JOHNSON: Thank you  
3       very much, Alex.

4                   Any other witnesses?

5                   (Witness approached witness  
6       table.)

7                   COUNCILMAN JOHNSON: Please  
8       state your name for the record.

9                   MR. HOMMEL: Nathan Hommel,  
10       Capital Projects Manager with the  
11       University City District, a special  
12       services district in West Philadelphia  
13       and a not-for-profit. I'm here today to  
14       announce my full -- our organization's  
15       full support of bike share in  
16       Philadelphia. Stewards of 2.4 square  
17       miles of vibrant urbanity in West  
18       Philadelphia, each day we see our  
19       ever-expanding population deal with the  
20       same size streets, streets which we are  
21       frequently told are very near their  
22       automobile capacity. Bike share is a  
23       great way to encourage all able-bodied  
24       people to seek alternative  
25       transportation, and the availability to

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       people of all income levels to us is one  
3       of the key advantages of the planned  
4       Philadelphia system.

5               With one of the most active  
6       transit hubs in the City at 30th Street  
7       Station and our plentiful bike lanes, we  
8       look forward to the influx of new  
9       visitors we will have when they realize  
10      how lovely it is to ride a shared bike  
11      along the tree-lined streets of  
12      University City.

13             COUNCILMAN JOHNSON: Thank you  
14      very much.

15             MR. HOMMEL: Thank you.

16             COUNCILMAN JOHNSON: Any  
17      questions from members of the Committee?  
18             (No response.)

19             COUNCILMAN JOHNSON: Thank you  
20      very much.

21             MR. HOMMEL: You're welcome.

22             COUNCILMAN JOHNSON: Anyone  
23      else to testify?

24             (No response.)

25             COUNCILMAN JOHNSON: I would

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       like to briefly suspend the public  
3       hearing and go into the public meeting so  
4       that the Committee can vote these bills  
5       before we take the testimony on the  
6       remaining resolution.

7                   We will now go into our public  
8       meeting. Do we have a motion on Bill No.  
9       140141.

10                   COUNCILMAN GREENLEE:

11       Mr. Chairman, I move that Bill No. 140141  
12       be reported out of this Committee with a  
13       favorable recommendation and that the  
14       rules of Council be suspended to allow  
15       for first reading at our next session of  
16       Council.

17                   (Duly seconded.)

18                   COUNCILMAN JOHNSON: It has  
19       been moved and properly seconded that  
20       Bill No. 140141 be reported from this  
21       Committee with a favorable recommendation  
22       and further moved that the rules of  
23       Council be suspended to permit first  
24       reading of this bill at the next session  
25       of Council.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               All those in favor of the  
3       motion will signify by saying aye.

4               (Aye.)

5               COUNCILMAN JOHNSON: The motion  
6       carries.

7               There is an amendment to Bill  
8       No. 140449. The amendment has been  
9       circulated. Do we have a motion on the  
10      amendment.

11              COUNCILMAN GREENLEE: Mr.  
12      Chairman, I move the adoption of the  
13      amendment to Bill No. 140449.

14              (Duly seconded.)

15              COUNCILMAN JOHNSON: It has  
16      been moved and properly seconded that  
17      Bill No. 140449 has been adopted -- the  
18      amendment has been adopted.

19              All those in favor of the  
20      motion will signify by saying aye.

21              (Aye.)

22              COUNCILMAN JOHNSON: Those  
23      opposed?

24              (No response.)

25              COUNCILMAN JOHNSON: The

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       amendment is adopted. It has been moved  
3       and properly seconded that -- I'm sorry.

4                   COUNCILMAN GREENLEE:

5       Mr. Chairman, I move that Bill No.  
6       140449, as amended, be reported out of  
7       this Committee with a favorable  
8       recommendation, that the rules of Council  
9       be suspended to allow for first reading  
10      at our next session of Council.

11                   (Duly seconded.)

12                   COUNCILMAN JOHNSON: It has  
13      been moved and properly seconded that  
14      Bill No. 140449 be reported from this  
15      Committee with a favorable recommendation  
16      and further moved that the rules of  
17      Council be suspended to permit first  
18      reading of this bill at the next session  
19      of Council.

20                   All those in favor of the  
21      motion signify by saying aye.

22                   (Aye.)

23                   COUNCILMAN JOHNSON: The motion  
24      carries.

25                   (Applause.)

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   COUNCILMAN JOHNSON: I would  
3       now like to move back to the public  
4       hearing.

5                   Will the Clerk please read the  
6       next resolution.

7                   THE CLERK: Resolution No.  
8       140027, authorizing City Council's  
9       Committee on Transportation and Public  
10      Utilities to hold hearings to examine the  
11      status of the claims filed as a result of  
12      the July 22nd, 2012 water main break at  
13      21st and Bainbridge Streets and to  
14      investigate possible measures to ensure  
15      the victims of this instance, and of  
16      future water main breaks, are fully  
17      compensated for their losses.

18                  COUNCILMAN JOHNSON: Thank you.

19                  Before I call the first  
20      witness, I'd like to say a few words  
21      about my motivation for calling this  
22      hearing.

23                  On July the 22nd of 2013 --  
24      2012, a 48-inch water main broke at 21st  
25      and Bainbridge Street, sending water

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       surging into the neighborhood, damaging  
3       hundreds of homes in the Graduate  
4       Hospital neighborhood of the 2nd Council  
5       District. Immediately following the  
6       break, several City agencies were at the  
7       site reassuring the residents that they  
8       will be compensated for their losses.

9               Over the last two years, over  
10       the last two years, residents have  
11       learned that they in fact will not be  
12       fully compensated for their losses.

13               Pennsylvania state law caps the  
14       City's liability at \$500,000. Originally  
15       residents were assured that the total  
16       claim amount would not exceed \$500,000.  
17       We soon realized that this wasn't true.  
18       According to the latest figures from the  
19       court, the total claims are  
20       \$1,834,089.61, over three times the  
21       \$500,000 available to compensate victims  
22       of the water main break. At this point,  
23       residents fear that they will collect  
24       pennies on the dollar, and this is not  
25       acceptable.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               I called for this hearing to  
3       examine the status of these claims and  
4       look into what we can do to make sure  
5       that the victims of this and future water  
6       main breaks are fully compensated for  
7       their losses.

8               A large major portion of the  
9       claim amount represents claims filed by  
10      major utility corporations, which are in  
11      a better position to absorb their losses  
12      than the typical residents. I would like  
13      to thank Verizon for removing itself from  
14      the claim. I and the residents truly  
15      appreciate Verizon's cooperation on this  
16      matter.

17              If the City and larger  
18      corporate claimants work together -- in  
19      this particular case, PECO, Philadelphia  
20      Electric Company -- we can make sure that  
21      the residents are made more whole. I  
22      realize that we may not be able to  
23      compensate everyone for 100 percent of  
24      their losses, but the current situation  
25      is unacceptable. If the City can

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       dedicate some funding for compensation  
3       and the large corporate claimants are  
4       flexible on their claim amounts, we can  
5       make some progress.

6                   And just for the record, I want  
7       to be clear. This hearing was totally  
8       requested based upon the constituents  
9       that I represent as a result of us going  
10      out to the community, having several  
11      meetings, which we arrived to this point  
12      today. And so as we go throughout this  
13      process, I also go with to find ways to  
14      come to some level compromise and, at the  
15      end of the day, find some answers on how  
16      we address this issue.

17                   Will the Clerk please read the  
18      first witness.

19                   THE CLERK: The Honorable Larry  
20      Farnese.

21                   (Witness approached witness  
22      table.)

23                   COUNCILMAN JOHNSON: Larry,  
24      just for the record, can you just state  
25      your first and last name. I also want to

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       thank you for taking time out of your  
3       tremendous schedule and advocating for  
4       the 120 million in Harrisburg as well as  
5       cigarette tax for the great children in  
6       the City of Philadelphia public school  
7       system.

8                   SENATOR FARNESE: Thank you,  
9       Mr. Chairman. Larry Farnese, Senate  
10      State, PA-1. Again, thank you,  
11      Mr. Chairman, of course Councilman Henon,  
12      Councilman Greenlee, good to see you.  
13      It's always nice to visit your house  
14      every once in a while, and we certainly  
15      appreciate everything that you do here  
16      and all your efforts. And of course,  
17      Chairman Johnson, thank you for your  
18      leadership on this issue and your  
19      continued diligence in representing the  
20      interests of your constituents. Thank  
21      you for having this hearing today.

22                   As we know, this all began on  
23      July 22nd, 2012, as the Chairman  
24      referenced, with the rupture of a 48-inch  
25      water main break at 21st and Bainbridge

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       Streets. About 90 residents sustained  
3       water damage, and the total claim from  
4       this incident grew to in excess of \$1.7  
5       million. Nearly half of that amount is  
6       claimed by PECO.

7               The reason we're here today is  
8       that state law sets a limit on claims  
9       that can be brought against  
10      municipalities. Since the water main was  
11      owned and operated by the Philadelphia  
12      Water Department, the most the City is  
13      responsible for in this incident is  
14      \$500,000. That money, as we know, has  
15      been turned over to the court for  
16      distribution among all the people with  
17      claims.

18             So the best, the best that  
19      anyone is going to be compensated is  
20      about 25 cents on the dollar. That  
21      leaves a lot of folks willfully short  
22      when it comes to recovering their  
23      financial losses, and understandably  
24      people are frustrated and angry, because  
25      they did nothing wrong.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   The original purpose of the cap  
3       on liability was to make sure that local  
4       governments did not, for a lack of a  
5       better phrase, go bankrupt as a result of  
6       legal claims. The \$500,000 limit was  
7       established when the Political  
8       Subdivision Tort Claims Act was  
9       originally passed in 1980.

10                  A lot has changed since then.  
11       Unfortunately, the \$500,000 limit has not  
12       been raised in 34 years since the law was  
13       enacted.

14                  Last year I introduced Senate  
15       Bill 1065 to remedy that situation.  
16       Senate Bill 1065 would increase the  
17       municipal limit for the first time to \$2  
18       million. Representative Sims introduced  
19       similar legislation this year, House Bill  
20       2146, which would further add an annual  
21       increase based on the Consumer Price  
22       Index.

23                  Regardless of the approach, we  
24       agree that this issue sorely needs to be  
25       advanced in Harrisburg.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   Many of my colleagues and the  
3       people I've spoken with have been  
4       sympathetic, but express concerns about  
5       how municipalities are going to pay if  
6       the limits are raised. While those  
7       concerns are real, there are two  
8       important reasons why we need to revisit  
9       the liability caps.

10                   First, the real impact of the  
11       cap is different based on where you live.  
12       This is especially true when it comes to  
13       utility service. Pennsylvania has 2,562  
14       municipalities. Among them there's a  
15       patchwork of public and private water  
16       supply companies. In most of Delaware  
17       County, for example, water supply is  
18       provided by a private company. So if the  
19       same incident happened there, residents  
20       would not have to deal with the municipal  
21       liability cap. Let me say that again.  
22       If the incident happened in Delaware  
23       County, for example, the residents would  
24       not have to deal with the municipal  
25       liability cap.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               That simply is not fair.

3               And the second reason is the  
4       nature of homeowners insurance, and I'm  
5       sure there are those who would say, Well,  
6       these people should have purchased  
7       insurance. But the problem with that is  
8       that getting insurance for this kind of  
9       damage is complicated, expensive and, to  
10      some extent, impossible at any price.

11              Almost all of homeowners  
12      policies exclude underwater ground  
13      damage, like the kind people suffered  
14      here, even if the cause is manmade. If  
15      you've ever read the fine print of your  
16      homeowners policy, you'll see that  
17      there's a bunch of things your insurance  
18      company won't cover. Damage from an  
19      underground water main break is  
20      specifically or basically treated the  
21      same as if your house was damaged by an  
22      earthquake or foreign invasion or the  
23      release of a nuclear bomb. In other  
24      words, it's not covered.

25              I was surprised to learn that a

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       policy under the national flight  
3       insurance program might apply to a  
4       situation like this, although even that  
5       protection isn't clear. What is clear is  
6       that flood insurance could almost as  
7       much -- could cost almost as much as a  
8       homeowners policy and wouldn't even cover  
9       the contents of your home. And not to  
10      state the obvious, but someone who  
11      doesn't live in a floodplain probably  
12      isn't thinking about flood insurance. As  
13      a legislator, I don't think there's a  
14      good reason for them to start doing so  
15      either.

16                   In short, we as a government  
17      must address this issue, because there's  
18      no practical way for people to protect  
19      themselves.

20                   This unfortunate incident  
21      raises a host of other issues about the  
22      need to repair our crumbling public  
23      infrastructure, a problem that I know all  
24      elected officials in this room today are  
25      concerned about and working hard to

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       resolve.

3                   I hope we'll continue that  
4       discussion, but I think it's most  
5       important today to hear from the  
6       residents who took time out of their busy  
7       schedules to be here. Myself and other  
8       elected officials can come here and talk  
9       to you, but as the Chairman mentioned at  
10      the beginning of this, there is no  
11      testimony more important or more critical  
12      than those individuals which are  
13      suffering even today, almost two years  
14      later.

15                   So in closing, I'd like to  
16      again thank Councilman Kenyatta Johnson  
17      and the Committee on Transportation and  
18      Public Utilities for the opportunity to  
19      present this testimony. I'm glad that  
20      Council is creating a record today that  
21      we can take to our colleagues in  
22      Harrisburg to move this important  
23      legislation forward.

24                   Thank you again.

25                   COUNCILMAN JOHNSON: Thank you,

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       Senator.

3                   Any questions from members of  
4       the Committee?

5                   Councilman Henon.

6                   COUNCILMAN HENON: Thank you,  
7       Mr. Chairman.

8                   Senator.

9                   SENATOR FARNESE: Good to see  
10      you, Councilman.

11                  COUNCILMAN HENON: It's good to  
12      see you wearing a green tie today. And  
13      thank you for introducing the piece of  
14      legislation, I'm sure an immediate  
15      response to the tragedy, I'm going to  
16      say, to the people's personal property as  
17      a result of the water main break. And  
18      it's tough to keep up on our  
19      infrastructure here when it's aged --

20                  SENATOR FARNESE: Certainly.

21                  COUNCILMAN HENON: -- and  
22      unpredictable, especially with having the  
23      amount of hundred-year storms in a short  
24      period of time, the unpredictable  
25      weather. But needless to say, it's

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       unfair on the residents who have to  
3       experience some kind of obstacle in  
4       recovering to normal life.

5                   What was your sense of the  
6       members in the conversation about the  
7       bill that you introduced raising the cap?

8                   SENATOR FARNESE: Well, the  
9       bill right now is in the Judiciary  
10      Committee with, of course, Chairman  
11      Greenleaf. We have had conversation with  
12      the Chairman, and with most pieces of  
13      legislation which are submitted by the  
14      folks on my side of the aisle, the normal  
15      response is that they're taking a look at  
16      it. However, I've had some conversations  
17      with the Chairman and explained to him  
18      the need for this legislation.

19                  So we are hoping that over the  
20      next 30 days -- and, as you know,  
21      Councilman, we are embattled in a  
22      budgetary conversation to get a budget  
23      done by June 30th, as you folks are as  
24      well too, but we are hoping that we can  
25      hopefully approve this legislation into

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       the discussion and find a way, and if we  
3       don't get it done by June 30th, hopefully  
4       to do something, at least have a hearing  
5       on it possibly by the close of our  
6       legislative business in November.

7                   COUNCILMAN HENON: And I agree.  
8       I mean, we're creating a record here.  
9       We're hearing from residents who have  
10      been impacted. We're hearing from our  
11      chairman who represents the district for  
12      this particular case, but this has  
13      happened not just in one location. It's  
14      happened throughout the Commonwealth and  
15      certainly all over the City of  
16      Philadelphia. When you have a public  
17      hearing, I'm sure some folks of this body  
18      will be attending.

19                   Is there any intent on having  
20      some sort of fiscal analysis to prove a  
21      case in an educated analysis way to say,  
22      Look, it's been since 1980 and here we  
23      are 2014, we need to adjust -- property  
24      taxes have increased, property values  
25      have increased, and even the price of

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       milk has increased since 1980, that we  
3       should be adjusting to make sure that our  
4       people are covered?

5                   SENATOR FARNESE: Yeah. And I  
6       think your comments about the state of  
7       the infrastructure I think is right on  
8       point. This is not just an issue here,  
9       but unfortunately this tragedy has raised  
10      this issue. But we know that the  
11      condition of the infrastructure is -- it  
12      needs repair, and we need to address this  
13      issue.

14                   So I think that City Council  
15      and, of course, this Committee is very  
16      wise and prudent in having this hearing  
17      right now, because the hope is that we  
18      can avoid something of a similar tragedy  
19      in the future. So, again, I think we  
20      need to do -- need to look at an  
21      analysis, and we will begin to look very  
22      closely at that, Councilman, as well too  
23      to see if there's any way to identify  
24      what really is the state of the  
25      infrastructure right now throughout the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       City. And, again, I guess your comments  
3       about the rising in terms of property  
4       taxes I think is also equally important.  
5       And I think the example from Delaware  
6       County I think really says it all, is  
7       that God forbid something like this were  
8       to happen outside the City of  
9       Philadelphia, these folks would have been  
10      covered there, and we have to take a look  
11      and see that -- it just simply isn't  
12      fair.

13                   So I'm hoping that this  
14      legislation and, of course, the companion  
15      piece in the House is going to be able to  
16      raise awareness and we can address this  
17      problem before something tragic happens  
18      again.

19                   COUNCILMAN HENON: And I  
20      appreciate that, and I'm sure you're not  
21      suggesting that we privatize our Water  
22      Department, but outside of that, if you  
23      could, in your continued ongoing  
24      conversations, provide to the Chair the  
25      Senate or the state's analysis or

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       methodology on how they came up with the  
3       cap of \$500,000 at that time with the  
4       Tort Claims Act.

5               SENATOR FARNESE: Absolutely.  
6       We will provide that information to the  
7       Chairman of the Committee.

8               COUNCILMAN HENON: Thank you  
9       very much.

10              SENATOR FARNESE: Thank you,  
11       Councilman.

12              COUNCILMAN HENON: Thanks for  
13       being here.

14              SENATOR FARNESE: Thank you for  
15       your commitment too.

16              COUNCILMAN JOHNSON: Thank you,  
17       Mr. Senator.

18              Any other questions?

19              (No response.)

20              COUNCILMAN JOHNSON: Thank you.

21              SENATOR FARNESE: Thank you,  
22       Mr. Chairman.

23              COUNCILMAN JOHNSON: Next  
24       witness.

25              THE CLERK: The Honorable Brian

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       Sims.

3                       (Witness approached witness  
4       table.)

5                       COUNCILMAN JOHNSON: Before you  
6       start, Brian, I just want -- well, one,  
7       state your name for the record, your  
8       position.

9                       REPRESENTATIVE SIMS:  
10       Representative Brian Sims, the 182nd  
11       District of the Pennsylvania House of  
12       Representatives.

13                      COUNCILMAN JOHNSON: I just  
14       wanted to thank you, Brian, also for your  
15       work in Harrisburg on behalf of the City  
16       of Philadelphia advocating for our young  
17       people to receive a quality education  
18       through the issue of funding, but also  
19       just your work that you have been doing  
20       throughout the district. I know you have  
21       been to Point Breeze on a couple  
22       different projects, being supportive and  
23       hosted job fairs. I just want to thank  
24       you and tell you keep up the good work  
25       and thank you for your testimony today.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               REPRESENTATIVE SIMS: Thank you  
3       for the acknowledgment, Councilman.

4               Mr. Chairman, as you yourself  
5       stated earlier and as the Senator stated  
6       earlier, the water main break that  
7       occurred at 21st and Bainbridge caused  
8       damage to just about 100 residences and  
9       resulted in claims that were three times  
10      the state's half million dollar liability  
11      cap. I believe it to be a serious  
12      concern that we have yet to resolve this  
13      matter, and I'm here with you all to  
14      contribute testimony as both a resident  
15      and as a representative of the district  
16      that was affected two years ago.

17              On a personal note, I've been  
18      sitting in the back of the room wondering  
19      if this was a picture that I took myself.  
20      I was there when the water main broke in  
21      an apartment that had to be evacuated and  
22      it couldn't be used again for another  
23      week and a half.

24              Most of you know that much of  
25      the reason why we're all here today is

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       due to the fact that Title 42 of  
3       Pennsylvania's Consolidated Statutes  
4       limits the cap to \$500,000 for damages  
5       from lawsuits against political  
6       subdivisions of the state. After meeting  
7       with individuals affected by the water  
8       main break and consulting other elected  
9       officials, I've introduced House Bill  
10      2146 to increase the liability threshold  
11      to \$1.25 million, which would thereafter  
12      be regularly adjusted annually for  
13      inflation based on the Consumer Price  
14      Index published by the U.S. Department of  
15      Labor. The liability limit of half a  
16      million dollars set in 1980 was worth  
17      significantly more than it is today, and  
18      it is my intent with this legislation  
19      that it will protect ourselves from  
20      finding us in a situation similar to this  
21      in the future.

22                   I am aware that similar  
23      legislation has been introduced in the  
24      Senate and in the House, including a \$2  
25      million liability limit introduced by

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       Senator Farnese, and I am in full support  
3       of whatever legislation we can pass to  
4       ensure that claimants would be fairly  
5       compensated in the case of severe damage  
6       and destruction. Currently, House Bill  
7       2146 has been referred to the House  
8       Judiciary Committee, and I will continue  
9       to discuss its importance with my  
10      colleagues, garner support for the bill,  
11      and urge members of the committee to  
12      bring it to a vote.

13                   In addition to advocating for  
14      House Bill 2146, I would like to take  
15      this opportunity to once again urge PECO  
16      and to thank Verizon for completely and  
17      immediately withdrawing their claims in  
18      full. While I understand that it is  
19      within some business interests of PECO to  
20      pursue this claim, by doing so the  
21      negative impact on small business owners  
22      and homeowners is too great, and their  
23      ability to recoup their losses caused by  
24      the damage is all but eradicated.

25                   PECO's roughly \$932,000 claim

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       is significantly higher than Verizon's

3       was, and their stated reasons for

4       submitting this claim is that not doing

5       so would increase rates for customers.

6       With PECO's 2.1 million customers for

7       electric and natural gas service,

8       Mr. Chairman, in Philadelphia and the

9       surrounding counties, this rate increase

10      would translate out to a one-time charge

11      of about 44 cents per customer, and if

12      spread out over the course of one year,

13      is equal to less than 4 cents per bill.

14                 I am hopeful that those who can

15      withdraw their claims such as PECO will

16      listen to their better angels. Today

17      PECO has been given an opportunity to

18      align themselves with the Philadelphians

19      that call this neighborhood their home,

20      and I strongly urge them to consider how

21      their claims impact members of the

22      community of which they claim to be a

23      partner.

24                 On my end, Mr. Chairman, I'll

25      continue to push forward to gain support

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       for the legislation that I've introduced  
3       and support my colleagues in the House  
4       and Senate who are working towards  
5       similar policy changes.

6               I want to extend my sympathies  
7       towards those who suffered damages and  
8       financial hardship as a result of the  
9       water main break, and I want to once  
10      again thank the elected officials, the  
11      community leaders, the business owners,  
12      the resident organizations such as SOSNA,  
13      and claimants who have come together to  
14      address what happened, but also to ensure  
15      that a dispute like this doesn't ever  
16      happen again.

17             Mr. Chairman, members of the  
18      Council, thank you for your time.

19             COUNCILMAN JOHNSON: Thank you  
20      very much, Mr. Representative.

21             Any questions from members of  
22      the Committee?

23             (No response.)

24             COUNCILMAN JOHNSON: Thank you  
25      very much for your testimony, Brian.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               Please call the next witness.

3               THE CLERK: Cecelia Kenney,

4       Donna Mouzayck, and Anthony Agati.

5               (Witnesses approached witness

6       table.)

7               MS. KENNEY: Good afternoon.

8               COUNCILMAN JOHNSON: Could you  
9       please state your name and title for the  
10       record.

11              MS. KENNEY: Yes. Cecelia  
12       Kenney. I'm the Claims Manager in Risk  
13       Management, and I'm here today to give  
14       testimony on behalf of Barry Scott, who  
15       is the Deputy Director of Finance for  
16       Risk Management in the office of the  
17       Director of Finance, and I'm here to  
18       testify on Resolution 140027.

19              On July 22nd, the City  
20       experienced a major water main break at  
21       21st and Bainbridge Streets. Water  
22       Department employees were immediately  
23       dispatched to the area to shut down the  
24       water main and then to initiate work on  
25       repairs. Adjusters were sent to assess

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       damages to homes. There were about 54  
3       properties that were flooded to the point  
4       of needing new hot water heaters, heating  
5       and air conditioning systems.  
6       Additionally, cleanup was needed to get  
7       the water out of the homes to avoid  
8       problems with mold or mildew. The  
9       Philadelphia Water Department handled  
10      this primary response through  
11      arrangements that they currently have in  
12      place.

13                   The loss resulted in damages to  
14      automobiles that were parked in the area,  
15      building structures, and content.  
16      Excluding utilities, there were 97 claims  
17      filed. The amount of un-depreciated loss  
18      for those claims was valued at  
19      approximately \$804,000. Two utilities  
20      also made substantial claims. PECO made  
21      an initial claim of 750,000 and Verizon  
22      made a claim of 117,000. Structural  
23      damage was also noted to have occurred  
24      within five properties.

25                   The total dollar amount of all

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       claims is approximately \$1.6 million.  
3       Insurance was not available to most  
4       homeowners due to the exclusion in most  
5       HO-3 policies for flood damages.

6               While the value of -- when the  
7       value of losses was tallied, it was clear  
8       that they exceeded the limit established  
9       by the Commonwealth of Pennsylvania for  
10      losses by political subdivisions under  
11      the Pennsylvania Political Subdivision  
12      Tort Claims Act. The City, therefore,  
13      provided payment of the \$500,000  
14      deposited into the Court of Common Pleas  
15      where a judge on the case has assigned a  
16      Special Master, who is currently working  
17      out payments to the parties involved.

18             The limitation on damages  
19      imposed by the Tort Claims Act guarantees  
20      some predictability for the City's  
21      Indemnities Fund by fixing the maximum  
22      exposure for cases alleging that covered  
23      City actions have caused otherwise  
24      unascertained monetary losses. Absent  
25      this cap, one or two significant cases

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       could easily ravage the City's ability to  
3       fulfill other governmental obligations.  
4       For example, the amount of the \$14  
5       million verdict in the Zauflik case, the  
6       bus accident case challenging the Tort  
7       Claims Act before the Pennsylvania  
8       Supreme Court, represents the entire  
9       General Fund budget for the City  
10      vehicles.

11               The City has spent more than  
12      \$30 million in indemnities over each of  
13      the last four years with the \$500,000  
14      limit in place. Without the limit set up  
15      by Legislature, the indemnities portion  
16      of the City's budget would increase  
17      dramatically, with little ability to  
18      predict impact. More significantly, the  
19      City would likely have to increase taxes,  
20      raise water rates or limit services,  
21      almost certainly leading to service cuts.

22               While the liability cap does  
23      not represent an easy policy by  
24      Legislature, it is nevertheless a  
25      critical one, with enormous consequences

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       to the City as a whole.

3               I thank you for the opportunity  
4       to testify and would welcome any  
5       questions.

6               COUNCILMAN JOHNSON: Thank you.

7               Any questions from members of  
8       the Committee?

9               (No response.)

10              COUNCILMAN JOHNSON: If not, I  
11       have a couple. Just a couple things just  
12       based upon your testimony I just want to  
13       go back over.

14              So you're responsible for all  
15       the claims for -- all the claims that  
16       come that are filed against the City?

17              MS. KENNEY: That are not  
18       litigated. They come to Risk Management,  
19       yes.

20              COUNCILMAN JOHNSON: Give us an  
21       idea of what some of those claims would  
22       be separate from particularly this water  
23       main break.

24              MS. KENNEY: So separate from  
25       water main breaks, the City Risk

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       Management Department would handle injury  
3       cases from slip and falls. We would  
4       handle automobile accidents and the  
5       injury cases and property damage from  
6       those types of claims. We handle cases  
7       from Licensing and Inspection Department  
8       that would handle demolition of  
9       properties and any errors that would be  
10      made on their behalf. And that's just a  
11      few of the -- well, I guess that's the  
12      bulk of the types of claims that we would  
13      handle.

14                   COUNCILMAN JOHNSON: And on  
15      average, what would be the amount for  
16      water to each one of those individual  
17      categories you just mentioned?

18                   MS. KENNEY: The amount of what  
19      is paid?

20                   COUNCILMAN JOHNSON: That would  
21      be put set aside that -- what would be  
22      the limit?

23                   MS. KENNEY: The limit on each  
24      of those claims could be up to \$500,000.  
25      A lot of times with the injury claims,

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       they come to the Risk Management  
3       Department pre-litigation, so they would  
4       go then over to the Law side once they go  
5       into litigation, and I don't have those  
6       numbers as to what the average injury  
7       case settles for in the Law Department.

8               COUNCILMAN JOHNSON: But even  
9       though the state claim is at 500,000, as  
10      a matter of policy, could we as a matter  
11      of policy on the City level, could we go  
12      beyond the \$500,000?

13             MS. KENNEY: No, not as far as  
14      I'm aware.

15             COUNCILMAN JOHNSON: Okay. Do  
16      you think that the \$500,000 limit should  
17      be raised on the state level?

18             MS. KENNEY: No.

19             COUNCILMAN JOHNSON: You think  
20      it shouldn't be?

21             MS. KENNEY: Do I think it  
22      should be raised? No, I do not.

23             COUNCILMAN JOHNSON: And  
24      explain why.

25             MS. KENNEY: For the reasons

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       that I set forth. With the \$500,000 cap  
3       in place, we have the ability to predict  
4       our losses for the upcoming years.  
5       Absent that cap -- we're looking right  
6       now at a property damage case. So the  
7       damages are very much in front of us.  
8       They're capped. If we raise the cap in  
9       general, it would go to injury cases, and  
10      a lot of those cases go before a jury,  
11      and there's really no way to predict what  
12      a jury would find in a case. So we would  
13      really be opening ourselves up, I  
14      believe, to exposure that maybe the  
15      taxpayers in Philadelphia are not  
16      equipped to pay.

17                   COUNCILMAN JOHNSON: So for the  
18      record, the City of Philadelphia does not  
19      support the two bills introduced in  
20      Harrisburg --

21                   MS. KENNEY: I'm sorry. Excuse  
22      me.

23                   COUNCILMAN JOHNSON: So for the  
24      record, the City of Philadelphia, the  
25      Administration, does not support

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       increasing the cap limit --

3               MS. KENNEY: I would defer to  
4       our attorney on that.

5               COUNCILMAN JOHNSON: --  
6       introduced by the two bills in  
7       Harrisburg, one by State Representative  
8       Brian Sims and State Senator Larry  
9       Farnese?

10              MR. AGATI: Chairman Johnson, I  
11       should introduce myself. My name is  
12       Anthony Agati. I'm the Chief of Staff of  
13       the Solicitor.

14              I don't know that today I'm  
15       prepared to speak as to what the  
16       Administration's position is with regards  
17       to raising the cap, but what I could  
18       say --

19              COUNCILMAN JOHNSON: She's with  
20       you as the representative of the City  
21       Risk Claims Management, and if she's  
22       saying I don't support it, but you're the  
23       lawyer, you're saying --

24              MR. AGATI: My own personal  
25       opinion on it is I would echo what

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       exactly what she said. Leaving the cap  
3       at \$500,000 is in the best fiscal  
4       interest of the City. Raising it exposes  
5       the City to all kinds of additional  
6       liability, because it wouldn't just be  
7       for one case. It would be for every case  
8       that's filed. And having the cap at  
9       \$500,000 allows the City to negotiate  
10      claims below \$500,000. So I agree with  
11      what Cecelia said.

12                   COUNCILMAN JOHNSON: Okay.  
13      Would the Administration support the  
14      establishment of some sort of an  
15      emergency relief fund or infrastructure  
16      fund to deal with issues such as this?

17                   MR. AGATI: Again, I don't know  
18      if I could speak on behalf of the  
19      Administration, but I could say that  
20      putting aside a fund for one particular  
21      matter such as this creates a problem  
22      with consistency and creates a problem  
23      with precedent. The issue being if you  
24      set money aside for one incident like  
25      this where the claim is property --

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   COUNCILMAN JOHNSON: I think  
3       that's the next testimony I'm probably  
4       going to hear as well, but go ahead.

5                   MR. AGATI: In an incident like  
6       this where it's property damage, if you  
7       set aside money in a case like this,  
8       every injury case where there's  
9       significant injury; for instance, if you  
10      have a death, and we have a number of  
11      cases every year that result from alleged  
12      negligence on behalf of the City, every  
13      one of those aggrieved parties is going  
14      to want the City to set aside money for  
15      their claim. And this is a property  
16      damage case. In those cases, you're  
17      dealing with situations where people have  
18      lost a family member or a breadwinner.  
19      So that creates a lot of challenges to  
20      remain inconsistent on policy.

21                  COUNCILMAN JOHNSON: So the  
22      infrastructure that had a significant  
23      impact on the lives of the people who  
24      live in a particular area which is owned  
25      by the City, so they just take the loss

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       and just keep it and just move forward?

3               MR. AGATI: Well, I would say  
4       this: We face upwards of 1,200, 1,300  
5       cases I think every year, and every  
6       claimant is faced with that situation.

7               COUNCILMAN JOHNSON: See,  
8       that's where we probably beg to differ,  
9       because my primary goal is focusing on  
10      the constituents who are clearly  
11      impacted, but as my colleague Councilman  
12      Henon mentioned, this is an issue  
13      citywide as well that some way, somehow  
14      we're going to have to come to some type  
15      of resolution to address.

16              Any other questions from  
17      members of the Committee?

18              Councilman Henon.

19              COUNCILMAN HENON:

20      Mr. Chairman, thank you.

21              Thank you for coming in, and I  
22      see that you're on the hot seat there,  
23      but these are questions that need to be  
24      asked and need to be discussed in a  
25      public forum.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   Has there been any discussion  
3       prior to this about exceeding the caps or  
4       any other kind of ways to help supplement  
5       some of the personal damages that  
6       residents experience?

7                   MS. KENNEY: I was not privy to  
8       any of those discussions, but I believe  
9       that it was decided that the cap would  
10      stay -- would apply to this particular  
11      case, and that's why we paid our money  
12      into the courts, because --

13                  COUNCILMAN HENON: The Chairman  
14      asked what the Administration's position  
15      was on supporting on the state level  
16      raising the cap. I'm going to ask you if  
17      the Administration is willing to discuss  
18      how we can approach at what level the  
19      City can sustain a reasonable cap  
20      increase moving forward towards some sort  
21      of preparation or anticipation of this  
22      happening again.

23                  Also, with that being said,  
24      could you provide to the Chair the amount  
25      of claims that went out that reached the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       cap over the last ten years and could you  
3       specify for what claims they were and if  
4       they were trending; for example, if it  
5       was a trend towards infrastructure,  
6       whether it was water or gas or anything  
7       like that. This way, we have some data  
8       to show where we're headed in  
9       anticipation of that and if we could  
10      sustain it at a certain level. This way,  
11      we know if -- so we had ten cases,  
12      claims, that were \$500,000 or we had one  
13      or this is the only one. I don't know.  
14      So if you could provide that to the  
15      Chair.

16                   MS. KENNEY: Okay. So as I  
17      said, in Risk Management we handle cases  
18      pre-litigation, and so I can say that  
19      this is the first water main break that  
20      has exceeded the cap. There have been  
21      other cases I'm sure that have come close  
22      to the cap or would have exceeded the  
23      cap, but they would be within our Law  
24      Department and they probably would be for  
25      injury type of cases, and I do not have

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       that data here today.

3                   COUNCILMAN HENON: It's a  
4       conversation. If you could provide it to  
5       the Chair. I think that's a discussion  
6       that we need to have, even if it is not  
7       in a public setting. It's a conversation  
8       that the Administration and Law  
9       Department and the other branches of  
10      government that is interested, of course  
11      our Chairman here -- maybe he can put it  
12      together -- where let's see -- if we  
13      haven't reached the cap, then why are we  
14      going to be so steadfast against it? And  
15      you don't need to answer that, but we  
16      need to be willing to entertain raising  
17      it, especially if we haven't reached it.  
18      And if it's with the aging infrastructure  
19      that we have and we haven't reached it  
20      yet, then there's not much damage, no pun  
21      intended, on the risk management side if  
22      we haven't reached it and this is the  
23      first one.

24                   So I just want to -- I want the  
25      conversation to continue to see if we can

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       request a response from these questions  
3       and in addition to an analysis done to  
4       what premiums or obligations will go up  
5       as the cap increases. So if we increase  
6       another \$500,000 to a million dollars,  
7       what would the obligations or the  
8       premiums be and/or up to -- on \$500,000  
9       increase up to \$2 million. And I use \$2  
10      million because it's in the state  
11      legislation by our two legislators. And  
12      I want to thank Brian Sims for being  
13      here. I had unfortunately left the room  
14      briefly. Thank you for your attention to  
15      this and your introduction to having the  
16      cap be raised, attention to the  
17      community. So thank you.

18               MS. KENNEY: So I just want to  
19      be clear on what you're looking for.  
20      You're looking for an analysis from our  
21      Law Department on the amount of claims  
22      that would have exceeded the cap had the  
23      cap not been in place, and then you're  
24      looking for an analysis from Finance on  
25      what an increase of \$500,000 would do to

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       taxes?

3                   COUNCILMAN HENON: Up to \$2  
4       million, what the relative costs would be  
5       in proportion as the cap is raised and a  
6       trend, the trend in what infrastructure  
7       versus other claims that either was  
8       awarded the cap or near the cap so we  
9       have an idea of where we are.

10                  MS. KENNEY: Okay.

11                  COUNCILMAN HENON: Thank you  
12       very much. Thank you for attending.

13                  COUNCILMAN JOHNSON: Thank you,  
14       Councilman Henon.

15                  Any other questions from the  
16       Committee?

17                  (No response.)

18                  COUNCILMAN JOHNSON: We have  
19       been joined back by Councilwoman Brown.

20                  Thank you very much. Can y'all  
21       stick around just for a second, if you  
22       don't mind.

23                  MS. KENNEY: Sure. Thank you.

24                  COUNCILMAN JOHNSON: Please  
25       call the next witness.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   THE CLERK: Bill Sullivan and  
3       Mellanie Lassiter.

4                   (Witnesses approached witness  
5       table.)

6                   MR. SULLIVAN: Good afternoon,  
7       Chairman Johnson and members of the  
8       Committee on Transportation and Public  
9       Utilities.

10                  I'm sorry.

11                  COUNCILMAN JOHNSON: Bring your  
12       microphone up, please.

13                  MR. SULLIVAN: Certainly.

14                  COUNCILMAN JOHNSON: State your  
15       name and your position for the record.

16                  MR. SULLIVAN: Yes. I'm Bill  
17       Sullivan, Director of Exelon Utilities.

18                  MS. LASSITER: Mellanie  
19       Lassiter, External Affairs Manager for  
20       PECO.

21                  COUNCILMAN JOHNSON: You can  
22       proceed with your testimony.

23                  MR. SULLIVAN: Thank you, sir.

24                  Good afternoon, Chairman  
25       Johnson and members of the Committee on

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       Transportation and Public Utilities. I  
3       am Bill Sullivan, Director of Exelon  
4       Utilities Performance Assessment and  
5       former Director of the Philadelphia  
6       region for PECO. With me today is  
7       Mellanie Lassiter, External Affairs  
8       Manager, Philadelphia, and Todd  
9       Eisenberg, PECO Claims attorney. Thank  
10      you for this opportunity to testify this  
11      afternoon related to a Philadelphia water  
12      main break in July of 2012 and the  
13      implications of potential infrastructure  
14      failures in the future given the  
15      municipal tort claims liability limit of  
16      \$500,000.

17                 Let me first say to those  
18      impacted by this incident, the residents  
19      in the area of 21st and Bainbridge, I can  
20      only imagine how difficult this  
21      experience has been. Your safety and the  
22      safety of your neighbors and the  
23      community as a whole is always our  
24      primary focus and top priority. And as  
25      always, we are committed to doing

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       everything we can to continue to provide  
3       you with safe, reliable service.

4       Ensuring reliable service for our  
5       customers is our job.

6               We operate and maintain more  
7       than 21,900 miles of aerial lines, 4,600  
8       miles of underground primary lines,  
9       171,980 transformers, and 390,098 poles  
10      across our system. It is our  
11      responsibility to maintain our system to  
12      keep your lights on. And each year we  
13      invest about \$500 million in preventive  
14      maintenance and upgrading equipment. We  
15      also spend \$35 million each year on tree  
16      pruning and other vegetation removal.  
17      This decreases the number of tree-related  
18      outages by 40 percent and shortens the  
19      duration of outages that do occur.

20             The July 2012 incident was  
21      precipitated by a broken 48-inch water  
22      main owned by the City of Philadelphia,  
23      which caused extensive flooding and  
24      resulted in the collapse of the  
25      intersection of 21st and Bainbridge.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       PECO owns underground electric facilities  
3       running east to west under Bainbridge  
4       Street. The initial collapse destroyed a  
5       duct bank and washed away a manhole. The  
6       duct bank is a group of conduits buried  
7       underground which protects the cables  
8       that run through the ducts. The duct  
9       bank damaged in this incident enclosed 12  
10      primary electric cables that serviced  
11      seven PECO underground distribution  
12      lines. Distribution lines originate from  
13      our substation to feed the neighborhoods.

14                To help explain PECO's damage  
15      at 21st and Bainbridge, I brought a  
16      number of enlarged photographs, and  
17      they're included in your appendix for the  
18      Committee.

19                In the first exhibit, you'll  
20      see from the first photograph --

21                MR. McLAUGHLIN: Can he show  
22      the exhibits so we can see them? Maybe  
23      he can put them on the side or something.

24                MR. SULLIVAN: Certainly.

25                MR. McLAUGHLIN: Thank you.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   MR. SULLIVAN: It may be  
3       difficult to see from there for you, but  
4       I hope you can see it.

5                   You'll see from the first  
6       photograph an overall view of the 21st  
7       and Bainbridge intersection after the  
8       collapse of the street. Clearly  
9       significant damage has occurred.

10                  On the second exhibit, this  
11       photograph illustrates where the PECO  
12       manhole previously existed, generally in  
13       the area where you see cables that have  
14       been made safe in order to allow repair  
15       of the broken water main and restore the  
16       area.

17                  COUNCILMAN JOHNSON: Can this  
18       young lady point exactly where that's at?

19                  MS. LASSITER: I'll point it  
20       out.

21                  MR. SULLIVAN: Thanks,  
22       Mellanie.

23                  MS. LASSITER: Right here is  
24       actually where the manhole used to be.

25                  COUNCILMAN JOHNSON: It's gone

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       now as a result.

3                   MR. SULLIVAN: It was washed  
4       away. And this is after the debris was  
5       removed. As you can tell, there's no  
6       water there at this time. This was when  
7       we were taking the pictures. And the  
8       cables down on the lower left are the  
9       ones that we made -- actually, right in  
10      the middle of the photograph are the ones  
11      we made safe. So at the direction of the  
12      Philadelphia Water Department, the cables  
13      were made safe to allow for the water  
14      main repair and the restoration of the  
15      area.

16                   And then Exhibit 3 and 4, both  
17      of these, these photographs provide  
18      additional detail relative to the 12  
19      ducts included within the duct bank and  
20      the seven primary circuits that ran  
21      through the duct bank. Exhibit 3 also  
22      illustrates how the cables previously  
23      encased in the duct banks were made safe  
24      for repair and restoration.

25                   COUNCILMAN JOHNSON:

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       Mr. Sullivan, can this young lady walk me  
3       through everything you just talked about.

4               MR. SULLIVAN: I can do that.

5               The placement --

6               COURT STENOGRAPHER: If you can  
7       wait for the microphone.

8               (Witness was handed cordless  
9       microphone.)

10              MR. SULLIVAN: Thank you.

11              COUNCILMAN JOHNSON: I didn't  
12       even know we had cordless mics in City  
13       Hall.

14              MR. SULLIVAN: So what you see  
15       here in this picture, this is the duct  
16       bank that was previously there. This is  
17       where there's 12 ducts with the cables  
18       running through them. The duct bank no  
19       longer exists past here.

20              This photograph shows a little  
21       more of a close-up view of where they  
22       were coming out of the duct bank, and  
23       this is what we do to make the area safe.  
24       We test cap these cables so that anybody  
25       can enter that space without any

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       energized wires.

3               COUNCILMAN JOHNSON:   Okay.  
4       Thank you.

5               MR. SULLIVAN:   Thank you.

6               So just in summary, for the  
7       photographs it was to illustrate the  
8       damage to our underground electrical  
9       distribution system within the  
10      intersection and show that it was  
11      extensive.

12              Moreover, compliance with  
13      electrical safety standards and best  
14      practices required that we replace the  
15      cable and duct bank from a manhole on  
16      20th Street to a reconstructed manhole on  
17      21st Street, then to a manhole on 22nd  
18      Street. This is why ultimately more than  
19      17,000 feet of cable and 1,000 feet of  
20      duct bank had to be replaced to ensure  
21      reliable and safe restoration to PECO's  
22      underground distribution system. As a  
23      result, PECO incurred more than \$869,000  
24      in direct costs.

25              As a public utility, PECO owes

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       a duty to all its customers to pursue  
3       collection on damage to PECO's  
4       facilities. PECO has facilities  
5       throughout its six-county service  
6       territory and suffers damage from cars,  
7       fires, floods, vandalism and other  
8       causes. In 2013, PECO suffered \$7.8  
9       million in damage and recovered \$6  
10      million. We are proud of PECO's record  
11      in managing our operating costs and, on  
12      average, recover more than 80 percent of  
13      the damage costs from responsible  
14      parties. This is vital to ensuring  
15      reasonable costs for our customers. When  
16      PECO is unable to recover such costs from  
17      responsible parties, those costs are  
18      passed along to all our other customers.

19               The situation in this instance  
20      is complicated by the fact that the City  
21      of Philadelphia Water Department is  
22      subject to a decades-old municipal  
23      liability limitation. The Pennsylvania  
24      General Assembly enacted the Tort Claims  
25      Act (TCA) in 1978, which granted a narrow

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       waiver of immunity for certain enumerated  
3       negligent acts by municipalities to  
4       shield the public from large,  
5       unpredictable, and potentially  
6       destabilizing damage awards. Under the  
7       TCA if a municipality is negligent, the  
8       cap for damages per occurrence is  
9       \$500,000, without regard to the number of  
10      affected parties.

11               It is worth noting that the  
12      current damage cap was established in  
13      1980 and has not been modified since  
14      then. This is despite the fact that  
15      \$500,000 in 1980 dollars is equivalent to  
16      1.4 million in today's dollars.

17               Accordingly, following the 21st  
18      and Bainbridge water main collapse, the  
19      City deposited \$500,000, the current  
20      municipal tort limit, with the  
21      Philadelphia Court of Common Pleas for  
22      Philadelphia County, and a Special Master  
23      was assigned to divide the funds among  
24      the parties that suffered damage,  
25      including PECO. While it is not the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       purpose of my testimony to express an  
3       opinion on the merits of the 1980 cap,  
4       \$500,000 will not be sufficient to fully  
5       reimburse all parties involved in this  
6       incident.

7                   As a result, it would seem  
8       prudent to explore the possibility of  
9       establishing an emergency compensation  
10      fund or to work with the state officials  
11      to consider the adequacy of a \$500,000  
12      cap for residential property owners who  
13      have sustained damages from water main  
14      breaks.

15                   We appreciate the opportunity  
16      to appear today to provide our views on  
17      the water main break at 21st and  
18      Bainbridge and are happy to answer any  
19      questions that the members of the  
20      Committee may have.

21                   Thank you.

22                   COUNCILMAN JOHNSON: Thank you.  
23                   Councilman Greenlee.

24                   COUNCILMAN GREENLEE: Thank  
25      you, Mr. Chairman.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               Mr. Sullivan, I guess you heard  
3       Representative Sims' testimony as far as  
4       if you broke it down, because I know  
5       PECO's concern is what it would do to all  
6       customers, but Representative Sims, his  
7       analysis was that it would be, I think  
8       it's fair to say, negligible if you broke  
9       it down throughout the whole PECO  
10      customer base.

11              COUNCILMAN JOHNSON: Point of  
12      reference. Point of information.

13              COUNCILMAN GREENLEE: Yes.

14              COUNCILMAN JOHNSON: Four cent.

15              COUNCILMAN GREENLEE: Yes.

16      That's pretty negligible, I would say.

17              So, first, do you agree with  
18      that? And then, secondly, I understand  
19      that Verizon -- and I don't know all  
20      their particulars, but they apparently  
21      waived their claim given -- if the first  
22      answer is yes that you agree, was it  
23      considered to waive your claim in this  
24      and thus help the rest of the customers?

25              MR. SULLIVAN: Well, in answer

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       to the first comment, it is our  
3       responsibility to pursue any damages that  
4       were caused by the company and do that on  
5       behalf of all of our customers, and  
6       that's what we're doing in this case  
7       following the proceedings that have been  
8       set forth.

9                   COUNCILMAN GREENLEE: You  
10       didn't really answer my question, though.  
11       Is it that -- I mean, was there any  
12       analysis done to see if it was that  
13       negligible?

14                  MS. LASSITER: Councilman  
15       Greenlee, let me add that I think our  
16       argument is the same as the other  
17       respondents, in that that would set a  
18       precedent. If we were to do it for this  
19       case, we would have to do it for every  
20       other case that PECO has, which we are  
21       not able to do. So that would multiply  
22       the 4 cents a month per every case.

23                  COUNCILMAN GREENLEE: All  
24       right. But not every case breaks down  
25       the same way, right?

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   MS. LASSITER: Not every one  
3       does, for sure.

4                   COUNCILMAN GREENLEE: And that  
5       was going to be my next question as far  
6       as is this an usually high amount, this  
7       particular damage that was done compared  
8       to others that you may have?

9                   MR. EISENBERG: I might be able  
10      to help out with this.

11                  MS. LASSITER: Sure.

12                  This is Todd Eisenberg, PECO  
13      Claims attorney.

14                  MR. EISENBERG: Good afternoon.  
15      As she said, I'll put it on the record,  
16      Todd Eisenberg, attorney for the PECO  
17      Energy Company.

18                  To answer your question is this  
19      a high amount, this is a high amount for  
20      damages that we see at PECO.

21                  COUNCILMAN JOHNSON: Todd, can  
22      you state the exact amount for the  
23      record, please, that PECO is claiming?

24                  MR. EISENBERG: It's \$869,000.  
25      This is a high amount compared to other

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       claims that we have, but we generally  
3       don't see this type of damage in claims.  
4       We generally see underground strikes by  
5       contractors and other types of pole hits.  
6       The amount of damage in this case is very  
7       significant.

8                     But to go back to your former  
9       question, I can't answer the idea of what  
10      the number would be, but what I can say  
11      is that in all claims that come into  
12      PECO, PECO steadfastly tries to recover  
13      for those claims so they are not spread  
14      for all customers involved. So if  
15      something happened somewhere else, we  
16      don't want those charges to come back on  
17      other customers. We don't pick or  
18      choose.

19                    What I can say to you in this  
20      case is that the \$500,000 has been placed  
21      with the court. We know that a Master  
22      has been appointed. I've been in contact  
23      with him. PECO is more than willing to,  
24      in good faith, have him reach out to us,  
25      discuss the claim, and hopefully find a

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       fair resolution for all parties.

3               COUNCILMAN GREENLEE: Okay.

4       All right. That's fair, but I guess my  
5       point was that it sounds -- and you seem  
6       to verify -- that this was an unusually  
7       large amount because of the situation  
8       here with this. Obviously hopefully that  
9       doesn't happen too often.

10              MR. EISENBERG: Right. I've  
11       been doing this for a while and we don't  
12       see claims like this.

13              COUNCILMAN GREENLEE: Right.  
14       And I'll just add, I understand what  
15       you're saying, but obviously the people  
16       who are damaged by this financially,  
17       they're your customers also. So that's  
18       why I'm saying -- I guess you said it.  
19       Sort of you're trying to reach a fair  
20       balance here, and I appreciate that.

21              MR. EISENBERG: And we're  
22       willing to.

23              COUNCILMAN GREENLEE: Okay.

24       Thank you.

25              Thank you, Mr. Chairman.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   COUNCILWOMAN BROWN: Followup.

3                   COUNCILMAN JOHNSON:

4       Councilwoman Brown.

5                   COUNCILWOMAN BROWN: Good

6       afternoon, everyone. Forgive me again.

7       Your name, sir?

8                   MR. EISENBERG: Sure. Todd

9       Eisenberg.

10                  COUNCILWOMAN BROWN:

11       Mr. Eisenberg, on average how many issues

12       like this happen on an annual basis with

13       PECO?

14                  MR. EISENBERG: That come into

15       the Claims Department? This is the first

16       one I've seen like this.

17                  COUNCILWOMAN BROWN: Of this --

18                  MR. EISENBERG: Of this

19       magnitude.

20                  COUNCILWOMAN BROWN: Of this

21       magnitude, okay. So is there an -- if

22       you had to look at the last five years,

23       because I think history is always

24       important to give us a perspective and it

25       also signals what's happening with our

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       own infrastructure in the City, what  
3       might that number be?

4               MR. EISENBERG: Total damages?

5               COUNCILWOMAN BROWN: Annually.

6               MR. EISENBERG: Well, I can go  
7       back --

8               COUNCILWOMAN BROWN: Not  
9       damages in terms of dollars. Incidents  
10      in terms of number of incidents per year.

11              MR. EISENBERG: As of right  
12      now, I don't have that information, but  
13      PECO -- we have significant, between the  
14      City and the counties, we have a  
15      significant number of claims that come  
16      in, because there are also pole strikes.

17              COUNCILWOMAN BROWN: There are  
18      also?

19              MR. EISENBERG: Pole strikes  
20      where drivers hit our poles, issues like  
21      that. So we do have a significant number  
22      of claims that come in, but as I said  
23      before, nothing to this magnitude.

24              COUNCILWOMAN BROWN: I see. So  
25      would it be fair to say this is a first?

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               MR. EISENBERG: It's a first  
3       that I have seen in my time at PECO, yes.

4               COUNCILWOMAN BROWN: Okay,  
5       then. Thank you.

6               COUNCILMAN JOHNSON: Councilman  
7       Henon.

8               COUNCILMAN HENON: Thank you,  
9       Mr. Chairman.

10              Good afternoon. I understand  
11       PECO-Exelon, parent company, I understand  
12       the amount of customers that they need to  
13       serve and working under extreme weather,  
14       and I want to thank all of the employees  
15       that are out there repairing the poles in  
16       storm duty on a regular basis. So they  
17       do a great job under these circumstances.

18              Hearing the testimony, looking  
19       at the pictures, hearing some of the  
20       other testimony and our colleagues, you  
21       said -- what is the total amount of the  
22       claim? I know you put in 800. What was  
23       the total amount of damages? Let's just  
24       say that.

25              MR. EISENBERG: For our

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       damages?

3               COUNCILMAN HENON: For your

4       damages.

5               MR. EISENBERG: The total

6       amount of the claim is actually 869,992.

7               COUNCILMAN HENON: Is that the  
8       full amount of the damages?

9               MR. EISENBERG: That is the  
10       full amount.

11              COUNCILMAN HENON: Are you  
12       claiming for the full amount?

13              MR. EISENBERG: Correct.

14              COUNCILMAN HENON: Has there  
15       been any discussion notwithstanding the  
16       cap and your commitment for not setting a  
17       precedent, which is a decision that  
18       companies make, is there any sense that  
19       you would be willing to sit down and  
20       negotiate a lower claim that may be  
21       agreeable on all the parties involved?

22              MR. EISENBERG: As I said  
23       before, we know the Master has been  
24       appointed. I've spoken to him. We  
25       welcome him reaching out to us and

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       discussing and negotiating in good faith  
3       a fair resolution for all parties. So we  
4       are open to that.

5                   COUNCILMAN HENON: Okay.

6                   I have no further questions.

7       Thank you.

8                   COUNCILMAN JOHNSON: Thank you,  
9       Councilman Henon.

10                  That's good to hear. So y'all  
11       are open to some level of -- you say as  
12       long as he's operating in good faith,  
13       some level of resolution that's fair to  
14       all parties involved?

15                  EISENBERG: That is the goal, a  
16       fair resolution for all parties.

17                  COUNCILMAN JOHNSON: And just  
18       another point, because I keep hearing,  
19       well, if we weren't a part of this  
20       process, if we withdrew from this  
21       process, then we will be setting a  
22       precedent, correct? But from my  
23       understanding, this is the first time  
24       that this has ever happened in the  
25       history of PECO, correct?

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   MR. EISENBERG: Well, I can't  
3       speak to if this is the first time  
4       anything like this has happened at PECO.

5                   COUNCILMAN JOHNSON: This is  
6       the first that you have seen.

7                   MR. EISENBERG: That I have  
8       seen, yes.

9                   COUNCILMAN JOHNSON: Because if  
10      that was the case, if this is one of the  
11      first largest claims that you're getting  
12      involved in and obviously it was  
13      mentioned that this doesn't happen, then  
14      technically you're not really setting a  
15      precedent. You kind of have a discretion  
16      to address the issue, because it's never  
17      been done before.

18                  MR. EISENBERG: Well, the  
19      precedent we have is that as -- we  
20      steadfastly try to recover on all claims,  
21      and it's not that we're looking at this  
22      claim any differently than any of the  
23      others. It's that if we have a claim of  
24      this size or any size, it's the belief  
25      that the recovery is important so those

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       charges are not then placed upon all the  
3       customers. We don't pick and choose our  
4       claims, is what I'm saying.

5                   COUNCILMAN JOHNSON: Councilman  
6       Henon.

7                   COUNCILMAN HENON: I know this  
8       is the third time, but I just want to  
9       thank you for looking to come to a  
10      resolve on a fair and reasonable resolve  
11      to the claim that is in front of us right  
12      now, and I just -- I don't have anything  
13      else to add, but you had stated that  
14      clearly, so I appreciate it. Thank you.

15                  MR. EISENBERG: Thank you.

16                  COUNCILMAN JOHNSON: So as a  
17      part of from my understanding, y'all have  
18      to negotiate in some aspect with the  
19      Master anyway, right? So I'm going to  
20      change the question. Will PECO be  
21      willing to scale back their \$869,000  
22      claim as a part of their negotiations  
23      with the Master? Because I guess -- and,  
24      listen, I'm separating the personalities  
25      that work for PECO from the actual

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       business that PECO does. So it's not  
3       personal. My primary purpose is to  
4       advocate for my constituents, and your  
5       responsibility is to advocate for PECO as  
6       a corporation, what you say is  
7       responsible for going after all claims,  
8       being responsible to the customers in  
9       which you all represent. And the part  
10      that I'm getting out of it is, there's a  
11      major corporation that gets support, not  
12      only from the City of Philadelphia but  
13      the customers in the City of Philadelphia  
14      and, again, I asked this question from  
15      day one, the wiggle room. If you have to  
16      be a part of the claims, then how come  
17      you say, Well, we don't have to do the  
18      whole 869; we can eat those costs up in  
19      other areas?

20               So kind of give me an  
21      understanding of that, because that's  
22      always boggled my mind from the  
23      beginning. So if you could or Exelon,  
24      the parent company, could or Mellanie  
25      from regional PECO could.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               MR. EISENBERG: Can you repeat  
3       the question? Because I'm not sure what  
4       it was.

5               COUNCILMAN JOHNSON: Will PECO  
6       be willing to scale back the \$869,000 --

7               MR. EISENBERG: We will be  
8       willing to negotiate on a number, a fair  
9       and reasonable settlement for all  
10      parties -- I'm sorry; resolution for all  
11      parties.

12              COUNCILMAN JOHNSON: Can y'all  
13      stick around while the constituents --

14              MS. LASSITER: Chairman  
15      Johnson, before we leave, I did want to  
16      also restate, we've heard a lot about  
17      Verizon withdrew their claim, and they  
18      did withdraw their claim, but they  
19      actually have another claim. Their  
20      damages were not incurred as a result of  
21      the water main break. It was  
22      actually for -- their damages were  
23      incurred after the water main break while  
24      repairs were going on. So that's why  
25      they are not a part of this claim. So I

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       just wanted to correct that.

3               COUNCILMAN JOHNSON: For the

4       record. Thank you very much.

5               MS. LASSITER: You're welcome.

6               COUNCILMAN JOHNSON: Thank you.

7               MR. EISENBERG: Thank you.

8               COUNCILMAN JOHNSON: You're

9       welcome.

10              Next witness, please.

11              THE CLERK: Marla Rosenberg,

12       Clifford Eyler, and Andrew Dalzell.

13              (Witnesses approached witness

14       table.)

15              COUNCILMAN JOHNSON: Please

16       state your name for the record.

17              MS. ROSENBERG: Councilman, my

18       name is Marla Rosenberg. I live at 2046

19       Bainbridge Street with my husband, Albert

20       Clark, and my mother-in-law, Suzanne

21       Clark. Thank you for hearing my

22       testimony today.

23              On July 22nd, 2012, our house

24       was flooded as a direct cause of the

25       water main break at the intersection of

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       21st and Bainbridge Streets. Our  
3       basement was flooded up to 5 feet. Both  
4       of our cars were flooded as well. We  
5       were evacuated from our home and we lived  
6       in a motel at our cost for five days.

7               The water poured through our  
8       party wall from the adjacent building  
9       located at 2048 Bainbridge Street. This  
10      building had no basement windows, so  
11      there was nothing to block the water  
12      flow. The water level in that building  
13      reached over 9 feet. There were no  
14      basement windows since we moved in to our  
15      home on October 2010. According to our  
16      neighbors who have lived in the  
17      neighborhood before us, this building had  
18      no windows in the basement for almost ten  
19      years.

20             We had reported this incident  
21      with this building to Licenses and  
22      Inspections several times and it had  
23      never been resolved. We believe that had  
24      the City through the Department of  
25      Licenses and Inspections enforced their

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       policy so that the building next to us  
3       had basement windows, our damages from  
4       the actual water main break would have  
5       been greatly reduced.

6               Since the water main break, the  
7       City has still not enforced these  
8       policies and the basement of this  
9       building still doesn't have windows. The  
10      only difference is they have boards now.  
11      At the time, they had no boards.

12             Additionally, the owners have  
13      not yet repaired their side -- the side  
14      of the party wall where the water came  
15      in. So there's mold growing and nothing  
16      has been repaired on that side. So we're  
17      still living in a very unsafe condition,  
18      and this has been two years.

19             I'm going to go back to the  
20      aftermath of the flood, but I thought  
21      that that was an important point to bring  
22      up so that you see that there's multiple  
23      issues here, not only with the City, the  
24      water main break itself, but with the  
25      City's negligence of pursuing a building

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       that needs repair.

3               As for the aftermath of the  
4       flood, the City hired a restoration  
5       company to clean up and remove the  
6       contents from our home and for our  
7       neighbors. We were put under a great  
8       deal of pressure to discard all contents  
9       by the restoration workers as well as the  
10      City representatives. We now realize  
11      that the motivation of the restoration  
12      company was to finish and clean up as  
13      quickly as possible in order to move to  
14      the next job.

15             We were told to stay at a hotel  
16      because our house was uninhabitable. We  
17      were told not to worry about the outlay  
18      of costs because we would be definitely  
19      reimbursed by the City once we filed our  
20      claim.

21             We hired contractors to repair  
22      our basement walls and floor. Our walls  
23      and floor on the first floor were damaged  
24      during the clean-up process. So this was  
25      the walls and floor in the basement we

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       hired contractors, and during the  
3       clean-up process, with bringing in cement  
4       and everything else, our first floor got  
5       damaged as well. We're still waiting to  
6       repair our first floor, because we don't  
7       have the funds.

8                 Both of our automobiles were  
9       under water and required repair. We lost  
10      thousands of dollars in items that we now  
11      realize we could have possibly salvaged.  
12      Among other things, we lost a brand new  
13      washer and dryer we had purchased three  
14      months earlier. We lost personal and  
15      family heirlooms that possibly could have  
16      been salvaged, and this was true for many  
17      of our neighbors as well.

18                The handling of the cleanup was  
19      an injury on top of an injury. We lost  
20      so much more because of the advice that  
21      we followed during the restoration from  
22      the restoration experts and City  
23      representatives. The City  
24      representatives promised to make us  
25      whole. We were told to complete our

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       claims and submit them to Risk Management  
3       as soon as possible. We submitted our  
4       claims by the deadline, and we notice  
5       almost daily that there are contents  
6       missing from our home that we had not  
7       included on our claim.

8               We are responsible homeowners  
9       who purchased homeowners insurance. We  
10      didn't realize until after we notified  
11      our insurance company that this incident  
12      falls outside the standard homeowners  
13      policy. If we cannot insure against this  
14      type of incident and the City refuses to  
15      compensate us, where do the citizens  
16      turn?

17             With an aging infrastructure,  
18      this is certainly not an isolated  
19      incident. In fact, there were several  
20      other breaks that caused extraordinary  
21      damage since July of 2012, other water  
22      main breaks. The City needs to take  
23      responsibility, especially since the  
24      standard homeowners insurance does not  
25      cover damages of this type. It leaves a

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       big gap in what a homeowner can do if we  
3       don't -- if the City isn't responsible  
4       and we don't have the ability to buy a  
5       homeowners policy to get relief, we fall  
6       through this big crack.

7               As for the PECO controversy,  
8       our feelings and I believe our neighbors  
9       as well, but they will speak for  
10      themselves, we just don't understand how  
11      PECO, a subsidiary of Exelon Company, a  
12      major corporation, can be so insensitive  
13      that they intend to follow through with  
14      their claim in a situation where so few  
15      funds are available to people who had  
16      substantial damages to their home and  
17      their living essentials. PECO management  
18      should be ashamed for putting their  
19      bottom line ahead of people and their  
20      customers who have suffered such  
21      substantial losses of living essentials.  
22      It is time for PECO to step away from  
23      this claim.

24             And I have a question that came  
25      up, Councilman, with you, which was if

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       this is the first time that PECO has  
3       submitted a claim under these  
4       circumstances with a water main break,  
5       they've really chosen the worst possible  
6       time to do this given the amount -- this  
7       is the first time that I understand that  
8       we've reached this level of damages,  
9       800,000, before the PECO claim and this  
10      is when they choose to file a claim for  
11      over \$800,000, which puts the homeowners  
12      at even a bigger disadvantage and  
13      financial loss.

14                   The City promised us  
15      resolution. They told us that the sooner  
16      we submitted our claim, the faster we  
17      would be compensated. Now our claim is  
18      in the courts and a Special Master has  
19      been assigned to review the claims and  
20      determine distribution. We understand  
21      that this Master normally gets  
22      compensated about \$500 per hour for his  
23      work. We don't know how much this  
24      Master -- how much time it will take to  
25      distribute all these funds. We do know

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       that there's over 90 claims that have to  
3       be reviewed. That sounds like a lot of  
4       work for this Master at \$500 an hour or  
5       \$300 an hour, whatever he reduces it to.  
6       That's an awful lot of money, and we have  
7       learned that that money is going to come  
8       out of our \$500,000 cap.

9                   COUNCILMAN JOHNSON: Excuse me.  
10       Can you clarify that statement again,  
11       what you just mentioned. Just repeat it  
12       for the record. The \$500 being paid to  
13       the Master.

14                   MS. ROSENBERG: We understand  
15       that the Master normally receives \$500 an  
16       hour for his services. We also were told  
17       that he would be offering a discount on  
18       that 500,000, but we don't know -- \$500,  
19       I'm sorry, on the \$500 per hour, that he  
20       would be offering a discounted rate. We  
21       don't know at this point what that  
22       discounted rate will be. But whether  
23       it's 500 or 400 or 300, when you're  
24       looking at over 90 claims and you're  
25       reviewing all of that work, I'm

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       wondering, if you do the math, how much  
3       time is that Master going to spend over a  
4       period of maybe another year or two years  
5       before he can figure out how to  
6       distribute the funds, that \$500,000 pot.  
7       And so at the end of all that, how  
8       many -- at the end of all that, after all  
9       is said and done, how much will be left  
10      to compensate the victims? We have PECO,  
11      we have the Master, we have costs, we  
12      have administrative costs, whatever is  
13      going to be coming out of this pot, what  
14      is going to be left for us?

15                To make things worse, our  
16      property -- and I think this goes for a  
17      lot of our neighbors. Property taxes  
18      were raised this year. We have asked  
19      informally for the City to consider tax  
20      relief or a tax abatement or some sort of  
21      reduction for a period of time to help  
22      subsidize the compensation if we are  
23      capped at a certain amount of money. If  
24      we're capped at 500,000 and each person  
25      gets 25 cents on the dollar, we've asked

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       that maybe a solution could be a tax  
3       abatement of some sort for a period of  
4       time to make us whole, but we're informed  
5       that this option would not even be  
6       considered.

7                   This is a travesty. The City  
8       needs to step up and find funding to  
9       compensate the victims of this disaster  
10      for the damages that the City caused. If  
11      we look at the time, the timeframe now is  
12      two years, and the cost of court  
13      resources, City representatives, City  
14      agencies, Risk Management,  
15      Councilmembers, your time in coming here  
16      and listening to us testify, if we take  
17      all the time and resources that it's  
18      taking to get this settled in an attempt  
19      to distribute these funds, if the City  
20      subsidized that 500,000 to the residents  
21      in some way, the City would probably save  
22      money in the long run.

23                   So we're asking Councilmembers  
24      to please take this under consideration,  
25      and we're asking to have the City make

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       good on their promises which they gave us  
3       when this happened, which was that we  
4       would be compensated fully as soon as we  
5       submitted our claims. So we're asking  
6       you to please work with the City and have  
7       them do the right thing.

8                     Thank you.

9                     COUNCILWOMAN BROWN: Point of  
10       information.

11                    COUNCILMAN JOHNSON:  
12       Councilwoman Brown.

13                    COUNCILWOMAN BROWN: Yes. Can  
14       anyone answer for me, is it factual that  
15       Verizon has withdrawn their claim or is  
16       it in the wind that -- what do we have  
17       that proves that Verizon has indeed  
18       withdrawn their claim?

19                    MS. ROSENBERG: The only thing  
20       I have is that the judge that was  
21       appointed to our case has told us, we  
22       have learned from his office, that  
23       Verizon has in fact withdrawn their  
24       claim.

25                    COUNCILWOMAN BROWN: So you

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       haven't seen anything in writing?

3               MS. ROSENBERG: We have not  
4       seen anything in writing.

5               COUNCILMAN JOHNSON: For the  
6       record, point of information. From my  
7       understanding, it was explained that --  
8       and, Steve, you can clarify this for me  
9       as well. They pulled out as a result of  
10      them having another claim with the City  
11      and also part of their original claim  
12      wasn't supposed to be impacted by the  
13      actual flood. Now, that's what was told,  
14      but I'll follow up and get you the exact  
15      facts as well.

16              COUNCILWOMAN BROWN: Please,  
17      because there could be some confusion  
18      with the other claim being interpreted as  
19      not related to this circumstance. I  
20      mean, that's what I'm hearing, there are  
21      possibly two claims that Verizon could  
22      have had, one they pursued and one they  
23      haven't pursued. The question is which.

24              MS. ROSENBERG: Yes, and that's  
25      unclear.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   COUNCILWOMAN BROWN: Forgive  
3       me?

4                   MS. ROSENBERG: That is unclear  
5       at this point.

6                   COUNCILWOMAN BROWN: And we  
7       definitely need some clarity on that just  
8       for the record. It's clear that we need  
9       some clarity on that.

10                  And, Mr. Chairman, you'll work  
11       that through?

12                  COUNCILMAN JOHNSON: I'll  
13       follow up and I'll make sure you get the  
14       exact details on it.

15                  COUNCILWOMAN BROWN: Thank you,  
16       Mr. Chairman.

17                  Thank you.

18                  MS. ROSENBERG: Thank you.

19                  COUNCILWOMAN BROWN: You're  
20       welcome.

21                  COUNCILMAN JOHNSON: Andrew.

22                  MR. DALZELL: My name is Andrew  
23       Dalzell. I'm the program's coordinator  
24       for the South of South Neighborhood  
25       Association and I am here today to stand

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       in solidarity with the neighbors --  
3       actually, sitting in solidarity with the  
4       neighbors who were affected by the water  
5       main break of July 22nd, 2012.

6                   I don't want to -- we've heard  
7       about the almost biblical damage that  
8       took place here, and it seems like the  
9       neighbors are being asked to swallow a  
10      very, very large pill, multiple pills  
11      when you couple it with AVI and some  
12      other things, and that basically makes it  
13      really hard to live in the City. This is  
14      a great city, but the City keeps making  
15      it very, very difficult. And there's two  
16      issues at play. How do we make whole, as  
17      best as possible, the neighbors who  
18      suffered this damage for no fault of  
19      their own and what do we do for future  
20      neighbors who are going to suffer some  
21      similar damage in the past -- at some  
22      point in the future.

23                   And to Marla's -- first of all,  
24      what I should say right off the bat is, I  
25      don't think we'd all be sitting here

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       presenting this unified front were it not  
3       for Marla, who would flyer neighbors,  
4       organize meetings at my office, tried to  
5       take -- took all of this time to bring us  
6       all together so we weren't pointing  
7       fingers at each other and it being a very  
8       divisive issue, and thanks to Marla's  
9       leadership I think we've made a lot of  
10      progress. So I just want to make sure  
11      that the record is very, very clear on  
12      that one.

13                   Second, SOSNA organized with  
14      the help of Joanne Dahme, the Water  
15      Department, in a lot of meetings and  
16      trying to get the word out, and I can say  
17      that there was an immense amount of  
18      uncertainty. There was one hand, as  
19      often is the case -- one arm of the City  
20      is telling people one thing and another  
21      arm of the City is telling them something  
22      else. And after Risk Management got all  
23      these claims, sort of stepped back from  
24      the process and it was left to neighbors  
25      to make sense of this whole thing, which

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       I think is pretty unconscionable when you  
3       think about it, that neighbors were left  
4       to fend for themselves for an event that  
5       was no fault of their own and is causing  
6       tens of thousands of dollars of damage to  
7       their own properties, and Marla and  
8       others were working to figure this out on  
9       their own. And I think for looking to  
10      future events, there is -- this event is  
11      being talked at one point being  
12      unprecedented, but at the same time, they  
13      don't want to set precedence for future  
14      issues. I'm trying to figure out how it  
15      could be both.

16                If this is going to happen  
17      again in the future, we need a playbook  
18      from the City, from Risk Management that  
19      says in the event that this catastrophe  
20      strikes your house, you're not talking to  
21      some subcontractor who is coming into  
22      your house. A City official is saying,  
23      Here's what you need to do, account for  
24      everything, every single thing.

25                People were told to just get

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       rid of everything we heard at public  
3       meetings, but then it was really because  
4       it was, quote/unquote, contaminated,  
5       because then we learned later that it was  
6       not really contaminated, it was the  
7       potential to eventually be contaminated.  
8       So maybe Marla could have grabbed those  
9       historic heirlooms from the family that  
10      have priceless value that were instead  
11      thrown in a black trash bag and thrown  
12      out. And there was all of this  
13      misinformation. And we have the time  
14      now, and the neighbors have done the  
15      leadership and learned through this  
16      process how we can educate future  
17      neighbors so that they're not suffering  
18      from a damage like this. They know what  
19      their options are. They know what type  
20      of insurance they need to be carrying or  
21      if it's even possible for them to get it,  
22      that they should advocate to their  
23      elected officials for a raising of the  
24      \$500,000. They can ask utilities to  
25      maybe take one for the team. It's much

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       easier for a large corporation to swallow  
3       that pill when it's maybe four cents that  
4       I heard for every other customer than it  
5       is for a homeowner to swallow a \$15,000,  
6       \$20,000 loss for no fault of their own.

7               This should be -- it is  
8       unfortunate how this thing went down.  
9       However, it can be a teachable moment for  
10      the future, and I really urge you guys,  
11      with the leadership you guys have shown  
12      so far, to create that playbook to compel  
13      Risk Management to assign someone in the  
14      incident, these unprecedented incidents,  
15      assign somebody to come out and be the  
16      leader.

17              Marla, I have immense respect  
18      for what Marla and others have done, but  
19      the person standing at the room -- at the  
20      head of the room telling people should be  
21      a City official who knows what these  
22      issues are and not put it upon the  
23      shoulders of neighbors who just suffered  
24      this huge loss to come up with and learn  
25      this thing as they go along. It's a very

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       steep learning curve, and it's amazing to  
3       see how far we've gotten thanks to the  
4       leadership of Marla and others.

5               COUNCILMAN JOHNSON: Thank you,  
6       Andrew.

7               COUNCILWOMAN BROWN:  
8       Mr. Chairman, could I --

9               COUNCILMAN JOHNSON: Yes.  
10       Councilwoman Brown.

11              COUNCILWOMAN BROWN: Good  
12       afternoon. I am a believer in SOP,  
13       standard operating procedures. So your  
14       recommendation is extremely well taken.  
15       And so I'm curious to know, is the City  
16       Risk Manager still with us?

17              MS. KENNEY: Yes.

18              COUNCILWOMAN BROWN: Please, if  
19       you could come back to the witness table.

20                      (Witness approached witness  
21       table.)

22              COUNCILWOMAN BROWN: Good  
23       afternoon. Your name?

24              MS. KENNEY: Cecelia Kenney.

25              COUNCILWOMAN BROWN: Please

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       share with us what are some of the  
3       standard operating procedures currently  
4       in place in Risk Management that  
5       specifically address neighbors, citizens  
6       and how they can walk through a  
7       department like yours.

8                   MS. KENNEY: So when a water  
9       main break occurs, the Water Department  
10      has specific adjusters that do go out,  
11      and they will initially start a clean-up  
12      process and they will install new  
13      heaters, air conditioning and things like  
14      that.

15                  COUNCILWOMAN BROWN: So there's  
16      a written, to you use this gentleman's  
17      word, playbook?

18                  MS. KENNEY: There is a  
19      playbook. I don't know if it's written  
20      within the Water Department's -- if it's  
21      written down, but that money is not part  
22      of the cap. So that money for the  
23      cleanup and the whatnot, that was done as  
24      a humanitarian effort because people were  
25      in desperate need to have their homes

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       cleaned out. It is unfortunate that they  
3       threw out things maybe that could have  
4       been salvaged, but the fear was -- and I  
5       don't know if anyone recalls, but when  
6       this occurred, it was an extremely hot  
7       day in July and temperatures were very  
8       high. We were very afraid of mold going  
9       in people's basements. And so we hired  
10      companies that would go in and --  
11      clean-out companies that would go in and  
12      assist homeowners in getting rid of the  
13      things that were wet and that needed to  
14      be thrown out. There are about five  
15      different companies that we used, and  
16      that's what was used and that was all  
17      through the efforts of the Water  
18      Department.

19                   COUNCILWOMAN BROWN: And with  
20      those five different companies, is there  
21      a singular sheet of music that everybody  
22      is reading from?

23                   MS. KENNEY: Yes. They were  
24      told to bill the Water Company directly  
25      and they were also told to assist the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       homeowners in cleaning out whatever they  
3       wanted -- to clean out the basements and  
4       to pump water out of the homes.

5                   COUNCILWOMAN BROWN: So you're  
6       here representing Water Department and  
7       Risk Management?

8                   MS. KENNEY: No. I'm just  
9       representing Risk Management, but I'm  
10      aware of what occurred at that time. So  
11      I'm just letting you know what happened  
12      at that time.

13                   When Risk Management became  
14      involved, it was probably the next day,  
15      and we went out and we looked at the  
16      scope of the damage, and it became  
17      apparent that this was possibly a cap  
18      case. So we told everyone to please make  
19      their claim as quickly as possible, that  
20      we could see how much the damages were,  
21      and we would be able to quickly assess if  
22      this case was going to exceed our  
23      \$500,000 limit.

24                   We attended various town hall  
25      meetings with the members of the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       community and we explained to them what a  
3       cap case meant. At that point, Risk  
4       Management had not gotten the claims from  
5       Verizon or from PECO, and so we weren't  
6       sure because the numbers that I had given  
7       you were an un-depreciated amount. So we  
8       were still hopeful at some of those town  
9       hall meetings that we would be able to  
10      settle the case within the \$500,000 cap.

11               COUNCILWOMAN BROWN: Let me ask  
12      you to pause there, because I'm struck by  
13      the citizens' concern of lack of  
14      uniformity, because I think what I'm  
15      hearing is that there were different  
16      instructions or different instructions  
17      were given to different citizens. So  
18      there was no uniformity in --

19               MS. KENNEY: No. There was  
20      very clear uniformity. There was the  
21      Water Department that went out initially,  
22      and they told the residents that they  
23      would hire clean-up companies to go in to  
24      the homes and clean up their damages and  
25      that they would install new hot water

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       heaters, new air conditioning, and new  
3       heating systems. And that was very clear  
4       and that was -- Risk Management did not  
5       disagree with that. We were on board  
6       with that.

7                   COUNCILWOMAN BROWN: Okay.

8                   MS. KENNEY: The next day when  
9       we went out there, we started to assess  
10      the damage, and it did appear that this  
11      was a cap case. So I believe at that  
12      point, we began to tell citizens, Record  
13      all your damages, get them into us as  
14      soon as possible, which was the same  
15      message that the Water Department was  
16      giving people, to get their damages into  
17      us as soon as possible so that we could  
18      determine if this was a cap case.

19                  COUNCILWOMAN BROWN: Is there a  
20      liaison between those two departments?  
21      You would be the liaison; is that fair to  
22      say?

23                  MS. KENNEY: I guess I would  
24      be, myself and Joanne Dahme would be the  
25      go-between.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   COUNCILWOMAN BROWN: Okay.

3       Well, I simply wanted to get some clarity  
4       on this notion of standard operating  
5       procedures, because when citizens -- we  
6       know what it can be like trying to  
7       navigate the City government, and in a  
8       crisis like this, it just frustrates  
9       citizens even more.

10                  MS. KENNEY: We were working  
11       very closely with the Water Department.  
12       We were working with Bob Monahan, who is  
13       the adjuster on the street from the Water  
14       Department. Gregory Head was the  
15       adjuster on the street from Risk  
16       Management, and those two adjusters were  
17       going door to door. They were very much  
18       on the same page with exactly what was  
19       being told to everyone. And the reason  
20       why we wanted people to bring their cases  
21       in quickly wasn't because we were trying  
22       to rush them into anything, but we wanted  
23       to see if this was going to be a cap case  
24       so that we can move quickly.

25                  Once it was determined that it

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       was a cap case, we sent letters out. We  
3       went to town hall meetings and we  
4       explained in case this is a cap case,  
5       this is what is going to happen. I  
6       believe Ari Scott was a speaker and  
7       Joanne Dahme at those meetings.

8               COUNCILWOMAN BROWN: Well, the  
9       beauty of hearings is that you get a  
10      chance to hear everyone's perspective at  
11      the same time to see if there's some  
12      continuity and information being shared,  
13      and I'm not confident that I'm getting  
14      that.

15             MS. KENNEY: I'm sorry that you  
16      don't feel that we were all on the same  
17      page.

18             COUNCILWOMAN BROWN: That's not  
19      what I said. Don't misinterpret what I  
20      said. It's useful when you know that  
21      several different persons are looking at  
22      the same sheet of music and reading the  
23      same sheet. In this experience it sounds  
24      like there are different perspectives on  
25      the manner in which this crisis was dealt

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       with. That's all I'm saying.

3               MS. KENNEY: Okay.

4               COUNCILWOMAN BROWN: All right,  
5       then. Thank you.

6               Thank you, Mr. Chairman.

7               COUNCILMAN JOHNSON: So as a  
8       point of information, just give me one  
9       follow-up statement. In some cases the  
10      contractors who were going out will tell  
11      residents throw away everything, you'll  
12      be compensated for it, and then residents  
13      will also get a totally different message  
14      from the City.

15              So what's the process in how  
16      the City goes out and selects the  
17      contractors to come out to do their work?  
18      How do you pick --

19              MS. KENNEY: The contractors  
20      are selected through the Water  
21      Department, so I'm not sure of their  
22      process in selecting.

23              COUNCILMAN JOHNSON: We do have  
24      representatives here from the Water  
25      Department. We have Christine Knapp and

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       Scott Schwarz who are available for  
3       questions. But I'm looking at the  
4       coordination between, I guess it would  
5       be, the contractors, Water Department,  
6       Risk Management. Is everyone speaking  
7       the same message when they go out to the  
8       community? Because the community is  
9       saying something totally different. And  
10      me just working in government over a  
11      period of time, it's usually more people  
12      aren't speaking with one voice. It's  
13      usually one person over here, one person  
14      over here, one person over here, and  
15      oftentimes the message isn't coming  
16      together in sync.

17                   MS. KENNEY: And I will say  
18      this was a tragedy and this was something  
19      that no one had ever seen before. It did  
20      look like the last days. I mean, I was  
21      down there. It looked like the last  
22      days. So when our contractors went in,  
23      they may have said, Let's just get rid of  
24      everything; there's no way that things  
25      could be salvaged. That may have

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       happened. I don't know. I was not going  
3       house to house with the contractors, but  
4       I know some people had really, I mean,  
5       several feet of water in their homes and  
6       so it would look like it was a total  
7       loss, the contents. Could some of those  
8       things have been salvaged? Possibly. I  
9       think that they went in and saw the  
10      amount of water, the contractors, and  
11      probably -- I don't want to speak for  
12      them, but probably felt that it was a  
13      total loss.

14                   COUNCILMAN JOHNSON: Okay.  
15      Councilwoman Brown.

16                   COUNCILWOMAN BROWN: Yes.  
17      Could you please provide to the Chair the  
18      document that those two departments used  
19      when addressing a crisis of this type,  
20      also known as the playbook? Provide  
21      whatever you use --

22                   MS. KENNEY: Okay. So we deal  
23      with the --

24                   COUNCILWOMAN BROWN: No, no,  
25      no. Provide the written document --

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   MS. KENNEY: The written  
3       document?

4                   COUNCILWOMAN BROWN: -- to the  
5       Chair of the Committee, yes.

6                   MS. KENNEY: I can see if I can  
7       locate a document that says that. Okay.

8                   COUNCILWOMAN BROWN: Thank you.  
9       Thank you, Mr. Chairman.

10                  COUNCILMAN JOHNSON: Thank you  
11       very much. Thank you for your testimony.  
12                   Just one real -- go ahead.

13                  MS. ROSENBERG: May I make a  
14       comment on that?

15                   I would just like to say that  
16       as far as when we were told about the  
17       possible cap, we had our first  
18       neighborhood meeting with Risk Management  
19       Office and Water Department -- I don't  
20       remember exactly who was there, but it  
21       was our first neighborhood meeting  
22       sometime after the flood, maybe within a  
23       few weeks, and at that meeting, the  
24       residents specifically asked about the  
25       cap, because some people had already

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       known about it or heard about it and  
3       asked, and we got the answer from Risk  
4       Management that it's never happened in  
5       the history of water main breaks in the  
6       City and we don't anticipate it here.  
7       And that was what we were told. And that  
8       wasn't the next day. That was during our  
9       first meeting. And like I said, I don't  
10      remember the timeframe, but we were told  
11      it's probably not going to happen. It  
12      hasn't happened before and we don't  
13      expect it now. That's what we were told.  
14      So don't worry about it.

15                   COUNCILMAN JOHNSON: Thank you  
16      very much.

17                   MR. DALZELL: Mr. Chairman, if  
18      I may, I'd like to second that. I took  
19      the notes for those meetings and put them  
20      on the website. And Mr. Scott was a  
21      professional, I can say that, and it was  
22      clear, I think, but at the same token, he  
23      very much said this is a very, very  
24      unlikely case and highly doubts that it's  
25      going to happen. And an unprecedented

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       case should, I believe, require  
3       unprecedented outreach and engagement by  
4       City officials and state officials to  
5       guide us so that the neighbors aren't  
6       left floating in the breeze trying to  
7       figure it out for themselves.

8                   COUNCILMAN JOHNSON: Great.  
9       Thank you. Thank the both of you.

10                  MS. ROSENBERG: Thank you.

11                  COUNCILMAN JOHNSON: Just one  
12       real quick question, Mr. Sullivan, from  
13       Exelon. Can you come back up to the  
14       microphone just real quick.

15                  (Witness approached witness  
16       table.)

17                  COUNCILMAN JOHNSON: Exelon is  
18       a national company, correct?

19                  MR. SULLIVAN: That's correct.

20                  COUNCILMAN JOHNSON: How many  
21       other subsidiaries do you have besides  
22       PECO under Exelon?

23                  MR. SULLIVAN: As far as  
24       utility distribution companies, we have  
25       three. Baltimore Gas and Electric and --

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               COUNCILMAN JOHNSON: Say it one  
3       more time. Baltimore Gas and Electric?

4               MR. SULLIVAN: Baltimore Gas  
5       and Electric in Baltimore and ComEd in  
6       Chicago. We also have generation  
7       companies and market merchant companies.

8               COUNCILMAN JOHNSON: Total  
9       revenues for 2014?

10              MR. SULLIVAN: Don't have that.

11              COUNCILMAN JOHNSON: Don't know  
12       off the top?

13              MR. SULLIVAN: No.

14              COUNCILMAN JOHNSON: Do you  
15       know revenues for Philadelphia region for  
16       PECO?

17              MR. SULLIVAN: I do not.

18              COUNCILMAN JOHNSON: At all?  
19       Ball park figure?

20              MR. SULLIVAN: I do not.

21              COUNCILMAN JOHNSON: What's  
22       your position?

23              MR. SULLIVAN: Currently I'm  
24       the Director of Utility Performance  
25       Assessment. I was the former Director of

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       the Philadelphia region in charge of  
3       construction and maintenance.

4                   COUNCILMAN JOHNSON: All right.  
5       Thank you very much.

6                   MR. SULLIVAN: Thank you.

7                   COUNCILMAN JOHNSON: Next  
8       witnesses, please.

9                   THE CLERK: Kathy Perini,  
10       Benjamin Picker, James McLaughlin.

11                   (Witnesses approached witness  
12       table.)

13                   MR. PICKER: Good afternoon,  
14       Councilmembers. My name is Benjamin  
15       Picker. I am the attorney for two of the  
16       claimants who were affected by the water  
17       main break. I'm an attorney with the law  
18       firm of McCausland Keen and Buckman.  
19       Along with Danielle Gordon, who is  
20       sitting on the end here, we have taken  
21       somewhat of a leadership role with the  
22       court in this matter in terms of trying  
23       to bring this to fruition and get it  
24       before Judge Bernstein, who is the  
25       presiding judge, and having a Special

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       Master appointed to handle these claims  
3       since it seemed to be the only fair way  
4       to make this process go forward at least  
5       through court process.

6                 That being said, I have  
7       provided you with written testimony and I  
8       will give you a summary of that right  
9       now.

10                On July 22nd, 2012, a  
11       126-year-old cast iron water main owned  
12       by the City of Philadelphia broke and the  
13       resulting flood, as you know and as we've  
14       heard multiple times already, caused  
15       significant damage to homes, contents,  
16       businesses, underground utilities, and  
17       personal property.

18                Before I go further, I just  
19       wanted to clarify one thing. You had a  
20       question about Verizon's claim. I don't  
21       know if anything officially has been  
22       filed with the court withdrawing that  
23       claim. I vaguely recall something being  
24       filed, but we would have to check on  
25       that.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   On a telephone conference call  
3       involving all of the attorneys who have  
4       entered appearances in the case and Judge  
5       Bernstein, counsel for Verizon did  
6       indicate on the record that their claim  
7       was being withdrawn, and it's my  
8       understanding that, yes, their claim was  
9       withdrawn because they filed a separate  
10      claim. What it turns out apparently is  
11      that the damage to Verizon's underground  
12      lines was not caused by the flood itself,  
13      but was apparently caused by repair work,  
14      and they're taking the position that as a  
15      result, it's a separate occurrence and  
16      they're, therefore, not bound by the  
17      aggregate \$500,000 limit and, therefore,  
18      they could file a separate claim.

19                  So that's my understanding of  
20      what's going on with Verizon, just to put  
21      that aside.

22                  Going back to my testimony,  
23      water main breaks in the City aren't  
24      isolated events. This may be one that  
25      exceeds all of the others or many of the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       others, but they're not isolated events.  
3       According to the Water Department's 2012  
4       comprehensive annual financial report,  
5       954 water mains broke in 2011, 557 broke  
6       in 2012, with an average of 762 annual  
7       water main breaks between the years 2003  
8       and 2012. Now, to me that was a  
9       staggering number. When I saw that, I  
10      was very surprised. Now, I don't know  
11      what the definition of a water main is  
12      that they're using. I assume it's not  
13      necessarily the size of the water main  
14      involved here, but still a staggering  
15      amount.

16                   In fact, a 106-year-old  
17      City-owned water main broke this past  
18      December in the Frankford section of  
19      Philadelphia, causing additional damages  
20      of about \$3 million. So these are not as  
21      isolated as they may seem.

22                   But that being said, I'm not  
23      here to criticize the Water Department.  
24      I think that they do a very good job. I  
25      do think that one thing that needs to

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       occur is make sure that the Water  
3       Department has the necessary funds so  
4       they can keep up with repairing the  
5       infrastructure, including more than  
6       century-old cast iron water mains that  
7       had been there since -- some of them have  
8       been there since colonial times, and we  
9       need to keep up with infrastructure,  
10      whether that's roads, bridges or water  
11      mains, and we need to make sure that the  
12      money is there to do that.

13               COUNCILMAN JOHNSON: Just for  
14      the record, this was actually, from my  
15      understanding -- and the Water  
16      Department, if they want to come and kind  
17      of counter my statement if it's not  
18      correct. This particular water main  
19      break -- this particular water main was  
20      actually in pretty good condition. I'm  
21      not sure how it happened, but it was in  
22      pretty good condition.

23               MR. PICKER: But nonetheless,  
24      very old, and as we know, as things get  
25      older, they tend to break. This one may

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       have been in good condition until it  
3       broke.

4                   COUNCILMAN JOHNSON: And this  
5       one wasn't actually that old either.  
6       Just background information for the  
7       record.

8                   MR. PICKER: I understand it  
9       was 126 years old. Maybe my information  
10      is wrong. I got that from a newspaper  
11      article that was written about the water  
12      main break.

13                  As one might imagine, such  
14      water main breaks often result in  
15      financial hardship for those affected.  
16      Damage like this is usually not covered  
17      by homeowners policies. We have heard  
18      that already. As a result, the only  
19      other option that people have, like they  
20      were trying to do here, is to recover  
21      that money from the City, which is  
22      rightfully liable. There's an exception  
23      to immunity for damage caused by  
24      utilities, which we have here, but  
25      unfortunately there's a \$500,000

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       aggregate cap, which we've heard about,  
3       under the Political Subdivision Tort  
4       Claims Act.

5               Therefore, in the current law,  
6       even if a water main break causes  
7       millions of dollars in damages as it did  
8       here, the City will only pay out half a  
9       million dollars in the aggregate to  
10      everybody affected.

11             According to data provided by  
12      the United States Department of Labor,  
13      Bureau of Labor Statistics, the half a  
14      million dollar cap on damages would need  
15      to be \$1.4 million today to keep up with  
16      inflation when it was passed back in  
17      1980. Looked at another way, half a  
18      million dollars today would have been  
19      only \$175,000 back in 1980 when the  
20      statute was passed. So obviously we're  
21      at a point now where it needs to be  
22      increased.

23             This is an unfair, it's an  
24      arbitrary limitation. It was probably --  
25      the amount was probably set on by

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       compromise when the statute was passed.  
3       I don't believe -- I doubt there was any  
4       specific reasoning behind half a million  
5       dollars as being the number. It's  
6       arbitrary.

7                     But one thing to point out, I  
8       know there's two bills that are in the  
9       state Senate and the House that  
10      Mr. Farnese and -- I'm drawing a blank  
11      on -- Mr. Sims have introduced, but the  
12      City actually has the legal right and  
13      ability to increase their liability as  
14      well through ordinance. It doesn't have  
15      to be done statewide. State and federal  
16      courts have repeatedly held that the City  
17      can do that. They can pass an ordinance  
18      that waives or increases their liability.

19                    Attached to my testimony is a  
20      draft ordinance that I have prepared. I  
21      would appreciate if Councilmembers could  
22      take a look at that and consider whether  
23      you think it's worthwhile to introduce  
24      that ordinance. I'm not going to go into  
25      the details of that really today, but I

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       do ask that you look at that.

3               That being said -- and I think  
4       it's important, because the bills that  
5       have been introduced are sitting in  
6       committee. Senator Farnese's bill has  
7       been sitting in committee for about a  
8       year now. There's no reason to believe  
9       it's going to go anywhere in the current  
10      General Assembly that we have. So I  
11      think the City needs to take some action.

12             Now, what the ordinance would  
13      do -- and I'll be real brief about  
14      this -- is, it would increase the limit  
15      of liability solely related to water main  
16      breaks, because they're clearly a problem  
17      in the City. There's been so many of  
18      them and there's a good chance that next  
19      winter we're going to have lots more of  
20      them and potentially another occurrence  
21      like this.

22             It would increase the liability  
23      from half a million dollars to \$2  
24      million, but it would limit those who can  
25      recover under that increased limit of

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       liability to residential homeowners and  
3       renters. So not businesses, not  
4       utilities, not large multi-state or  
5       multi-national corporations. And I think  
6       that would cut a good balance between the  
7       City's pocketbook and the rights of  
8       citizens to be reimbursed for damages  
9       that were no fault of their own.

10               As you know, PECO has asserted  
11       a claim of approximately one-third of the  
12       total amount of all claims filed in this  
13       case. It may even be more than that.  
14       This is going to cause a substantial dent  
15       in the already reduced amount that each  
16       consumer would receive if the claims are  
17       processed in a pro rata manner. And  
18       there's no reason to believe that the  
19       Special Master could really do it in any  
20       other way but pro rata. But who knows  
21       what he'll end up doing.

22               David Fineman is the Special  
23       Master. He's a well-renowned attorney in  
24       the City of Philadelphia, a very  
25       experienced attorney. My understanding

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       is he's actually the former boss of Judge  
3       Bernstein for many years, the presiding  
4       judge in this case.

5                   I wanted to point out, as for  
6       the \$500, I don't believe that he's going  
7       to be receiving or requesting anything  
8       even close to \$500 an hour. I don't have  
9       the hourly rate that he's going to be  
10      charging. I have asked him what that is.  
11      I have not yet gotten a response. I did  
12      that a couple hours ago. But, yes, that  
13      money is coming out of the half a million  
14      dollars. But other than more money  
15      becoming available, it's really the only  
16      way that this could be done in a  
17      practical manner.

18                   And to echo what we've heard  
19      already, not to take up too much time,  
20      PECO has assets of nearly \$10 billion  
21      from what I read, has more than two  
22      million customers, and as we've heard, if  
23      they pass this on to their customers,  
24      yes, we're talking about a surcharge of  
25      less than 50 cents, one-time surcharge of

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       less than 50 cents for each customer, and  
3       Senator Sims already went into that.

4                   I want to point out one other  
5       thing. The City takes the position that  
6       they could bankrupt us if we increase the  
7       cap or if we make an exception here. If  
8       we do it here, we have to do it in other  
9       situations. I want to point out that one  
10      of -- the large number of claims and  
11      lawsuits that the City handles are civil  
12      rights lawsuits, Section 1983 lawsuits,  
13      which could be anything from excessive  
14      force claims against the police to any  
15      other type of claim that can be brought  
16      under Section 1983 in federal court. In  
17      those claims, there's no cap. The cap  
18      does not apply under the supremacy clause  
19      of the Constitution. It's a federal  
20      statute. The City pays out millions and  
21      millions of dollars on civil rights  
22      lawsuits every year, without regard to  
23      any statutory cap whatsoever. Some of  
24      those claims well exceed a million  
25      dollars.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   So for them to say --

3                   COUNCILMAN JOHNSON: Such as  
4       police brutality, correct?

5                   MR. PICKER: Yes. That would  
6       be one example.

7                   So for them to say that by  
8       raising the cap it's going to bankrupt  
9       them I think is a false argument.  
10       They're already doing that with certain  
11       types of claims that can be in very large  
12       amounts.

13                   So to conclude, water main  
14       breaks are a serious problem in  
15       Philadelphia, as they are in many of the  
16       colonial era cities in the United States.  
17       The City has to be proactive in  
18       protecting its inhabitants from serious  
19       financial hardship that can result from  
20       water main breaks. The City can do this  
21       by increasing the funding it provides to  
22       the Water Department so it can stay ahead  
23       of the problem and through an increase in  
24       its willingness to pay damages to  
25       consumers who are or have been harmed by

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       water main breaks in the City.

3               That being said, I do hope that  
4       one or more members of this Committee  
5       will look over the ordinance that I  
6       proposed and perhaps introduce it at the  
7       appropriate time.

8               Thank you.

9               COUNCILMAN JOHNSON: Thank you  
10      for your testimony.

11              Next.

12              MR. McLAUGHLIN: Good  
13      afternoon.

14              COUNCILMAN JOHNSON: Good  
15      afternoon. State your name for the  
16      record and proceed.

17              MR. McLAUGHLIN: My name is Jim  
18      McLaughlin. I have a written testimony,  
19      but before I go there, I have some  
20      exceptions to things that Cecelia Kenney  
21      said earlier. She said, one, that there  
22      was uniformity, and you'll see in my  
23      written testimony that that was not true  
24      in the case of the way we were not  
25      allowed access to our home the first day.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   And, secondly, she talked about  
3       a special fund that the Water Department  
4       had to reimburse victims, people who  
5       suffered this with all of the repairs for  
6       the first couple of days. And I think  
7       this is really what this testimony is all  
8       about, is those special funds. Why is it  
9       that they were allowed to arbitrarily  
10      apply some of those special funds in that  
11      case, but they aren't applying it to take  
12      care of these claims that actually are a  
13      result of the water main?

14                  So with that, I really do not  
15      like the fact that the Risk Management  
16      Department is claiming that they came out  
17      there and did something a certain way  
18      when we know that's not true.

19                  Now I'll read my written  
20      testimony which I submitted to your  
21      office by Steve Cobb.

22                  My name is Jim McLaughlin. My  
23      partner, Vincent Bechler, and I lived at  
24      2057 Kater Street on the night of July  
25      22nd water main break.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2                   The Fire and Police Departments  
3       told us to evacuate our home the night of  
4       the break. We were told by the City if  
5       we had insurance, we were required to  
6       notify our insurance company before using  
7       City services. We did this on Sunday  
8       night, July 22nd, having made  
9       arrangements to have our house inspected  
10      and cleaned the first thing Monday  
11      morning.

12                   When our contracted cleaning  
13      service and we arrived the following  
14      morning, the City had already blocked off  
15      21st and Kater by their own remediation  
16      trucks contracted by the City. The  
17      police refused to let our service on the  
18      block to clean our house. Our contractor  
19      and his crew were not allowed on our  
20      property for another 24 hours, and they  
21      returned the next morning, Tuesday, the  
22      24th. Meanwhile, uninsured neighbors  
23      were having their homes cleaned starting  
24      early in the morning on Monday, July  
25      23rd. This delay prevented our home from

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       being cleaned on the first day, causing  
3       loss of potential salvageable material  
4       and further property damage. Our home  
5       remained uncleaned for an extra 24 hours,  
6       adding additional expenses to clean,  
7       repair, and restore. We had to move out.  
8       We were not able to stay in the home for  
9       a week until the basic utilities were  
10      restored. The water damage and personal  
11      property was independently verified by  
12      our own remediation company. There was  
13      no assessor coming around to our house  
14      telling us, looking at our damage.

15                   Number two, subsequently  
16      representatives from the City's  
17      Department of Risk Management, Barry  
18      Scott, Cecelia Kenney, and the  
19      Philadelphia Water Department, Howard  
20      Neukrug, John DiGiulio and others, held  
21      community meetings to address issues  
22      related to the break and provide  
23      guidelines for filing claims for losses.  
24      They acknowledged there was a limited  
25      amount of money, \$500,000, available to

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       compensate for losses.

3               In every meeting we were told  
4       by Mr. Scott claims for these types of  
5       events rarely exceeded \$300,000. We were  
6       never -- I want to repeat that. We were  
7       never told the self-insured utilities  
8       such as PECO and Verizon would be  
9       eligible to participate in this claim.  
10      It's our understanding they have their  
11      own insurance. We were never, ever told  
12      that in these meetings that they were  
13      allowed to participate in this.

14              We were told if claims exceeded  
15      \$500,000, they would have to be turned  
16      over to a judge to determine the  
17      dispensation of funds.

18              We were never told the judge  
19      would be permitted to use the money from  
20      those funds to pay for a Special Master  
21      to review the claims; therefore, reducing  
22      money available for compensation.

23              Number two, with no state or  
24      federal disaster money available to help  
25      with reconstruction and restoration, we

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       were never offered any financial  
3       assistance by the City or any City  
4       representative to help us with this  
5       disaster.

6                   For the next three months, we  
7       lived in a construction zone and all that  
8       implies, dirt, noise, traffic, stress, et  
9       cetera. We made considerable  
10      out-of-pocket expenses to restore our  
11      home to the condition it was prior to the  
12      event.

13                   Since that time, we have become  
14      defendants in separate lawsuits filed by  
15      former neighbors who have stated in their  
16      filings, and I will quote from the  
17      lawsuits, "some or all of the other  
18      claimants have inflated or exaggerated  
19      the amount of their claims or have  
20      otherwise failed to prove the full amount  
21      of their claims." We declare the  
22      validity of our claim based on the City's  
23      recommendations, our insurance company,  
24      and our remediation service-provided  
25      documentation, including receipts and

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       photos to the City. If anything, we  
3       understated the value of our claim  
4       because we did not include additional  
5       charges for the extra days the  
6       remediation team was not permitted to  
7       work by the City.

8                   What do we want? Removal of  
9       the self-insured utilities from the  
10      claims.

11                  Second, we want extra funds  
12      from the City to compensate for the  
13      differences between what was limited by  
14      the state law and what was actually  
15      claimed by us and other parties. Our  
16      Councilman, Mayor Nutter, members of the  
17      Water Department who were witness to the  
18      damages who were in my home, the Mayor  
19      was in my home, the Water Department was  
20      in my home, all personally made  
21      statements to us the City would make  
22      good. We expect them to do so.

23                  We want separate funds to pay  
24      for the Special Master, and we want full  
25      compensation for our claims as filed,

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       which is neither exaggerated nor  
3       inflated.

4                   So just again to reemphasize,  
5       the Risk Management Department came up  
6       here and said everything was uniform. We  
7       could not and were not allowed to have  
8       trucks -- have our own contracted service  
9       on the street that morning. The street  
10      was blocked off with their own City  
11      plans. We went to the police, had  
12      blocked off 21st and Kater Street. We  
13      had a truck waiting at the corner of  
14      Lombard and 21st all day long, trying to  
15      get on the block. We were refused by  
16      these playbook that didn't exist.

17                   So what she said was flat-out  
18      wrong, needs to be on the record that  
19      what she said was wrong. I do not like  
20      the fact that she's up here saying  
21      something like that knowing that it's  
22      true. The Water Department knows that  
23      our group wasn't there. We have our  
24      remediation service who knows that they  
25      were not allowed on there. It's not

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       true.

3                       Secondly, again, just to  
4       reemphasize, this humanitarian effort  
5       fund that the Water Department has is  
6       exactly what you need in a case like  
7       this. She mentioned it. We know it  
8       exists. It needs to be applied fairly,  
9       especially in these kind of crises.

10                      Thank you.

11                      COUNCILMAN JOHNSON: Thank you.  
12       I just want to clarify something just  
13       real quick. The name of the fund is  
14       called the humanitarian?

15                      MR. McLAUGHLIN: She mentioned  
16       it. Cecelia Kenney mentioned that the  
17       Water Department had a special  
18       humanitarian fund that helped pay to  
19       replace the appliances and they helped --  
20       which they did. We were able to get our  
21       water heater replaced. We were able to  
22       get our furnace replaced. She just said  
23       here they used their own special  
24       humanitarian fund to pay for that. Why  
25       isn't that available for the rest of the

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       claims?

3                   COUNCILMAN JOHNSON: Would you  
4       clarify that statement, please.

5                   MS. KENNEY: It is not called a  
6       humanitarian fund, but whenever there is  
7       a water main break and homeowners are  
8       affected, the Water Company has contracts  
9       with different facilities that will go in  
10      and do a clean-up effort and they will  
11      replace air conditioners, heaters, and  
12      hot water heaters so that the house is  
13      livable again. Those are funds to  
14      mitigate the damages on a claim, and  
15      they're considered humanitarian efforts  
16      because they allow the person to reside  
17      in their home. So the Water Company does  
18      that.

19                   And as far as the streets being  
20      blocked off and things like that, after  
21      the City had gotten the houses cleaned  
22      out, the Streets Department went in with  
23      trash trucks to pick up all the trash.

24                   MR. McLAUGHLIN: That is not  
25      true. No. That is totally different

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       from what I'm talking about. I'm talking  
3       about Monday morning when there was no --  
4       no. What I'm talking about is before  
5       there was any trash on the street, they  
6       would not let our truck on the street,  
7       period. They had their own City  
8       department -- we were told we were  
9       required to use our insurance company.  
10      We followed the law. We paid out of  
11      pocket, and we find out that the City  
12      is -- we have to pay to let them wait  
13      because they are cleaning out others for  
14      free.

15                   MS. KENNEY: As far as I'm  
16      aware, the City did not close streets.

17                   MR. McLAUGHLIN: That is not  
18      true.

19                   MS. KENNEY: I am unaware --

20                   MR. McLAUGHLIN: Please put  
21      that on record that is untrue.

22                   COUNCILMAN JOHNSON: Okay. All  
23      right. So this is what I want to do,  
24      because I think our overall goal is to  
25      try to take a look at all this that took

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       place and as we move forward, try to find  
3       some type of way to rectify the issue.  
4       But it is noted for the record the exact  
5       details from your perspective what  
6       happened and also your response to it.  
7       So I just want to thank you for your  
8       testimony as well.

9                       Next.

10                    MS. GORDON: Councilman, my  
11       name is Danielle Gordon. I'm an attorney  
12       for two of the claimants in this matter,  
13       Kathy Perini and Kim Millner, who were  
14       some of the largest residential claimants  
15       in this matter. They suffered over  
16       \$74,000 worth of losses, structural and  
17       personal property damage alone, which is  
18       part of the reason that I'm here today.

19                    I had not planned to speak  
20       much, but I did want to make some  
21       comments in light of what I heard  
22       specifically from PECO today, because to  
23       the extent that Council's ability or  
24       willingness to make changes to the  
25       immunity cap is influenced at all by

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       PECO's willingness or position in this  
3       claim, I just wanted to address some of  
4       those remarks.

5               Counsel for PECO today stated,  
6       and this is almost a quote, that they're  
7       not looking at this claim any differently  
8       from any of their other claims, and I  
9       think that is precisely the problem here.  
10      PECO's other incidents don't have the  
11      same issue of a cap. They're in the  
12      private context, or even when they are in  
13      a public context, it doesn't necessarily  
14      involve this kind of cap, and that's  
15      something that we heard from their  
16      counsel today. This was something that  
17      in at least recent memory has not  
18      happened before, a claim of this  
19      proportion.

20             So I think that it's critical  
21      that PECO does consider looking at this  
22      claim in a different light. And I'm  
23      encouraged by some of the comments that  
24      I've heard today, although they're  
25      perhaps understandably non-committal,

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       that there is a willingness within PECO's  
3       corporate structure to consider  
4       compromise of their claims, and I think  
5       that's very important, because this is  
6       not a claim like every other claim. This  
7       is certainly unique, and that's why we're  
8       here today, and I would thank the Council  
9       for taking the time to hear from the  
10      citizens. I would pass it on to Kathy  
11      Perini.

12                   MS. PERINI: Hello. I'm  
13      Kathleen Perini and I reside at 621 South  
14      21st Street, which is at the direct  
15      corner of 21st and Bainbridge, straight  
16      in front of the gigantic hole in the  
17      water main. So my house took full brunt  
18      of the force and the amount of water and  
19      mud.

20                   Honorable Councilmembers, my  
21      husband and I appreciate the opportunity  
22      to tell you how we were affected by the  
23      City's water main break in July of 2012.  
24      The damages we incurred as a result of  
25      the City's water main break exceed

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       \$74,000, approximately half of which is a  
3       result of structural damage.

4               On July 22nd, 2012, our home,  
5       which is located directly in front of the  
6       crack in the City's water main, was  
7       pounded for hours on end by water  
8       spraying at full force from the break.  
9       The basement of our home filled with 8  
10      feet of mud and water. Our electrical  
11      system, heating and air conditioning  
12      units, hot water heaters, and wiring to  
13      our first floor were destroyed. Our  
14      heating ducts were filled with mud.  
15      Water and mud infiltrated the first floor  
16      of our home, ruining my home office floor  
17      and the lower part of the walls. Our  
18      first floor one-bedroom rental unit was  
19      also destroyed.

20             Then there was the mass  
21      disposal of our lifelong personal  
22      belongings, this after about a day of not  
23      being allowed back near our property.  
24      And we weren't also home when the break  
25      took place. We were returning home and

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       were never even allowed to get anywhere  
3       close to our property to even try to save  
4       anything in our basement.

5               When removed to the street, the  
6       ruined contents of our home were piled 4  
7       feet high and stretched on for half a  
8       block. The gas leak that occurred the  
9       following morning prompted the Fire  
10      Department to break down our doors while  
11      we screamed from behind barricades up the  
12      block that we had the keys.

13             Our home was uninhabitable for  
14      months after the flood. We were not able  
15      to return for over two months while we  
16      arranged for repairs to restore utilities  
17      and to make it safe and livable, at least  
18      on the upper two floors. We lost three  
19      months of rental income and spent every  
20      night and weekend and days taken off from  
21      work to help make the repairs and fix the  
22      apartment so our tenant could return. We  
23      hired tradesmen. We painted and tiled  
24      ourselves. This was all done out of  
25      pocket.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               All along in those very early  
3       days, we were assured by various City  
4       employees not to worry. They were  
5       sympathetic that we would be okay and we  
6       would be made whole. Even Mayor Nutter  
7       spoke with me on site in the wake of the  
8       flood to assure me and the other  
9       homeowners nearby that all would be okay.

10              We are here today because  
11       clearly everything is not okay. Like  
12       most of the homeowners here, our insurer  
13       denied our claim because it was caused by  
14       a flood, which is not a condition anyone  
15       would have reasonably expected in this  
16       neighborhood. If the Water Department  
17       had not replaced some of our utilities  
18       and made certain immediate basic repairs,  
19       I estimate that our total losses would  
20       exceed \$200,000 and we would be bankrupt.

21              I emphasize these facts in  
22       order to make clear how very badly  
23       damaged our home was and still is even to  
24       this day. We are still fearful of our  
25       financial ability to complete the needed

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       repairs to our first floor, which is  
3       still, almost two years after the flood,  
4       gutted without lower walls, insulation,  
5       and flooring on our side of the unit.  
6       The rental unit has been repaired.

7               In addition to the havoc that  
8       we experience on a day-to-day basis as a  
9       result of the City's water main break,  
10      what is particularly troublesome is the  
11      prospect that we stand to not be  
12      compensated for the damages we suffered  
13      as a result of an event that was entirely  
14      not our fault.

15             As you are aware at this time,  
16      the City has invoked immunity for damages  
17      over \$500,000 arising out of this  
18      incident. This means that all claimants  
19      must make their claim against the same  
20      limited fund in order to be reimbursed  
21      for damages caused by the City's  
22      infrastructure failure. In order to  
23      determine how this amount should be  
24      distributed, a Special Master has been  
25      appointed. His fees will be further

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       deducted from the paltry amount available  
3       for distribution.

4                   It has been particularly  
5       gut-wrenching to know that the fate of  
6       our reimbursement is subject to  
7       essentially a technicality, even in  
8       clear-cut situations such as this where  
9       blameless victims have suffered damages  
10      far in excess of the funds that the City  
11      has made available. It is unsettling to  
12      know that if my husband and I had been  
13      individually injured by the City, we  
14      would have been eligible for just  
15      compensation because our claim would have  
16      fallen under \$500,000 -- under the  
17      \$500,000 immunity cap. However, because  
18      we were damaged along with many other of  
19      our neighbors, we have not been made  
20      whole. This is a perverse result that  
21      the worse the disaster is, the less the  
22      individual victims stand to recover.

23                   I do not believe that this is  
24      the fate that you, our representatives,  
25      intend to enforce against individuals

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       that did nothing to deserve it, nothing  
3       except pay taxes and try to maintain our  
4       homes and neighborhood to the best of our  
5       ability. The fact that you have taken  
6       the time to hear from us today gives me  
7       tremendous hope. I know I speak for many  
8       when I say thank you for listening to us,  
9       looking us in the eye and doing  
10      everything possible to address this  
11      situation. You have the ability to do  
12      what is right for us.

13               My husband and I currently  
14      stand to recover, if we were lucky,  
15      approximately one-tenth of the damages  
16      that the City's water main break caused  
17      to our house. We have lived under  
18      construction for two years while we have  
19      waited for the City to take action. We  
20      humbly request that Council consider the  
21      magnitude of what has happened to us and  
22      our neighbors when the City's water main  
23      broke and flooded our homes. We implore  
24      you to do what is right and allow the  
25      homeowners to recover what we deserve for

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       the damages caused by this disaster.

3               Thank you very much.

4               COUNCILMAN JOHNSON: Thank you  
5       very much as well.

6               Any questions from the panel,  
7       from the Committee?

8               Councilman Henon.

9               COUNCILMAN HENON: I just want  
10      to say that we are truly disappointed in  
11      the kind of relief that you have received  
12      so far, and although the City does a  
13      great job, it's unfortunate that you have  
14      to come here in response to having a  
15      public hearing as Councilman Johnson has  
16      put together, and hopefully we can get to  
17      some sort of resolve on this.

18              So I certainly don't know what  
19      you're experiencing as far as that kind  
20      of loss, but I can only imagine the  
21      inconvenience that you have to go  
22      through. So we here at City Council,  
23      with the Councilman's leadership, will be  
24      taking this as far as we possibly can to  
25      help mitigate some of your issues.

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2               So thank you for coming in.

3               MS. PERINI: Thank you.

4               COUNCILMAN JOHNSON: Thank you  
5       for your testimony.

6               Please call the next witness.

7               THE CLERK: Barb Failer.

8               (Witness approached witness  
9       table.)

10              MS. FAILER: Good afternoon.  
11       My name is Barbara Failer and I live at  
12       620 South 21st Street. It's four doors  
13       down from the crater.

14              I was not home when the water  
15       main break occurred on the 22nd of July  
16       2012. I was returning from out of town  
17       after having major back surgery, and when  
18       returning home, I received the news via  
19       e-mail.

20              In addition, due to mechanical  
21       problems with the plane, my return was  
22       delayed 24 hours, so I did not get home  
23       until a day after most of my neighbors  
24       had already begun the restoration  
25       process. I was in a back brace with a 6

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       and 3-inch incision healing and unable to  
3       lift anything until the hardware in my  
4       back was more stable, which was several  
5       months out.

6               Because I was not home, I was  
7       unable to remove anything from my  
8       basement as the incident occurred. Like  
9       my neighbors, I lost all major  
10      appliances. Despite the fact that I kept  
11      everything at least a foot off the  
12      basement floor, I lost all my winter  
13      sweaters and most of my winter clothing,  
14      in addition to any other clothing items  
15      in the laundry area. The water and mud  
16      were over 3 feet high.

17             Since the water was so high,  
18      many of the business and personal files I  
19      kept in the basement filing cabinets were  
20      lost, such as journal-published articles,  
21      my senior thesis, et cetera. I also lost  
22      tools, paint, extra kitchenware like a  
23      grill and dishes. I had kept one trunk  
24      with memorabilia, childhood toys, letters  
25      from my grandmother, et cetera. They all

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       drowned. This is typical of, I think,  
3       the experience of everybody in my  
4       neighborhood.

5               I have no complete inventory of  
6       what was destroyed, as the items were  
7       thrown out faster than I could keep track  
8       by the restoration companies. Like most  
9       of my immediate neighbors, I am certain  
10      that my claim is incomplete.

11             Since power was purposely shut  
12      off for a while, I had to throw out all  
13      the food in my refrigerator. I had  
14      stocked the freezer to provide easily  
15      cooked meals for my post-surgery recovery  
16      process. My basement windows washed out  
17      and I was unable to secure them until my  
18      insurance company determined if they  
19      would cover any part of the claim. While  
20      a limited portion of my claim was paid,  
21      most of this loss was not covered by  
22      insurance. My home was infested with  
23      mice for several months. I didn't even  
24      think of trying to prepare any food at  
25      home. I ate prepared take-out food all

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       summer. I also felt very insecure. My  
3       mobility was limited and our street was  
4       closed at night with huge concrete  
5       barriers. My windows were, in effect,  
6       open.

7                   I don't present these facts to  
8       whine. I have many neighbors who were in  
9       much worse shape than I was. They lost  
10      foundations, kitchens, electric boxes,  
11      rental units, rental income, even more  
12      personal property than I did. Most of us  
13      found places to stay with neighbors and  
14      friends, both to be nearby and to keep  
15      the cost of our claims down. We helped  
16      each other. The Water Department  
17      employees who worked on our street; in  
18      other words, the guys digging the ditches  
19      with holes for close to three months,  
20      were very polite and very helpful.

21                  I do, however, have a problem  
22      with the claims process. Ms. Kenney from  
23      the City simultaneously pushed us all to  
24      file claims quickly, keep the amounts  
25      down, and assured us the City would pay

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       us back in full. She knew our insurance  
3       would not cover the claims and explained  
4       that we needed a denial of coverage  
5       letter from our insurance carrier. That  
6       repayment obviously has not occurred.

7               While I know that state law  
8       permits the City to limit payments, I do  
9       find it immoral under the circumstances.  
10       I worry that I will lose wonderful  
11       neighbors who can no longer afford to  
12       stay after sustaining such huge losses.  
13       I find myself discouraged that every time  
14       we suggested to a city or state  
15       representative that we find some way to  
16       compensate us, such as a tax credit that  
17       stays with the property, we have been  
18       rebuffed. At the same time, we face  
19       dramatically higher property taxes this  
20       year.

21               And I would like to note at  
22       this point, because it has come up from  
23       prior testimony even though this is not  
24       in my written notes to you, the  
25       contractors that were hired were City

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       employees. They did not work for us as  
3       homeowners. They worked for the City.  
4       They did not report to the homeowners.  
5       Therefore, they were under no obligation  
6       to us to inventory for us, to provide us  
7       a copy with any records of the work they  
8       did. We to this day do not have  
9       warranties for the water heaters or  
10      furnaces that were put in our homes  
11      because the City purchased those  
12      appliances and the purchaser holds the  
13      warranty on those items.

14                I recognize the City has  
15      financial problems. That said, when an  
16      extraordinary event such as a 40-inch  
17      water main damages over 90 homes and cars  
18      and neighborhood residents, it shouldn't  
19      be the affected residents' sole  
20      responsibility to fill that gap. We  
21      residents are victims. We're not a  
22      nuisance claim. We are unlikely to even  
23      get 20 cents on the dollar. We continue  
24      to live without many of the items we used  
25      to have. This ignores the hours of time

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       we have all spent trying to complete  
3       claims forms, file legal papers and, in  
4       some cases, hire a lawyer, sort through  
5       what is left of our belongings and clean  
6       up the rest of the mess.

7               No one on my block understands  
8       why PECO has filed a claim since our  
9       electric lines are overhead and we never  
10      lost power in the area. I cannot  
11      comprehend why Veolia Energy, a large and  
12      sophisticated entity, was added to the  
13      claim this year when the claims deadline  
14      was a year ago January. These utilities  
15      have the ability to insure or self-insure  
16      against such problems, and I am certain  
17      they face them every year. The location  
18      may vary, but they know they will make  
19      some repairs when located near other  
20      utility lines. They should be removed  
21      from the claim.

22             The City has set the claims  
23      process up in a way that makes it most  
24      difficult for homeowners to collect. We  
25      have been required to sue each other for

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       a small portion of what is owed us after  
3       paying a City employee to adjudicate the  
4       claims. The correspondence from the City  
5       was written in legalese. I had to have  
6       my neighbors with legal training help me  
7       understand it. I suspect many of those  
8       affected still don't understand it. I  
9       don't think that's coincidental.

10               I had to find the  
11       Prothonotary's Office to enter an  
12       appearance, yet another expense and  
13       complication, since I didn't even know  
14       what the Prothonotary is. I doubt most  
15       of my neighbors do.

16               We neighbors do not behave in  
17       an adversarial way towards each other.  
18       We generally do the opposite and do  
19       everything we can to help each other out.

20               The City and the state need to  
21       both find the resources to reimburse our  
22       losses and to fix the law to cover these  
23       losses or require insurance carriers to  
24       do so in the future. In our case, the  
25       City should be embarrassed not to have

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.

2       long since refunded our losses as they  
3       publicly -- as City officials publicly  
4       promised to do.

5               We have also never gotten an  
6       explanation of what caused this problem.  
7       While this is an old city with an old  
8       infrastructure, the water valve for one  
9       of the major lines at this intersection  
10      was replaced about a decade ago. Was the  
11      repair faulty? I am left wondering if we  
12      are at particularly high risk given our  
13      proximity to both a 30-inch and 40-inch  
14      water main. We have no answers to these  
15      questions.

16             While I have enjoyed living in  
17      the City for over 30 years and I really  
18      like my neighbors, I have begun to  
19      question why I should stay. This concern  
20      is elevated by another infrastructure  
21      event that destroyed five homes on the  
22      2300 block of Naudain, only a few blocks  
23      ago very recently.

24             I and my neighbors would like  
25      you to figure out how to repay us in full

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       for the damage that the City has done to  
3       our homes and our property. For my  
4       neighbors with huge bills, who have had  
5       to borrow money, I believe they should be  
6       repaid interest and legal expenses as  
7       well. And I guess to all of you who are  
8       thinking about this, perhaps another  
9       thing to consider is an extraordinary  
10      situation fund, whether that be citywide  
11      or statewide. I know Senator Farnese was  
12      here earlier. I'll pass that along to  
13      him. Obviously not every situation is of  
14      this magnitude.

15                   But thank you very much for  
16      your time and your consideration. We do  
17      appreciate you hearing us out, and we  
18      appreciate any help you can provide us.

19                   COUNCILMAN JOHNSON: Barb,  
20      first I want to say thank you for your  
21      testimony. And we will, one, for  
22      everyone who has given testimony review  
23      the information, see how we can get to  
24      some type of resolve. Again, I will  
25      publicly on two sides, on two fronts

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       appeal to PECO to strongly consider  
3       however you can be flexible as it relates  
4       to your claims in this process. And then  
5       also there were some commitments made  
6       from individuals representing the  
7       Administration in the City regarding this  
8       whole process that we will go back to the  
9       drawing board and take a hard look at it  
10      and ask some more tough questions, and so  
11      as you move forward, try to figure out  
12      some type of resolve.

13                   Mr. Picker, can you come up to  
14      the front as well.

15                   (Witness approached witness  
16      table.)

17                   COUNCILMAN JOHNSON: Regarding  
18      your legislation, give us the background  
19      in terms of how your legislation preempts  
20      state law regarding the \$500,000  
21      liability cap.

22                   MR. PICKER: When you say  
23      "preempts state law," in my remarks that  
24      I prepared that you have before you,  
25      Councilman Johnson, I do make reference

1       6/6/14 - TRANSPORTATION - BILL 140141, etc.  
2       to various federal and state cases. They  
3       lay out the authority for a Philadelphia  
4       ordinance to, in a sense, as you said,  
5       preempt or supercede the state law  
6       setting a cap on damages. So there is  
7       authority, particularly based on the Home  
8       Rule Charter, to pass an ordinance that  
9       would increase the liability  
10      notwithstanding state law.

11               COUNCILMAN JOHNSON: Okay. All  
12      right. Thank you. I just wanted to get  
13      some clarity. I'm going to have my  
14      staff, he'll do his legal research on it.  
15      I just wanted to get some additional  
16      information from you for putting forth  
17      the idea.

18               I want to thank everyone for  
19      coming out and for their testimony, and  
20      this concludes the hearing on Resolution  
21      140027. Thank you very much.

22               (Committee on Transportation  
23      and Public Utilities concluded at 4:15  
24      p.m.)

25               - - -

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CERTIFICATE

I HEREBY CERTIFY that the  
proceedings, evidence and objections are  
contained fully and accurately in the  
stenographic notes taken by me upon the  
foregoing matter, and that this is a true and  
correct transcript of same.

-----  
MICHELE L. MURPHY  
RPR-Notary Public

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direct control and/or supervision of the  
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