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COUNCIL OF THE CITY OF PHILADELPHIA

3

PUBLIC HEARING

4

BEFORE THE COMMITTEE OF THE WHOLE

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Room 400, City Hall
Philadelphia, Pennsylvania
Monday, March 26, 2001
10:50 a.m.

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BILL NO. 000708-Authorizing transfers in
appropriations from the Grants Revenue Fund to the
General Fund.

BILL NO. 000709-Authorizing transfers in
appropriations from the Grants Revenue Fund to the
General Fund.

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PRESENT:

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COUNCILWOMAN ANNA C. VERNA, Chair
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN JAMES F. KENNEY
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COUNCILWOMAN JOAN L. KRAJEWSKI
COUNCILMAN RICHARD T. MARIANO
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN MARIAN B. TASCO

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Eleven Penn Center Plaza, Suite 600
Philadelphia, PA 19103
(215) 561-2220

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BILLS 000708 and 000709

PAGE

4

Debra Kahn, Secretary of Education-----3

Bill Carapucci, Recreation Department-----9

5

Rhonda Chatzkel, Chief Financial Officer-----11

Kenneth I. Trujillo, City Solicitor-----15

6

Janice Davis, Director of Finance-----34

Pedro Ramos, President, School Board-----109

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1 BILL NOS. 000708 and 000709

2 PRESIDENT Verna: Good morning. This is
3 a Public Hearing of the Committee of the Whole.

4 I would ask Mr. McPherson to please read
5 the title of Bill Nos. 708 and 709.

6 MR. MCPHERSON: Bill No. 708, an
7 Ordinance authorizing transfers and appropriations
8 for Fiscal Year 2001 from the Grants Revenue Fund,
9 the Director of Finance-Provision for other grants
10 to the General Fund, certain or all city offices,
11 departments, boards, and commissions.

12 Bill No. 709, An Ordinance authorizing
13 transfers and appropriations for Fiscal Year 2001
14 from the Grants Revenue Fund, the Director of
15 Finance-Provision for other grants to the General
16 Fund, certain or all city offices, departments,
17 boards, and commissions.

18 PRESIDENT Verna: Thank you. Ms. Kahn,
19 are you going to testify first?

20 MS. KAHN: Yes, I am.

21 PRESIDENT Verna: Please identify
22 yourself for the record and proceed with your
23 testimony.

24 DEBRA KAHN: I will. Good morning,
25 Council President Verna, Councilwoman Miller, and

1 BILL NOS. 000708 and 000709

2 Council Members. I am Debra Kahn, Secretary of
3 Education for the City of Philadelphia.

4 And on behalf of the Administration, I
5 want to thank you for this opportunity to testify in
6 favor of City Council Bills 708 and 709, which would
7 transfer 20 million and 25 million dollars
8 respectively from the Grants Revenue Fund to the
9 Department of Recreation.

10 These two transfer ordinances are
11 intended to provide \$45 million in additional
12 funding to the School District in the current fiscal
13 year 2000-2001.

14 The Administration proposes that these
15 funds will be used by the Department of Recreation
16 to prepay the School District for its use of School
17 District facilities over the next ten years through
18 a license agreement.

19 Joining me at the table are the deputy
20 Commissioner of the Department of Recreation, Bill
21 Carapucci; City Solicitor, -- and -- Ken Trujillo;
22 and the Chief Financial Officer for the School
23 District, Rhonda Chatzkel.

24 The School Board has a regularly
25 scheduled meeting today, but I do expect the Board

1 BILL NOS. 000708 and 000709

2 President, Pedro Ramos, will be in the chamber
3 shortly, and he will be available to answer any of
4 your questions.

5 The School District will use the funds
6 proposed for transfer via these ordinances for two
7 purposes.

8 First, the \$20 million will satisfy the
9 budget accord reached between the city and
10 Commonwealth on May 31 of 2000.

11 Under this accord the Commonwealth, the
12 city, and the School District each agreed to take
13 steps to ensure that the School District had
14 sufficient cash to meet its obligations through
15 Fiscal Year 2001.

16 The city's contribution was a pledge
17 from Mayor Street to request \$20 million from City
18 Council on top of what already had been approved for
19 the School District in the city's 2001 budget.

20 This accord, as we will remember,
21 enabled the School District to operate schools for
22 this entire school year.

23 The additional \$25 million will provide
24 cash to cover the one-time bonuses of \$1,000 each
25 that were paid to all PFT members on December 1,

1 BILL NOS. 000708 and 000709
2 2000, pursuant to the terms of the new contract that
3 was approved by the School Board on November 3 of
4 last year.

5 The Department of Recreation's use of
6 School District facilities is an example of a
7 successful partnership between the city and the
8 district that goes back for years and that involves
9 the efficient use of facilities for the benefit of
10 all of Philadelphia's children, even those who do
11 not attend our public schools.

12 The idea of having the city pay the
13 School District for the Department of Recreation's
14 use of district facilities was first proposed by the
15 city controller several years ago.

16 In his 1997-'98 mid-year special report
17 on the School District, the controller recommended
18 that the city pay the district for the Department of
19 Recreation's extensive use of School District
20 properties.

21 In the past year alone, the total cost
22 for the recreation department's use of these
23 facilities was \$5.7 million, based upon the hourly
24 cost of overtime pay for the building engineers and
25 the cost of heating and lighting facilities.

1 BILL NOS. 000708 and 000709

2 Needless to say, this represents a
3 significant expenditure for the district for which
4 there is now no dedicated funding source.

5 It also represents an expenditure for a
6 very desirable public purpose, but for one that is
7 not the district's core purpose of educating more
8 than 200,000 of Philadelphia's children.

9 Although the district invoices the city
10 for the recreation department's use of these
11 facilities, the city has not paid these bills.

12 We are proposing that the city pay for
13 the Department of Recreation's use of School
14 District facilities through a license agreement.

15 This agreement would formalize a
16 long-standing relationship between the parties and
17 would reimburse the district for the costs
18 associated with providing facility, services, and
19 personnel to the city.

20 Under the license agreement, the city
21 and the School District would enter into a one-year
22 license with nine one-year renewal terms, under
23 which the city will pay for services related to the
24 use of School District property by the recreation
25 department.

1 BILL NOS. 000708 and 000709

2 The annual licensing fee is tied to
3 current usage costs of 5.7 million, but the city
4 would receive a discount for prepaying the renewal
5 terms.

6 Under this scenario, the city would pay
7 the district a fee of \$45 million in the first year
8 of the agreement.

9 In exchange, the city would be given
10 preferential rights to use the facilities when they
11 are not in use by the School District on an
12 unlimited basis over the ten-year term of the
13 agreement.

14 In the unlikely event that the School
15 District exercised its right not to renew the
16 license, the city would be repaid the unused balance
17 of the licensing fee with interest.

18 I will now ask Deputy Commissioner
19 Carapucci to explain how the Department of
20 Recreation uses the School District facilities.

21 Rhonda Chatzkel will then explain how
22 the district calculates the costs associated with
23 this and review the School District's current cash
24 flows.

25 And, finally, Ken Trujillo will discuss

1 BILL NOS. 000708 and 000709
2 the structure in terms of the license agreement.

3 We thank you for the opportunity to be
4 here today. And we will of course be glad to answer
5 your questions after our presentations. Thank you.

6 PRESIDENT VERNA: Thank you.

7 Mr. Carapucci.

8 BILL CARAPUCCI: Good morning, Madam
9 President Verna, and honorable members of City
10 Council. I am Bill Carapucci representing
11 Commissioner Richard of the recreation department.

12 I am here to present testimony for Bills
13 708 and 709, which will transfer \$45 million to the
14 recreation department's FY 2001 Class 200 General
15 Fund appropriation.

16 As Ms. Kahn, the Secretary of Education,
17 explained, the appropriation transfer of \$45 million
18 to the recreation department will fund a facilities
19 usage lease agreement with the School District of
20 Philadelphia.

21 The department uses the gymnasiums,
22 auditoriums, ball field and six indoor pools.
23 Approximately 81 elementary, 25 middle, and 11 high
24 schools conduct recreational programs throughout the
25 year.

1 BILL NOS. 000708 and 000709

2 In FY 2000, the School District
3 permitted school facilities for recreation
4 department use on over 240 occasions.

5 Some of the occasions are for one-time
6 activities; such as, a use of school auditorium for
7 plays or recitals.

8 Most school facility usage occurs
9 because of the department's ongoing community
10 recreation program, which expands the provision of
11 sports and cultural programs to 115 school
12 facilities during nonschool hours.

13 By using School District facilities, we
14 are able to extend the reach of our recreation
15 programs in a way that involves a broad range of
16 community groups and keeps our children safe,
17 productive, and engaged during after-school hours.

18 We have every reason to expect the
19 Department of Recreation will want to continue this
20 arrangement with the School District.

21 The recreation department has
22 historically not received funding nor paid for the
23 use of school facilities to conduct recreation
24 activities; however, the School District has for
25 years invoiced the department for use of district

1 BILL NOS. 000708 and 000709

2 facilities.

3 Madam President, this concludes my
4 testimony. I will be happy to answer any questions
5 you or members of City Council may have for the
6 recreation department.

7 PRESIDENT Verna: Thank you.

8 RHONDA CHATZKEL: Good morning, Council
9 President Verna, members of City Council. My name
10 is Rhonda Chatzkel. I am the chief financial
11 officer of the School District.

12 I have been asked to testify on two
13 issues. The first is the methodology behind the
14 School District's billing for city recreation
15 department usage of School District facilities.

16 The second is the School District's cash
17 need for a payment of \$45 million from the city in
18 order to operate through June 30 of this year.

19 The recreation department's use of
20 School District facilities is extensive and
21 continues to grow.

22 For Fiscal Year 2000, the School
23 District calculated a usage fee of approximately
24 \$5,765,000. Through last Friday of this year, usage
25 fees are \$5.8 million, just year to date.

1 BILL NOS. 000708 and 000709

2 The usage fee is derived in accordance
3 with the School District's Board Policy No. 707, use
4 of school facilities.

5 Any organization wishing to use School
6 District facilities completes a request to use
7 school facilities form and submits this form to the
8 School District.

9 This request identifies the applicant,
10 the facilities needed, and the pertinent dates for
11 usage. And by signing this form, the applicant
12 agrees to comply with all rules and regulations set
13 forth in Board Policy No. 707.

14 Per the policy, organizations are
15 responsible for paying the personnel and utilities
16 costs related to use of these facilities.

17 It should be noted that the School
18 District bills for only the marginal cost of using
19 School District facilities.

20 Charges are based on the actual costs of
21 overtime for a building engineer when the facility
22 is in use and the hourly cost for heating fuel and
23 lighting.

24 The hourly costs for these utilities is
25 calculated by our energy manager and is based on the

1 BILL NOS. 000708 and 000709

2 total cost of fuel and lighting for each type of
3 school, elementary, middle or high school, divided
4 by the total hours of operation.

5 The usage fee as billed by the district
6 does not and has not included the cost of wear and
7 tear on a building or facility. The School District
8 absorbs that cost.

9 As you know, the School District is
10 currently projecting a cumulative deficit of \$44
11 million for the current Fiscal Year ending June 30,
12 2001.

13 This projection assumes that the School
14 District will receive a payment in the amount of \$45
15 million from the city.

16 \$20 million of this payment was budgeted
17 as part of a joint effort among the state, the city,
18 and the School District to narrow the projected gap
19 between revenues and expenses so that the district
20 would have sufficient cash to operate through Fiscal
21 Year 2001.

22 An additional 25 million is required in
23 order to allow the district to cover the cost of
24 bonuses and other obligations which were not
25 budgeted relating to settlement of the PFT contract.

1 BILL NOS. 000708 and 000709

2 Based on the projected cumulative
3 deficit of \$44 million, the School District is
4 currently forecasting an end-of-year cash position
5 of \$60 million.

6 This positive cash position assumes that
7 the School District will receive a \$45 million
8 payment from the City of Philadelphia on or before
9 June 1.

10 The School District's cash flow
11 projections are, however, only projections. They
12 are based on our current estimate of operating
13 results for Fiscal Year 2001, which would be
14 expected to show some degree of variance, either to
15 the positive or to the negative, between now and
16 June 30.

17 They are also based on our estimate of
18 when payments will be received. For certain grants,
19 for instance, the date of receipt is not built into
20 the grant, and there may be a timing difference of
21 between one and two weeks from when the grant was
22 estimated to be received and when it is actually
23 received.

24 Because our cash flow projections are
25 subject to these possible variances and timing

1 BILL NOS. 000708 and 000709

2 differences, the School District's cash management
3 practice is and has been to maintain a cash cushion
4 of at least four days cash on hand at all times.

5 For the School District, this represents
6 approximately \$30 million.

7 If the \$45 million payment is not
8 received by the School District on or before June 1,
9 as projected, the School District's estimated cash
10 position declines to a level of only one day
11 cash-on-hand during the second week of June.

12 More significantly, the School District
13 will run out of cash during the third week of June.

14 Based on our current forecast, the
15 School District would be unable to meet its cash
16 obligations after June 21.

17 The School District does, however, show
18 an ability to meet all cash obligations through the
19 end of this Fiscal Year, if the \$45 million payment
20 is received from the city on or before June 1.

21 Thank you.

22 PRESIDENT VERNA: Thank you.

23 KENNETH I. TRUJILLO: Good morning,
24 Madam President. My name is Ken Trujillo. I am the
25 City Solicitor, and I am here to provide testimony

1 BILL NOS. 000708 and 000709

2 and respond to any questions that this body might
3 have with respect to Bills No. 708 and 709.

4 My written testimony has already been
5 submitted, and I would be happy to read it into the
6 record. I would also be happy to just be available
7 for questions, if that is Madam President's
8 preference.

9 PRESIDENT VERNA: Does everyone have a
10 copy of Mr. Trujillo's testimony?

11 Well, do you want to abbreviate, please,
12 since everyone does have a copy and the stenographer
13 is given a copy, so she will actually transcribe it
14 in full.

15 (Copy of Mr. Trujillo's full testimony
16 is attached.)

17 MR. TRUJILLO: The Administration is
18 seeking a transfer in the two bills of \$45 million
19 in order to fund a proposed licensing agreement
20 between the city and the School District.

21 The city, acting through the Department
22 of Recreation, and the Stool District of
23 Philadelphia would enter into an agreement that
24 would allow the department to use the School
25 District facilities and ensure that the School

1 BILL NOS. 000708 and 000709

2 District would be properly compensated for the use
3 of those facilities.

4 The term of the agreement would be one
5 year, but there would also be nine additional
6 one-year renewal terms, potentially making the
7 agreement continue for a total of ten one-year
8 periods.

9 Both the city and the School District
10 would have the option not to renew the agreement at
11 the end the initial term or any of the renewal
12 terms.

13 Under the agreement, the Department of
14 Recreation would be granted a license to use all
15 available School District buildings, playgrounds,
16 and other similar facilities operated by the School
17 District for Department of Recreation events and
18 programs.

19 The Department of Recreation could also
20 arrange for the use of the school facilities on
21 behalf of community groups.

22 The recreation department would pay a
23 license fee of the \$5,765,000 for the initial term
24 and for each renewal term under the agreement.

25 That fee is based upon the School

1 BILL NOS. 000708 and 000709

2 District's calculation, as earlier testified, with
3 respect to the School District's costs and expenses
4 that arise from the use of its facilities by the
5 Department of Recreation during the 1999 and 2000
6 school year, and its reasonable estimates as to the
7 cost that it will incur in making the licensed
8 facilities available into the future.

9 PRESIDENT VERNA: Thank you.

10 MR. TRUJILLO: I would be happy to take
11 any questions.

12 PRESIDENT VERNA: Thank you. Ms. Kahn,
13 when Mayor Street committed to asking City Council
14 for an additional \$20 million for FY 2000-2001, what
15 was the district's projected deficit at that time?

16 MS. KAHN: Last May, when the budget
17 agreement was announced, it was \$80 million.

18 PRESIDENT VERNA: What is the district's
19 current projected cumulative deficit for FY
20 2000-2001 school year without any additional funding
21 from the city?

22 MS. KAHN: Without any additional
23 funding?

24 PRESIDENT VERNA: Without any additional
25 funding from the city.

1 BILL NOS. 000708 and 000709

2 MS. KAHN: It would then be 90 million.
3 We had testified at the budget hearing that the
4 projection was 44 million. But that assumed,
5 included in that projection, was the appropriation
6 of these additional revenues.

7 PRESIDENT VERNA: Okay. You state that
8 the \$20 million was to buy the district some time
9 while they developed a comprehensive, long-term
10 solution to the School District's funding problems.
11 Has the district developed the solution
12 yet?

13 MS. KAHN: It is still in progress. We
14 have been working very hard. This is a very
15 complicated, large, difficult issue.

16 We have been making the kinds of changes
17 that we needed to over the course of the past year
18 with the management structure, negotiating a new
19 contract.

20 And we are taking a very hard look at
21 what we need to do on the administrative side of the
22 School District, the programmatic side, recognizing
23 that there are a lot of constraints and challenges.
24 And we are in the process of doing that.

25 We are working with the Governor, with

1 BILL NOS. 000708 and 000709
2 the legislature. And we hope shortly -- we
3 understand that the state budget process is
4 underway.

5 We are also going to be working with the
6 federal government and looking at all possible
7 revenues and programmatic changes that we can make
8 to be able to work out a long-term solution.

9 PRESIDENT VERNA: Can you tell us when
10 the Administration proposes to have the School
11 District's financial strategy completed?

12 MS. KAHN: I would say that, you
13 know -- again, we are working on it. We certainly
14 need to do it in ample time for the budget, the
15 state budget, process, which we expect that the
16 state will adopt its budget some time in May.

17 And so prior to that time, we will have,
18 you know, more information that we can share,
19 certainly, with you, because that's our intention,
20 and also with the leadership, both the Governor's,
21 the Administration, and the General Assembly.

22 PRESIDENT VERNA: Can you tell us how
23 the district plans on opening the schools in
24 September?

25 MS. KAHN: Well, we certainly need --

1 BILL NOS. 000708 and 000709

2 we can't do that unless we have the revenue that we
3 are talking about, and that we are on our way to a
4 long-term solution.

5 PRESIDENT VERNA: When are we going to
6 know?

7 We are being asked to put up \$45
8 million. And we ask questions, and the answers are,
9 "Well, we are working on it."

10 When do you think that you will have a
11 strategy? When will we have a solution?

12 MS. KAHN: This \$45 million is, of
13 course, for the current Fiscal Year. And it was an
14 important part of keeping --

15 PRESIDENT VERNA: And then we read that
16 we are going to be asked to give more money next
17 year.

18 MS. KAHN: I didn't hear the beginning
19 of the question.

20 PRESIDENT VERNA: Is the city then going
21 to be required to give the School District more
22 money next year?

23 MS. KAHN: I can't say yet what that
24 might be and what subsequent requests we might have.

25 The Mayor did say when he introduced his

1 BILL NOS. 000708 and 000709
2 budget that right now -- and as you know in the
3 budget bills that you approved, there was
4 continuation funding.

5 But he did say that everyone knows that
6 we need to do more. And as we discussed at the
7 budget hearing a couple of weeks ago, that's an
8 ongoing issue in Harrisburg and an issue that we
9 have to deal with, the city's support of --

10 PRESIDENT VERNA: Ms. Kahn, you state
11 that the additional \$25 million will provide cash to
12 cover the one-time bonuses of \$1,000 paid to all PFT
13 members on December 1, 2000.

14 Why is the Mayor requesting the city's
15 General Fund reimburse the district for this
16 payment?

17 MS. KAHN: Well, I don't know -- it is
18 not a reimbursement, per se.

19 But it was part of, as we did the
20 negotiation for the contract, it became clear that
21 there were, you know, additional revenues that would
22 be needed.

23 And this was part of the Mayor's very
24 active and very successful involvement in the
25 negotiations which avoided a strike and which

1 BILL NOS. 000708 and 000709

2 avoided students missing not a single day of school,
3 which students did not have to miss any school.

4 And it was a successful major reform
5 contract. And as part of that, the Mayor committed
6 that he would ask City Council that -- the bonuses
7 were an essential part of getting that resolution.

8 And he committed to ask City Council for
9 the funds that would enable the School District,
10 knowing that the district did not have those
11 revenues to be able to supply that bonus in the
12 current Fiscal Year, and that we had committed that
13 we would not have a contract resolution that had any
14 impact on the current year's budget.

15 PRESIDENT VERNA: Mr. Trujillo, Act 46
16 of 1998 relating to distress in school districts of
17 the first-class provides in pertinent part that, for
18 the Fiscal Year or part thereof of any Fiscal Year
19 thereafter in which the School District is declared
20 to be distressed, the amounts appropriated or paid
21 by the city or county to the School District shall
22 be in an amount not less than the highest amount
23 paid by the city or county to the School District
24 during any of the three full preceding Fiscal Years.

25 In addition, the city of the first-class

1 BILL NOS. 000708 and 000709
2 will provide to the School District all other
3 available local nontax revenue, including grants,
4 subsidies, or payments made during the prior year.

5 In the opinion of the law department,
6 does entering into a ten-year lease with a lump-sum
7 prepayment of \$45 million to the School District
8 avoid the danger of having this prepayment of a
9 lease being held to be a grant, subsidy, or payment
10 to the School District; which, if such a
11 determination were made, would become a recurring
12 grant, subsidy, or payment in the event of a state
13 takeover of the School District?

14 MR. TRUJILLO: I probably 15 years ago
15 quit trying to predict exactly what courts would do.
16 Because as a lawyer sometimes you win cases you
17 should lose and sometimes you lose cases you should
18 win.

19 In crafting the licensing agreement --
20 which is, again, it is a one-year term with nine
21 renewable terms -- one of the principal focuses of
22 the law department was to avoid any danger that Act
23 46 posed.

24 And I will tell you, there is no
25 question that the word "paid" can be viewed by some

1 BILL NOS. 000708 and 000709

2 as a broad word.

3 And what we looked at was the notion
4 that the legitimate purchase of goods or services is
5 not included as part of what Act 46 was looking at.

6 In other words, if today the city were
7 to purchase a car from the School District or to
8 purchase the services of an accountant from the
9 School District, it is, in my view, not likely that
10 that is the kind of goods or service that was
11 included in Act 46.

12 And in our review of its legislative
13 history, in the law department's view and in my
14 view, this vehicle -- that is, this licensing
15 agreement -- which is an arm's length transaction
16 between the School District and the city, is a
17 legitimate and -- a very legitimate vehicle for the
18 city to pay the money for the services that the
19 School District is providing with these facilities.

20 PRESIDENT VERNA: Can you tell us what
21 services, if any, does the city perform for the
22 School District that are not reimbursed?

23 MR. TRUJILLO: Well, sitting right
24 here -- I know that I can get more detail.

25 But some of them are even closer to

1 BILL NOS. 000708 and 000709

2 mind; which is, Secretary of Education provides
3 significant services to the School District.

4 PRESIDENT VERNA: Can you tell us, if
5 the city is now reimbursing the district for its
6 costs, then the question becomes, shouldn't the
7 district be doing the same?

8 MR. TRUJILLO: In terms of the policy
9 question, both as to the payments, I will let the
10 School District respond to that.

11 And part of this, as I was thinking
12 about this over the last several months, I have a
13 nephew who went to stay with my mother for a week,
14 and he stayed there six months. And he stayed and
15 he stayed and he stayed.

16 And my mother never charged him rent,
17 she did his laundry, she did all kinds of stuff for
18 him.

19 And then after about six months, my
20 mother finally got hired of it and said, do you know
21 what, you are going to have to start paying for it.

22 Some of these payments are ultimately a
23 government making a decision as to what it can and
24 cannot provide, or a School District deciding what
25 it can or cannot provide.

1 BILL NOS. 000708 and 000709

2 But I will let the School District
3 respond to the specifics on the payments.

4 MS. CHATZKEL: Specifically to your
5 question, services that the city provides, other
6 than the Secretary of Education, are school crossing
7 guards, which are estimated to be about \$13.3
8 million. 90 percent of that is for public schools,
9 10 percent of that is for nonpublic schools.

10 Tax collection services, our prorated
11 share, in that we receive about 55 percent of real
12 estate taxes, is \$3.7 million.

13 There was also a \$1 million forgiveness
14 of licensing fees which was negotiated as part of an
15 approval of a TIF, apparently, several years ago.

16 But there are also about \$16 million in
17 services for which the School District reimburses
18 the city this year.

19 PRESIDENT VERNA: Thank you.

20 Does City Council have to approve the
21 licensing agreement? And if not, why not?

22 MR. TRUJILLO: The licensing agreement
23 does not have to be approved by City Council.
24 Section 8-200(3) of the Home Rule Charter states
25 that the city may contract for the purchase of

1 BILL NOS. 000708 and 000709

2 services over a period of more than one year only
3 when permitted by ordinance.

4 But since the initial term of this
5 agreement is a one-year term and renewal term is a
6 one-year term, City Council approval is not required
7 for the licensing agreement.

8 PRESIDENT VERNA: The Charter limits the
9 duration of contracts that the city can enter into
10 to four years or less.

11 MR. TRUJILLO: Correct.

12 PRESIDENT VERNA: How are we permitted
13 to enter into a ten-year leasing agreement?

14 MR. TRUJILLO: Again, this is not a --

15 PRESIDENT VERNA: We are going by the
16 one year. We will just do that.

17 MR. TRUJILLO: Under the terms of the
18 agreement, it is a one-year term that has options of
19 one-year renewals on an annual basis. Both the city
20 and the School District have the option to
21 terminate.

22 PRESIDENT VERNA: Then are you telling
23 us that that means that the Administration can enter
24 into contracts exceeding four years without getting
25 Council approval?

1 BILL NOS. 000708 and 000709

2 MR. TRUJILLO: No, I am not saying that,
3 Madam Chair.

4 It is entirely appropriate, it is
5 entirely appropriate, to enter into a one-year --
6 and to enter into a one-year agreement that's got
7 renewal periods which are no more than one year
8 each.

9 PRESIDENT Verna: But we don't prepay.

10 MR. TRUJILLO: In terms of prepayment,
11 we looked at the issue and have not found --

12 PRESIDENT Verna: But with your last
13 comment, we do not prepay, do we?

14 MR. TRUJILLO: I have not seen any prior
15 agreements in which there was a prepayment made when
16 you had renewable terms like this.

17 PRESIDENT Verna: Well, tell us, what
18 ability does City Council have to determine on a
19 year-by-year basis, considering that Council Members
20 are elected to four-year terms of office, to allow
21 future City Councils to make judgments regarding the
22 advisability of long-term financial commitments?

23 MR. TRUJILLO: I'm not sure I understand
24 the question.

25 PRESIDENT Verna: I think you do.

1 BILL NOS. 000708 and 000709

2 And we do have a number of Council
3 Members. I have many more questions that I would
4 like to ask, but I don't want to dominate.

5 However, before we go on to asking other
6 Council Members' questions, we do have a letter
7 which I would like Mr. McPherson to read into the
8 record from the City Controller.

9 MR. MCPHERSON: Dear President Verna:
10 After speaking with you regarding the concept of the
11 city entering into a licensing agreement with the
12 School District that would allow the city to prepay
13 the district in exchange for having access to
14 district facilities into the future, I write to
15 provide my views on this matter.

16 As you know, Ordinances 708 and 709
17 would transfer appropriations for Fiscal Year 2001
18 from the Grants Revenue Fund to the General Fund,
19 Department of Recreation, for the purpose of
20 assembling funding which would then be paid by the
21 City of Philadelphia to the School District of
22 Philadelphia for future city use of district
23 facilities.

24 While I believe that such forward
25 funding of future obligation represents questionable

1 BILL NOS. 000708 and 000709

2 public policy, and while I believe that such an
3 action raises complicated questions about the city's
4 liability for past usage of district facilities, I
5 understand the unique circumstances that make such a
6 payment appealing.

7 Ultimately it is up to the Mayor and
8 City Council to approve this policy and the
9 legislation that would accomplish this transaction.

10 Assuming that this occurs, and also that
11 the law department does not offer an opinion that
12 such an action is improper, and assuming that the
13 city provides evidence that the amounts stated in
14 any requisition created pursuant to such an
15 agreement is justly due and is for purpose
16 comprehended by the appropriation against which it
17 is drawn, the controller's office would process the
18 appropriate payment vouchers when submitted.

19 Notwithstanding any of my comments
20 above, I want to stress that I consider this action
21 to be a one-time payment carried out under
22 exceptional circumstances.

23 It is my hope that in the future the
24 city will avoid any further use of forward funding
25 to grant money to the School District or any other

1 BILL NOS. 000708 and 000709

2 entity. Sincerely, Jonathan A. Saidel.

3 PRESIDENT VERNA: Yes, sir.

4 COUNCILMAN KENNEY: Does that mean that
5 he is for it or against it?

6 PRESIDENT VERNA: You mean you couldn't
7 figure that out?

8 COUNCILMAN KENNEY: I think there is a
9 little bit of both somewhere along the line.
10 It reminds me of the stadium situation.
11 I think it is a similar situation there.

12 PRESIDENT VERNA: At this time the
13 Chair recognizes Councilman Nutter.

14 COUNCILMAN NUTTER: Thank you, Madam
15 Chair.

16 Mr. Trujillo, I heard the first part of
17 your response to the Chair's question about Act 46,
18 and then I was slightly momentarily distracted. And
19 so I know I must have missed the punch line on that.

20 What struck me, I guess, about the first
21 part of your answer was that even though the
22 President's question was somewhat comprehensive, I
23 thought the answer would be more in the realm of yes
24 or no.

25 Are these dollars subject to Act 46 or

1 BILL NOS. 000708 and 000709

2 not?

3 MR. TRUJILLO: I think you know me well
4 enough not to expect a yes or no response on a
5 question like that.

6 In my judgment -- and I can't give you a
7 yes or no answer to that. In my judgment, they
8 should not be, and a court should not find them to
9 be subject to Act 46.

10 COUNCILMAN NUTTER: Because?

11 MR. TRUJILLO: Because this is not a
12 payment as part of a general appropriation by the
13 city or the School District; this is the purchase of
14 goods and services.

15 COUNCILMAN NUTTER: What's the source of
16 these dollars? Where is this coming from.

17 MR. TRUJILLO: It is my understanding
18 that the dollars ultimately come from the General
19 Fund.

20 COUNCILMAN NUTTER: I understand that.
21 But, I mean, was this budgeted in the 2001 General
22 Fund budget that we passed last March of 2000? This
23 is '01 dollars; right?

24 MR. TRUJILLO: Correct.

25 COUNCILMAN NUTTER: So tell me where it

1 BILL NOS. 000708 and 000709

2 was in the FY '01 budget that we passed March of
3 last year. Where would I see the \$45 million?

4 MS. KAHN: I am advised by the city
5 finance director it was from the Grants Revenue
6 Fund.

7 COUNCILMAN NUTTER: Was it in the Grants
8 Revenue Fund when we passed the budget?

9 MS. KAHN: Yes.

10 COUNCILMAN NUTTER: The \$45 million?

11 MS. KAHN: Yes.

12 COUNCILMAN NUTTER: Does anybody have a
13 budget?

14 JANICE DAVIS: Janice Davis, Director of
15 Finance. It was included in the larger total, not
16 specifically identified as a grant to the School
17 District.

18 COUNCILMAN NUTTER: Was there testimony
19 about this last year?

20 MS. DAVIS: No, there wasn't.

21 COUNCILMAN NUTTER: So are you saying
22 now that back in February or March of last year,
23 when we had budget hearings on the FY '01 budget,
24 that it was planned or anticipated or contemplated
25 as far back as that time that there would be a \$45

1 BILL NOS. 000708 and 000709
2 million appropriation to the School District?

3 MS. DAVIS: No; it is from a general
4 pot of funds available to be granted.

5 COUNCILMAN NUTTER: From a general pot
6 of funds. Get me one of those.

7 Where did this money come from?

8 MS. DAVIS: Part of the general
9 revenues of the city.

10 COUNCILMAN NUTTER: And some we keep in
11 a pot called "Grants Revenue" that we might need
12 from time to time for unanticipated circumstances?

13 MS. DAVIS: Or to be provided in
14 anticipated circumstances, if there is a grant that
15 is anticipated.

16 But it is from a general pool of
17 funding.

18 COUNCILMAN NUTTER: What was the grant
19 that was anticipated? This is now really becoming
20 interesting.

21 MS. DAVIS: I would have to get someone
22 to give us delineation of that at a later time.

23 I will be glad to provide you that
24 information; I don't have it with me.

25 COUNCILMAN NUTTER: Let me go back to, I

1 BILL NOS. 000708 and 000709

2 thought your earlier statement was that this money
3 was in that pool of funds, grant revenue pot, and
4 anticipated back when we did the budget in February,
5 March of 2000 that there would be a distribution at
6 this time?

7 MS. DAVIS: It is available for
8 distribution. The distribution is not determined
9 that it will be in the entirety of the amount within
10 that fund.

11 COUNCILMAN NUTTER: What was in the
12 Grants Revenue Fund when we passed the budget last
13 year?

14 MS. DAVIS: I would have to get that
15 information for you.

16 COUNCILMAN NUTTER: Was it \$45 million,
17 a hundred million, 200 million?

18 MS. DAVIS: I don't have that
19 information; I would have to get it for you.

20 COUNCILMAN NUTTER: Okay. But there was
21 no testimony about it at that time?

22 MS. DAVIS: I don't know what the
23 specific testimony would have been. I wasn't here
24 at that point.

25 COUNCILMAN NUTTER: That's right. I

1 BILL NOS. 000708 and 000709

2 forgot. Okay.

3 All right. So we have this pot of money
4 for undesignated purposes. And in the budget that
5 we passed last year, there was, for the moment, an
6 unknown amount of money.

7 And somewhere in the course of time we
8 determined that we could -- let me ask this
9 question.

10 Because I thought there was one set of
11 testimony that talked about what this was really
12 about, and then everybody else has been talking
13 about recreation and after-school programs and kids
14 and the like.

15 Now, the real purpose of the 45 is to
16 cover the previous \$20 million request which never
17 really came over or kind of disappeared into the
18 night, I think, back last February of last year.

19 And then the new 25 is to cover the
20 bonuses. That's what the 45 is really for; is that
21 correct?

22 MS. KAHN: It is money that's needed to
23 meet the obligations for the School District for
24 this year.

25 But it specifically grew out of the two

1 BILL NOS. 000708 and 000709
2 purposes that you just cited and that I cited in my
3 testimony.

4 COUNCILMAN NUTTER: And where did this
5 idea come from?

6 MS. KAHN: Which idea? I'm sorry?

7 COUNCILMAN NUTTER: The
8 city-should-pay-for-recreational-facilities idea.
9 Where did that idea come from?

10 MS. KAHN: The issue that members of
11 Council have raised both publicly and privately
12 about the potential capture and the recurring nature
13 of this due to Act 46 is an issue that is very
14 serious to this City Council and one that's a great
15 concern to the Administration, as well.

16 The intent was always to make this a
17 one-time appropriation to the School District, and
18 not intending to have it be recurring.

19 So it is something that we are in
20 agreement on and a concern that we share.

21 So in the course of thinking about how
22 we could meet the desired obligation to provide the
23 School District with an additional \$45 million, but
24 at the same time, in the best of our judgment, to be
25 able to protect it, as the City Solicitor has said

1 BILL NOS. 000708 and 000709

2 in his best legal judgment, in the course of
3 brain-storming, this idea surfaced.

4 There is this ongoing expenditure on the
5 part of the School District for this terrific use of
6 School District facilities for city kids.

7 And it just, as we talked about it and
8 developed the idea, we thought maybe this is a good
9 way to meet all of the objectives.

10 COUNCILMAN NUTTER: Let me ask this
11 question. Because, I mean, it is certainly not by
12 way of any questions that I have asked today that
13 there's been any particular revelation.

14 I mean, this whole situation has been
15 known for some time. This was announced, I mean,
16 the concept about the paying for the facilities and
17 the \$45 million and all, I mean, this has been out
18 for a while; right?

19 MS. KAHN: Yes.

20 COUNCILMAN NUTTER: No new startling
21 facts coming out today; correct?

22 MS. KAHN: The ordinances were
23 introduced back in what was October, November. So,
24 I mean, certainly at that time.

25 COUNCILMAN NUTTER: Well, now, if for

1 BILL NOS. 000708 and 000709

2 some reason there was some challenge, or if we found
3 ourselves in an Act 46 circumstance, which generally
4 I hope that we don't, but, I mean, what would
5 anybody say, I guess, about what, you know, on a
6 good day, in a nice way, is a fairly blatant attempt
7 by all of us acting in concert to purposefully and
8 circuitously avoid what may have been the spirit and
9 intention of the legislature by engaging in this?

10 I mean, there are no secrets here. You
11 are laying out the route to the bank before you do
12 the bank job. And then say, well, but, you know, I
13 mean, we weren't absolutely sure that we were going
14 to do what we did in the bank. But, you know, we
15 did announce that we were thinking about taking the
16 El down there.

17 MR. TRUJILLO: You are correct that
18 there are no secrets in terms of that this is
19 certainly a very public crafting of this agreement.
20 But there is, in my judgment, nothing untoward or no
21 artifice in this agreement.

22 And all you have to look at, all you
23 have to look at, is what if the School District did
24 not make available to the city all of its
25 recreational facilities, period?

1 BILL NOS. 000708 and 000709

2 If tomorrow the School District --

3 COUNCILMAN NUTTER: It does now; right?

4 MR. TRUJILLO: Oh, it does. It
5 absolutely does.

6 But it also does not have the obligation
7 to do it, and it could tomorrow stop doing it. If
8 it did --

9 COUNCILMAN NUTTER: Let's follow that
10 through. Let me try to understand this.

11 The district would say that the city --
12 and it is really not so much the city. I mean, I
13 don't personally necessarily need to book a School
14 District building. Because maybe I should have
15 spent a little more time in class, but we will put
16 that aside. I am probably too big for the desk.

17 But let's say that the School District
18 for some reason said, you, city, and your people and
19 all your folks, you have some commendable things you
20 want to do, but we are not going to let you use our
21 facilities anymore.

22 MR. TRUJILLO: For free.

23 COUNCILMAN NUTTER: For free.

24 Who uses these facilities? Aren't they
25 City of Philadelphia kids and parents who actually

1 BILL NOS. 000708 and 000709

2 go to the school in the daytime?

3 MR. TRUJILLO: Community groups.

4 COUNCILMAN NUTTER: And they are paying
5 taxes and they are paying the tab for all of this,
6 and all of the sudden the district is going to say,
7 oh, no you can't use our buildings anymore?

8 Whether you have the legal right to do
9 that or not, you would probably agree that that's
10 pretty stupid.

11 MR. TRUJILLO: Again, we are mixing two
12 things.

13 COUNCILMAN NUTTER: We will just follow
14 it out to its dumbest conclusion, and then we will
15 come back and have some additional conversation.

16 MR. TRUJILLO: I am happy to jump off
17 any bridge you wish, Councilman.

18 But, again, your are talking about the
19 policy, and then we are also talking about the legal
20 matter. And what I am suggesting to you is, on the
21 legal issue --

22 COUNCILMAN NUTTER: And common sense, we
23 will throw a little bit of that in.

24 MR. TRUJILLO: And my concern, and our
25 concern, in drafting this was about legal liability,

1 BILL NOS. 000708 and 000709

2 or ultimately about minimizing the danger to the
3 city of making this a recurring kind of payment.

4 What we looked at was whether this is an
5 arm's length agreement, which the law department
6 believes that it is certainly an arm's length
7 agreement; whether this is a legitimate purchase of
8 goods and services, which we believe that it is.
9 And so that's why we were looking at that.

10 We were not looking at it in terms of,
11 you know which kids are going to be using it or
12 which community groups. We were looking at it in
13 terms of whether it is legal and appropriate.

14 COUNCILMAN NUTTER: Because they are all
15 the same people. We serve all the same folks;
16 right?

17 MR. TRUJILLO: I'm sorry?

18 COUNCILMAN NUTTER: They are all the
19 same people? We serve all the same -- I mean, your
20 constituents are our constituents, and vice versa;
21 right?

22 I mean, they are all the same people
23 paying all the same taxes to governmental entities;
24 right?

25 MS. KAHN: I mean, there is no

1 BILL NOS. 000708 and 000709

2 intent -- and I don't want this to be
3 misunderstood -- there is no desire on the School
4 District to certainly close its doors and say, no,
5 you can't come in.

6 In fact, these school buildings and
7 other facilities are used not just by School
8 District of Philadelphia kids who go to that school.
9 As you well know, there are active recreation
10 department programs around the city.

11 And all kids, as it should be, in the
12 city are eligible now to participate.

13 COUNCILMAN NUTTER: Does the School
14 District use any city facilities?

15 MS. CHATZKEL: We don't know of any
16 sites that we use. We use city services, certainly.
17 But we don't know --

18 COUNCILMAN NUTTER: Do the kids go to
19 the library from time to time? I mean, don't they
20 go to rec centers in the summertime?

21 MS. KAHN: Sure, children who are
22 public school students go; but not as an official, I
23 don't believe, activity, you know, that's part of
24 the School District's.

25 COUNCILMAN NUTTER: I am just trying to

1 BILL NOS. 000708 and 000709
2 understand again how far this is going to go and why
3 one side pays and the other may not.

4 I mean, it is stunning to me that the
5 School District in some way, shape, or form doesn't
6 use, quote, unquote, city-owned facilities.

7 MS. KAHN: What we are trying to do, as
8 a matter of course, is, in fact, to encourage these
9 kinds of partnerships and cooperation and
10 collaboration.

11 So that's good public policy that I
12 think we all agree to.

13 The problem here is that there is an
14 out-of-pocket cost that we can document, that
15 totals, as we have testified, close to \$6 million
16 for last year and on its way there this year.

17 And that's the concern.

18 MR. TRUJILLO: And, Councilman, if I
19 might add, the fact that children who attend
20 Philadelphia public schools use the Free Library,
21 that does not make the Free Library a School
22 District facility. You still have --

23 COUNCILMAN NUTTER: That makes the
24 library a city facility that is hosting, I would --
25 I obviously would never suggest such a thing. I'm

1 BILL NOS. 000708 and 000709

2 just asking the question in the reverse.

3 I mean, if it is okay or it is
4 appropriate or required that the, quote, unquote,
5 city pay the School District for the use of its
6 facilities, primarily in most instances for City of
7 Philadelphia kids, I mean, in the realm of what's
8 good for the goose is generally good for the gander,
9 why isn't the district paying for any use of our
10 facilities? I am just trying to understand.

11 I know the district is always concerned
12 about fairness and equity and all those kinds of
13 issues.

14 MS. CHATZKEL: I think the distinction,
15 and I was just verifying this, but the usage for
16 which we are billing is after normal school hours.
17 So we are billing for a marginal cost.

18 And I don't know if there are classes
19 held in a library, but it would be during library
20 hours.

21 What happens here is, there is an
22 additional utility cost because the school wouldn't
23 be open, and there is costs of bringing in
24 personnel. And that's all that's billed for. It is
25 just that marginal cost.

1 BILL NOS. 000708 and 000709

2 And I think that's a fair distinction.

3 COUNCILMAN NUTTER: Why --

4 PRESIDENT Verna: Excuse me, Councilman,
5 would you make this your last question on the first
6 go-around?

7 COUNCILMAN NUTTER: I am sorry, Madam
8 President. I get talking to the solicitor here, and
9 it just gets to be a love fest.

10 I was also intrigued by the one year
11 with the nine one-year renewals. This may be
12 leading the pack on how many renewal years you can
13 get off of a one-year contract.

14 Why didn't you just do a ten-year
15 contract with great terms or something?

16 MR. TRUJILLO: Well, I think there is a
17 number of reasons, not the least of which --

18 COUNCILMAN NUTTER: Neither of these
19 entities is going anywhere.

20 I understand where if we are contracting
21 with some, you know, Joe's Auto Body or something,
22 and we want to make sure that we are doing whatever
23 we are doing, I mean, you know, Joe might go
24 somewhere, or we stop liking Joe, or whatever we are
25 doing with Joe.

1 BILL NOS. 000708 and 000709

2 But, I mean, I think the two entities
3 that have no chance of ever picking up and leaving
4 are the City of Philadelphia and the School District
5 of Philadelphia.

6 So why don't you just do a ten-year
7 contract?

8 MR. TRUJILLO: Part of it has to do
9 with risk management, part of it -- and I would,
10 frankly, prefer to defer that kind of a question
11 into a session, where I would be happy to speak with
12 you about this.

13 COUNCILMAN NUTTER: I didn't hear what
14 you said. Defer the question to who?

15 MR. TRUJILLO: Not defer it, but defer
16 it in time, and I would be happy to talk to you
17 individually.

18 But some of the issues we looked at
19 include making this an agreement which had the
20 greatest ability to survive legal challenge.

21 And so, in my judgment, this has a
22 greater chance of surviving a legal challenge if we
23 do end up in an Act 46 situation. And that was a
24 considerable part of the thinking on that front.

25 COUNCILMAN NUTTER: Okay. Thank you,

1 BILL NOS. 000708 and 000709

2 Madam President.

3 PRESIDENT Verna: Let me just piggyback
4 on that.

5 How are the nine years of prepayments
6 authorized under the city's Charter? How could we
7 continue to approve balanced budgets in the future,
8 when the city has expended the total amounts, but we
9 carry the value of prepayments as an asset until the
10 appropriate year it covers? How do we do that?

11 MR. TRUJILLO: I am going to defer to
12 the finance director.

13 MS. DAVIS: For legal or budgetary
14 purposes, the money is spent in this year. For GAAP
15 purposes, it becomes an asset and it is carried over
16 time.

17 We do a reconciliation, our annual
18 report, every year that reconciles the legal or
19 budgetary basis to the GAAP basis. It is simply a
20 difference in presentation. One is accounting
21 versus the budgetary.

22 But for budget purposes, it is in fact
23 spent in the year that the payment is made.

24 PRESIDENT Verna: Excuse me. I assume
25 Councilwoman Krajewski left the room, the chamber?

1 BILL NOS. 000708 and 000709

2 The Chair recognizes Councilwoman
3 Miller.

4 COUNCILWOMAN MILLER: Thank you, Madam
5 President.

6 I have a question regarding the leasing
7 agreement and what it specifically means to
8 community groups.

9 When someone puts in a request, a
10 community group that wants to use the school
11 building has to pay the personnel expenses.

12 This agreement means that they will
13 still have to pay that, the personnel expenses of
14 security and whomever it is that's going to be there
15 to open the building?

16 MS. CHATZKEL: If a community group
17 comes to us directly, rather than through the
18 recreation department, they will continue to pay as
19 they have paid in the past.

20 COUNCILWOMAN MILLER: So this leasing
21 agreement does not relieve any of that burden from
22 community groups, even as relates to liability
23 insurance?

24 MS. CHATZKEL: No, it does not.

25 COUNCILWOMAN MILLER: Okay. And does it

1 BILL NOS. 000708 and 000709

2 change anything for when people want to use a
3 building on Saturdays?

4 MS. CHATZKEL: I don't think any change
5 was contemplated for other community groups wanting
6 to use our facilities.

7 COUNCILWOMAN MILLER: Okay. And I just
8 have one other financial-type question.

9 With this 45 million, you will still
10 have a 44 million deficit?

11 MS. CHATZKEL: Yes.

12 COUNCILWOMAN MILLER: Okay. Thank you.

13 PRESIDENT VERNA: Thank you.

14 The Chair recognizes Councilman Ortiz.

15 COUNCILMAN ORTIZ: Thank you, Madam

16 Chair.

17 Following up on trying to get an answer
18 on the President's question and Councilman Nutter's
19 question, we are entering into a licensing agreement
20 ten years.

21 In essence, we are giving and delegating
22 our powers over to the Mayor for the next ten years
23 to carry forward and appropriate this money on a
24 yearly basis to the Board of Education.

25 Is that somewhat a right interpretation

1 BILL NOS. 000708 and 000709

2 of what we are doing here?

3 MR. TRUJILLO: I would not characterize
4 it that way, no.

5 COUNCILMAN ORTIZ: Well, we have no
6 power of review, right, on a yearly basis, the
7 Council doesn't?

8 MR. TRUJILLO: You have no
9 forward-looking --

10 COUNCILMAN ORTIZ: Once we pass this, it
11 is done. We cannot come in and say, we want to
12 obrogate this contract with the School Board next
13 year when it comes up for renewal?

14 MR. TRUJILLO: The city, as the
15 agreement is defined, is actually defined --

16 COUNCILMAN ORTIZ: I am saying the
17 Council.

18 MR. TRUJILLO: I understand. And I am
19 trying to respond to you, Councilman.

20 But you are correct. Because the city
21 is defined as the Department of Recreation, that is
22 who is the signatory to this agreement.

23 COUNCILMAN ORTIZ: So we delegate that
24 power away. And we have, again, what I am saying
25 is, this Council, at the moment that we do this, we

1 BILL NOS. 000708 and 000709

2 terminate our role in the process?

3 MR. TRUJILLO: I disagree with your
4 characterization. I do not think you are delegating
5 the authority to the Department of Recreation,
6 because the Department of Recreation has the --

7 COUNCILMAN ORTIZ: I don't see it as the
8 Department of Recreation; I see it as the Mayor's
9 Office.

10 And the Department of Recreation, the
11 Mayor just appropriates money to it, and they do
12 whatever it is that they do in terms of their
13 planning.

14 So, in essence, what we are doing is, we
15 are giving the executive this power, not the
16 Department of Recreation. The money is going to the
17 Department of Recreation, but it is the executive
18 that is going to be able to exercise the power to
19 give this contract out and the payments and so on?

20 MR. TRUJILLO: If I might, the ability
21 to enter into this agreement, or the power to enter
22 into this agreement, is not a delegation.

23 The Department of Recreation has the
24 ability to enter into a one-year agreement with
25 renewal terms, and so there is no delegation there.

1 BILL NOS. 000708 and 000709

2 What is before you are two ordinances
3 which are to appropriate the funds.

4 COUNCILMAN ORTIZ: So that the contract
5 can be done.

6 MR. TRUJILLO: Correct.

7 COUNCILMAN ORTIZ: Exactly.

8 And at the moment we do that, we have no
9 aspect of review because we are delegating, and we
10 are passing, and we are giving a -- we are not here
11 today approving a ten-year contract; right?

12 MR. TRUJILLO: That's correct.

13 COUNCILMAN ORTIZ: However, we are
14 giving the power for you to enter into a ten-year
15 contract without any review from us on that contract
16 from here on in?

17 MR. TRUJILLO: Well, again, it is not a
18 ten-year contract. And certainly Council does not
19 have an ongoing role over the next ten years in the
20 implementation of that contract.

21 Council obviously does have significant
22 ability, if it ever -- and it does. I have been
23 here and I have answered questions from you on some
24 ongoing things. And Council always has the ability
25 to bring either the Administration, School District,

1 BILL NOS. 000708 and 000709

2 Department of Recreation to answer on these issues.

3 COUNCILMAN ORTIZ: Again, we are giving
4 you the authority to enter into a ten-year contract.
5 And we cease our role, and we give you the money to
6 be able to fund that ten-year contract as of today;
7 correct?

8 MR. TRUJILLO: No.

9 COUNCILMAN ORTIZ: That said. However,
10 you are not entering into a ten-year contract.

11 MR. TRUJILLO: We are not entering into
12 a ten-year contract, and I disagree with the way you
13 are posing it.

14 COUNCILMAN ORTIZ: Well, of course you
15 disagree with the way I am putting it forward.

16 But our power, in essence, to me, we are
17 delegating a power to the executive to be able to do
18 certain things. And we will not have a role in
19 terms of deciding whether this was a good decision
20 or not next year. That decision will all be in the
21 executive branch of government.

22 And we are tying up the future Councils
23 with a decision that this Council has made today, or
24 whenever we pass this legislation.

25 MR. TRUJILLO: And, again, I disagree

1 BILL NOS. 000708 and 000709

2 with the way you have posed it.

3 I think I testified earlier that both
4 sides have the ability to terminate the contract. I
5 believe it is on 90 days' notice. Both sides do
6 have the ability to terminate the contract.

7 COUNCILMAN ORTIZ: Again, it is both
8 sides. But I am talking about this side of the
9 aisle.

10 MR. TRUJILLO: I understand.

11 COUNCILMAN ORTIZ: We have no say within
12 the termination or continuance of that contract?

13 MR. TRUJILLO: That's correct.

14 And that's also the case with many other
15 contracts that are one-year with renewable terms.
16 In other words, this is not unusual.

17 COUNCILMAN ORTIZ: Ms. Kahn, I think I
18 heard you say that this \$45 million was part of the
19 process.

20 Or I believe you said that it was
21 already within the structure of the concept of you
22 reaching agreement with the PFT, that the bonuses
23 and -- I am trying to get back to what your
24 testimony was -- the bonuses and so on were all
25 contingent on the \$45 million that you are going to

1 BILL NOS. 000708 and 000709

2 get from us at a later date in this year?

3 MS. KAHN: As far as the PFT contract
4 goes, when we set out to negotiate that, we had made
5 it very clear, partly because of the budget
6 agreement that had been struck in May, that there
7 would not be a financial impact during the current
8 Fiscal Year, there was not the budget allegation for
9 that.

10 We knew going forward, of course, that
11 the contract would have a financial impact; but
12 that, for the current year, it wouldn't.

13 And when it became apparent that one of
14 the things that would be needed to be done in order
15 to settle the agreement, and get the very good
16 result that we did for all parties, was to introduce
17 these bonuses shortly after ratification, which
18 would, of course, then have a financial impact on
19 the School District's budget for the current Fiscal
20 Year.

21 The Mayor at that point had said that he
22 would go to City Council and ask for the funds to be
23 able to cover the cost of those bonuses, which,
24 again, resulted in a very successful contract for
25 all parties and which was done without ever missing

1 BILL NOS. 000708 and 000709

2 a day of school.

3 COUNCILMAN ORTIZ: So this \$45 million
4 is going to cover the bonuses? What else?

5 MS. KAHN: 25 million of it is for the
6 bonuses.

7 And the original 20 was part of the
8 School District's Operating Budget to be able to
9 just, again, have schools open for the full school
10 year this year.

11 COUNCILMAN ORTIZ: So \$25 million will
12 cover the bonuses that were promised to the
13 teachers.

14 MS. KAHN: To all of the members of the
15 Philadelphia Federation --

16 COUNCILMAN ORTIZ: And \$20 million will
17 go to just cover expenses to maintain the schools
18 open until June 30?

19 MS. KAHN: Correct.

20 COUNCILMAN ORTIZ: Is that it?

21 MS. KAHN: Correct.

22 COUNCILMAN ORTIZ: And all of this was
23 included in the year budget that we approved in the
24 year 2001.

25 And I think Councilman Nutter asked a

1 BILL NOS. 000708 and 000709

2 question that he doesn't remember discussing these
3 \$45 million as a contingent basis for this and for
4 this use in terms of when we approved this budget
5 last March.

6 MS. KAHN: Well, that's right. When we
7 were here a year ago in March, we didn't have any of
8 these conditions present.

9 We knew at the time that we were
10 certainly facing a serious financial problem. We
11 knew that we had a contract to negotiate. But we
12 did not know the particulars of what requirements
13 there would be.

14 And because the School District's budget
15 cycle is on a different budget cycle than the
16 city's, as you know, and the Board doesn't adopt its
17 budget until May 31, when we were in early March
18 last year, that was the very beginning, as it was
19 again this year, of the School District's budget
20 process.

21 So there was no way at that time to
22 foresee with any specificity what would be required.

23 COUNCILMAN ORTIZ: So, in essence, we
24 are not really here discussing a ten-year contract
25 to buy services in order to use the schools for

1 BILL NOS. 000708 and 000709
2 recreation purposes after school, because we already
3 do that with our pay.

4 We are just here to put forth \$45
5 million so we can cover the contract; right?

6 MS. KAHN: We are absolutely here to
7 discuss the financial obligation and the financial
8 requirements and the needs of the School District
9 that this \$45 million is absolutely needed to fill.

10 COUNCILMAN ORTIZ: And this does nothing
11 in terms of fixing the overall structural deficit
12 that we have or bringing any more services in terms
13 of the public school children of the city?

14 MS. KAHN: Unfortunately, it does not
15 provide any additional services. And, no, it
16 doesn't -- this is not intended to help with the
17 long-term structural problem.

18 Although, if we don't do it, that
19 problem will be exacerbated in a number of ways.

20 One is that, because we would not have
21 fulfilled our commitment made as part of the budget
22 agreement last May. And the second is simply, as we
23 testified earlier, it would add to the deficit for
24 the current year.

25 COUNCILMAN ORTIZ: But none of this \$45

1 BILL NOS. 000708 and 000709
2 million is going to go directly to educational
3 programs?

4 MS. KAHN: Sure.

5 I mean, for the city's Operating Budget,
6 most of that Operating Budget is spent directly for
7 educational programs. So in that sense it certainly
8 does.

9 And bonuses, one of the big costs of the
10 educational program is teachers and other
11 school-based personnel in classrooms and in schools.

12 So in that sense, it fully funds School
13 District programs, just not additional programs.

14 COUNCILMAN ORTIZ: I will continue until
15 the next one. I will save myself for the next
16 round.

17 PRESIDENT VERA: The Chair recognizes
18 Councilwoman Brown.

19 COUNCILWOMAN BROWN: Thank you, Madam
20 Chair. Just a couple of questions.

21 I am curious to know, is this
22 transaction, as you have outlined it, is it a first?
23 Is there some other precedent that you looked to
24 that guided you towards this type of transaction at
25 this time?

1 BILL NOS. 000708 and 000709

2 MS. KAHN: I don't think that I am
3 aware of any structured exactly like this.

4 I do understand that the city -- and the
5 finance director can speak to this -- has prepaid, I
6 believe it is, some pension funds.

7 But nothing structured exactly this way.

8 COUNCILWOMAN BROWN: And in your view,
9 what's the worst-case scenario, what's the fallout,
10 what's the alternative should this not happen?

11 MS. KAHN: As I think I just stated, I
12 think it is a significant problem for two reasons.

13 One is that if the School District does
14 not obtain this \$45 million, as the chief financial
15 officer testified, the district will run out of
16 cash. And that has a whole series of repercussions
17 which certainly she can speak to.

18 It would increase the School District's
19 deficit for this year by \$45 million. And perhaps,
20 you know, equally importantly, and most importantly,
21 it would be an abrogation of the agreement that we
22 had made and negotiated in the spring with the
23 Governor in order to do the city's part to be able
24 to keep schools open for all of our kids for the
25 current school year.

1 BILL NOS. 000708 and 000709

2 COUNCILWOMAN BROWN: Thank you, Madam
3 President.

4 PRESIDENT Verna: Thank you.

5 The Chair recognizes Councilman Kenney.

6 COUNCILMAN KENNEY: Thank you, Madam
7 President.

8 In the event that this 25 million and 20
9 million dollar transfer is passed, how will the
10 district cover the cost of operating the schools in
11 the evening and on Saturdays going forward?

12 From what the testimony has indicated to
13 me, the \$25 million is going to pay for the bonuses
14 that you negotiated with the School District
15 teachers, PFT, without even having the money. So
16 you negotiated a contract that you knew you didn't
17 have the money for.

18 And then the other 20 million is going
19 to pay for, or it is going to try to plug a hole
20 that's already there.

21 So starting next month, when X school or
22 Y school or Z school is open to recreate kids in the
23 recreation department program or in come cultural
24 program or some approved use, how will the district
25 pay for the costs associated with the operation of

1 BILL NOS. 000708 and 000709

2 those schools going forward?

3 MS. CHATZKEL: Just an answer to that
4 really specific question is that, as we budget for
5 next year and for the years beyond, we didn't
6 anticipate that there would be an additional revenue
7 stream to cover our expenses.

8 What we budgeted is that marginal cost
9 being uncovered in the future years because there's
10 been a prepayment in this year.

11 COUNCILMAN KENNEY: But the prepayment
12 is being used to pay for the bonuses and to plug the
13 hole that's there.

14 The hole that's a result of the
15 operation of the School District facilities will
16 obviously continue on, because we have already spent
17 the money supposedly to cover part of that cost.

18 So that 5.7 million -- and I want to get
19 to the specifics of that in a little while -- the
20 \$5.7 million that the School District alleges this
21 costs a year is still going to be an ever-gaping
22 hole.

23 So it is not as if we are taking the 20
24 million and we are earmarking it for use in
25 overtime, engineers, security, and all the things

1 BILL NOS. 000708 and 000709

2 that relate to these after-school or after-hours
3 programs.

4 We are going to take that money that
5 we're being asked to provide for that purpose and
6 put it somewhere else.

7 How are you paying for the 5.7, the 6
8 million dollars a year going forward over the next
9 ten years that you are committing to do?

10 Because my assumption is that, if we
11 give you the 45 with the supposed purpose of paying
12 for these programs, you are not going to cut those
13 programs back, you are not going to limit the use of
14 the schools.

15 Because then you would be misleading
16 people into believing they are paying for something
17 now that may in three or four years from now say,
18 well, we can't afford to do that anymore because we
19 don't have the money to pay for it because we spent
20 it in the first year we got it.

21 How do I tell people in the community,
22 running basketball programs, cultural programs,
23 after-school programs that we can guarantee that you
24 will have access to that school?

25 Even though you are prepaying for ten

1 BILL NOS. 000708 and 000709
2 years of the use, I will have no way of guaranteeing
3 as a Council member, no other Council member because
4 it will be out of our hands by then, to go back and
5 to ensure that the peanut league or some other babe
6 group can use those facilities for the next decade,
7 because I will have no ability to review.

8 Or Mr. Trujillo says I can complain. I
9 have been complaining about School District problems
10 for the past decade, and to know avail.

11 So where do we go to when the School
12 District decides they are no longer going to give
13 access to or reduce the amount of access of the
14 school buildings to these programs? What happens
15 then?

16 MS. CHATZKEL: Councilman Kenney, your
17 question is actually part of the broader question.
18 That \$5.7 million contributes to the gap that we
19 projected for next year and the year after that.

20 COUNCILMAN KENNEY: That's an old gap.

21 MS. CHATZKEL: And the School District's
22 ability to provide all of its services is contingent
23 upon plugging that gap.

24 COUNCILMAN KENNEY: I understand that.
25 And I don't really disagree with it.

1 BILL NOS. 000708 and 000709

2 What I can't understand is, you are
3 asking me to prepay for a service over the next ten
4 years that I have no ability to ensure will continue
5 beyond the time we agree and vote on this transfer
6 ordinance.

7 So this time next year,
8 theoretically -- and you are all honorable people,
9 and I am sure you are going to tell me don't worry
10 about it, we are going to do that -- but next year
11 or the year you may say, do you know what, one of
12 the things we have to get rid of is the use of
13 School District facilities after school and on
14 weekends.

15 And, you know what, Harrisburg didn't
16 come up with the money. So, you know, we asked you
17 for that prepayment for ten years, but tough. Now
18 what?

19 MR. TRUJILLO: And that's actually
20 precisely why you have a licensing agreement.

21 Because what the licensor here, the
22 School District, has an affirmative obligation for
23 which it will have been paid.

24 And it has got a duty, an obligation, a
25 contractual obligation, to make at its sole cost and

1 BILL NOS. 000708 and 000709

2 expense to provide the engineers, to provide the
3 athletic fields, the parking lots, and the like.

4 COUNCILMAN KENNEY: What if the money is
5 not there? I have already paid, our constituents
6 have paid for a service that because of a dire
7 financial situation next year, the year after, they
8 are got getting. That's why two things are
9 problematic with this.

10 Number one, I would rather you come in
11 here and say what it is. Just come in here and say
12 what it is.

13 We signed a contract with the PFT that
14 costs \$25 million more than we have, and we have a
15 \$20 million hole. We need \$45 million of money from
16 you, the city treasury, for the Grants Revenue
17 Fund.

18 When you set up this scenario of a
19 licensing agreement with ten year, nine, one-year
20 and nine renewable options, and all this other
21 stuff, it is as if we are not that bright.

22 Like we don't really know what this
23 money is being used for, and we are going to vote
24 for something that's not only going to do this, but
25 take ourselves out of the process altogether. And

1 BILL NOS. 000708 and 000709

2 that's, I guess, what's problematic.

3 And let me tell you something about Act
4 46 in my opinion. I am not a lawyer, but I have
5 been around the legislature long enough to know how
6 they act.

7 If in fact the School District is taken
8 over by the state -- which I think is almost an
9 impossibility. The State of Pennsylvania has the
10 ability to take over the School District of
11 Philadelphia, they have the authority. But, let me
12 tell you something, they are never, ever taking over
13 the school system.

14 My opinion, I have been involved and
15 around the legislature, working directly for it for
16 12 years and being involved in this government for
17 the last 10. I am telling you, they are not taking
18 over the system.

19 And in the event that they did and there
20 became some dispute vis-a-vis Act 46 and whether or
21 not we had contributed a grant or economic
22 contribution, and whether or not there was an
23 argument, they are going to win that argument
24 anyway. Because all they are going to do is just
25 take it from somewhere else and reduce that amount.

1 BILL NOS. 000708 and 000709

2 So that they will come, they will win the argument.

3 Because if the \$45 million, for example,
4 now is in dispute under an Act 46 problem, they are
5 going to take the \$45 million from somewhere else
6 and their gain will be zero sum.

7 So trying to hide it, cloak it, maneuver
8 it, it just isn't going to work from an Act 46
9 perspective.

10 And I tell you, the thing that concerns
11 me about doing it this way in this Council, if we in
12 this Council allow us to be Mack-trucked over again
13 on this kind of issue, by giving nine years, ten
14 years of prepayment, then forget the contract
15 language.

16 You might as well take that contract
17 language in the Charter out of the Charter and let
18 the Administration, whoever it is, do whatever they
19 want. Because that's basically what they have been
20 doing anyway.

21 We look at Vet's Stadium recently, with
22 a three-year contract renewal on a vendor for food
23 services and beverage services that was supposed to
24 be a three-year contract, done unilaterally, without
25 bid.

1 BILL NOS. 000708 and 000709

2 When I complained about it, all of the
3 sudden it became a one-year with two-year renewals.
4 This renewal option stuff is just a way to get
5 around Council.

6 And it is not this Administration. It
7 has been previous administrations that have done the
8 previous thing.

9 But if we continue to allow this
10 precedent to be set and continue to do it and play
11 into it, we might as well just mail our votes in,
12 because there is really no sense in us being here.

13 And I am telling you, if I can't
14 guarantee in some way through our legislative powers
15 that the service that we are prepaying for for the
16 next ten years is in fact going to be there for the
17 next ten years, why don't you just ask for the money
18 to pay for the School District contract, which is
19 what this is all about. Just be honest with us.

20 We signed a contract, we didn't have the
21 money. Now we are coming to you for the money. So
22 don't give me a ten-year license agreement on how to
23 get the money, because Act 46 I don't even think
24 applies in this particular situation.

25 MS. KAHN: Councilman, several things

1 BILL NOS. 000708 and 000709

2 in response.

3 First of all, again, for the record, the
4 portion of the money, only a portion of the money,
5 is for the contract, and the other was announced
6 back in May.

7 COUNCILMAN KENNEY: I don't mean to
8 interrupt you. But when you signed the contract,
9 you knew you didn't have the money, and you didn't
10 know yet whether or not we were going to approve the
11 money.

12 So, I mean, maybe the public sector is
13 different than the private sector. But if you own a
14 company, and you are doing a negotiation with the
15 Teamsters, and you sign a contract with money you
16 don't have, how does that company, this company, get
17 that money?

18 MS. KAHN: Councilman, actually, the
19 public sector is different. And most public sector
20 contracts, governments negotiate all the time, and
21 in future years they don't really know whether they
22 are going to have the revenue or not.

23 COUNCILMAN KENNEY: And make commitments
24 that the legislative body needs to approve prior to
25 even consulting with the legislative body.

1 BILL NOS. 000708 and 000709

2 Because I don't remember being asked
3 about the 45. I remember reading it in the paper,
4 but I don't remember being asked about it.

5 MS. KAHN: As far as the larger issue
6 goes, I think that we have, and our testimony will
7 show, that we have said exactly what this money is
8 for. And that's what we have been discussing.

9 Again, the structure that we are
10 proposing here is in response to all of the
11 legitimate concerns expressed by yourself and other
12 members of Council and by the Administration about
13 the ability to try to protect these funds and not
14 have them be recurring, to the best of our ability.

15 These are exceptional circumstances,
16 extraordinary circumstances. And we structured this
17 proposed agreement in a way that, to the best of our
18 judgment, would enable us to do that.

19 I also think that -- and, again, the
20 City Solicitor can speak to this better than I --
21 but simply by virtue of having this agreement, there
22 is more protection than there otherwise would be
23 for, in fact, the school building to be open and
24 accessible, as we all want them to be, to all of the
25 children in Philadelphia for recreational purposes.

1 BILL NOS. 000708 and 000709

2 Because if in fact the district finds
3 itself unable to perform that obligation, the city
4 does have the right to be repaid.

5 COUNCILMAN KENNEY: Wait a minute. Let
6 me go back to that.

7 September comes around. God forbid, we
8 don't get the money from Harrisburg, the Governor
9 wasn't being as forthcoming as we'd like, the
10 legislature tells us to take a hike, and we can't
11 open the schools in September.

12 Do you mean to tell me that the schools
13 will be open at night for basketball leagues?

14 MS. KAHN: They may not be. But that's
15 when I am saying the city may well be repaid.

16 COUNCILMAN KENNEY: Where do I go to get
17 my money back? Where do I get the refund the from?
18 You don't have any money.

19 So just be honest with us.

20 MR. TRUJILLO: I think we are being
21 totally candor.

22 COUNCILMAN KENNEY: No. We are trying
23 to frame this and craft this in a way that's cute
24 and novel. But, guess what, it is what it is. If
25 it is quacking and walking like a duck, that's what

1 BILL NOS. 000708 and 000709

2 it is.

3 MR. TRUJILLO: Councilman, this precise
4 kind of arrangement has been requested by the city
5 controller four years ago.

6 The fact that it overlaps with a need
7 that the School District has now does not
8 illegitimize it.

9 The city controller suggested in 1997
10 and 1998 that this precise kind of arrangement be --

11 COUNCILMAN KENNEY: But, Ken, in all
12 fairness, you are a smart, intelligent lawyer, I
13 think you are a decent person.

14 You are telling me a ten-year prepayment
15 is not an odd thing? It is the oddest thing I have
16 ever seen here.

17 MR. TRUJILLO: I don't think it is the
18 oddest things you have ever seen here.

19 COUNCILMAN KENNEY: Well, it is one of
20 the top three. There are a lot of ties.

21 MR. TRUJILLO: Did you want an answer?

22 COUNCILMAN KENNEY: Well, what I really
23 would like, just on the practical side, I would like
24 to know, out of the 115 schools that are involved, I
25 would like to know how many employees are involved

1 BILL NOS. 000708 and 000709
2 in this after school, after-hours issue. I want to
3 know the list of classes of employees and what their
4 hourly rates, overtime pay, are. And I would also
5 like to know whether or not there are in fact
6 electric and water meters and gas meters in every
7 115 schools that are involved.

8 Because I don't know what the age of
9 those schools were, whether those are all metered or
10 not. Maybe they are, maybe they aren't.

11 I know we had a similar problem with our
12 electrical use rates when it comes to alley lights.
13 They are not metered, but we negotiated a number
14 with PECO.

15 So I need to know, of those 115 schools,
16 how many actually have water, electric, and gas
17 meter readings we could look at.

18 And that's it for right now. Thank you.

19 MS. KAHN: Councilman, we don't have
20 that detail, but we will provide it.

21 PRESIDENT Verna: Thank you.

22 Is Councilwoman Tasco in the chamber?

23 No questions.

24 Ms. Chatzkel, you state on Page 2 of
25 your testimony that, quote, Based on our current

1 BILL NOS. 000708 and 000709
2 forecast, the School District would be unable to
3 meet its cash obligation after June 21, end of
4 quote.

5 I am somewhat confused by your
6 statement, since on one page of your testimony you
7 state, Based on the projected cumulative deficit of
8 \$44 million, the School District is currently
9 forecasting an end-of-year cash position of \$60
10 million.

11 I would think that if the \$45 million
12 was not forthcoming, then \$60 million less \$45
13 million would leave you with a \$15 million cash
14 balance.

15 Am I missing something?

16 MS. CHATZKEL: No. You are absolutely
17 correct, Council President.

18 What happens with our payments -- and we
19 did provide daily cash flows. I don't know if you
20 all have them.

21 We get a payment from the state at the
22 very end of the month. It is a special education
23 payment. And for the end of June, it is projected
24 at \$38 million.

25 It comes the same time every year. We

1 BILL NOS. 000708 and 000709

2 can't move that. The date that it is anticipated to
3 be received is June the 28th.

4 Between June the 22nd and June the 28th,
5 we reach a negative cash position. We are not able
6 to cover our bills during that time period.

7 The other point to note is that --

8 PRESIDENT VERNA: Are you able to come
9 back with a positive cash by the end of the year?

10 MS. CHATZKEL: We get \$38 million at the
11 very end of the month. And that's what rebounds,
12 that's what brings us back to only \$15 million.

13 But just to clarify -- because it is an
14 important point for us as we manage our cash -- this
15 is all based on an estimate.

16 You noted in your earlier question that
17 there is some projected improvement in the
18 district's fund balance. Some of that we know for
19 sure because it happened last year and was clarified
20 in our audit.

21 But \$15 million of improvement is based
22 on an estimate. There could be some variance. And
23 we have to account for that, too, as we look for the
24 required level of cash.

25 PRESIDENT VERNA: You know, as it stands

1 BILL NOS. 000708 and 000709

2 now, I don't think anybody at the table can tell us
3 that the schools will open in September. Is that
4 true? Are we getting that impression?

5 MS. KAHN: We can tell you that we are
6 making every possible effort to have that happen.

7 PRESIDENT VERNA: See, I think that
8 several Council Members feel that if this fact we
9 approve these two ordinances and risk the city to a
10 payment of \$45 million a year, if in fact the state
11 takes over the district, we are really committing
12 ourselves to \$60 million a year? It would be the
13 45, plus the 15?

14 I somewhat agree with Councilman Kenney.
15 The state certainly doesn't want to take over the
16 School District.

17 But if the City Solicitor can't tell me
18 or any of us what a court would do, I don't think I
19 could sit here and tell you that I'm a hundred
20 percent certain that the state would not take over.

21 What happens to our General Fund if that
22 happens?

23 I think we sat through budget hearings.
24 It was indicated that cuts were going to be made. I
25 think last year this time we also heard that the

1 BILL NOS. 000708 and 000709

2 School Board was going to be making, or the Mayor
3 had asked the School District to make, what was it,
4 a hundred --

5 MS. KAHN: \$100 million over several
6 years.

7 PRESIDENT VERNA: I don't know that we
8 have heard of any of the cuts that have been made.
9 We don't know what you are doing.

10 And apparently we come in here, ask
11 questions. And all we are told is, we are working
12 on it. Well, I think we are going to have to be
13 given more information.

14 MS. KAHN: Actually, last year, as part
15 of the budget process, the Board did approve nearly
16 \$30 million in proposed reductions in expenditures.
17 And we do have --

18 PRESIDENT VERNA: But you were here this
19 year for the budget, and we were told that cuts were
20 going to be made.

21 Can you give us some indication as to
22 what cuts have been made or will be made or can be
23 made?

24 MS. CHATZKEL: We can answer for you
25 the cuts that were made last year, as part of our --

1 BILL NOS. 000708 and 000709

2 for this year --

3 PRESIDENT VERNA: We are talking about
4 this year.

5 MS. CHATZKEL: For this year, the
6 lump-sum budget, which is the preliminary budget
7 that we shared with you, is due to be approved by
8 the Board.

9 It is just a start of a process that
10 ends on May 31, when we adopt the final budget.

11 What we are looking at, in general
12 terms -- and I think that Mr. Goldsmith addressed
13 some of these -- we want to look at, number one,
14 ways to generate revenues other than tax revenues.
15 That's the easiest thing for us to do, because it is
16 not painful.

17 There are Medicaid reimbursements that
18 we hope to increase. The dollar amount for that
19 could be anywhere between 5 and 10 million dollars.

20 Then what we would look at as a
21 district, and are looking at, are the expenses that
22 are furthest away from children in the schools,
23 which obviously starts with administrative expenses.

24 And I think that there have been several
25 meetings, internal meetings, to discuss how the

1 BILL NOS. 000708 and 000709

2 Administration can be reorganized, which should
3 effect some savings.

4 We don't know a dollar amount to those
5 savings for two reasons. We don't know finally what
6 the administrative structure will look like. There
7 is a lot of detail to that.

8 But the other question is, if this
9 administrative restructure can free up some
10 educators, whether the best thing to do might be to
11 take educators who have a higher salary than we are
12 used to paying for teachers in the classroom, but in
13 theory -- and I hope in actuality -- earn that
14 salary by experience, are redeployed back into the
15 classroom. Which is why we can't give you a dollar
16 on that.

17 But I can say, of all the things that
18 are being looked at, that's being looked at the most
19 heavily.

20 And then in terms of other cuts, we are
21 looking department by department, but again our
22 emphasis right now is on administrative areas.

23 MS. KAHN: And it is over the next four
24 to six weeks that the intensive work of the School
25 District's budget is always done. I mean, these are

1 BILL NOS. 000708 and 000709

2 the months.

3 So, again, we have a problem of being a
4 little bit out of sync with otherwise what is the
5 city's timetable.

6 PRESIDENT VERNA: So six weeks would
7 take us into May?

8 MS. KAHN: Uh-huh.

9 PRESIDENT VERNA: Beginning of May, end
10 of May?

11 MS. KAHN: Right. Well, again, May 31
12 is the date by which the Board is required by the
13 Charter to adopt its budget.

14 So certainly, again, over the next four,
15 six, seven weeks, up until and including May 31, a
16 lot of that work will be done, but certainly the
17 bulk of it over the next four to six weeks.

18 PRESIDENT VERNA: Is there anything to
19 preclude the Board from taking action earlier?

20 MS. KAHN: Well, you know, because part
21 of the issue is the state budget process. Which,
22 again, their budget is often, I mean, sometimes not
23 approved until June, but usually in May.

24 And since the bulk of, 60 percent of,
25 the School District's budget is state funded, it is

1 BILL NOS. 000708 and 000709

2 very difficult for the district to do a budget
3 without knowing what its state resources will be.

4 PRESIDENT VERA: Councilwoman Tasco,
5 did you want to be recognized?

6 COUNCILWOMAN TASCO: Yes. I just have a
7 question for the law department.

8 How does this position us in terms of
9 possible lawsuit in case the state does take over
10 the School District, in terms of this money going to
11 traveling this route, based on intent and this
12 record that we are building today?

13 MR. TRUJILLO: I think that the --

14 COUNCILWOMAN TASCO: Would it still
15 leave us open to a takeover, to being responsible
16 for the continued funding of the 45 million?

17 MR. TRUJILLO: I think that the
18 licensing agreement that was entered into is -- or
19 the proposed licensing agreement is not only
20 defensible, but I think it is very appropriate.

21 I believe that it is the most defensible
22 kind of arrangement that can be entered into
23 legally.

24 And I am unaware of any other type of
25 arrangement that would give us the kind of ability

1 BILL NOS. 000708 and 000709
2 to protect the city than this agreement does.

3 COUNCILWOMAN TASC0: Thank you.

4 PRESIDENT VERNA: Thank you.

5 The Chair recognizes Councilman Nutter.

6 COUNCILMAN NUTTER: I want to go back
7 for a second. There was at the tax authorization
8 hearings, and it has kind of continued as an item of
9 discussion, with regard to what the state may or may
10 not do as it relates to the current fiscal
11 situation.

12 Now, I don't remember what the
13 announcement was, but the Governor put out his
14 budget maybe shortly after, I think, the Mayor
15 announced the city budget.

16 Now, were there dollar figures announced
17 in that budget from the Governor that indicated
18 increased support for Philadelphia?

19 MS. KAHN: Yes. There was
20 approximately \$67 million in additional revenues,
21 new revenues, contained in the Governor's budget.

22 COUNCILMAN NUTTER: And what does that
23 do in terms of the anticipated \$235 million deficit?

24 MS. KAHN: Those figures are included,
25 already assumed, what's ever in the Governor's

1 BILL NOS. 000708 and 000709

2 budget, within our forecast. So in that sense it
3 made the problem \$67 million smaller.

4 COUNCILMAN NUTTER: So it is 235 minus
5 the 67?

6 MS. CHATZKEL: No; it is \$235 million.

7 COUNCILMAN NUTTER: It is 235 including
8 the receivables --

9 MS. KAHN: They are already assumed.

10 COUNCILMAN NUTTER: So when the
11 President just asked the question a couple of
12 different ways, I get the impression the response
13 has pretty much been the same, you are working on
14 it, you are looking at it, you are talking to
15 people, a wide variety of things going on.

16 What is the expectation out of all these
17 meetings and discussions and the like?

18 MS. KAHN: What we would like to see is
19 to get agreement among the parties over a series of
20 years, which again we discussed at the tax
21 authorization hearings, that we can put the School
22 District on the road towards long-term financial
23 stability and also towards improvements in
24 education.

25 COUNCILMAN NUTTER: Well, okay. I mean,

1 BILL NOS. 000708 and 000709
2 that's a good answer. But are you expecting the 235
3 problem to be solved in the course of this year,
4 between the additional state effort and city effort?

5 MS. KAHN: No, not at all.

6 COUNCILMAN NUTTER: What does the path
7 to nirvana look like? And what will we have to see
8 over anybody's reasonable period of time? What kind
9 of numbers are we talking about?

10 MS. KAHN: Because of the fact that the
11 budget problems have really been a long time in the
12 making, we are realistic enough to say that there is
13 no way that they will be resolved within one budget
14 year.

15 So as we have already discussed, we are
16 looking at a series of actions which may well have
17 to include some deficit financing.

18 But that can only be done in the context
19 of knowing that there is a plan over the course of,
20 again, maybe five years or more, where the district
21 would come into balance.

22 COUNCILMAN NUTTER: And so we find
23 ourselves now in a situation where we are just
24 waiting to see what the result of the discussions
25 and the meetings and the conversation in Harrisburg

1 BILL NOS. 000708 and 000709

2 is to then know what the game plan is going forward;
3 is that --

4 MS. KAHN: Yes. I mean, every week
5 there has been more activity and more parts of
6 putting together this puzzle.

7 We have had legislators into
8 Philadelphia over weeks, you know, several important
9 groups trying to gain common ground and increase
10 their understanding.

11 As you know, the House Appropriations
12 Committee will be in Philadelphia on Wednesday and
13 Thursday of this week, where several of us will be
14 testifying.

15 And they have come to look specifically
16 at the School District's financial situation and
17 consider those needs. And they preface that visit
18 with open-mindedness and a willingness to look and
19 to hear and to see what it is that -- to understand
20 the problem and to see what contributions they can
21 make towards helping to solve it.

22 COUNCILMAN NUTTER: And, I mean, just,
23 you know, always hoping for the best, but, I mean,
24 we do have to plan for the worst.

25 Suppose out of all that they say, you

1 BILL NOS. 000708 and 000709

2 know, it is a really nice city, love coming here,
3 you have some serious situations and challenges, and
4 we are going to keep talking to you, but that for
5 this year, nothing changes? What does that mean?

6 MS. KAHN: Well, I think that all of us
7 in the City of Philadelphia have a huge problem in
8 that event.

9 COUNCILMAN NUTTER: Tell me about the
10 magnitude of the problem and the realities. Tell me
11 about real-life situations that could result from
12 such a scenario.

13 MS. KAHN: Real-life situations would
14 be the question that's always asked, will you be
15 able to open school and will you be able to keep
16 open. I think the answer to that would have to be
17 no, we couldn't.

18 So we would have to see what the
19 ramifications are. We would have great
20 difficulties -- and again the CFO can speak to
21 this -- in the bond market, certainly.

22 COUNCILMAN NUTTER: I guess what's the
23 line or what's the dollar amount, what's the
24 breaking point between open, no open?

25 Because I have asked you about zero, and

1 BILL NOS. 000708 and 000709

2 I assume zero means no open. On the other hand, I
3 am sure that if after all this process you go
4 through with Harrisburg, and they said, oh, well,
5 yes, you made a really good case, and I think we
6 will send, we could throw another 10 million in the
7 pot, I assume that there is a line somewhere that,
8 until you cross that line, you are not really doing
9 anything. Not that \$10 million isn't a lot of
10 money, but it doesn't necessarily open the schools.

11 So tell me what the line is.

12 MS. CHATZKEL: The gap is -- and I
13 would like to answer your question, Councilman
14 Nutter, by talking about the four ways that we can
15 close this gap, and also how much of the gap we have
16 to close to operate, which I think was your first
17 question.

18 We start the year, as estimated -- and,
19 again, this is an estimate -- of a little bit of a
20 cash cushion.

21 That little bit of a cash cushion means
22 that for next year, we don't need to close fully
23 \$235 million. We have to close close to it.

24 There are four ways to do it. And I
25 don't want to make light of the fourth way.

1 BILL NOS. 000708 and 000709

2 Although it is not my favorite, I think it is going
3 to have to be part of it.

4 COUNCILMAN NUTTER: How close is close?
5 I just trying to keep track. How close is close?

6 MS. CHATZKEL: I think that what we
7 would like to have is \$235 million.

8 I think we ought to, for everybody's
9 sake, we ought to wipe out the fund balance deficit.
10 That's the way to operate.

11 COUNCILMAN NUTTER: All right.

12 MS. CHATZKEL: Given the magnitude and
13 given that this has been several years in the
14 making, we should look at each of our four options
15 for closing that gap, because all of them come into
16 play.

17 COUNCILMAN NUTTER: What are they?

18 MS. CHATZKEL: The first is to have the
19 School District effect cuts.

20 What we looked at during the budget
21 briefings with you was that we are already spending
22 7 percent less than the national norm on a
23 per-student basis and 25 percent than other school
24 districts in the Commonwealth.

25 That doesn't mean we can't effect cuts.

1 BILL NOS. 000708 and 000709

2 It means that we have to do so responsibly and make
3 sure that we don't cut the spending on children
4 between K and 12 particularly, which is our core
5 mission. We will look at cuts.

6 To do those cuts responsibly, and to
7 generate new revenues responsibly, will probably
8 have to happen over many years, which is why Ms.
9 Kahn said we are looking at a five-year plan at this
10 point.

11 We look at two sources of revenues. We
12 look at local revenues. You have contributed,
13 locally we have had 40 percent of our revenues come
14 from local sources and 60 percent from the state.
15 Those are obviously ways to close the gap.

16 If those first things, three things,
17 don't materialize to a full \$235 million, which -- I
18 mean, I would love to see that happen; I don't think
19 we expect to see that happen -- the fourth means is
20 deficit funding.

21 COUNCILMAN NUTTER: Wait a minute. I'm
22 sorry. I must have been going slow.

23 I thought number one was school district
24 cuts?

25 MS. CHATZKEL: Number two is local

1 BILL NOS. 000708 and 000709

2 revenues. Number three is state revenues.

3 Ms. Kahn actually mentioned number four,
4 which is federal revenues. And since we don't know
5 yet what's going to be passed, I can't rely on that.

6 But what we have heard is that there may
7 be some additional special education funding, which
8 would help as well. So, actually, reasonably we
9 should add that to the mix.

10 COUNCILMAN NUTTER: So five pieces.

11 MS. CHATZKEL: Right. If in the
12 aggregate we don't have enough to close that \$235
13 million gap, we are going to have to look to deficit
14 funding for the rest.

15 COUNCILMAN NUTTER: What does that mean
16 to you?

17 MS. CHATZKEL: Deficit funding, it is
18 not the end all and be all, obviously. It is debt.

19 And in order to make it real, we would
20 have to show a plan where, over a period of years,
21 probably five years in our case, there is an ability
22 through perhaps a right sizing or a rethinking
23 district activities and through other revenue
24 measures to close the gap.

25 So that with deficit funding, the

1 BILL NOS. 000708 and 000709
2 largest piece of whatever is borrowed is used in the
3 first year. And then the amount that's needed in
4 the out years continues to diminish, until you
5 finally reach a budget balance.

6 COUNCILMAN NUTTER: I mean, I know that
7 the government is a lot different than our own
8 personal financial circumstances.

9 But, I mean, in less financial terms and
10 kind of more street-type nomenclature, what we are
11 really talking about is borrowing our way out of
12 debt?

13 We were going to borrow some money it
14 pay our debt, and end up with more when all is said
15 and done; is that what we are talking about?

16 MS. CHATZKEL: We are talking about
17 borrowing to fill our cash needs over the next
18 couple of years. The idea being, though, that we
19 balance.

20 And, yes, there is absolutely, there is
21 debt service on that, which is why it is not --

22 COUNCILMAN NUTTER: But in a current
23 financial crisis, how do you pay that additional
24 debt?

25 MS. CHATZKEL: Whatever the debt

1 BILL NOS. 000708 and 000709

2 service is has to be added to the gap that you see
3 in the years ahead.

4 And as you look at ways to close the
5 gap, the gap has grown by the amount of debt
6 service. You are absolutely right.

7 COUNCILMAN NUTTER: Okay. All right.
8 You mentioned about some cuts. I did have one item
9 that I needed to ask about.

10 It has to do with the Philadelphia High
11 School Academies Program. And the district has
12 funded that program, it is my understanding, for the
13 past, I think at least, three years?

14 Are you familiar with that particular
15 program?

16 MS. KAHN: Yes.

17 COUNCILMAN NUTTER: About \$250,000?

18 MS. KAHN: I learned about it fairly
19 recently, yes.

20 COUNCILMAN NUTTER: Now, it is my
21 understanding that there has been funding provided
22 to the organization for the past three years in the
23 amount of \$250,000, but that recently it was
24 apparently revealed that this year, in the current
25 '01 budget, the district is not going to make those

1 BILL NOS. 000708 and 000709
2 funds available, and we are now nine months into the
3 Fiscal Year.

4 Can you tell me what's going on with
5 that, and why we would do that, and what happens to
6 all these programs in our local high schools?

7 MS. KAHN: Well, several things.

8 I learned about this arrangement that
9 had existed under the prior Administration some
10 months ago. And I have been in ongoing discussions
11 with the executive director, who I admire greatly.

12 And I am a former Board member of the
13 Academies and a great fan of what they do for our
14 kids and our schools.

15 And we have been in those discussions.
16 And, frankly, because of some other business, she
17 and I have been staying in touch. But it was not
18 something that I needed to resolve right away, in
19 her judgment. So we have had those ongoing
20 discussions.

21 When I learned of how that arrangement
22 had been done, I was frankly somewhat surprised by
23 how that payment --

24 COUNCILMAN NUTTER: I don't know
25 anything about the arrangement. What's the

1 BILL NOS. 000708 and 000709

2 arrangement?

3 MS. KAHN: Apparently, over the past
4 several years, the money had come from the city to
5 the Academies, and the money had been allocated as
6 part of the \$15 million grant.

7 COUNCILMAN NUTTER: We don't allocate
8 the \$15 million in any specific fashion. We never
9 have. We have talked about that.

10 MS. KAHN: I know. And I honestly
11 don't even have all the details.

12 COUNCILMAN NUTTER: I have no idea of
13 what that means.

14 MS. KAHN: That's what I have been
15 told. I haven't looked into it.

16 COUNCILMAN NUTTER: Are you saying to me
17 that in the city's budget for the 15, which until, I
18 believe, the current year, had always been a
19 separate appropriation, a separate bill, for the \$15
20 million, I believe that either in this current
21 year's budget, or the one that we have just approved
22 last week, the 15 was already in the budget? We
23 didn't do it separately?

24 Now, Madam President, if I can, I'm sure
25 Mr. McPherson would know the details on our recent

1 BILL NOS. 000708 and 000709

2 situations with the \$15 million.

3 Is it in the current Fiscal Year that
4 the money was already in the budget for the 15, and
5 we didn't do --

6 MR. MCPHERSON: 2001 it was in the
7 budget, and 2002, also.

8 COUNCILMAN NUTTER: So in the past years
9 we had a separate bill for the \$15 million that the
10 Council had to approve.

11 MR. MCPHERSON: Yes.

12 COUNCILMAN NUTTER: In the current
13 fiscal year budget, it is already in the budget.

14 Now, is it detailed in the budget what
15 the \$15 million is for?

16 MS. KAHN: When you say, "in the
17 budget," you mean in the city budget?

18 COUNCILMAN NUTTER: Yes. In the current
19 fiscal year budget, there is a \$15 million item
20 covering this, what had been a one-time grant, for
21 the past five years to the district.

22 In the previous four years, we had a
23 separate bill, just for the 15. We voted for it
24 separately.

25 There was no specificity as to what the

1 BILL NOS. 000708 and 000709
2 \$15 million was for. You can check all the notes of
3 testimony over the past years, there was never an
4 earmarking of what those dollars were for, other
5 than going in the big pot to be used for whatever
6 the district wanted.

7 Now you are saying that that's part of
8 what the money was for, this 250 out of the 15 was
9 specifically for this particular program?

10 MS. KAHN: Again, the preliminary look
11 that I have had into it, okay, I am just saying that
12 I have heard something to the effect that maybe the
13 School District simply in some way looked at that --
14 because they don't budget for particular
15 organizations to support.

16 So that maybe to some extent those
17 dollars were used in that way. But it was an
18 arrangement that pre-existed this Administration.

19 COUNCILMAN NUTTER: I am just trying to
20 understand why anyone would say or believe that some
21 particular program was being funded from a \$15
22 million grant, which was not specific in its
23 designation for anything?

24 And in the past when we asked about
25 having certain items covered by a portion of the \$15

1 BILL NOS. 000708 and 000709
2 million, we were specifically told that the money is
3 for general operating purposes of the district, and
4 is not specific to any program, project, activity,
5 or anything else.

6 So I don't know where someone would get
7 the notion from that this particular program or any
8 other specifically came out of the \$15 million.

9 It was \$15 million that was going in a
10 bank account somewhere and being used however it was
11 being used in the School District's general budget.

12 MS. DAVIS: If I might --

13 COUNCILMAN NUTTER: Can someone tell me,
14 over the past five years, give me an accounting for
15 that \$15 million on a program or project basis, and
16 show how the money was spent?

17 Then where does that answer come from?

18 COUNCILMAN KENNEY: Point of order,
19 Councilman. Thank you, Madam President.

20 Councilman, I have asked this almost
21 every year we have done this \$15 million,
22 specifically for a breakdown of where and when, and
23 I am still waiting.

24 So, I mean, one of the problems that we
25 have always faced with this is that, on one hand, if

1 BILL NOS. 000708 and 000709

2 we don't give them the money, we are being
3 insensitive and unrealistic.

4 On the other hand, we have no control or
5 ability to talk about books or programs or certain
6 academic subjects or parent co-op nursery or
7 whatever it is, it is out of our hands once we give
8 them the money.

9 And I don't know, I think you have been
10 here as long as I have, I don't remember anything we
11 have ever done one time that's not been in
12 perpetuity so far.

13 So this 45, I put it in the same
14 category. We may be asked to make this a regular
15 number.

16 But I have asked for it consistently and
17 have received nothing in return.

18 COUNCILMAN NUTTER: Thank you.

19 MS. DAVIS: I was just going to add
20 that we transmit to the district \$14.75 million,
21 which is net of that 250,000. The 250,000 has been
22 transmitted directly to the Academies by the city in
23 the past.

24 COUNCILMAN NUTTER: So what's the
25 situation now going forward? Are we transmitting

1 BILL NOS. 000708 and 000709

2 14.75 or are we transmitting 15?

3 The money was, I thought, 15 to the
4 district. Now we have got a slicing off of a
5 portion for -- I mean, I am supporting the
6 Academies. There is no issue about that.

7 But no one could ever say where the 15
8 was going, who it was for, a breakdown of the
9 programs.

10 And now we are finding that, I mean,
11 some net amount -- so was the check coming from the
12 City of Philadelphia off of the 15?

13 MS. KAHN: Councilman, all I can tell
14 you is that it is an arrangement that I learned
15 about some months ago.

16 I had -- you know, was not a party to
17 it, nor were any of the people sitting at this
18 table. And it is just something that I need to look
19 at.

20 I had asked the School District -- and I
21 believe I am getting the information -- just for
22 some information on how the Academies are supported
23 and how they in turn support the School District, in
24 order to make a judgment as to whether or not, you
25 know, additional funding would be appropriate.

1 BILL NOS. 000708 and 000709

2 But, again, that is not an arrangement
3 that any of us had anything to do with.

4 COUNCILMAN NUTTER: I appreciate you
5 looking into it and getting all of the analysis.

6 But, I mean, a decision apparently has
7 been made that no money will be forthcoming, before
8 your analysis and before your --

9 MS. KAHN: That's not correct.

10 COUNCILMAN NUTTER: Okay. Then maybe
11 you can explain this to me. This is a letter from
12 Mr. Goldsmith, to the Chair of the Board of the
13 organization.

14 The letter says, "I am also writing to
15 follow up a recent conversation," this is to the
16 Board Chair, "you had with Dr. Cassandra Jones of my
17 staff regarding the Academies' requests for funds
18 through the district's Operating Budget. The
19 district enjoys productive relationships with a good
20 number and variety of partner organizations. The
21 Academies is one such valued partner. However,
22 given the district's budget situation, in which we
23 currently face a sizable deficit, our ability to
24 identify \$250,000 from our operating budget to
25 provide one of our partners for its core operating

1 BILL NOS. 000708 and 000709
2 and/or unrestricted expenses is terribly difficult
3 at this time. I hope you will understand that I
4 wish the budget circumstances were different and
5 that we could assist the Academies in this way. If
6 the situation should change or if other solutions
7 become available, I would be delighted to revisit
8 this decision."

9 Now, if you got this letter in the mail,
10 does it sound like you are getting 250 or not?

11 MS. KAHN: No, it doesn't. And I will
12 tell you, Councilman, we have a lot of things going
13 on. And I will tell you personally I did not know
14 that letter had been sent. And I had considered it
15 as one of my to-do's on my pile. That's the most
16 honest answer I can give you.

17 COUNCILMAN NUTTER: It sounds like you
18 might want to check it off. It sounds like it is
19 to-done.

20 MS. KAHN: I might be able to. I don't
21 know. But I will certainly talk to Mr. Goldsmith
22 and find out what the status is. I just don't know.

23 COUNCILMAN NUTTER: Let me ask this
24 question: Let's say that you were in a situation
25 with us and you had made some financial projections

1 BILL NOS. 000708 and 000709

2 based on what had happened in the past. I know
3 nothing lasts forever.

4 But let's say that you were in a little
5 situation or relationship with us, and we had been
6 doing certain things for a certain amount of time.
7 And maybe you didn't have a full-blown contract like
8 the \$15 million a year that the district would
9 budget every year and would expect to get, and then
10 you find out in March that the 15 is not
11 forthcoming.

12 Now, would you think that was fair? Is
13 that a way to do business with someone who is
14 actually doing things in the district?

15 We have 12 career areas, 19 high
16 schools, 29 academy sites. I think they are kind of
17 doing something with us.

18 And you find out three-quarters of the
19 way into the Fiscal Year that someone has pulled the
20 plug on \$250,000?

21 MS. KAHN: As I said to you earlier,
22 that's why I had been in touch with Ms. Allen all
23 along. And she and I -- and as someone who used to
24 run a nonprofit organization, I think I appreciate
25 it.

1 BILL NOS. 000708 and 000709

2 And she had and I had had the discussion
3 about how much were they depending on this and what
4 was the status.

5 And I am just telling you that I
6 personally, I think, spoke to her as recently as a
7 week or so ago. And I did not know that letter had
8 been sent.

9 And, as I said to you, I had asked the
10 School District to provide me with some information.
11 And I will now follow up on it and see where we get.

12 COUNCILMAN NUTTER: Is this a valued
13 program? You have got, it is called the
14 Philadelphia Academies, Inc. You have got a couple
15 of people who serve on the Board here, the officers.

16 Now, this would be a guy named Paul, it
17 looks like, Brideman. He would be the Chairman and
18 CEO of Mellon Bank. The Vice-Chair is a guy Robert
19 Fox, Manko, Gold & Katcher, law firm. Mary
20 Gavigan, from Sunoco, and John Lucca from KPMG, LLP.

21 Isn't this like a business-oriented
22 entity that has some of the leading stars in the
23 city from the business community on its Board?

24 MS. KAHN: It does.

25 COUNCILMAN NUTTER: Do they provide a

1 BILL NOS. 000708 and 000709

2 valued service to the district?

3 MS. KAHN: They provide a terrific
4 service.

5 But there are a number of nonprofit
6 organization that also provide terrific services to
7 the School District which the city does not fund
8 directly. In some cases there are contracts --

9 COUNCILMAN NUTTER: What's the one got
10 to do with the other?

11 MS. KAHN: To say whether or not they
12 would be funded now on an operating basis is not to
13 devalue the work that they provide for the School
14 District. They have not always been --

15 COUNCILMAN NUTTER: What was the basis
16 of the decision then, if not on a value basis?

17 I understand you have a financial issue.
18 But apparently that money was being covered out of
19 the 15 that we were sending.

20 Now, someone has now made a different
21 decision about something. No discussion with us. I
22 mean, you know, I understand that. But it is
23 three-quarters of the way into the Fiscal Year.

24 MS. KAHN: That's correct. And we will
25 look into it.

1 BILL NOS. 000708 and 000709

2 COUNCILMAN NUTTER: And?

3 MS. KAHN: Find out on what basis that
4 decision was made.

5 COUNCILMAN NUTTER: Are we going to get
6 back? What are we going to do?

7 I mean, is the district just dismantling
8 programs and relationships, some of which are
9 actually working? I mean, we can --

10 MS. KAHN: No.

11 COUNCILMAN NUTTER: We can go back into
12 PCN, if you'd like, and have some more of that
13 discussion.

14 We have that situation, now we are doing
15 Philadelphia Academies. I mean, are there other
16 people who we should anticipate being on the
17 chopping block?

18 Are we just getting out of certain core
19 activities, or are we only doing certain activities?
20 Why would we do something like this?

21 What's the graduation rate in the School
22 District?

23 MS. KAHN: Let me just say, there is no
24 core list right now of activities that we are
25 necessarily getting out of. But I think as we work

1 BILL NOS. 000708 and 000709

2 our way through --

3 COUNCILMAN NUTTER: And I take
4 particular note at your term "right now." I heard
5 that.

6 MS. KAHN: And what I was going to say
7 is, I think as we work our way through this budget
8 process, and this workout, I think we can all expect
9 that there will have to be changes.

10 There is no way, there is just simply no
11 way that we will work ourselves out as a city, as a
12 School District, of this financial problem that we
13 all face in the School District unless we anticipate
14 some major changes being made. It is just simply
15 not practical and reasonable.

16 COUNCILMAN NUTTER: I understand we need
17 some changes, as well. But it sounds like a
18 decision had already been made before you even had
19 an opportunity to investigate whether this is a
20 change that we want to make. That's the part that I
21 am not understanding.

22 PEDRO RAMOS: President Verna, Pedro
23 Ramos, President of the School Board.

24 I have been listening in on part of this
25 discussion. And I had an opportunity to call over

1 BILL NOS. 000708 and 000709

2 to the School District to talk to our CEO, Phil
3 Goldsmith.

4 And there are two issues we have been
5 dealing with through the Academies. And one of them
6 is resolved, and there is a resolution today on the
7 Board's agenda.

8 The second issue is this amount of the
9 \$250,000 in the city's 15 million that I guess not a
10 lot of people knew about, and we have discovered as
11 the new team that was in there.

12 And Phil's intention in sending that
13 letter was, basically, \$250,000, he is not -- you
14 know, just wasn't prepared to make that commitment
15 at that time.

16 But I don't think that you can read into
17 that any intention to dismantle anything, other than
18 just trying to deal with, you know, the situation he
19 has before him.

20 From a Board perspective, the Academies'
21 relationship --

22 COUNCILMAN NUTTER: I understand that.
23 I guess I am just in a position where I would like
24 to be maybe a little bit ahead of the curve, as
25 opposed to every week, every month finding out,

1 BILL NOS. 000708 and 000709

2 start with the PCN situation, that was the last few
3 weeks and the last couple of months, which is still
4 unresolved, now we are talking about the Academies
5 program.

6 I would like to know, just give me the
7 whole list at one time and tell me what business are
8 we going to be in and what relationships are we
9 going to have, especially with the groups and
10 organizations that are actually doing something that
11 seems to make a difference.

12 Now, can somebody tell me what the
13 graduation rate is overall throughout the School
14 District?

15 MR. RAMOS: I believe that on-time
16 graduation in the School District is at the highest
17 it's been in a long time, and it is still dismally
18 low. I don't know if it is the high 50-something
19 percent or low 60-something percent of graduation on
20 time in four years.

21 COUNCILMAN NUTTER: Let me tell you
22 this, if I --

23 MR. RAMOS: If I can just answer your
24 previous question. I ask your indulgence.

25 The district and the Board, despite

1 BILL NOS. 000708 and 000709

2 whatever, you know, past bumps there may have been
3 in the relationship with the Academies, my best
4 sense of the Board is that the Board very much
5 values the relationship with the Academies.

6 So that this, you know, whatever
7 communication has been had or hasn't been had, it
8 should not be seen as -- it would be probably
9 inaccurate to perceive that relationship as being
10 where it was headed several years ago.

11 COUNCILMAN NUTTER: I don't know where
12 it was. I don't know where it is today. I don't
13 know where it is going. I hope it is going in the
14 right direction.

15 MR. RAMOS: And the other thing is,
16 Councilman, that there is no list. But this school
17 system, I mean, there is a surreal quality here. I
18 mean, there is a lot that we are trying to get
19 through in the district.

20 And the Board and district
21 Administration are doing their best to do that
22 responsibly.

23 And, you know, we are getting our budget
24 process formally launched today with the adoption of
25 a lump-sum statement. And we invite you to

1 BILL NOS. 000708 and 000709

2 participate, as you have in the past, in that
3 process and bring it your concerns of your district
4 and Council there. And we welcome the opportunity
5 to continue to discuss with you.

6 Because no matter what, the next several
7 months, there's going to be a lot of pain and a lot
8 of disruption until we get through that process.

9 COUNCILMAN NUTTER: I understand that.
10 If it was easy, everybody would be doing it. And I
11 would be glad to participate in that particular
12 process.

13 At the same time, I think I do have an
14 obligation to participate in the one process where I
15 actually get to vote on something. I don't get to
16 vote on your budget.

17 We are here today about the 45. I
18 participate in that process. Last week we voted on
19 600-some million dollars in total taxes going to the
20 district. I participated in that process. And now
21 we have this particular issue.

22 To go my to my earlier question, if the
23 overall graduation rate, as you indicate, is maybe
24 in the mid 50s or so, the graduation rate out of
25 this program is in the 90 percent range.

1 BILL NOS. 000708 and 000709

2 90 percent of the students who
3 participate in these programs graduate from school.
4 And then they are tracked. And some 50-some-odd
5 percent, close to 60, go to college or some
6 post-secondary educational activity.

7 I am trying to understand, what else do
8 we have going on that either matches that or
9 surpasses that, that gives an indication to not only
10 these students and not only the participants, but
11 the Board of this organization, made up of some of
12 the leading citizens of this city, who could
13 probably be somewhat helpful in our other situations
14 and efforts, what is the message to them ?

15 MR. RAMOS: The message to them is that
16 the leadership of the Board and the School District
17 feel that the children of the City of Philadelphia
18 and the district has benefited from the relationship
19 with the Academies.

20 And as we move forward, that's the
21 mindset with which we are looking at this specific
22 request, which has been generated by a relationship
23 that pre-existed some of us and that many of us
24 didn't know about.

25 It caught me by surprise when I heard

1 BILL NOS. 000708 and 000709

2 that in the past money had been earmarked in the \$15
3 million for the School District, that there was some
4 money earmarked formally or informally for --

5 COUNCILMAN NUTTER: Are you telling me
6 that the person who gets the check in the mail
7 didn't notice that it says \$14,750,000, and they
8 figured that the 250 got lost in the transaction, or
9 we just took a slice off the top and kept it for
10 ourselves?

11 Didn't they wonder why they didn't get a
12 check for \$15 million? That's what we voted for.
13 Did they not notice?

14 MR. RAMOS: Councilman, I was referring
15 to the Board and the new district leadership.

16 And I can tell you that while putting in
17 around 60 hours as a volunteer to this job, I am not
18 yet at a point where I am opening envelopes to check
19 numbers.

20 COUNCILMAN NUTTER: Mr. Ramos, I don't
21 expect you to open envelopes. You shouldn't have to
22 open envelopes. You have a Budget Office.

23 And one day, a few times, the city sent
24 a check. And the amount was supposed to be \$15
25 million. And when the check came and when the

1 BILL NOS. 000708 and 000709

2 envelope was opened, someone should have noticed
3 that it was \$14,750,000.

4 I don't think you, Ms. Rush, or anybody
5 else over at the Board has to start opening
6 envelopes to figure out is the money right.

7 MS. CHATZKEL: There is an office of
8 the treasurer who receives grants. I wasn't on
9 board last year when that check came in.

10 There may have been knowledge, but that
11 knowledge wasn't transmitted to me.

12 COUNCILMAN NUTTER: You know, this is
13 how PGW got started.

14 So all I want to know is, open
15 envelopes, not opening envelopes, 14.750, \$15
16 million, the question of the day is, what's going on
17 with the 250 and the nature of the relationship with
18 this particular organization, and how much other
19 stuff is coming down the pike in terms of groups and
20 organizations?

21 MR. RAMOS: A couple of things,
22 Councilman. First, to just restate what I said
23 earlier, I am not saying that School District
24 management didn't know. What I am telling you is
25 that, at least at the Board level, we didn't know

1 BILL NOS. 000708 and 000709
2 that this arrangement was there and that information
3 wasn't transmitted.

4 We are certainly aware of it now. And I
5 would think that -- and you can probably confirm it
6 with the Academies -- that there is a more positive
7 relationship than there has been at some points in
8 the past, and you have gotten as much as you know
9 right now.

10 I pulled Phil out of the Board meeting
11 that I should be Chairing. And I take him at his
12 word that that was the whole of it. Which was, this
13 came on the radar screen, he said, 250, I can't make
14 that decision right now. A lot of us didn't know
15 anything of the political history here. And we will
16 deal with it.

17 We are not looking to burn bridges with
18 the Philadelphia High School Academies.

19 COUNCILMAN NUTTER: What's the Board
20 going to do about the situation with the parent
21 cooperative nursery? And are you taking any action
22 at the Board meeting today regarding that situation?

23 MR. RAMOS: We are not taking any action
24 at the Board meeting today.

25 COUNCILMAN NUTTER: Nothing?

1 BILL NOS. 000708 and 000709

2 MR. RAMOS: Council, I shared with the
3 Board this morning the unanimous resolution by City
4 Council asking that nothing happen.

5 And nothing is scheduled to happen at
6 today's meeting, although there are a number of
7 speakers.

8 COUNCILMAN NUTTER: And are the items
9 that we discussed in that resolution and the issues
10 to still be discussed, and a report made to the
11 Council President, is the Board and/or staff going
12 to follow through on those items so that we can get
13 a reasonable and complete and final resolution to
14 this particular issue?

15 MR. RAMOS: We certainly want to bring
16 closure to this issue. And we will be communicating
17 through the President.

18 COUNCILMAN NUTTER: Thank you.

19 Thank you, Madam President.

20 PRESIDENT Verna: Thank you. The Chair
21 recognizes Councilman Ortiz.

22 COUNCILMAN ORTIZ: Thank you, Madam
23 Chair.

24 I don't want to go back, but I would
25 really would prefer to really to give you the \$45

1 BILL NOS. 000708 and 000709
2 million, rather than go through this process that we
3 are doing.

4 I think it enters into a very dangerous
5 delegation of authority of this Council. I think
6 setting the trend and the precedent that you can
7 prepay contracts, it is not about and the Board, but
8 it is about our relationship with the executive.

9 That giving that authority and
10 delegating that authority, I think, is unwise, and
11 really is an abdication of where we should be going
12 in terms of that.

13 If we need to have money, I rather would
14 have a discussion, really, as to how much real
15 funding we need to be giving the schools.

16 I am sure it is not \$45 million. But we
17 are spending a hell of a lot more money on other
18 issues and other programs and developments that do
19 not lead to the quality-of-life improvement in the
20 city and that do not really begin to entice other
21 people to come in and move into the city.

22 I don't think stadiums are going to do
23 that; I think schools would.

24 But be that as it may, Ms. Kahn, I would
25 like you, we never got a full flow chart of the

1 BILL NOS. 000708 and 000709

2 School Board. And I would really like to begin
3 looking at that. And I would like to look at three
4 areas of the school structure.

5 One is the Family Resource Network
6 offices. I would like to find out how that is
7 structured, how it is staffed, what contracts does
8 it have, who is employed, what are the directions,
9 what are the responsibility, and who do you respond
10 to in that.

11 Why don't you find out about the Equity
12 Office. There is an equity officer at every
13 cluster; right? Is that correct?

14 MS. KAHN: Equity coordinator, right.

15 COUNCILMAN ORTIZ: That office, the
16 equity, and the contracts and grants that come under
17 that, under that office.

18 I want to see what the lines of
19 reporting go to, who reports to whom, who staffs it.
20 I would like to see a breakdown of the people and
21 names of that.

22 I would like to see the aspect of
23 Teaching Learning Network; how that is structured,
24 who reports to whom, who goes where, what are the
25 contracts that go down.

1 BILL NOS. 000708 and 000709

2 MS. CHATZKEL: Councilman Ortiz, is
3 that the Office of Leadership and Learning?

4 COUNCILMAN ORTIZ: Yes, I guess.

5 MS. CHATZKEL: Okay.

6 COUNCILMAN ORTIZ: The Office of
7 Assessment, I think that's under the equity. I
8 would like to see how that office is structured.

9 I would like to see the structure of the
10 Education for Employment Office; in terms of grants,
11 monies, contracts, house staff, procedures, and
12 protocols.

13 And if you can give that information to
14 the President, I would really appreciate it.

15 MS. KAHN: Sure, Councilman.

16 COUNCILMAN ORTIZ: I think we will be
17 able to see a lot more about where money goes, and
18 how it is spent, and so on.

19 And I would like an explanation of how
20 do these offices relate to individual schools and to
21 actual learning.

22 MS. KAHN: Councilman, we will be happy
23 to that. And these are exactly the kind of reviews
24 that we are undergoing in order to do our budget.

25 COUNCILMAN ORTIZ: I would like for us

1 BILL NOS. 000708 and 000709

2 to be able to see where money is going and see how
3 the money is flowing to the individual schools as
4 much as possible.

5 Because I would really like to begin a
6 discussion as to really how much money this school
7 system needs from the city. I don't think it is \$45
8 million; I think it is probably much more than that.

9 So if you can get that before we vote on
10 this, this issue.

11 MS. KAHN: Thank you.

12 COUNCILMAN ORTIZ: Thank you, Madam
13 Chair.

14 PRESIDENT VERNA: You are welcome.

15 The Chair recognizes Councilman Kenney.

16 COUNCILMAN KENNEY: Thank you, Madam
17 President.

18 Could someone there tell me this cost
19 associated with opening the schools after school
20 time and at night?

21 Is the most expensive element of that
22 opening personnel or overhead as it relates to
23 utilities?

24 MS. CHATZKEL: The cost is broken down
25 for last year, for 2000. I don't have this

1 BILL NOS. 000708 and 000709

2 breakdown yet for 2001.

3 \$3.4 million is personnel. That's on an
4 hourly basis. It is for the hours that a building
5 engineer is required at a rate of \$30 an hour, since
6 it is overtime.

7 And there is an hour allocated between
8 opening and closing. Somebody has to get there
9 before the activity and be there to clean up and
10 lock up, be sure things are secure afterwards.

11 The utilities for Fiscal Year 2000 were
12 \$2.4 million, just under \$2.4 million. And there is
13 an assumption behind that.

14 There was an analysis that was done by
15 our energy manager. Looked at each type of school,
16 and then looked at utility costs on a square-foot
17 basis, assuming that 25 percent of the school would
18 be open to support a given activity.

19 COUNCILMAN KENNEY: In the discussions
20 on the much touted and recently approved historic
21 reform contract, were there any discussions with the
22 unions involved relative to staffing of these
23 facilities as it relates to the potential for the
24 use of volunteers, people who were involved in
25 running the program?

1 BILL NOS. 000708 and 000709

2 Perhaps, for example, if a building
3 engineer is required, could not the individual
4 responsible for the athletic group be responsible
5 for cleaning and/or opening up the building? And I
6 tell you why I ask this.

7 I have been at a number of schools as a
8 result of my son's participation in athletics in the
9 evening and on Saturdays. If you could find the
10 door that's open, you are lucky. I don't really see
11 a lot of personnel around.

12 Now, granted, the building engineer may
13 be in the engineering room in the basement. But I
14 don't really see much else going on.

15 The people who are in the building,
16 involved with the recreation department or the
17 private athletic association, are usually directing
18 people, cleaning up, and the like.

19 Have we looked at contract reforms in
20 the last contract that would allow more
21 volunteerism, and someone being more of a turnkey as
22 relates -- especially if the person is running the
23 organization that lives in the neighborhood where
24 the school is located?

25 MS. KAHN: These employees, Councilman,

1 BILL NOS. 000708 and 000709
2 would not be members of the PFT bargaining units, so
3 that wasn't a topic in the discussion of this last
4 negotiation.

5 COUNCILMAN KENNEY: When was their
6 contract negotiated?

7 MS. KAHN: '99.

8 COUNCILMAN KENNEY: When is it up?

9 MS. KAHN: It was a four year -- I
10 believe, I think it was a four-year contract.

11 COUNCILMAN KENNEY: Is there any
12 discussion with them now?

13 MS. KAHN: I would have to -- I mean, I
14 just don't know personally.

15 I mean, I think a building engineer, I
16 would think that if the building is going to be
17 opened, because of the requirements with boilers and
18 heaters and all of that, there is probably some need
19 to have someone who is trained on site as long as
20 the building is open.

21 As far as the other duties that you talk
22 about, the cleanup and other things, I would need to
23 defer to -- I know our chief operating officer,
24 Mr. McGlinchey, was here, but I believe he needed to
25 go back because of the Board meeting.

1 BILL NOS. 000708 and 000709

2 But we would be happy to fill you in on
3 what any of those discussions have been.

4 COUNCILMAN KENNEY: Is there a
5 requirement that a building engineer be on site when
6 the heater is not on?

7 MS. KAHN: I just don't know the answer
8 to that.

9 COUNCILMAN KENNEY: I understand in big
10 buildings like this, the heat goes on at a certain
11 time of year and goes off at a certain time of year.
12 And the gymnasiums are sometimes cold anyway.

13 I am just wondering has this become an
14 accepted overtime perc for some of these
15 individuals, or is this something that could be
16 worked through for a cheaper cost?

17 \$30 an hour to sit on a chair with a set
18 of keys seems to be a bit much.

19 MR. RAMOS: Hi, Councilman Kenney, Pedro
20 Ramos.

21 We are getting, trying to get, specific
22 answers for you. But in the last contract with
23 Local 1201, one of the things that was changed in
24 that contract was, it used to be for activities like
25 this you necessarily had overtime.

1 BILL NOS. 000708 and 000709

2 One of the things we did was add shifts.
3 So now I believe there are three shifts that greatly
4 reduce the number of overtime, the need for
5 overtime.

6 Among other things in that contract was
7 the reduction of the number of trades, I believe
8 from 22 to 8. It doesn't affect this issue, but it
9 was all, just to give you an idea of the nature of
10 that contract, also provides for the opportunity for
11 privatization.

12 With respect to your specific question,
13 and only from anecdotal experience of visiting
14 schools and visiting some of these after-school
15 programs, as you have, some of it is, at least in
16 the winter, like you said, about heating, most of
17 them, however, have, especially in a sizable school,
18 has a pretty complicated HVAC system that's
19 operating even in different temperatures.

20 And I think the issue that I have heard
21 about, as I have inquired about groups wanting to
22 use facilities, it is opening and shutting down the
23 building, the hallways are cleaned and the doors are
24 locked.

25 COUNCILMAN KENNEY: What happens when

1 BILL NOS. 000708 and 000709

2 the school is not in use? Is there someone there 24
3 hours a day?

4 MR. RAMOS: I didn't hear you.

5 COUNCILMAN KENNEY: When the school is
6 not in use, closed, no school, no activities, is
7 there an engineer there 24 hours a day?

8 MR. RAMOS: I don't believe so.

9 COUNCILMAN KENNEY: Isn't there the same
10 maintenance requirements of a large building that
11 heaters and boilers are operating? I mean, we don't
12 shut the heat off.

13 MR. RAMOS: When people aren't in the
14 building, you are less concerned about air, how the
15 air is circulating.

16 They get there early. I don't know what
17 the standard hour is, but they get there early in
18 the day to get the HVAC going, to run the water if
19 it is in the lead program, to make sure that the
20 building is clean and ready to start the day.

21 COUNCILMAN KENNEY: As a response to my
22 initial questions about the numbers of people and
23 the classes of job and the hourly rates, I would
24 like to know what their duties are, too.

25 MR. RAMOS: Of the engineers?

1 BILL NOS. 000708 and 000709

2 COUNCILMAN KENNEY: Of whoever is
3 required to be in the building being paid for that
4 period of time.

5 MR. RAMOS: While people from the
6 community are using the building after school hours.

7 COUNCILMAN KENNEY: Does the recreation
8 department have overtime standards as it relates to
9 the operation of their facilities for athletic
10 and/or cultural events on a Saturday?

11 How does the overtime in the recreation
12 department work?

13 MR. CARAPUCCI: For our program people,
14 when they work on Saturday, it is a regular day, and
15 in many cases they adjust their schedule.

16 COUNCILMAN KENNEY: So you don't have
17 overtime, generally?

18 MR. KAPLAN: Minimal amount of overtime.

19 COUNCILMAN KENNEY: How about when the
20 individual is involved in the recreation program
21 that's being operated in a public school; same
22 thing?

23 MR. KAPLAN: The staff that is deployed
24 to the public schools is staff that we have in our
25 rec centers that we then deploy to the schools,

1 BILL NOS. 000708 and 000709
2 usually from October until the first week of April.
3 And it is no overtime.

4 COUNCILMAN KENNEY: Would that not seem
5 an opportunity -- I think a recreation department
6 Leader 1, Leader 2, whatever the title might be,
7 could be as effective or maybe even more effective
8 in having a set of keys to open up a building and
9 lock it up at the end of the day.

10 I wouldn't expect the rec Leader 2 to be
11 operating the boilers and the HVAC system. But
12 certainly from a supervisory and/or security
13 standpoint, since these people apparently do their
14 duties for a lot less overtime than 1201, perhaps
15 there is some way we could eliminate the duplication
16 of employee status?

17 I mean, I trust the rec leader to have
18 the responsibility and the maturity to lock a door
19 at the end of the day, or to make sure that the gym
20 is cleaned, and they are not making \$30 an hour
21 overtime.

22 MR. RAMOS: As I said, Councilman, just
23 to interject, my understanding from the last 1201
24 contract is that a shift has been added. So that at
25 this point I would expect overtime to be the

1 BILL NOS. 000708 and 000709

2 exception rather than the rule.

3 And, as you know, some of the schools
4 that we are talking about are also pretty big
5 schools.

6 And I like the concept of just kind of
7 having the keys and locking up. I am not sure that
8 in some of our bigger schools that it is that
9 simple. And I don't know how much of that
10 discussion has been held.

11 And I do suspect, as you do, that there
12 is probably a jurisdictional issue on who ends up
13 locking the building at the end of the day.

14 COUNCILMAN KENNEY: Well, if I have a
15 choice between someone making \$30 an hour and
16 someone working on their normal shift, I think I
17 could find a way to perhaps investigate whether or
18 not that rec leader could in fact do the work.

19 MR. RAMOS: I agree.

20 COUNCILMAN KENNEY: When will the
21 results of the study analyzing how much can be saved
22 if the cluster system is eliminated be available?

23 Is there an ongoing study relative to
24 the costs of operating the cluster system as it
25 exists today?

1 BILL NOS. 000708 and 000709

2 And in the event that there is such an
3 analysis, when would the numbers be available on the
4 potential of eliminating the cluster system or
5 downsizing it in an effort to save costs?

6 MR. RAMOS: At this point, our chief
7 executive officer is looking at the whole
8 organizational structure of the district, including
9 the effectiveness and viability of the current
10 cluster structure.

11 And he has not put anything to the Board
12 yet, but I do suspect that we will have some
13 proposals that will reflect a change in the
14 organizational structure of the district.

15 And part of that is, you know -- and
16 there may be cost savings, as you are pointing out.
17 But I think an important part for us also is making
18 sure that we are as effective as we can, and that
19 services, our business instruction, and we are
20 trying to provide the support the schools need, the
21 teachers need, that those services are getting
22 there.

23 And to the extent that some of those
24 services maybe at the cluster, then that is not
25 proven to be the most effective way of getting the

1 BILL NOS. 000708 and 000709

2 supports to classes.

3 Moving that, to the extent that we
4 figure -- that we determine that having 22 units
5 doesn't have the, you know, the marginal value that
6 we would want it to have, then there may be a look
7 at the number of units that we divide the district
8 into.

9 COUNCILMAN KENNEY: Has Mr. Goldsmith
10 indicated a ballpark timetable as to when that may
11 be available?

12 MR. RAMOS: He has talked to the Board
13 about doing that now, as we go through our budget
14 process.

15 But we don't yet have a proposal in
16 writing that has numbers on it that has a proposed
17 structure to it.

18 COUNCILMAN KENNEY: Thank you.

19 Thank you, Madam Chair.

20 PRESIDENT VERA: Before we conclude,
21 can you just tell us how many schools have gyms
22 where we would be having summer programs or
23 after-school programs?

24 And I think somebody mentioned swimming
25 pools? How many schools do we have with swimming

1 BILL NOS. 000708 and 000709

2 pools?

3 MR. KAPLAN: Council President, we use
4 six indoor swimming pools. The Department of
5 Recreation uses six sites.

6 Gymnasiums, I don't have an exact
7 number, but I think we are approaching 135.

8 PRESIDENT Verna: Okay. Are there any
9 further questions?

10 The Chair recognizes Councilwoman
11 Blackwell.

12 COUNCILWOMAN BLACKWELL: Thank you,
13 Madam President.

14 We just, in fact, I think I mentioned
15 this to many people, for Turner School we are always
16 fighting for summer programs. We just certainly ask
17 for your support there.

18 Thank you, Madam President.

19 PRESIDENT Verna: Thank you. This
20 committee will stand in recess until the call of the
21 Chair.

22 Thank you all very much.

23 (Hearing adjourned at 1:20 p.m.)

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Monday, March 26, 2001, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COMMITTEE OF THE WHOLE

DEBRA A. WHITEHEAD, RPR