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COUNCIL OF THE CITY OF PHILADELPHIA

3

PUBLIC HEARING
BEFORE THE COMMITTEE ON PUBLIC PROPERTY
AND PUBLIC WORKS

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Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, January 28, 1998
9:30 a.m.

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- 9 BILL 970747 - Authorizing the Executive Director of
Fairmount Park and the Commissioner of Public
10 Property to enter into an agreement with Beasley
FM Acquisition Corp.
- 11 BILL 970831 - Authorizing the Commissioner of Public
Property to execute an amended lease agreement
12 for additional air rights over 11th Street and;
Cuthbert Street.
- 13 BILL 970752 - Authorizing the Commissioner of Public
Property, Director of the Free Library of
14 Philadelphia, and Budget Director to execute a
term sheet with the Crime Prevention Association
15 of Philadelphia.

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17 PRESENT:

18

COUNCILWOMAN AUGUSTA A. CLARK, Chair

19

COUNCILMAN JAMES F. KENNEY
COUNCILWOMAN JOAN L. KRAJEWSKI
20 COUNCILWOMAN DONNA REED MILLER
COUNCILMAN MICHAEL A. NUTTER
21 COUNCILMAN FRANK RIZZO

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24 Eleven Penn Center Plaza, Suite 600
Philadelphia, PA 19103
25 (215) 561-2220

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4	Joseph James, Commissioner, Department of	
5	Public Property-----	4
6	Joanne Phillips, Esq., Counsel, Beasley	
7	Broadcasting-----	7
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10	Kenneth Sipos, Real Estate Specialist II,	
11	Department of Public Property-----	15
12	Noel Eisenstat, Executive Director,	
13	Redevelopment Authority-----	17
14	Deborah Butler, Divisional Deputy City	
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2 wish to be heard with respect to Bill No. 970747?

3 If so, please assume the table,
4 introduce yourself to the record, spell your name
5 for the benefit of the stenographer, and proceed
6 with your testimony.

7 Thank you and good morning.

8 MR. JOSEPH JAMES: Good morning. My
9 name is Joseph James, Commissioner for the
10 Department of Public Property.

11 MS. PHILLIPS: Good morning. My name
12 is Joanne Phillips. I am an attorney from Ballard,
13 Spahr, Andrews & Ingersoll, and representing Beasley
14 Broadcasting.

15 CHAIRWOMAN CLARK: Thank you. Please
16 proceed with your testimony.

17 MR. JAMES: Thank you, and good
18 morning again, members of Council.

19 I am here today to testify in support
20 of Bill No. 970747, authorizing a License Agreement
21 with a 25-year term between the City and Beasley FM
22 Acquisition Corporation, and recommend its passage
23 by City Council.

24 In 1952, the Fairmount Park
25 Commission granted permission to the owners of WDAS

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2 radio station to maintain radial wires on park
3 property located near the intersection of Belmont
4 Avenue and Edgely Drive.

5 The radial wires were connected to
6 WDAS broadcast antenna towers, which are located on
7 adjacent property.

8 The wires run from the towers into
9 the ground, and fan out in several directions about
10 a foot to 18 inches under the surface.

11 Some of the wires are buried beneath
12 the surface of the Park's ground. If the towers are
13 struck by lightning, the wires help diffuse the
14 electrical current into the ground.

15 Since the Park granted its
16 permission, the radio station wires have occupied an
17 area of park land approximately one-eighth of an
18 acre. The Park's permission was granted without any
19 requirement for compensation to the city.

20 The city and current radio station
21 owner Beasley FM Acquisition Corporation recently
22 executed a License Agreement with the term of just
23 one year.

24 Bill No. 970747 will permit the
25 License Agreement to have a term of 25 years

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2 starting retroactively from the original
3 commencement date.

4 More importantly, as a long-term
5 agreement, the licensing agreement will obligate the
6 licensee to make monthly payments to the City of
7 \$1,050. Those payments will be increased every five
8 years by a percentage equal to the percentage
9 increase in the Consumer Price Index.

10 Therefore, a total compensation to
11 the city under the License Agreement will exceed
12 \$315,000.

13 Other important terms of the License
14 Agreement that will be authorized by Bill No. 970747
15 include, the licensee is required to indemnify the
16 city and to maintain specified amounts of insurance,
17 the licensee must maintain the premises.

18 The licensee recently executing an
19 agreement to sell WDAS to Evergreen Media
20 Corporation of the Liberty City, accordingly, the
21 licensee agreement permits the licensee to assign
22 the License Agreements to Evergreen. The assignment
23 will probably take place shortly.

24 In accordance with the Home Rule
25 Charter, the License Agreement can be terminated at

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2 any time after the fourth year.

3 I respectfully ask that City Council
4 approve Bill No. 970747, and I am happy to answer
5 any questions that you may have.

6 CHAIRWOMAN CLARK: Thank you.

7 Are there members of the committee
8 who wish to be heard?

9 COUNCILMAN NUTTER: Just one quick
10 question.

11 Mr. James, thank you for your
12 testimony.

13 Going to Page 4, very quickly, your
14 testimony is that presently Beasley still owns WDAS,
15 but that they are in some negotiations with
16 Evergreen Media Corporation of Liberty City?

17 MR. JAMES: That's correct.

18 COUNCILMAN NUTTER: And you expect
19 Evergreen Media Corporation to shortly purchase WDAS
20 from --

21 MR. JAMES: We believe that to be
22 correct. Miss Phillips can answer that question.

23 MS. JOANNE PHILLIPS: Maybe I can
24 answer that.

25 In fact, the transfer has occurred

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2 already, and Evergreen has acquired the stations.

3 However, this is an important matter, sort of a
4 post-closing matter, to be taken care of.

5 COUNCILMAN NUTTER: So as we are here
6 in the hearing today, Evergreen actually owns WDAS?

7 MS. PHILLIPS: Evergreen actually
8 owns the station. However, the Beasley FM
9 Acquisition has still been making the license
10 payments under this License Agreement, but they do
11 not own the station anymore.

12 COUNCILMAN NUTTER: The \$1,050 a
13 month?

14 MS. PHILLIPS: That's right.

15 COUNCILMAN NUTTER: They are going to
16 continue making those payments?

17 MS. PHILLIPS: Until this is actually
18 made into an Ordinance.

19 COUNCILMAN NUTTER: And then at that
20 point Evergreen takes over?

21 MS. PHILLIPS: That's correct.

22 COUNCILMAN NUTTER: This may be more
23 of a legal question, but I will ask Mr. James
24 nonetheless.

25 Notwithstanding this transfer, it is

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2 your testimony that even though the title of this
3 Ordinance specifically talks about Beasley FM
4 Acquisition Corporation, is it your testimony or
5 understanding that the license with the city allows
6 for assignment to, I guess, successors?

7 MR. JAMES: That's correct.

8 MS. PHILLIPS: Just as a
9 clarification as well, there was a full-blown
10 Assumption Agreement that Evergreen had to
11 affirmatively assume all the obligations under that
12 agreement.

13 COUNCILMAN NUTTER: And so everything
14 in your testimony, such as Item No. 2 on Page 4, the
15 licensee must maintain the premises, it is both of
16 your testimonies that Evergreen picks up that
17 obligation once this bill is passed?

18 MR. JAMES: It is my understanding
19 that the way the Lease is drafted, that they will,
20 in fact, do that.

21 COUNCILMAN NUTTER: Okay. All
22 right. Thank you.

23 Thank you, Madam Chair.

24 CHAIRWOMAN CLARK: Okay. Just to
25 follow up on Mr. Nutter's questions, you have solved

1 RESOLUTION 970747

2 the riddle of "shortly."

3 It has already been transferred; is
4 that correct?

5 MS. PHILLIPS: That's correct.

6 CHAIRWOMAN CLARK: And this is all in
7 writing, and the terms could have been submitted to
8 us to look over if we had been interested in it?

9 This is not an oral handshake
10 agreement; this is a written?

11 MR. JAMES: This is a written
12 agreement.

13 CHAIRWOMAN CLARK: Okay.

14 Are there any other buildings or
15 structures located on the property? And, if so, how
16 are they dealt with in the Lease Agreement?

17 MR. JAMES: This lease is only for
18 ground; there are no buildings or structures on top
19 of the ground.

20 CHAIRWOMAN CLARK: Okay.

21 Are there any actual potential
22 environmental or other liability exposures
23 associated with the property where the radio wires
24 are maintained? And let me give you a second on
25 that.

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2 COUNCILMAN NUTTER: The Councilwoman
3 asked about any other buildings close to the
4 structure.

5 My recollection of the old WDAS on
6 Edgely Road is that there is, clearly, the tower. I
7 have seen the tower. I have seen you call them
8 radical --

9 MR. JAMES: Radial wires.

10 COUNCILMAN NUTTER: -- radial
11 lines -- could be radical in nature -- but there is
12 the old WDAS building.

13 Can you just very quickly give us any
14 information on the status of that building? Where
15 does it stand as a result of any of these other
16 transactions between Beasley and Evergreen?

17 MS. PHILLIPS: The rest of the WDAS
18 AM station is on property owned by the radio
19 station, and not the city.

20 The only part of the whole station
21 that encroaches off their property are the wires on
22 this one-eighth of an acre.

23 So there is a building there, and the
24 rest of the station, but it is off city property.

25 COUNCILMAN NUTTER: My question,

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2 though, is, do you know if in either of the two
3 transactions, the original sale to Beasley or now
4 the Beasley to Evergreen, do you know if that
5 building on their own property was a part of the
6 sale transaction?

7 MS. PHILLIPS: It is my understanding
8 that that building and that property were sold as
9 part of that transaction.

10 COUNCILMAN NUTTER: Okay.

11 MS. PHILLIPS: However, we did not
12 work on that.

13 COUNCILMAN NUTTER: I understand.
14 Okay. Thank you.

15 CHAIRWOMAN CLARK: Are there
16 questions or comments by other members of the
17 committee?

18 Thank you.

19 Are there persons in the room who
20 wish to be heard to speak in favor of or against
21 Bill No. 970747?

22 Thank you.

23 MS. PHILLIPS: May I just request, on
24 behalf of Beasley, if you would be so kind as to
25 suspend the rules so that City Council can consider

1 RESOLUTION 970831

2 this ordinance?

3 And, also, we would like to thank you
4 for your time, and for Councilman Nutter introducing
5 this bill.

6 CHAIRWOMAN CLARK: Thank you very
7 much. We would be happy to do so.

8 The next bill I am going to call up
9 is, I am going to call for the purpose of holding
10 it, Bill No. 970752, which is being held at the
11 request of the sponsor.

12 Before us next is Bill No. 970831.
13 Would the clerk please read the bill, and would the
14 persons who are interested in this bill please
15 assume a seat at the witness table.

16 CHAIRWOMAN CLARK: Bill No. 970831,
17 an Ordinance authorizing the Commissioner of the
18 Department of Public Property, on behalf of the City
19 of Philadelphia, to execute an amended Lease
20 Agreement by and between the City of Philadelphia
21 and the Redevelopment Authority of the City of
22 Philadelphia for additional air rights over 11th
23 Street and Cuthbert Street, between Filbert Street
24 and Arch Street, east of 11th Street, and such
25 amended Lease Agreement to allow the construction by

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2 the Redevelopment Authority or its approved
3 sublessee of certain structures over the parking
4 garage at 11th Street and Arch Street, under certain
5 terms and conditions.

6 CHAIRWOMAN CLARK: Thank you. Good
7 morning.

8 MR. SIPOS: Good morning.

9 CHAIRWOMAN CLARK: Please introduce
10 yourself to the record, spell your name for the
11 benefit of the stenographer, and proceed with your
12 testimony.

13 MR. KENNETH SIPOS: My name is Ken
14 Sipos. I am the Real Estate Specialist with the
15 Department of Public Property.

16 Now, with me is Noel Eisenstat of the
17 Redevelopment Authority.

18 CHAIRWOMAN CLARK: Noel is trying to
19 get you to do the second part of the instruction,
20 and that is to spell your name for the stenographer.

21 MR. EISENSTAT: Noel Eisenstat,
22 E-I-S-E-N-S-T-A-T.

23 CHAIRWOMAN CLARK: All right.

24 MR. SIPOS: Good morning. My name is
25 Ken Sipos. I am a Real Estate Specialist with the

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2 Department of Public Property.

3 I am here today to testify in support
4 of Bill No. 970831, introduced November 20, 1997,
5 authorizing the Commissioner of Public Property, on
6 behalf of the City of Philadelphia, to execute an
7 amended Lease Agreement by and between the City of
8 Philadelphia and the Redevelopment Authority of the
9 City of Philadelphia for additional air rights over
10 11th Street and Cuthbert Street, between Filbert
11 Street and Arch Street, east of 11th Street.

12 CHAIRWOMAN CLARK: Mr. Sipos, we
13 really are listening, but I can't hear you.

14 MR. SIPOS: Section --

15 CHAIRWOMAN CLARK: You don't have to
16 repeat it. Start from where you are, where your
17 finger is on the text.

18 MR. SIPOS: Okay. Such amended Lease
19 Agreement to allow construction by the Redevelopment
20 Authority, or its approved sublessee, of certain
21 structures over the parking garage at 11th Street
22 and Arch Street, under certain terms and
23 conditions.

24 I respectfully ask that City Council
25 approve Bill No. 970831.

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2 I also ask that the Rules be
3 suspended so that it could be reported out of
4 committee.

5 I would be happy to answer any
6 questions you may have.

7 CHAIRWOMAN CLARK: Thank you. Thank
8 you.

9 Are there questions by members of the
10 committee?

11 COUNCILMAN NUTTER: Yes. That was
12 kind of riveting testimony there, but could you tell
13 us what it is about?

14 What is this? Is this a hotel?

15 MR. EISENSTAT: Yes.

16 MR. SIPOS: There are some air rights
17 over, and the Redevelopment Authority is eminently
18 more qualified than I and in describing the
19 development of this parcel.

20 CHAIRWOMAN CLARK: Noel.

21 MR. NOEL EISENSTAT: Good morning.

22 My name is Noel Eisenstat. I am the Executive
23 Director of the City's Redevelopment Agency.

24 I am here to provide testimony on the
25 specific bills, and I am also here today to provide

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2 a little background on this bill and other bills
3 that will be going through other various committees
4 this month, as well as the Redevelopment Agreement
5 that was approved by Council on December 11, 1997.

6 For those who may or may not be
7 aware, let me first take a moment or two and show
8 you a few schematics.

9 What you have here is --

10 COUNCILMAN NUTTER: You need to take
11 that microphone with you.

12 MR. EISENSTAT: Let me start with a
13 number of schematics. Most notably, let me start
14 with the schematic of, where is this.

15 There are a number of parking decks
16 behind the Gallery. Let me just try to provide
17 you -- City Hall, Market Street, Marriott Hotel,
18 Reading Terminal Market, the Filbert Street Arcade.
19 Right next to the Arcade is the existing parking
20 deck.

21 The parking deck was built in the
22 early 1980s, and it was actually built as part of
23 Gallery II, with a joint venture of the Reading
24 Company and Strouse Greenberg.

25 That facility has been operated for a

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2 number of years. And although it abuts the Reading
3 Terminal Market, it is not connected.

4 The building was built with certain
5 overbuild, or connections and possibilities.
6 Although I think at the time the vision was, there
7 would be more parking. This was built long before
8 the Convention Center was sighted.

9 What we have, basically, is a
10 proposal today to build a Hilton Garden, which is a
11 limited service Hilton product of about 287 rooms,
12 above the parking deck. This is a schematic.

13 Let me try to give you a sense of how
14 dramatic, in some respects, this is. Because right
15 now we have a traditional parking deck which looks
16 like a parking deck, acts like a parking deck.

17 And what we have in the alternative
18 is a redefined streetscape, whereby panelization --

19 COUNCILMAN NUTTER: Is the parking
20 area what looks like the three- or four-story
21 decking?

22 MR. EISENSTAT: Yes.

23 You may know this. This is a wall on
24 the Arch Street side. There is a Wawa. And down
25 the street is the Bike One, for those who know it

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2 from its retail capacities.

3 Inside there is currently a bus stop,
4 Trailways. There are a couple of these on Market
5 Street.

6 COUNCILMAN NUTTER: Is that 11th
7 Street? You are on 11th Street?

8 MR. EISENSTAT: That is 11th Street,
9 yes.

10 COUNCILMAN NUTTER: Right.

11 MR. EISENSTAT: And then you have
12 five floors of parking, effectively.

13 Let me show you a brief schematic,
14 for a second, of how the building transforms
15 itself.

16 Again, let me show you this next
17 schematic. The schematic, again, showing an
18 unimproved facade.

19 Part of what is happening is that, in
20 addition to the ordinances that you will be
21 considering, which are really for the air rights --
22 and I do have one schematic here which will actually
23 show you what are the air rights in question.

24 We have all these discussions. We
25 thought for once we would show you a picture.

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2 panelization that will allow it to blend, so it
3 will --

4 CHAIRWOMAN CLARK: So it won't look
5 so much like a parking garage; it will look like a
6 building.

7 MR. EISENSTAT: That's right.

8 COUNCILMAN NUTTER: And then the red
9 verticals, are those panels also to try to give this
10 thing like a front?

11 MR. EISENSTAT: Correct. A
12 presence.

13 I mean, tourists want to know that
14 they are staying in a hotel, and they are not
15 staying in a garage.

16 COUNCILMAN NUTTER: In a garage. All
17 right.

18 And then you are going to build
19 something on --

20 MR. EISENSTAT: Basically --

21 COUNCILMAN NUTTER: That's the hotel,
22 right, above there.

23 MR. EISENSTAT: You know, it does not
24 cover the entire floor. It doesn't cover the entire
25 garage. It is kind of like an eye-shaped building.

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2 The overbuild doesn't cover the
3 garage.

4 COUNCILMAN NUTTER: Oh, okay. All
5 right.

6 MR. EISENSTAT: When this garage was
7 first built in the early 1980s, these air rights
8 were granted by the city.

9 What we're basically talking about
10 today in the bills before you are -- is that
11 additional dearth of space that goes up.

12 Actually, the original ordinance from
13 the 1980s gave the first hundred feet to the
14 partnership.

15 We are taking that hundred feet back
16 from the partnership, and then going from the 100 to
17 120 foot line.

18 The first 10 feet above the 90, then
19 we are going to 120.

20 COUNCILMAN NUTTER: Is that something
21 we have to buy back from this --

22 MR. EISENSTAT: No; they are going to
23 lease it back to us, concurrent with the term of
24 this which is, I think, 87 years.

25 COUNCILMAN NUTTER: Is the

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2 partnership also now the developer of the Hilton?

3 MR. EISENSTAT: Two different
4 partnerships, although there is an identity of
5 interest of -- one of the two general partners of
6 the partnership is a general partner in the new
7 partnership.

8 COUNCILMAN NUTTER: I wasn't here for
9 the original piece of this.

10 All of these folks have names. I
11 mean, who are these people?

12 MR. EISENSTAT: Okay. Originally,
13 the original partnership that was formed was a
14 formation -- was a joint venture of Strouse
15 Greenberg and the Reading Company.

16 Strouse Greenberg --

17 COUNCILMAN NUTTER: To build a
18 parking lot?

19 MR. EISENSTAT: To build a parking
20 garage.

21 COUNCILMAN NUTTER: With overbuild,
22 anticipating the possibility of more parking at a
23 future point in time?

24 MR. EISENSTAT: Yes.

25 COUNCILMAN NUTTER: And they bought

1 RESOLUTION 970831

2 air rights from the city to build a garage?

3 MR. EISENSTAT: Correct. Correct.

4 One of the successors as an
5 individual of Strouse Greenberg is Sam Switzenbaum.

6 Mr. Switzenbaum will serve as one of
7 the two joint ventures in a group known as Pace
8 Switzenbaum.

9 They are an experienced hotel owner
10 and operator. They are the major shareholders of
11 the largest Hilton franchisee known as CapStar,
12 Incorporated, a Washington-based hotel operator.

13 COUNCILMAN NUTTER: So Pace will
14 operate this Hilton, not the Hilton Corporation?

15 MR. EISENSTAT: This will be a
16 franchise.

17 The partners in the franchise happen
18 to be the largest franchise owners of the Hilton
19 brand in the country.

20 COUNCILMAN NUTTER: And when all is
21 said and done -- and I may be jumping to the end of
22 the story; I am sure there are some interesting
23 parts to it --

24 MR. EISENSTAT: Can I take this back
25 and go back?

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2 COUNCILMAN NUTTER: You can do
3 whatever you want to do with that.

4 What do we get out of this? When we
5 lease the 10 feet of air rights, they build the
6 hotel, Pace and Switzenbaum do their deal, what does
7 it mean to us?

8 MR. EISENSTAT: What it means to us
9 is that we have a parking deck that, for a number of
10 years, until very recently, was running very large
11 deficits, not unlike the Gallery I garage, which is
12 owned by the city.

13 Both those facilities have been less
14 than money-makers for the city.

15 COUNCILMAN NUTTER: We own this
16 garage?

17 MR. EISENSTAT: No.

18 This is one of those unique
19 situations where the garage was owned by a
20 partnership, but there was a Deficiency Agreement.

21 In this arrangement, what we are
22 doing here, which is a little different, is, in
23 consideration for a number of these -- allowing this
24 project to go forward, all future cash flow beyond
25 debt service requirements will be at the control of

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2 the city.

3 COUNCILMAN NUTTER: And what do you
4 estimate those numbers to be? And have you done
5 like a 20-year projection, and those kinds of
6 things?

7 MR. EISENSTAT: I didn't bring that
8 material with me today, because that was really the
9 topic of our Finance hearing. I would be happy to
10 share that with you.

11 But I can tell you that just alone,
12 there is additional parking that will just be
13 derived not from the improvement of the area due to
14 the Convention Center, but just from the hotel
15 itself, which is substantial. That's number one.

16 Number two, what's unique about this
17 project is that the project itself will be financed
18 privately. Because of the air rights -- this is a
19 limited-service facility.

20 The rooms are not as expensive to
21 build and the services are not as expensive to serve
22 because it is not as much meeting room.

23 These facilities on hotel rooms will
24 cost between 105 and 115 thousand dollars per unit
25 to build.

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2 understand, what is our connection to it? I mean,
3 how are we paying for --

4 MR. EISENSTAT: The facility was
5 financed through paid bonds with an obligation to
6 the city to make it through a Deficiency Agreement.

7 COUNCILMAN NUTTER: This is the
8 second time you used the term.

9 Are you saying Efficiency Agreement?

10 MR. EISENSTAT: Deficiency
11 Agreement.

12 CHAIRWOMAN CLARK: Deficiency.

13 MR. EISENSTAT: Deficiency. I
14 apologize.

15 CHAIRWOMAN CLARK: What does it
16 mean? What does a Deficiency Agreement mean?

17 MR. EISENSTAT: Twice a year the
18 owners of the partnership were to take all proceeds,
19 minus certain limited expenses, and deliver them to
20 the bond trustee. It was a paid bond issue.

21 And to the extent that those numbers
22 did not meet the required service payments on the
23 debt, the trustee had the rights to call on the
24 city's Sinking Fund.

25 COUNCILMAN NUTTER: To make up the

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2 discussion, my discussions with others in the
3 Finance Department and the Treasurer's Office, there
4 was no economic advantage of refinancing the bonds
5 at this time, when we originally looked at the
6 transaction.

7 COUNCILMAN NUTTER: Versus the
8 continued deficiencies?

9 MR. EISENSTAT: No.

10 As I said, I believe -- and I am
11 happy to share this with you -- the deficiencies
12 have been erased.

13 The deficiencies were consistent
14 until about 18 months ago.

15 COUNCILMAN NUTTER: So your testimony
16 now is, you may not retire the bonds, but we also
17 may not have the deficiencies going forward.

18 And, in fact, you seem to be saying,
19 or said earlier, that there may, in fact, even be
20 positive cash flow proceeds out of the future
21 operation of the garage, which the City of
22 Philadelphia will participate in.

23 Is that what you are saying?

24 MR. EISENSTAT: Let me state it
25 slightly differently.

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2 There had been for many numbers of
3 years substantial deficiencies on these bonds.

4 COUNCILMAN NUTTER: Right.

5 MR. EISENSTAT: Recently over the
6 last year, 18 months, I think there was about two
7 years ago they made a full payment, and then one
8 semi-annual payment they missed, and I think they
9 have now made the last two or three payments.

10 COUNCILMAN NUTTER: Okay.

11 MR. EISENSTAT: It appears, based on
12 those projections, that the deficiencies should not
13 happen any longer, they have hit break-even, before
14 the hotel.

15 There is then further analysis that
16 if you just take a conservative estimate of 40
17 percent of the folks who go to the hotel use the
18 parking deck, there is an additional --

19 CHAIRWOMAN CLARK: Stream of
20 revenue.

21 MR. EISENSTAT: -- stream of
22 revenue.

23 The third is, just generally,
24 parking, costs for parking in terms of what patrons
25 will pay, really is beginning to increase around

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2 that part of town due to all the development that is
3 already underway, particularly the use of the
4 Convention Center.

5 COUNCILMAN NUTTER: I mean, where I
6 am trying to get to, I guess, is, you have an
7 opportunity to do a transaction, people have an
8 opportunity to build the hotel, make some money, you
9 get your garage better situated, get a nice facade,
10 walk-up, all that kind of stuff.

11 I am just trying to figure out how we
12 get out of what has been a loser for us. And why
13 would we continue it going forward if we have a new
14 partnership and an opportunity to get out from under
15 something that we apparently don't do that well?

16 MR. EISENSTAT: Well, I think it is
17 fair to say that the new partnership, while it is
18 willing to take the risk of financing a hotel and
19 provide guarantees and provide the facade and
20 whatnot, is not willing to take on the liability of
21 another partnership's arrangement in its full
22 capacity. I mean, they are just not.

23 COUNCILMAN NUTTER: But I assume
24 their project doesn't work if they are not building
25 it on top of the already existing garage which we

1 RESOLUTION 970831

2 authorized some years ago. I mean, there is no
3 benefit without risk here.

4 MR. EISENSTAT: Correct.

5 COUNCILMAN NUTTER: You are not in
6 heaven yet.

7 MR. EISENSTAT: That's correct.

8 But there is also a point in time,
9 beyond the economics of building this garage, that
10 the economics of taking on that full liability is
11 not what -- I mean, a lender -- I mean, this isn't
12 just a partnership; it is also inducing -- what
13 substantially is different about this transaction is
14 that a lender, a national commercial lender, is
15 coming to finance a hotel at 90 percent of
16 development cost.

17 COUNCILMAN NUTTER: Okay. I have an
18 appreciation for that. We don't need to, certainly,
19 continue to burden the record.

20 Because we are going to have all this
21 same discussion when you come back to Finance. So
22 when do you anticipate coming back?

23 And now that you know all the
24 questions, you can come back with the answers.

25 When will you be back?

1 RESOLUTION 970831

2 MR. EISENSTAT: As soon as the
3 hearing is scheduled.

4 There is a Streets hearing tomorrow
5 dealing with the Streets ordinances. I would assume
6 that the remaining of the hearing, I would hope that
7 the Finance hearing could take place in the next few
8 weeks.

9 COUNCILMAN NUTTER: Okay. All
10 right.

11 I would like to see the various, the
12 numbers and the relationships between what's going
13 on now, what has gone on, what's going on now, and
14 what do you think is going on in the future, what do
15 you project to happen in the future, and where this
16 deficit activity is going.

17 MR. EISENSTAT: I would be happy to.
18 In fact, what we will do is, we will circulate
19 something a little bit beforehand.

20 The other thing I would just point to
21 your direction is that, in addition to the
22 testimony, most of what I have given you is also in
23 this 8-and-a-half-by-11 handouts, this attachment.

24 CHAIRWOMAN CLARK: Mr. Eisenstat,
25 does the developer have to comply with the city's

1 RESOLUTION 970831

2 equal access policy in connection with selecting
3 architects, engineers, subcontractors, other
4 professional service providers, and vendors?

5 MR. EISENSTAT: Through the
6 Redevelopment Authority's Redevelopment Agreement,
7 which is the contractual relationship that this
8 development will take form to, the partnership has
9 to submit a compliance plan, a full compliance plan,
10 on a number of elements, including what you have
11 spoken to, as well as Section 3 requirements.

12 We have received a draft plan. We
13 believe it is adequate. I would be happy to share
14 that with you.

15 CHAIRWOMAN CLARK: You answered my
16 second question.

17 That is, who is going to monitor it?

18 Is it going to be the Redevelopment Authority that's

19 going to monitor it?

20 MR. EISENSTAT: Yes.

21 CHAIRWOMAN CLARK: Then I do want to
22 talk to you about what we think ought to happen in
23 this instance, because it is an opportunity which we
24 don't want to miss.

25 MR. EISENSTAT: Both in terms of

1 RESOLUTION 970831

2 construction and long-term employment.

3 CHAIRWOMAN CLARK: Right.

4 MR. EISENSTAT: Understood.

5 CHAIRWOMAN CLARK: Starting as early
6 as those soft costs.

7 MR. EISENSTAT: Correct.

8 CHAIRWOMAN CLARK: Will the city be
9 held harmless and indemnified for all liabilities
10 that accrue because of the construction and
11 operation of the hotel? And is such indemnification
12 in the air rights Lease Agreement?

13 MR. EISENSTAT: I don't know if the
14 actual Lease has been completely drafted.

15 But I can assure you between the
16 Redevelopment Authority, the Commerce Department,
17 and the city's Law Department, those
18 indemnifications will be in place before execution.

19 CHAIRWOMAN CLARK: Fine.

20 Are there any questions by other
21 members of the committee?

22 Mr. Kenney.

23 COUNCILMAN KENNEY: Thank you, Madam
24 Chairwoman.

25 Mr. Eisenstat, if you know, relative

1 RESOLUTION 970831

2 to the design of the building, its peculiar
3 eye-shape design seems to eliminate the possibility
4 for additional rooms, which, of course, is always
5 something that the lender and developers would like
6 to maximize.

7 Is there some structural reason or
8 engineering reason why the entire deck can't be
9 utilized?

10 MR. EISENSTAT: Well, I believe that
11 the layout is also a function of just the economy of
12 how to do a double corridor. You want to be able to
13 provide windows and space on both sides.

14 So making the building wider would
15 make it larger and more expensive to operate and
16 build.

17 Codes and compliance requirements
18 which were in place in the early 1980s are not the
19 same as they are today.

20 It is my understanding -- and I would
21 be happy to check and bring it back to Streets
22 tomorrow, when I see you next -- is that without
23 more substantial improvements to the structure,
24 while there will be certain reinforcements under
25 this scenario, that the facility is fundamentally at

1 RESOLUTION 970831

2 its optimal room count now.

3 COUNCILMAN KENNEY: And is it your
4 testimony that the developers will also be the
5 operators of the hotel?

6 MR. EISENSTAT: The developers will
7 hire an operator, which may have an identity of
8 interest with one of the partners.

9 COUNCILMAN KENNEY: And what is the,
10 I guess, the franchise, the length of the franchise
11 with Hilton?

12 MR. EISENSTAT: I believe --

13 COUNCILMAN KENNEY: How long does the
14 Hilton name stay on there?

15 MR. EISENSTAT: I would like to
16 double-check. I believe it is a minimum of 10, it
17 may be 15 years.

18 COUNCILMAN KENNEY: Are there any
19 other requirements that the city would have relative
20 to the flag, that there --

21 MR. EISENSTAT: Not unlike the
22 requirements that are within the Marriott Convention
23 Center Agreement, we will, as part of the
24 Redeveloper's Agreement, require a series of
25 operating covenants, standards, so that the quality

1 RESOLUTION 970831

2 of -- so if in case the chain changes or partners or
3 managers for some reason bump in and bump out, there
4 are a series of operating covenants to maintain a
5 quality level similar to that.

6 COUNCILMAN KENNEY: Obviously,
7 recognizing names like Hilton, are something that we
8 seek.

9 And some others, without mentioning
10 them specifically, down the road may be some that we
11 wouldn't want from a tourism standpoint.

12 MR. EISENSTAT: What we had planned
13 to insert within the Redevelopment Agreement are
14 operating standards. And there are some relatively
15 clear operating standards that can be inserted
16 here.

17 COUNCILMAN KENNEY: Isn't this, from
18 your experience, I guess, nationally, not uncommon
19 today, for a hotel like this to be financed
20 privately at the level it is being financed?

21 MR. EISENSTAT: This is really
22 unusual in an urban context.

23 The Hilton Garden often is built in
24 suburban markets off of highways and on
25 underdeveloped properties.

1 RESOLUTION 970831

2 There is a trade-off here, there is a
3 certain additional -- so it is usually a wood-frame
4 building with somewhat less construction cost.

5 The developer is now talking about
6 delivering steel shortly, ordering steel for
7 delivery later this spring.

8 And that although there are fewer
9 land costs associated with building air rights,
10 there are also overbuild costs that could be
11 calculated at 1 million to 2 million dollars more
12 per building on top of an existing building.

13 The lender, I would be happy to talk
14 to you about the lending arrangement in more detail
15 later. There is some level of confidentiality
16 because the lender and the developer are still
17 negotiating.

18 COUNCILMAN KENNEY: My question is
19 general. It is not common in the not too distant
20 past that --

21 MR. EISENSTAT: While the city will
22 be making certain capital improvements in this area
23 as part of the Convention District, you have not
24 heard the words 108 Loan, economic stimulus --

25 COUNCILMAN KENNEY: TIF.

1 RESOLUTION 970831

2 MR. EISENSTAT: -- TIF today.

3 COUNCILMAN KENNEY: Thank you.

4 MR. EISENSTAT: Thank you.

5 CHAIRWOMAN CLARK: Mr. Eisenstat, is
6 it unusual for us to be passing on an agreement
7 that's not yet written?

8 Are you going to bring this final
9 written agreement to us?

10 MR. EISENSTAT: Both of the
11 agreements have been drafted.

12 The Redevelopment Authority Agreement
13 is in place, the substance of the leases are in
14 place, the drafting of the deficiency -- the
15 drafting of the PIDC Lease is in place.

16 The matter I spoke about with
17 Councilman Kenney, really goes to the issue that in
18 all respects to the developer, who is negotiating
19 with one lender, but at the same time may want to
20 maintain a second lender as a backup.

21 CHAIRWOMAN CLARK: My question didn't
22 have to do with whether the funding was public or
23 private.

24 I am really asking the question that
25 goes back to my original question about agreements

1 RESOLUTION 970831

2 and access.

3 This is not yet in writing?

4 MR. EISENSTAT: No. I mentioned
5 earlier we received a participation plan over a
6 month ago, and I would be happy to share that with
7 you.

8 CHAIRWOMAN CLARK: And it is going to
9 be incorporated in the Lease Agreement?

10 MR. EISENSTAT: It will be
11 incorporated within the Redeveloper's Agreement as
12 an attachment, yes.

13 CHAIRWOMAN CLARK: And at some point
14 are we going to see that whole package?

15 MR. EISENSTAT: You may have seen --
16 Council has already approved the Redeveloper's
17 Agreement. I would be happy to forward you another
18 copy, and I will denote the economic --

19 CHAIRWOMAN CLARK: Yes, mark it up.

20 MR. EISENSTAT: I would be happy to
21 mark it up.

22 CHAIRWOMAN CLARK: All right. So
23 that the questions that I ask are highlighted, and I
24 don't have to read all that tiny legal print to
25 answer the questions that I am asking.

1 RESOLUTION 970831

2 MR. EISENSTAT: Be happy to.

3 CHAIRWOMAN CLARK: I thank you.

4 Are there other questions?

5 Councilwoman Miller.

6 COUNCILWOMAN MILLER: Good morning,
7 Noel.

8 MR. EISENSTAT: Good morning,
9 Councilwoman.

10 COUNCILWOMAN MILLER: I got here a
11 little late.

12 Did you state how many jobs this
13 project would create, both construction and
14 permanent jobs?

15 MR. EISENSTAT: No, I did not.

16 I believe that -- I don't recall the
17 construction count with me right now. That's always
18 a back-of-the-envelope analysis.

19 And I believe that the permanent job
20 count was somewhere between 60 and 80. I will
21 confirm that. I will get back to you on that.

22 COUNCILWOMAN MILLER: And whether
23 they are full and part time.

24 MR. EISENSTAT: I think that was a
25 number that gives you an equivalent of full-time,

1 RESOLUTION 970831

2 FTE, full-time employment.

3 COUNCILWOMAN MILLER: All right. I
4 would be interested in knowing that.

5 And, also, what is the estimated
6 completion date?

7 MR. EISENSTAT: The estimated
8 completion date is approximately 14 months from the
9 commencement of construction. So we are talking
10 about a completion some time in the calendar year of
11 1999.

12 The developer would like to proceed
13 with construction this spring, upon final
14 approvals.

15 COUNCILWOMAN MILLER: Do you know if
16 they have also thought about some type of employment
17 plan, where, how, whether they are going to
18 advertise, recruit, go through PIC, or whatnot?

19 MR. EISENSTAT: We believe that the
20 model that was used for the Marriott has been a very
21 good model.

22 And much of the plan that we have
23 received back from the developer, as I promised
24 Councilwoman Clark, has a lot of similarities to the
25 Marriott.

1 RESOLUTION 970831

2 Now, this is not nearly as job
3 intensive. This is a limited-service hotel; it is
4 not a Convention Center hotel.

5 But the model that's worked with the
6 Marriott has worked well.

7 COUNCILWOMAN MILLER: Well, you know,
8 I wasn't here when you discussed the Marriott, so I
9 don't have that much knowledge about that plan.

10 Do you have any information, just
11 condensed?

12 MR. EISENSTAT: I would be happy to
13 forward that to you.

14 COUNCILWOMAN MILLER: All right.
15 Thank you.

16 CHAIRWOMAN CLARK: Are there any
17 other questions?

18 Thank you.

19 Are there any other persons in the
20 room who wish to be heard with respect to Bill No.
21 970831?

22 Thank you, gentlemen.

23 MR. EISENSTAT: Thank you.

24 CHAIRWOMAN CLARK: Wait a minute.

25 Just so I am clear, the air rights

1 RESOLUTION 970831

2 Lease Agreement that's before this committee had
3 been drafted, and you will provide me with?

4 MR. EISENSTAT: That, and the
5 Redeveloper's Agreement.

6 CHAIRWOMAN CLARK: And it has already
7 been drafted?

8 MR. EISENSTAT: It is in draft form,
9 yes.

10 CHAIRWOMAN CLARK: It is something
11 you could bring over now; it is not something you
12 have to go home and write?

13 It is done?

14 MR. EISENSTAT: It is done.

15 CHAIRWOMAN CLARK: Let's you and me
16 have a private discussion, with that document in
17 hand, to be sure that I am satisfied and clear.

18 All right?

19 MR. EISENSTAT: Fine.

20 CHAIRWOMAN CLARK: Yes, ma'am. How
21 are you today?

22 Please introduce yourself to the
23 record, and spell your name for the stenographer.

24 MS. DEBORAH BUTLER: Good morning.
25 My name is Deborah Butler, D-E-B-O-R-A-H,

1 RESOLUTION 970831

2 B-U-T-L-E-R, Divisional Deputy City Solicitor for
3 the Law Department.

4 I am the manager of the city's Real
5 Estate Unit, and we assisted in the drafting of the
6 Ordinance and the amendment to the city RDA Lease
7 Agreement.

8 I just wanted to answer Councilwoman
9 Clark's question about the city indemnification.

10 It is provided for in the original
11 Lease Agreement between the city and the RDA, which
12 was authorized by Ordinance No. 1129. So that
13 provision will continue in this amendment of the
14 Lease Agreement.

15 Additionally, the amendment will
16 provide for the city to be named as an additional
17 insured in the garage project and the hotel
18 project.

19 So those issues have been covered.

20 CHAIRWOMAN CLARK: Great. I thank
21 you very much.

22 Yes.

23 COUNCILMAN RIZZO: Just a quick
24 question of Mr. Eisenstat.

25 MR. EISENSTAT: Yes.

1 RESOLUTION 970831

2 COUNCILMAN RIZZO: Will the parking
3 facility be inoperable during this construction?

4 MR. EISENSTAT: No, it will not be
5 inoperable. That's one of the overbuild
6 constraints.

7 And, in fact, the facility, due to
8 its tax-exempt finance arrangement, will be open to
9 the general public. And the hotel patrons will use
10 the facility, just as any other public member of the
11 public does.

12 Last thing I would ask, again, as was
13 mentioned by Mr. Sipos, the suspension of the
14 Rules.

15 CHAIRWOMAN CLARK: One other
16 question.

17 Is this going to be a moderate-priced
18 hotel?

19 MR. EISENSTAT: The pro formas that
20 we have seen in 1998, we would now define as
21 moderate price, which is at about 110 to 115 dollars
22 a night RAC rate, which is, actually, substantially
23 less than what we now see in our Convention Center
24 hotels and hotels in the area.

25 CHAIRWOMAN CLARK: All right. Thank

1 RESOLUTION 970831

2 you.

3 I would like to have the record show
4 that we were joined at the table by Councilmembers
5 Kenney and Miller.

6 And I state that the public part of
7 the Public Hearing is now closed.

8 (Public Hearing adjourned.)

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COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC MEETING

of the

COMMITTEE ON PUBLIC SAFETY AND PUBLIC WORKS

- - -

Wednesday, January 28, 1998

- - -

Public Meeting conducted by the Committee
on Public Property and Public Works, held in Room
400, City Hall, Philadelphia, Pennsylvania, on the
above date, to consider action on the following:

BILLS 970747, 970752, 970831

- - -

PRESENT:

COUNCILWOMAN AUGUSTA A. CLARK, Chair

COUNCILMAN JAMES F. KENNEY
COUNCILWOMAN JOAN L. KRAJEWSKI
COUNCILWOMAN DONNA REED MILLER
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN FRANK RIZZO

- - -

1 PUBLIC MEETING

2 CHAIRWOMAN CLARK: And we are now in
3 Public session.

4 And I will entertain a motion.

5 Mr. Rizzo, I believe you wanted to make a statement
6 with respect to Bill No. --

7 COUNCILMAN RIZZO: 970747.

8 CHAIRWOMAN CLARK: Right.

9 COUNCILMAN RIZZO: To go on record
10 abstaining on voting on that bill, since I have a
11 relationship with Beasley.

12 CHAIRWOMAN CLARK: Thank you, sir.

13 The record will so note.

14 COUNCILMAN NUTTER: Okay.

15 CHAIRWOMAN CLARK: Mr. Nutter.

16 COUNCILMAN NUTTER: Madam Chair, I
17 moved that Bill No. 970747 be reported out of the
18 committee with a favorable recommendation, and a
19 further recommendation that the Rules of Council be
20 suspended so as to permit first reading at our next
21 session.

22 (Duly seconded.)

23 CHAIRWOMAN CLARK: It has been
24 properly moved and seconded that Bill No. 970747 be
25 reported out with a favorable recommendation, and

1 PUBLIC MEETING

2 that the Rules of Council be suspended so as to
3 permit first reading at our next Stated session.

4 All in favor say aye.

5 Those opposed say nay.

6 Abstentions?

7 COUNCILMAN RIZZO: One. Me.

8 CHAIRWOMAN CLARK: Abstention noted.

9 Thank you.

10 Before us next for a motion is Bill
11 No. 970831.

12 Ms. Krajewski.

13 COUNCILWOMAN KRAJEWSKI: Madam

14 Chairman, I move that Bill No. 970831 be reported
15 out of this committee with a favorable
16 recommendation.

17 (Duly seconded.)

18 CHAIRWOMAN CLARK: Did we get a
19 suspension?

20 COUNCILWOMAN KRAJEWSKI: With a
21 suspension of Rules so as to permit first reading at
22 our next session of Council.

23 (Duly seconded.)

24 CHAIRWOMAN CLARK: All in favor.

25 Opposed?

1 PUBLIC MEETING

2 Bill No. 970831 has been reported out
3 with a favorable recommendation, and with a
4 suspension of the Rules so as to permit first
5 reading at our next session of Council.

6 Bill is passed.

7 Bill No. 970752 has been withheld at
8 the request of the sponsor.

9 (Public Meeting adjourned at 10:15
10 a.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 Wednesday, January 28, 1998, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COMMITTEE ON PUBLIC PROPERTY AND PUBLIC WORKS

DEBRA A. WHITEHEAD, RPR