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

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Room 969, City Hall
Philadelphia, Pennsylvania
Thursday, December 11, 2003
5:00 p.m.

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10 Bill 030227 - Resolution authorizing City
11 Council's Committee on Law Government to
12 investigate the effectiveness and efficiency of
13 the delivery of public housing resources and
14 services to the low and moderate income residents
of Philadelphia by the Philadelphia Housing
Authority in cooperation with the City of
Philadelphia...

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PRESENT:

15

COUNCILMAN DAVID COHEN
COUNCILMAN JANNIE BLACKWELL
COUNCILMAN FRANK RIZZO
JASON MAYLAND
ELLEN BERKOWITZ
ROBERT JAFFE

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ALSO PRESENT:

JOEL M. SWEET, ESQUIRE

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V A R A L L O Incorporated
Litigation Support Services
Eleven Penn Center, Suite 600
Philadelphia, Pennsylvania 19103
(215) 561-2220 (215) 567-2670

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I N D E X

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Resolution 030227

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By Councilman Cohen

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By Mr. Mayland

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By Ms. Berkowitz

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By Mr. Jaffe

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By Councilman Rizzo

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By Councilwoman Blackwell

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(No exhibits were marked.)

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2 MR. COHEN: This is the continued
3 hearing on the Law and Government Committee, which
4 I, David Cohen, Chairman on Resolution 030227 and
5 which was adopted on April 10th of 2003, is now in
6 session and it's in session under the rule of City
7 Council which permits a continuing forum.

8 There will be no outside witnesses
9 today because today will be a summary of what the
10 cost has been to Philadelphians in both lack of
11 knowledge of what's going on and lack of ability
12 of City Council to perform its duties to protect
13 the people of Philadelphia and to see that
14 affordable housing is made available to them, and
15 to the costs in other ways, that don't need to be
16 specifically mentioned, the people of Philadelphia
17 by the tactics of the Philadelphia Housing
18 Authority in refusing to recognize the authority
19 of City Council to the point where they felt it
20 necessary to obey either invitations of the
21 committee, which everyone else has obeyed, or even
22 in obeying subpoenas, and instead choosing to go
23 to court.

24 So today we're just going to review
25 a few of the items, it will be a relatively brief

City Council 12/11/03

1 hearing, but it will set the foundation for next
2 term's session of City Council which I think will
3 compete the schedule of hearings in a way which
4 will make clear to everyone that City Council is
5 the legislative arm of the City Government and
6 that the state of anarchy in which the executive
7 director of the Philadelphia Housing Authority,
8 Carl Green and the Mayor John Street, have
9 permitted unlawfully and impermissibly a state of
10 anarchy to exist in which there's one department,
11 the city's largest landlord, a government agency
12 whose head and the members of the executive board
13 are appointed by the Mayor and the City Controller
14 of the City of Philadelphia, feel free to act
15 without any controls. The actions of the kind
16 that have provoked what has happened to
17 Philadelphia, where the nation is watching what is
18 going to occur in the Federal probe that began
19 some people say two or three years ago, some
20 people say just a short time ago, and nobody knows
21 the answer as of now except those conducting the
22 probe.
23

24 But it's that kind of refusal to
25 account for the public responsibility. It's the

1 City Council 12/11/03

2 atmosphere which makes everybody think of
3 Philadelphia as the home of cronyism and
4 corruption and that everything is for sale. It
5 seems to purvey the decisions of the executive
6 director of the Philadelphia Housing Authority and
7 his feeling that he does not have anybody to
8 report to.

9 It's the kind of situation which
10 results, for example, in his being the head of the
11 Pension Board of the Philadelphia Housing
12 Authority, and his naming each and every member of
13 that board, his choosing a company far away from
14 Philadelphia to conduct what he considers are
15 audits, his refusal to acknowledge his
16 responsibility, leaving open the possibility that
17 millions of dollars have been wastefully spent,
18 instead of protecting the rights of veteran
19 employees of Philadelphia Housing Authority, but
20 they may have been spent for totally improper
21 purposes.

22 Nobody knows whether or not there
23 is a pension fund that in fact really exists
24 because everybody having anything to do with the
25 pension fund has informed this committee that they

1 City Council 12/11/03

2 of course are bound by the wishes of the executive
3 director who's made clear to them that he wishes
4 them not to participate in this hearing.

5 It is almost an unbelievable
6 situation that's persisted for slightly over eight
7 months. I believe that the Resolution 030227 was
8 enacted by City Council on April 10th of this year
9 2003. And for that eight months, the government
10 of Philadelphia has been thwarted in its effort to
11 see to it that the estimated more than 70,000
12 Philadelphians who are housed in some way, one way
13 or the other by Philadelphia Housing Authority
14 receive the right kind of affordable housing, and
15 at the same time the employees who numbers it's
16 hard to say how many at any given time, but
17 something around 2000 employees. It's hard for us
18 to know whether their complaints about unfair
19 actions about the state of disorganization that
20 exists in the agency, about alleged illegal
21 matters that occur in the agency as witnessed the
22 allegations in the lawsuit recently filed by an
23 attorney for Philadelphia Housing Authority,
24 someone whom the authority claims is still an
25 employee, but he claims he's been constructively

1 City Council 12/11/03

2 terminated.

3 This is a state that ought not to
4 exist, we would never have tolerated it if the
5 landlord was a private owner and to think that a
6 government agency has perpetrated a course of
7 conduct so full of irresponsibility and so full of
8 wrongdoing is really hard to conceive of existing
9 in the City of Philadelphia, and itself probably
10 warrants the kind of attention the city government
11 as a whole is currently receiving from the Federal
12 Government.

13 So I just wanted to mention these
14 few items. For eight months it's been an ongoing
15 story in which the Philadelphia Housing Authority
16 with the responsibility of making housing
17 available to the poorest people in Philadelphia
18 has in fact hired two of the most expensive law
19 firms in Philadelphia and used money that should
20 have been used for purposes of housing, used money
21 to seek to thwart us.

22 In fact Philadelphia Housing
23 Authority apparently feels so powerful that it has
24 assumed the functions of a government agency with
25 the power to investigate council members. It's

City Council 12/11/03

1 threatened the chairman of this committee with the
2 lawsuit for defamation of character, whatever
3 that's supposed to mean under the circumstances.
4 It has threatened to take action against staff
5 members working with this committee, both in the
6 court action which this committee initiated in
7 order to enforce its power of subpoena in
8 accordance with the Home Rule Charter, as well as
9 the efforts, and that was done by the law firm of
10 Wolf, Block, Schorr, Solis, Cohen, and then in
11 another major law firm, both are very expensive
12 law firms, which most people in Philadelphia could
13 never possibly afford to pay, but they served to
14 protect the Philadelphia Housing Authority from
15 having to meet its obligations. The law firm of
16 Ballard Spar has been hired to in turn subpoena
17 the chairman of this committee and a staff member,
18 former staff member of this committee to prove the
19 case that PHA alleges exist, that the Council is
20 aiding the union in its efforts to negotiate with
21 the PHA in a contract that's I think already more
22 than a year expired.

24 I want to say that in my 35 years
25 since my election first in 1967 to City Council,

1 City Council 12/11/03

2 I've never experienced such arbitrary actions as
3 that by the Philadelphia Housing Authority. I
4 never thought I would see the day when a mayor of
5 the city would support such action. Even as he
6 talks friendship with City Council, he fights it
7 in every way possible. And this effort by the
8 Mayor to turn the City of Philadelphia into a
9 one-man government, run by him with aided like
10 Carl Green, who believe they have no
11 responsibility to the public, they're appointed to
12 serve, is beyond belief. But they are the facts
13 as of now and it is my hope that that will be
14 overturned by the actions of this committee and by
15 the actions of the City Council and ultimately the
16 City Administration and the courts during the next
17 term which will begin on Monday, January 5th.

18 So on this occasion which will be
19 the, probably the last hearing during the current
20 term which expires at midnight on January 4th --
21 or January 5th of 2004, I wanted to have this
22 report contained, a few comments, not all of them,
23 but some of the highlights that we think have to
24 be dealt with in the next year, and I'm sure they
25 will be in the next term of office.

1 City Council 12/11/03

2 I think we're going to restore
3 order to government in Philadelphia, that the 78
4 or 75,000, whatever the number may be, of city
5 residents who are subjected to the whims of the
6 leadership of Philadelphia Housing Authority and
7 the way in which it conducts itself will find that
8 there will be a new day in which the rights will
9 be guaranteed.

10 I think it's been very disturbing
11 that during the administration of Carl Green, and
12 this is one of the main things we wanted to
13 investigate, was why was it that the list of
14 people on the waiting list has grown while the
15 number of affordable units has continually
16 decreased, why is it that the decisions are being
17 made against the best interest of the people who
18 need the affordable housing, and if Carl Green has
19 any explanations we would like to hear them, find
20 out why it is that Philadelphia affords such bleak
21 opportunities for people who need housing.

22 Recently I received a call late one
23 afternoon that an apartment house was being
24 vacated because of an inadequate fire alarm system
25 and people were forced to move at the last moment

1 City Council 12/11/03

2 and services have previously been provided by
3 Philadelphia Housing in the form of Section 8
4 certificates to make housing available to these
5 people who have lived there in the apartment house
6 for a number of years were not available simply by
7 arbitrary decision of PHA.

8 At the same time, a huge sum of
9 money was returned last year, that should have
10 been used for housing people, was returned to the
11 Federal Government unused and untold hundreds of
12 thousands, perhaps millions of dollars have been
13 spent, not necessary legal services, legal
14 services aimed not at achieving the goals of the
15 Philadelphia Housing Authority from the point of
16 view of affording affordable housing, but rather
17 of stalling the efforts for people to find out
18 what's happening so that public services could be
19 improved in the city.

20 Now I'm going to ask at this point,
21 we'll just before I do that I'd like to mention
22 one thing. It is the opinion of the Chair of this
23 Committee that there is a concerted effort by the
24 City of Philadelphia to engage in an effort to
25 break down the pension rights of all the employees

1 City Council 12/11/03
2 of the City of Philadelphia and that the employees
3 of the Philadelphia Housing Authority are used as
4 guinea pigs by the City of Philadelphia to see
5 whether or not union conditions can be thwarted or
6 be broken down so that pension rights can be
7 reduced to current and future employees of the
8 city.

9 It is an effort to follow the path
10 led by Walmart in the nation and particularly
11 currently in the City of Philadelphia to break
12 down labor standards and to introduce or to rather
13 deprive Philadelphia citizens of basic American
14 rights which the labor movement and the people of
15 the United States have attained over the years and
16 to substitute for it instead third world
17 conditions.

18 As technically the United States
19 takes the position on the global basis that we're
20 seeking to approve the condition of the third
21 world countries economies so that workers are paid
22 decent wages and working conditions exist that are
23 humane instead of serfdom, that companies like
24 Walmart and some of our national policies lead in
25 the direction of compelling American citizens to

1 City Council 12/11/03

2 have economic conditions which more and more
3 resemble those of the third world countries.

4 They do it by denying pension
5 rights, by compelling people that have no ability
6 to prepare for retirement, by having, by reducing
7 or eliminating conditions that provide for health
8 insurance and by requiring work at inferior wages
9 and the government, which ought to be the model
10 employer setting the pathway for good treatment of
11 workers, instead finds itself often in the role of
12 following. And in Philadelphia what's happening
13 is that we're beginning to follow the rules of
14 Walmart and introducing conditions that are very
15 harmful to working people.

16 And for that reason I was very
17 concerned by what I've been told was a position
18 taken by Carl Green of PHA in its last
19 negotiations, whereby people who started to work
20 for the PHA would have their retirement benefits
21 calculated 20 or 30 years hence when they retired
22 if they lasted that long, their pension rights
23 would be determined by the salaries they earned at
24 the time they were hired, not by the salaries to
25 which they became entitled by virtue of promotions

1 City Council 12/11/03

2 or the quality of their work. And in an effort to
3 find that out, we found this resistance by PHA and
4 their refusal to even come to hearings.

5 There's an old adage in American
6 life that says if people try to hide something
7 they probably have good reason to want to hide it,
8 reasons that don't stand the scrutiny of daylight.
9 I believe that that applies here and that is what
10 peaked my interest in the pension system and to
11 date I don't know whether this is an allegation,
12 whether it's true, I assume the very worse exists
13 because PHA has had countless opportunities to
14 refute this information but they have not chosen
15 to do so, therefore I believe that maybe the
16 situation is even far worse than what I've been
17 able to conjure up.

18 Same is true of all other aspects
19 of PHA activities. I think that what some people
20 have spoken as a cesspool of inequities when
21 referring to PHA may be a much too complimentary
22 phrase to use about the agency. Why else I have
23 to ask myself would they hide from coming forth
24 and telling their story.

25 And so that is proof to me of the

1 City Council 12/11/03

2 fact that what is needed is the strongest possible
3 scrutiny and examination. When one person is in
4 control of millions and millions of dollars as Mr.
5 Green is in control of the pension fund of PHA,
6 one wonders why he doesn't come forth and explain
7 what he does with that money, the pension fund.
8 Why is it that everyone has to be appointed by
9 him, and yet he feels free to say there is no
10 accountability from him to the public. He says it
11 by his actions, not by his words. And that is an
12 intolerable situation and it's a situation in all
13 respects which will be given full attention in the
14 next term of City Council and I believe that we
15 will begin to find changes that take place,
16 changes that require PHA to meet it's
17 responsibilities and call to account the people
18 responsible for denying the public the information
19 it needs to make the right determinations and the
20 information City Council needs to carry out it's
21 duties.

22 At this time I'm going to ask
23 several staff members to indicate -- not all of
24 questions they have but questions that they run
25 into as part of the assignment from me of study of

1 City Council 12/11/03

2 PHA and the kind of issues that they feel are
3 going to need to be dealt with in the forthcoming
4 term.

5 So at this point I'm going to ask
6 Jason Mayland, my legislative assistant to enter
7 into the record particular concerns that he has
8 found in his studies. Mr. Mayland, proceed.

9 MR. MAYLAND: Thank you, Chairman
10 Cohen. My name is Jason Mayland, M-A-Y-L-A-N-D
11 and I am acting in my capacity as the clerk of the
12 Committee on Law and Government. I will read the
13 following into the record.

14 While the investigation has raised
15 many questions into the management and oversight
16 of the Authority, many have gone unanswered simply
17 because witnesses have failed to appear and
18 documents have not been made readily available.

19 However, due to the documents that
20 have been made available to this committee, the
21 contacts that have been made with other city and
22 state agencies and recent media accounts, there is
23 even more reason to believe that a continued
24 inquiry is required for the benefit of the public
25 interest and the transparency of this government

1 City Council 12/11/03

2 and the Housing Authority in general. Because of
3 the inability of said witnesses to actually come
4 forward a few questions remain. Some of those
5 questions I will read into the record at this
6 time.

7 For example, the relationship of
8 Mr. Lighthhead, Chairman of the Board, Mr. Green
9 Executive Director of the Authority with other
10 members of the Authority in their selection of the
11 New England pension, consultants, and of Milium
12 (ph) the actuary, and how are such professional
13 contract services handled.

14 When and how were the
15 administrators of the fund selected? What
16 relationship did Mr. Green, Director of the
17 Authority, have with the pension consultants
18 before coming to Philadelphia?

19 How does the Authority explain an
20 unfunded liability of over \$23 million for the
21 fund?

22 Would anyone explain the
23 approximately \$500,000 fee assessed for the
24 management of the pension?

25 How is it 248 vested participates

1 City Council 12/11/03

2 in a one-year period between November 1st, 2001
3 and November 1st, 2002 exited the fund at a
4 savings of \$1.74 million? That is another point
5 of subsequent discussion.

6 In terms of investment, why was the
7 Household Finance Corporation, a predatory lender,
8 selected as one of the vehicles of investment for
9 the fund?

10 Were there two series of actuarial
11 assumptions used in actually preparing the pension
12 report? And has a third party audit ever been
13 examined?

14 Will there be some sort of
15 performance on it as well as an investment on it
16 as well as a fiduciary audit?

17 That is all, Chairman Cohen.

18 MR. COHEN: Thank you. Let's ask
19 Ellen Berkowitz as staff attorney on my staff as
20 well as legislative department on my staff.

21 MS. BERKOWITZ: My name is Ellen
22 Berkowitz, B-E-R-K-O-W-I-T-Z. The following
23 apparent failures of PHA in the area of housing
24 require some explanation which has not been
25 forthcoming since no witnesses have appeared.

1 City Council 12/11/03

2 During the eight months that PHA
3 has refused to respond to counsel's request for
4 information the Department of Housing and Urban
5 Development completed an audit of PHA Section 8
6 program. The HUD audit reported that PHA, quote,
7 has consistently and significantly under-utilized
8 its available Section 8 funding from HUD. Because
9 of PHA's failure to make use of the money HUD
10 provided, quote, HUD recaptured \$47.9 million of
11 Section 8 funds from the authority in August of
12 2001. Yet, this is still from the audit, about
13 18,000 families remained on the Authority's
14 Section 8 waiting list as of January 2002 of which
15 HUD estimated the authority could have assisted
16 additional 3200 families.

17 PHA's failure to assist those 3200
18 families demands explanation. During the same
19 period there has been a 13 percent rise in the
20 number of homeless men, women and children over
21 the past year. Although some of this increase is
22 due to the rise in unemployment, a problem PHA
23 should be equipped to address, many of the newly
24 homeless are in fact employed, but are unable to
25 find affordable housing. The University of

1 City Council 12/11/03

2 Pennsylvania policy professor Dennis Cohain
3 reported that 70 percent of those eligible in
4 Philadelphia for subsidized housing don't get it.

5 Testimony presented before this
6 committee on November 20th reflected the disparity
7 between supply and demand. A young mother
8 testified she has been on a waiting list for three
9 years and that during that time PHA has made no
10 effort to keep her informed, counsel her or in any
11 way communicate with her about her prospects of
12 finding housing through PHA for her family.

13 During the same period in which PHA
14 forfeited \$47.8 million PHA has increased the
15 amount of rent the tenants are required in
16 available units, has required all tenants to sign
17 contracts stating they will not seek housing from
18 the authority for a period of longer than seven
19 years.

20 PHA owes it to Council as well as
21 to HUD to explain why they had to return nearly
22 \$50 million at a time when a growing number of
23 families were in need of housing, rents have
24 increased and Section 8 vouchers went
25 undistributed.

1 City Council 12/11/03

2 Also during this period, PHA's cut
3 back PHA's relationship with the office of
4 emergency shelter and services has deteriorated.
5 In the past PHA worked in concert with OESS to
6 enable families who are at risk of eviction to
7 obtain counseling and financial assistance in the
8 form of grants in time to avoid eviction. The
9 current PHA administration has altered that
10 policy.

11 Over the summer the authority
12 stopped providing OESS with a list of tenants at
13 risk of eviction making it impossible for OESS to
14 intervene on the tenant's behalf before evictions
15 took place; although it is our understanding that
16 PHA has resumed providing a list to OESS. PHA
17 edits the list and does not include all tenants at
18 risk of eviction, rather PHA makes its own
19 determination about who will and will not be a
20 worthy tenant and does not give OESS notice of the
21 tenants PHA does not wish to retain.

22 Tenants with mental health issues
23 for instance or large outstanding balances are not
24 included on the list, thus, OESS is unable to
25 intervene on their behalf. Social services are

1 City Council 12/11/03

2 not provided in a timely manner, and those tenants
3 most at risk are subject to eviction.

4 Obviously tenants who are evicted
5 as well as the ranks of the City's homeless place
6 additional pressure on the City's already strained
7 social service net. PHA has an obligation to
8 explain to Council why it is no longer interested
9 in assisting at risk tenants and why it has made
10 the City's task to providing services to these
11 tenants more difficult.

12 Finally, despite PHA's
13 non-discrimination policy, PHA has failed to
14 provide an adequate number of affordable units
15 that are assessible to people with disabilities
16 and has withheld vouchers from the disabled.
17 Witnesses from disabled and action testified that
18 in 1999 they initiated a lawsuit against PHA
19 because out of 70,000 scattered site housing units
20 only 28 were wheelchair assessible.

21 In the wake of this lawsuit PHA has
22 retaliated, they have found vouchers even more
23 difficult to obtain and even apart from the class
24 action suit PHA has not taken the necessary steps
25 to make more units assessible and to work with the

1 City Council 12/11/03

2 disabled community.

3 These are all areas that Council
4 has been waiting for PHA to address but no
5 witnesses have appeared.

6 MR. COHEN: Thank you, Ms.
7 Berkowitz.

8 Councilman Rizzo is here.

9 MR. RIZZO: Could you give for the
10 record an update on the fact that -- it troubles
11 me that the PHA has not responded. Could you
12 bring for the record, and I apologize if you have
13 already done this, just give us a status report on
14 your legal action or whatever action you're taking
15 because of the noncompliance by the Housing
16 Authority and the administration.

17 MR. COHEN: The attorney in the
18 action that you're speaking about that we
19 initiated is Robert Jaffe, staff attorney on my
20 staff. Could you reply to Councilman Rizzo?

21 MR. RIZZO: The reason I'm
22 concerned is that I also in a recent resolution
23 included the subpoena power because of the
24 troubles with the police department's overtime
25 program where police officers are working for a

1 City Council 12/11/03

2 private sector and the police officers are being
3 paid but the bills are not being paid by the
4 customers.

5 And that troubles me that if in
6 fact I wanted to subpoena or I wanted information
7 from the Police Department, that they could do a
8 similar situation with the resolution that I'm
9 presently the sponsor of. So I would just
10 appreciate knowing exactly what's going on here.

11 MR. COHEN: I'm going to ask Mr.
12 Jaffe to give you a brief report.

13 MR. JAFFE: Councilman, I'd be
14 happy to give you a brief answer now and talk with
15 you and your staff to go into a detailed answer.
16 I'm Robert Jaffe, Special Council, I represent all
17 of City Council, including yourself, Councilman,
18 in this matter versus PHA.

19 Going back to March 2003,
20 Councilman Cohen first informally asked the
21 executive director of PHA to testify before City
22 Council. As of today, middle of December, this
23 matter is before Judge Carrafiello in the Court of
24 Common Pleas Philadelphia, First Judicial
25 District. And Judge Carrafiello holds this matter

1 City Council 12/11/03

2 under advisement to the present without a
3 decision.

4 What is holding this up is that PHA
5 has requested a stay in the matter. A stay means
6 that we cannot proceed until the Judge says you
7 can proceed. There is another case that PHA is
8 involved with that is before the Pennsylvania
9 Supreme Court. PHA has asked Judge Carrafiello to
10 stay this matter pending the outcome of this other
11 PHA litigation.

12 On November 3rd, City Council and
13 PHA both had briefs, legal memorandums of law
14 filed with the court before Judge Carrafiello.
15 And then prior to that on October 21, Judge
16 Carrafiello heard oral argument. There have been
17 numerous briefs filed, two legal arguments before
18 the Judge and we await his decision.

19 Regardless of what's going on, of
20 course, PHA could come forward any time. PHA
21 could have come forward tonight and the executive
22 director could have come forward tonight to
23 testify, however, they chose to be among the first
24 to really snub City Council and not to come here
25 in order to answer your questions.

1 City Council 12/11/03

2 Their main argument is that they're
3 a Commonwealth agency, however, the law as it
4 stands today is that PHA is a Commonwealth agency
5 for some things and for other things PHA is not a
6 Commonwealth agency. And it's because PHA does
7 not get Commonwealth funding that they're not a
8 Commonwealth agency, however they do get city
9 funding.

10 We have submitted an affidavit from
11 the finance department and from our own financial
12 head of City Council, Charlie, who have said that
13 we have given PHA approximately \$20 million in the
14 past few years. So that while the Commonwealth
15 does not give funding, we certainly do. Of
16 course, the Board is appointed by the Mayor and
17 the city controller.

18 PHA only does business in
19 Philadelphia. So in terms of management and in
20 terms of financing we believe and we assert that
21 PHA is not a Commonwealth agency. They are more
22 so a local agency tied to us by management and by
23 money, and that they should be here. However,
24 they say because for something called sovereign
25 immunity, that means the right to sue them and how

1 City Council 12/11/03

2 you sue them, because they may be a Commonwealth
3 agency for what's called sovereign immunity. In
4 one way they may be a Commonwealth agency for all
5 reasons, that's what PHA puts forth.

6 We feel that in time and eventually
7 City Council will be vindicated and that the
8 executive director of PHA and PHA will come to
9 testify. We believe that PHA has spent
10 considerable funds of legal money and effort in
11 order to file motions and to delay this as long as
12 possible. They're basically maybe waiting for you
13 to go away Councilman, until they would come and
14 we would hope that City Council means to maintain
15 it's position as the authentic and the only
16 legislative body in Philadelphia with the right to
17 subpoena people who you need to come tell you what
18 you need to know in order for you Councilmen to do
19 your job. Without that you can't do your job,
20 especially when you authorize money to go to the
21 people.

22 MR. RIZZO: Counselor, can I just
23 interrupt for a second?

24 MR. COHEN: Yes.

25 MR. RIZZO: What does the state,

1 City Council 12/11/03

2 the Supreme Court case have to do with what we
3 want to know here?

4 MR. COHEN: Let me interrupt
5 Councilman Rizzo on this basis. I believe that
6 what is at issue --

7 The Chair wants to note the
8 presence of Councilwoman Jannie Blackwell coming
9 in.

10 The reason this issue is being
11 raised by the law firm for PHA is it's purely a
12 stalling tactic. What the lawyers are saying is,
13 you're in the wrong court, we can't even deal with
14 your issue because the Commonwealth agency, they
15 have a right to be exclusively sued in
16 Commonwealth Court, yet the Home Rule Charter
17 calls for City Council whenever it issues a
18 subpoena which is not respected, the Home Rule
19 Charter requires us to pursue the court action in
20 the Court of Common Pleas. Isn't that one of the
21 fundamental questions?

22 MR. JAFFE: That's one of the
23 fundamental questions.

24 MR. COHEN: Just a plain stalling
25 tactic to delay time hoping to discourage us from

1 City Council 12/11/03

2 proceeding.

3 MR. JAFFE: We simply followed the
4 law really not expecting this kind of litigious
5 action. The Home Rule Charter says we should do
6 it a certain way and that's all we did. And we
7 feel that the Home Rule Charter says what it says
8 and we followed it. We also want to point out --

9 MR. COHEN: Because if we didn't do
10 that of course they would be in court saying you
11 didn't follow the charter.

12 MR. JAFFE: You didn't follow the
13 Home Rule Charter. So I agree with Chairman
14 Councilman Cohen, that my experience with the
15 legal representative PHA has been basically delay
16 and threats.

17 MR. COHEN: Councilman Rizzo, you
18 know, I can have a reputation for once getting on
19 to something for sticking to it and that may be
20 bad as well as good. But I think in this case it
21 will prove to be good, because were it the case
22 that ultimately the decision would be that we had
23 to go to Commonwealth Court, everybody knows we
24 would be in Commonwealth Court. But what we're
25 trying to do is to vindicate the language of the

1 City Council 12/11/03

2 Home Rule Charter which says if the subpoena is
3 not obeyed, the way to enforce it is for the
4 president of City Council, which he has done, to
5 sign an affidavit that the subpoena was not
6 complied with and for the attorneys for City
7 Council to institute suit in the Court of Common
8 Pleas and enforce the subpoena and that's what
9 we're doing and I believe the reason they need to
10 pay these lawyers these huge sums of money is
11 because these lawyers, big law firms, are expert
12 on stalling tactics. And the big law firms know
13 better than to do it because at the same time that
14 their stalling our city government they are the
15 beneficiary of all kinds of millions of
16 dollars from the city government on bond deals.

17 So sooner or later, these law firms
18 are going to have to be brought into line because
19 they can't serve two masters, they can't be for
20 city government and fight it. And in city
21 government we're sworn, it's our duty to make sure
22 that what we do is correct and supportive of the
23 citizens of Philadelphia. So I would be happy in
24 my role as Chairman of Law and Government and if I
25 continue in that position, I will -- in whatever

1 City Council 12/11/03

2 position I may continue on in the next term, I
3 will be very happy to work with you, because I
4 intend to pursue this matter if we go all the way
5 to the Supreme Court of the United States because
6 we've got to put an end to the kind of
7 lawlessness, maybe it's a little different from
8 cronyism and corruption, but I think the
9 difference between that and the stalling tactics
10 is to prevent the City Council from carrying out
11 it's function.

12 I think it's all part of the same
13 pattern of saying we're the total boss of all the
14 city's money and all the city's power and we're
15 going to conduct business as we see it, everybody
16 else be damned and we've got to put an end to that
17 and put the people of Philadelphia back in control
18 of the city government.

19 MR. RIZZO: Councilman, I'll be
20 more than happy to work with you on this issue
21 because, again, when council -- it troubles me
22 that when an agency that wants to hide under the
23 state agency veil, when in fact they are given,
24 what was the number, \$20 million of city money --

25 MR. COHEN: Well, they're given

1 City Council 12/11/03

2 money and -- even if they weren't given a penny,
3 their responsibility is the biggest landlord in
4 the City of Philadelphia. Some people call them
5 slum lords.

6 MR. RIZZO: But beside that, they
7 in fact are given a substantial amount of money
8 according to the --

9 MS. BLACKWELL: I'd like to make a
10 statement, if I might. I think if I might, Mr.
11 Chair, is it okay?

12 MR. COHEN: Yes, go ahead,
13 Councilwoman Blackwell.

14 MS. BLACKWELL: The Chair knows and
15 Councilman Rizzo knows that I'm also commissioner
16 on that board, the PHA Board. I know, for
17 example, that today Mr. Green is at the
18 Pennsylvania Society which I did mention earlier
19 to our staff, and that he would not be here, but I
20 think that part of the whole issue is that this
21 whole matter is in court.

22 I believe that the Chair of this
23 committee and Mr. Green and/or various persons on
24 either side have been unable to come to some
25 agreement about how they deal with the issue, the

1 City Council 12/11/03

2 court issue and testifying in this Chambers and
3 that that's part of the issue. I don't, I don't
4 believe -- I don't believe Mr. Green is
5 irresponsible.

6 I do certainly agree that PHA is
7 one of the biggest landlords, I'm proud of the
8 record we have with something like 80,000 people
9 and that PHA has made a big difference in the
10 lives of many people. I'm proud to be on that
11 Board, but I believe that we're at a legal impasse
12 because it is in court and I haven't been in at
13 those meetings. I was only in one a year ago last
14 spring but I believe that the Chair of Law and
15 Government Committee and the head of PHA have not
16 been able to agree on some legal basis to frame a
17 discussion in these Chambers.

18 MR. COHEN: Councilwoman Blackwell
19 I'd like to say I only made one request plus one
20 demand. The request was a personal invitation to
21 Executive Director Green, who appeared originally
22 and the second in the form of a demand was the
23 subpoena.

24 Now, I don't know of -- there's
25 never been anybody in my long history in city

1 City Council 12/11/03

2 government that ever had difficulty in
3 understanding that a subpoena from a council
4 committee compels you to attend. Mr. Green
5 doesn't like the time he says, well, the time is
6 not picked by Mr. Green for the committee's
7 hearing, the time is picked by the chairman of the
8 committee. I picked that time and that's the time
9 it's going to be. Mr. Green is going to be here
10 and he's going to be here at 5 o'clock, whenever
11 he comes, and he will be coming whether it's going
12 to be an order of the Court of Common Pleas or the
13 Commonwealth Court or the Supreme Court of the
14 Commonwealth of Pennsylvania or the United States
15 Supreme Court. I won't be done with this until we
16 vindicate the power of city council.

17 I don't understand how he dares
18 draw his check each pay period and refuse to
19 recognize his public responsibility. I don't know
20 how he's going to make up for the already eight
21 months of lost time because that will have to be
22 computed at some point. He'll be responsible for
23 dealing with that situation and I don't know how
24 he's going to do that. But right now he stands in
25 contempt of the city counsel of Philadelphia.

1 City Council 12/11/03

2 He's ignored every one of our
3 subpoenas, every one of our invitations. He wants
4 a different time. We don't want that time. We
5 want 5 o'clock. And that's the time of the
6 subpoena. He doesn't make the decisions. He
7 apparently feels he runs this committee, maybe he
8 feels he runs every committee, maybe he feels he
9 runs everything, that I don't know. But it's the
10 committee which sets the times of the hearing and
11 that time has been set for 5 o'clock and that's
12 going to be the time that the hearing will take
13 place. And he's going to meet that time.

14 I can't understand why 5 o'clock is
15 not good. Is he fearful there might be people
16 here. Is he fearful that employees of his who
17 stop working by 5 o'clock may attend the hearing,
18 they have a right to attend the hearing as the
19 public always has the right to attend. They have
20 the right to do now even as the attorney for PHA
21 is here today listening to this and if he hasn't,
22 I'm sure he'll be going over to the clerk and get
23 a transcript because his lawyers work on the
24 theory that maybe the chairman of the committee or
25 a member of the committee is going to say

1 City Council 12/11/03

2 something inappropriate so they can then threaten
3 him. That's what they have done with me, they've
4 have done it to staff members. That's not a
5 legitimate law purpose. I don't see how the City
6 of Philadelphia ever permits the employment of law
7 firms that can test the authority of City Council
8 in one arena yet benefit by millions of dollars in
9 another arena. That's going to be an issue that's
10 going to have to be dealt with, and I tried to
11 deal with it in another hearing when council, the
12 same council that represents PHA, not this
13 gentleman that's here today, Mr. Kessler appeared
14 in another matter. I don't believe he has the
15 right to pick and choose what committee hearing
16 he's going to go to.

17 He either recognizes the authority
18 of City Council or he has no business being
19 permitted by City Council to attend any of its
20 hearings, that also would be another matter that
21 will have to be dealt with. That's the only --
22 there is no argument between Mr. Green and myself
23 we never discussed an issue because he doesn't
24 permit it.

25 The only issue discussed was he

1 City Council 12/11/03

2 said he understood and knew and respected my
3 position on affordable housing because he feels
4 it's the same as his position and he feels we both
5 have this common purpose. That may well be, but
6 if he has that purpose, I think he expresses it in
7 strange ways, Councilwoman. Because what has
8 happened is the list of applicants has grown, the
9 waiting list has gotten longer to meet and at the
10 same time, the number of affordable units has been
11 reduced. I would have to take issue with you if
12 you said you were proud of the record, because in
13 the instance I referred to I believe before you
14 came in about an apartment house that was declared
15 dangerous and had to be evacuated. In the old
16 days people could get Section 8 certificates and
17 find new housing, but instead the city was put to
18 big expense and the people to great discomfort
19 because they had to go to some little hotel that
20 the city managed on last minute notice to arrange
21 to house the women and children that were
22 involved. And I don't understand why Section 8
23 certificates were not made available to them.

24 Now, PHA has always had double duty
25 on Section 8. One duty was to make them

1 City Council 12/11/03

2 available, the second was to enforce them to check
3 and see if there are complaints about how they're
4 being used to see whether the complaints really in
5 fact related to Section 8 usage. Our experience
6 has been that often private owners of land are
7 thought to be Section 8 because sometimes don't
8 take care of their property. But if in fact they
9 are Section 8 people, then PHA does have a duty to
10 do something about it. Section 8 tenants ought to
11 be as good tenants as anybody else. In fact, they
12 ought to appreciate the housing more than anyone
13 else because they're getting it at a low cost and
14 they're getting a sense of independence and a new
15 opportunity to start a fresh life. But PHA
16 defaulted on both purposes. The PHA was a source
17 of information from us that many complaints about
18 long practices by Section 8 people turn out not to
19 be Section 8 tenants but tend to be private
20 tenants or private owners. In a way that is good
21 for everybody. (Inaudible) growing need to have
22 affordable units and a smaller number of them
23 available, so I can't agree with you Councilwoman
24 Blackwell that PHA does a good job. Would be a
25 good job if the reversed happened. I would like

1 City Council 12/11/03

2 to see more affordable units and the waiting list
3 getting shorter so we come to the time when there
4 is no waiting list.

5 COUNCILWOMAN BLACKWELL: Well, Mr.
6 Chairman I believe as you said that you and Mr.
7 Green agree more on issues than you disagree. But
8 certainly I think PHA has won national awards
9 countrywide in some of the things they do in job
10 training and fixing up units, landscaping and
11 lighting and all kinds of issues where they fix up
12 lighting. I don't know the specific instance, nor
13 did I issue the location of the issue you
14 mentioned or where that is, and I don't know the
15 circumstances. I mean, we have a homeless agency,
16 OESS, office of services to homeless adults that
17 deals with people who are homeless. PHA is not
18 our own city homeless agency, it's the Housing
19 Authority. But certainly the whole issue of
20 Section 8 --

21 MR. COHEN: PHA is applauding.

22 MS. BLACKWELL: The whole issue of
23 Section 8 and who gets certificates is another one
24 that we have to consider because some of our very
25 colleagues and council don't want them in their

1 City Council 12/11/03

2 neighborhood. So you you know the PHA has to
3 consider if they give them in my area it may be
4 okay. But if you go in certain areas in other
5 sections of the city, there are debates about
6 having Section 8 certificates there or having --
7 or being inundated certainly with Section 8
8 there.

9 So the issues all gets complicated
10 but I believe that -- I believe that if there
11 could be a framing, which you don't believe in, of
12 the discussion, perhaps we could get past this
13 point and finally let me say --

14 MR. COHEN: -- all he does is come,
15 if there's defense, why doesn't he make it? The
16 reason he doesn't try to make the defense you're
17 making for them is that he knows it's not so.

18 MS. BLACKWELL: When things are in
19 court, remember we have -- we deal with our Home
20 Rule Charter, we have the administration to deal
21 with for the most part in the courts, but PHA has
22 state and national officials they have to consider
23 and whose laws they have to abide by, not just
24 ours.

25 So it becomes more complicated when

1 City Council 12/11/03

2 you ask them to testify on issues that don't
3 impact just locally, they impact state wide or
4 nationally.

5 MR. COHEN: Councilwoman Blackwell,
6 I have to tell you he has never been asked to
7 testify on anything except on the subject of the
8 resolution. His one request made of him is to
9 appear here at a hearing, and when the invitation
10 didn't work he got a subpoena, which the
11 resolution provided for, and he still didn't
12 appear. And even when I called him about two
13 weeks ago to let him know that a hearing was being
14 postponed, he refused to take the call. Never
15 called back to find out what I was calling about.

16 So please, there's no problem, all
17 he has to do first is to appear and that would
18 deal with the contempt situation and thereafter we
19 have to talk about what happens to PHA, all the
20 questions about him, and what's happened as a
21 result of the loss of eight months while people of
22 Philadelphia of their right to know what's going
23 on with PHA. And how does he compensate the
24 people of Philadelphia for his denial of their
25 rights? That's the question Mr. Green is going

1 City Council 12/11/03

2 have to deal with. But he's created, all he had
3 to do was come, he could have come here today.
4 His attorney has been here at every meeting so
5 they would know at every meeting that is taking
6 place and they would all know that people are
7 entitled to come.

8 MS. BLACKWELL: Mr. Chair, it's
9 hard when people are in court, people are
10 reluctant, to -- I wasn't there, but if hearsay is
11 correct in this case, I believe there have been a
12 meeting or two where the two of you tried to work
13 it out in your office.

14 MR. COHEN: I never tried working
15 anything out. I told him from the beginning all
16 he had to do is come to the hearings. Nothing to
17 work out.

18 MS. BLACKWELL: So you had your
19 attorneys and he may have had one and you can't
20 frame the discussions. And yet he's in court.

21 MR. COHEN: Councilwoman Blackwell,
22 the thing you do is you come, and at the hearing
23 if you have a question you raise it or you have
24 your attorneys raise it. There's no question.
25 When you want to talk with me I met with him in

1 City Council 12/11/03

2 his office, we had several meetings. But he
3 always wants to make the decisions and not have
4 the chairman of the committee make the decision as
5 to the time of the meeting. We've never got
6 beyond the time because he doesn't want to come at
7 5 o'clock.

8 MS. BLACKWELL: I don't believe
9 it's time, I believe it's the issue of the whole
10 matter being under judicial review.

11 MR. COHEN: We discussed that, he
12 knows how and if his attorney is drawing his huge
13 sums of money from the poor people of Philadelphia
14 as their fees, don't know how to advise him, he
15 better get new attorneys. We all know that if
16 he's asked a question that's not proper they have
17 a right to object and advise him of his rights at
18 that time whether to answer the question or not.
19 I feel silly telling him that, they know that,
20 they know that this is all stalling and it doesn't
21 mean anything..

22 MS. BLACKWELL: I heard you say
23 yesterday these lawyers need to volunteer
24 yesterday.

25 MR. COHEN: That's why they charge

1 City Council 12/11/03

2 so much money.

3 MS. BLACKWELL: I heard you say
4 yesterday, Mr. Chair, that many of these lawyers
5 need to volunteer, at our hearings yesterday on
6 bond stuff.

7 MR. COHEN: I'd like to see
8 volunteers be hired rather than have poor people
9 that can never afford --

10 MS. BLACKWELL: I'm a school
11 teacher, I can get paid.

12 MR. COHEN: Other than hire a
13 neighborhood lawyer, get the city collecting their
14 taxes, hires the most expensive lawyers in the
15 country to handle these matters.

16 MS. BLACKWELL: Present company
17 excepted on volunteering services. No, but in all
18 fairness, Mr. Chair, I wish we could move beyond
19 this. There are so many people that we care about
20 who would like to see us find a way to get along
21 when I do believe at the core of it we all believe
22 and want the same things for the citizens of our
23 city.

24 MR. COHEN: You're earning your fee
25 today, sir, by your applause. But there's no

1 City Council 12/11/03

2 dispute at all. I have no dispute, I don't know
3 what he's going to testify to. Whether he's got
4 to come here and he's got to come here when the
5 committee sets the hearing date, when the Chairman
6 of the Committee exercises the right to determine
7 that time, he's got to be here then. He's not the
8 one one that makes the decision as to when. And
9 the only reason I can think that he doesn't want
10 to come at 5 o'clock is that he will prevent the
11 employees of the agency from coming during the
12 day. He may well order, in my judgment this is
13 why he doesn't want to have the hearing during the
14 day, why he wants it during the day, because he
15 wants to bar people from coming and he has no
16 right to do that.

17 The people that work in this agency
18 are city employees and they are also citizens of
19 Philadelphia, they have a right to be able to come
20 to the hearing and they are intimidated and they
21 are fearful of Mr. Green because they tell me all
22 kinds of stories about his vindictive conduct.
23 I've never referred to it because I didn't want to
24 until he was here so he could defend himself or
25 explain away this conduct.

1 City Council 12/11/03

2 But the reason the hearing was set
3 at 5 o'clock to make it possible for everybody to
4 come freely, and for him and no one at PHA to have
5 a record of who was here, even if he grants them
6 leave, he can then punish them for coming, for
7 taking leave on a day when he's issued an order
8 that they should not take leave. And the people
9 in the City of Philadelphia are going to be free
10 to come to council hearings without any fear of
11 intimidation.

12 This committee is going to insist
13 on the right to hear from the employees of PHA and
14 have them have the right to hear the testimony
15 because otherwise we cannot do our duty. And when
16 Mr. Green acts as he is acting he is hurting this
17 council from doing its duty. He wants to
18 intimidate his employees in my judgment. This is
19 the only possible reason he can have for objecting
20 to come at 5 o'clock because he's looking for some
21 way to prevent his employees from hearing the
22 story from him. And that's wrong, he has no right
23 to do that. He has no right to bar his employees
24 from hearing his testimony.

25 And this is not the first time,

1 City Council 12/11/03

2 that I've held hearings at 5 o'clock. Whenever I
3 felt that the city employees were involved and
4 there was any concern they expressed at all their
5 ability to attend freely, I always set the times
6 so they can hear it because they are Philadelphia
7 citizens as well anybody else.

8 Councilwoman you know that's so and
9 you know the respect that I have for you and your
10 husband over all these years.

11 MS. BLACKWELL: I feel the same for
12 you. I really don't think time is the issue, Mr.
13 Chair. I think it's the lawsuit that's the
14 issue. I don't think time is the issue, I think
15 it's the lawsuit. That's my guess, that's my
16 opinion. I don't know, of course but my opinion
17 is when matters are in court people are reluctant
18 to have a discussion, a public discussion.

19 MR. COHEN: I don't understand
20 Councilwoman what your references to lawsuit
21 preventing him from coming. He's free to come at
22 any time, the lawsuit doesn't stop him from coming
23 in any way at all.

24 MS. BLACKWELL: But I don't believe
25 the time of the day is a big issue.

1 City Council 12/11/03

2 MR. COHEN: He even violated the
3 laws in Philadelphia by refusing to obey the
4 subpoena. The Home Rule Charter by which all of
5 us live says that when somebody violates the law
6 by not coming when subpoenaed by a city agency the
7 way in which the City Council vindicates the power
8 of subpoenas by instituting a lawsuit of the Court
9 of Common Pleas.

10 We did not want to do it, but he
11 made clear he wasn't coming. He declined to
12 attend when invited without the issuance of any
13 subpoena. I think he was actually invited on two
14 occasions before there was a subpoena. I know at
15 least once but I think it was twice, then we
16 subpoenaed him because he made clear he wasn't
17 otherwise coming.

18 He caused the lawsuit. He's the
19 one that really brought it about. We brought it
20 about because that's what the Home Rule Charter
21 says. We're not going let Mr. Green or any city
22 official violate the laws of this Commonwealth by
23 not obeying the mandate of the City Council.

24 This was an action taken by all of
25 City Council when they passed this resolution,

1 City Council 12/11/03

2 they passed it unanimously at the time. So all he
3 has do is to appear, now how he'll ever make up
4 for the loss he's caused us over the eight months,
5 I don't know, but I know Council is expending an
6 awful lot of money on staff salaries, on my salary
7 and other salaries for which maybe the City
8 Council has the right to be compensated for.
9 People of Philadelphia have lost what they could
10 have saved if as a result of his testimony we find
11 ways in which to make more affordable housing
12 available to people that could have been made
13 available a year earlier then I think there may be
14 some legal responsibility in his part for that
15 failure, but all he's doing is continuing to
16 worsen the situation, but he seems to relish in
17 that.

18 So we all love and respect
19 Councilwoman Blackwell very well, but she's not
20 making the decisions. If she were making the
21 decisions, she would be here if she were executive
22 director because she knows how City Council feels.
23 If people are not going to respect our authority
24 there is nothing else as nearly as important as
25 being able to function as City Council.

1 City Council 12/11/03

2 And the law firms know that and I
3 find it very inconsistent that on the one hand the
4 law firms believe they have the right to come to
5 City Council hearings where they set the terms,
6 where they feel friendly and accepted but not to
7 come on other occasions. I've never heard of that
8 kind of ability on the part of any law firm to
9 pick and choose when it comes to a government
10 function. But apparently these law firms are so
11 big they feel they write the laws themselves. I
12 don't know how else to explain it, but this case
13 will never end in my judgment until PHA is forced
14 to comply as every other agency always has with
15 the law in Philadelphia. And then to find a way
16 to compensate the people of Philadelphia and the
17 City Council for the lost time that we have
18 suffered as a result of their failure to obey the
19 law.

20 And the reason I've not involved
21 the action of the members of the executive board
22 is I respect all of them. I think they're fine
23 people on the executive board. But I don't think
24 they have anything to do with making the
25 decisions. Seems that the chairman of this

1 City Council 12/11/03

2 committee, that it's the executive director, he
3 himself is a member of the board, isn't he? Isn't
4 he one of the members of the board?

5 MS. BLACKWELL: No, not technically
6 he's not a member of the Board, no.

7 MR. COHEN: If not he seems to make
8 all the decisions for PHA and I think it should be
9 the reverse, the board is supposed to control
10 him. I think the board has the power to order him
11 to appear, it causes me to wonder why the board
12 doesn't do that, but the Mayor is the main
13 appointing authority of the board. Certainly has
14 every right to tell Mr. Green you're under duty to
15 report, don't embarrass me, don't create these
16 problems for me because I would find it very
17 embarrassing if I were in Mayor Street's position
18 to have the commissioners that I'm responsible for
19 acting the way which Mr. Green is acting. All
20 right.

21 Does anybody else have any
22 questions? Does the attorney for Wolf Block want
23 to say anything for the record? You're free to
24 say it.

25 MR. COHEN: All right. Let the

1 City Council 12/11/03

2 record note there was no reply by the attorney or
3 waiver of his hand indicating he doesn't wish to
4 be heard. Is there any other person who wishes to
5 be heard at this hearing? Anything else from Mr.
6 Mayland, Ms. Berkowitz, Mr. Jaffee, Councilman
7 Rizzo?

8 MR. RIZZO: Yes. If I may for the
9 record, the record should indicate that I am the
10 only person in the room except for Your Honor,
11 Councilman Blackwell and City Council staff, that
12 I think it is appropriate for that to be.

13 MR. COHEN: I don't see any reason
14 not to or to put it in. I announced at the
15 beginning there would be no witnesses, certainly
16 none that I know of. You saw no table set up for
17 witnesses because today's purpose was merely to
18 bring to an orderly end for this term of council's
19 business and to provide the basis for the
20 committee to begin next term where we finish off
21 this term.

22 All right, there being no other
23 business to come before the Committee, the
24 Committee in Law and Government will stand in
25 recess until the call of the Chair.

1 City Council 12/11/03

2 Thank you and thank you

3 Councilwoman Blackwell, we all love you as you
4 well know, over many years, and Councilman Rizzo
5 for coming here today.

6 (Hearing concluded at 6:20 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings,
are contained fully and accurately in the
stenographic notes taken by me upon the
meeting of Committee On Law and Government,
taken on December 11, 2003 and that this is a
true and correct transcript of same.

MOLLY A. ALBER, RPR and
Notary Public

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