

COUNCIL OF THE CITY OF PHILADELPHIA  
COMMITTEE ON APPROPRIATIONS

- - -

Room 400, City Hall  
Philadelphia, Pennsylvania  
Thursday, October 23, 2008  
9:05 a.m.

- - -

PRESENT:

COUNCILWOMAN JOAN L. KRAJEWSKI, CHAIR  
COUNCILMAN DARRELL CLARKE  
COUNCILMAN W. WILSON GOODE, JR.  
COUNCILWOMAN MARIA QUINONES-SANCHEZ  
COUNCILWOMAN DONNA REED MILLER  
COUNCILMAN FRANK RIZZO

BILL 080743 - An ordinance authorizing  
transfers in appropriations for Fiscal Year  
2009 from the Grants Revenue Fund, the  
Director of Finance - Provision for other  
grants to the General Fund, the Director of  
Finance - Indemnities.

- - -

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1  
2 COUNCILWOMAN KRAJEWSKI: Good  
3 morning. The Committee on Appropriations  
4 is now in session.

5 I'd like to recognize  
6 Councilman Rizzo, Councilwoman Miller,  
7 Councilwoman Sanchez and Councilman  
8 Goode.

9 Thank you. The Clerk will  
10 please read the title of the bills.

11 THE CLERK: Bill No. 080743, an  
12 ordinance authorizing transfers in  
13 appropriations for Fiscal Year 2009 from  
14 the Grants Revenue Fund, the Director of  
15 Finance - Provision for other grants to  
16 the General Fund, the Director of  
17 Finance - Indemnities.

18 (Witnesses approached witness  
19 table.)

20 MR. AGOSTINI: Good morning,  
21 Councilmember Krajewski --

22 COUNCILWOMAN KRAJEWSKI: Good  
23 morning.

24 MR. AGOSTINI: -- members of  
25 the Appropriations Committee. My name is

1 10/23/08 - APPROPRIATIONS - BILL 080743  
2 Steve Agostini. I'm the Budget Director  
3 for the City of Philadelphia. I appear  
4 before you today to offer testimony on  
5 Bill 080743, which makes a transfer in  
6 appropriations from the Grants Revenue  
7 Fund to the General Fund, Director of  
8 Finance - Indemnities.

9 The transfer of ten and a half  
10 million before you is needed to pay two  
11 large claims that have recently been  
12 settled. The first claim is the final  
13 settlement with 24 property owners whose  
14 homes were destroyed by the MOVE fire on  
15 Osage Avenue. The second claim is as a  
16 result of a class action suit arising  
17 from strip search practices employed by  
18 the staff of the Philadelphia Prison. It  
19 is unusual to have a claim of this  
20 magnitude in any given fiscal year, let  
21 alone two such settlements in the same  
22 year.

23 I appreciate the opportunity to  
24 testify before you.

25 I'd like to emphasize that the

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2 need for this is rather significant. For  
3 all intents and purposes, the \$25 million  
4 that we have in the FY09 budget for  
5 indemnities has been exhausted or  
6 committed for claims that we know about.  
7 That does not include these two claims,  
8 which would take our expenditure and the  
9 need for appropriations up to  
10 approximately \$36 million for the year.  
11 I think standing right now we believe we  
12 are in deficit in the fund, and so I'd  
13 like to emphasize the sort of need for  
14 this moving forward.

15 I appreciate the opportunity to  
16 testify before the Committee this  
17 morning. I'm happy to answer any  
18 questions. Additionally, Shelley Smith,  
19 the City Solicitor, is here to answer any  
20 questions. And thank you and appreciate  
21 the time.

22 COUNCILWOMAN KRAJEWSKI: Thank  
23 you.

24 I also would like to  
25 acknowledge Councilman Clarke is here.

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2 Good morning, Councilman.

3 COUNCILMAN CLARKE: Thank you,  
4 Madam Chair.

5 COUNCILWOMAN KRAJEWSKI: Are  
6 there any questions from members of the  
7 Committee?

8 COUNCILMAN RIZZO: Yes.

9 COUNCILWOMAN KRAJEWSKI:  
10 Councilman Rizzo.

11 COUNCILMAN RIZZO: I guess I'll  
12 ask the City Solicitor. Do we have any  
13 type of outside insurance? Do  
14 municipalities ever engage in that to  
15 protect us from these substantial losses,  
16 the Lloyd's of London type of arrangement  
17 that could have protected us on these  
18 significant lawsuits?

19 MS. SMITH: Do municipalities  
20 ever? Yes. The City of Philadelphia is  
21 self-insured.

22 COUNCILMAN RIZZO: Is there any  
23 reason we should look based on these  
24 significant settlements that we ought to  
25 consider some type of insurance

1 10/23/08 - APPROPRIATIONS - BILL 080743  
2 protection?

3 MS. SMITH: The City has not --  
4 has only sought insurance in  
5 extraordinary cases. As Mr. Agostini  
6 testified, it is extraordinary to have  
7 even one such settlement, much less two.  
8 I don't anticipate the need as a regular  
9 matter for the City to seek insurance.

10 COUNCILMAN RIZZO: Could you  
11 look into that and send that to the Chair  
12 to see if we -- we don't have a crystal  
13 ball. If you knew we would have had this  
14 type of a claim, that's why you have  
15 insurance, for the unexpected, not for  
16 day-to-day activity.

17 So could you look and see what  
18 the cost to have that kind of a coverage  
19 would be and report back to the Chair,  
20 please.

21 MR. AGOSTINI: If I may,  
22 Councilman Rizzo. Over the last ten  
23 years of my experience with  
24 municipalities, it has been increasingly  
25 difficult for municipalities to purchase

1 10/23/08 - APPROPRIATIONS - BILL 080743  
2 insurance, which is why many, if not  
3 most, of the larger cities have moved to  
4 a self-insurance form. But we will go  
5 and look at that.

6 COUNCILMAN RIZZO: Could you  
7 please look at it and let us decide how  
8 we want to -- what we want to recommend  
9 to you?

10 Thank you.

11 COUNCILWOMAN KRAJEWSKI:  
12 Councilwoman Miller.

13 COUNCILWOMAN MILLER: Thank  
14 you, Madam Chair.

15 I actually have a question for  
16 the City Solicitor based on your  
17 testimony that I understand is going to  
18 be read into the record.

19 MS. SMITH: That's my  
20 understanding, Councilwoman, yes.

21 COUNCILWOMAN MILLER: What is  
22 this class action suit at the Prison?

23 MS. SMITH: I'm sorry. Did you  
24 say --

25 COUNCILWOMAN MILLER: The strip

1 10/23/08 - APPROPRIATIONS - BILL 080743  
2 search.

3 MS. SMITH: What is the suit?

4 COUNCILWOMAN MILLER: Yes.

5 MS. SMITH: The claim alleged  
6 that the Prison's policy, which no longer  
7 exists, of strip searching all prisoners  
8 as part of the intake process violated  
9 their constitutional rights.

10 COUNCILWOMAN MILLER: And how  
11 long ago was that?

12 MS. SMITH: The policy I  
13 believe goes back to 2003 at least. It  
14 may have existed before that, but I know  
15 it goes back to 2003. As I said, that  
16 policy has been changed, so that the  
17 constitutional parameters around strip  
18 searches guide the policy and strip  
19 searches occur when there's  
20 individualized suspicion to justify them.

21 COUNCILWOMAN MILLER: And the  
22 MOVE settlement, this is the last for the  
23 MOVE?

24 MS. SMITH: Yes.

25 COUNCILWOMAN MILLER: Okay.

1 10/23/08 - APPROPRIATIONS - BILL 080743

2 All right. Thank you.

3 Thank you, Madam Chair.

4 COUNCILWOMAN KRAJEWSKI: Thank  
5 you.

6 Is there anyone else here to  
7 testify for or against this bill?

8 (No response.)

9 COUNCILWOMAN KRAJEWSKI: Thank  
10 you very much.

11 MS. SMITH: Thank you.

12 MR. AGOSTINI: Oh --

13 COUNCILWOMAN KRAJEWSKI: That  
14 completes our hearing.

15 MR. AGOSTINI: I'm sorry. My  
16 apologies. We'd like --

17 COUNCILWOMAN KRAJEWSKI:  
18 Suspension of the rules?

19 MR. AGOSTINI: Yes, please.

20 COUNCILWOMAN KRAJEWSKI: Thank  
21 you.

22 MR. AGOSTINI: Thank you.

23 COUNCILWOMAN KRAJEWSKI: That  
24 ends our hearing on Appropriations. Now  
25 we will go into our public meeting.

1 10/23/08 - APPROPRIATIONS - BILL 080743

2 The Chair recognizes Councilman  
3 Goode.

4 COUNCILMAN GOODE: Thank you,  
5 Madam Chair. I move that Bill No. 080743  
6 be reported out of Committee with a  
7 favorable recommendation and the rules of  
8 Council be suspended so as to permit  
9 first reading at our next Council  
10 session.

11 (Duly seconded.)

12 COUNCILWOMAN KRAJEWSKI: All  
13 those in favor?

14 (Aye.)

15 COUNCILWOMAN KRAJEWSKI:  
16 Opposed?

17 (No response.)

18 COUNCILWOMAN KRAJEWSKI: Thank  
19 you. Therefore, Bill 080743 will be  
20 reported out of this committee with a  
21 favorable recommendation, with the rules  
22 of Council being suspended so as to  
23 permit first reading at the next session  
24 of Council.

25 Thank you all very much.

1           10/23/08 - APPROPRIATIONS - BILL 080743  
2                       (Committee on Appropriations  
3           adjourned at 9:10 a.m.)

4                       - - -

## CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on October 23, 2008, and that this is a true and correct transcript of same.

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MICHELE L. MURPHY  
RPR-Notary Public

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