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## COUNCIL OF THE CITY OF PHILADELPHIA

3

## PUBLIC HEARING

4

## COMMITTEE ON PUBLIC SAFETY and

5

## TECHNOLOGY &amp; INFORMATION SERVICES

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Room 400, City Hall  
Philadelphia, Pennsylvania  
Thursday, February 10, 2005  
2:20 p.m.

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10 RESOLUTION 040993 - Resolution authorizing a  
11 Joint Hearing for both City Council's  
12 Committee on Public Safety and City  
13 Council's Committee on Technology and  
14 Information Systems to hold public hearings  
15 to investigate the malfunction of the City  
16 of Philadelphia's 800 Megahertz Digital  
17 Radio System which occurred five times...

15

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## PRESENT:

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COUNCILWOMAN DONNA REED MILLER, Chair

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COUNCILMAN BRIAN O'NEILL, Chair

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COUNCILMAN FRANK RIZZO

COUNCILWOMAN BLONDELL REYNOLDS BROWN

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COUNCILMAN MICHAEL NUTTER

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V A R A L L O Incorporated

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# I N D E X

| RESOLUTION 040933                      | PAGE |
|----------------------------------------|------|
| PHILIP GOLDSMITH, Managing Director... | 6    |
| JOHN MCFADDEN, Motorola.....           | 19   |

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2           COUNCILWOMAN MILLER: Good  
3           afternoon. We're getting ready to call the  
4           Committee to order. The Committee on Public  
5           Safety and Technology and Information Services  
6           is now in session.

7           For the record, in attendance is  
8           Councilman Frank Rizzo, Councilwoman Donna  
9           Reed Miller, Chair of Public Safety;  
10          Councilman Brian O'Neill, Chair of Information  
11          and technology; and Councilwoman Blondell  
12          Reynolds Brown.

13          Will the Clerk please read the  
14          resolution?

15          THE CLERK: Resolution 040993,  
16          resolution authorizing a Joint Hearing for  
17          both City Council's Committee on Public Safety  
18          and City Council's Committee on Technology and  
19          Information Systems to hold public hearings to  
20          investigate the malfunction of the City of  
21          Philadelphia's 800 Megahertz Digital Radio  
22          System which occurred five times: Once on  
23          March 25, 2004, at 8:59 p.m., then on May 18,  
24          2004, at 9:04 p.m., again on July 9, 2004, at  
25          6:30 p.m., and again on August 18, 2004, at

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2           7:26 p.m., and finally on October 3, 2004, at  
3           1:30 a.m.; and, in furtherance of such  
4           investigation, authorizing the issuance of  
5           subpoenas to compel the attendance of  
6           witnesses and the production of documents to  
7           the full extent authorized under Section 2-401  
8           of the Home Rule Charter.

9           COUNCILWOMAN MILLER: Thank you.  
10          Councilman O'Neill.

11          COUNCILMAN O'NEILL: I would just  
12          like to put on the record, there has been some  
13          question about Verizon and their willingness  
14          to testify. I'll take full responsible for  
15          their not testifying today because I told the  
16          person from Verizon the other day that within  
17          the parameters of the hearings, as we set it  
18          up, there wouldn't be any testimony about who  
19          struck John and which finger was being pointed  
20          where. We're really looking at just a recap  
21          of the incident since our last hearing and  
22          looking forward particularly from the  
23          perspective of the City through the Law  
24          Department is there any place we can go there  
25          just as if you personally bought something,

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2       had a warranty, were paying a maintenance fee  
3       and it wasn't working the way it was supposed  
4       to. In addition to finding out why it wasn't  
5       working, you'd still want to make sure you  
6       were somehow compensated in some way, whether  
7       it was a longer warranty added on to cover the  
8       period when it wasn't working the way it was  
9       supposed to or, as people have suggested, some  
10      other method whether it's reduction or  
11      elimination of the maintenance fee, something  
12      to so that \$52 million investment that we may  
13      never find out really why it's not working as  
14      it should or hasn't worked as it should. But  
15      everybody agrees that it hasn't been working  
16      as it should and we paid \$52 million for it  
17      and have a year and a half.

18           Verizon is willing to come to any  
19      future meeting or hearing and participate. I  
20      take full responsibility for any confusion  
21      that occurred there. And I'll turn it back to  
22      the Chair.

23           We've had many hearings. This is  
24      going to be our last one. That's the only  
25      thing we've agreed on, but we still want to

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2           pursue this in more informal channels. Thank  
3           you.

4                   COUNCILWOMAN MILLER: Just to recap,  
5           we've mutually agreed that this will probably  
6           be our last public hearing. We see this a  
7           wrap-up, as an opportunity to move forward and  
8           continue working on the problem. And we  
9           understand Motorola has some updates to  
10          present today, and we want to get started  
11          unless -- Councilman Rizzo, do you have  
12          anything you want to say?

13                  COUNCILMAN RIZZO: Nothing other  
14          than I appreciate the joint COMMITTEE'S  
15          efforts here.

16                  COUNCILWOMAN MILLER: We'd like to  
17          call up our first witness which is Phil  
18          Goldsmith.

19                  MR. GOLDSMITH: Good afternoon.  
20          Phil Goldsmith, Managing Director.

21                  COUNCILWOMAN MILLER: Good  
22          afternoon.

23                  MR. GOLDSMITH: I want to thank this  
24          Committee for their continual oversight and  
25          vigilance to what we believe is an important

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2       issue for the people of Philadelphia in terms  
3       of public safety as well as our fire fighters  
4       and police officers as well as other City  
5       employees.

6           I'm joined in this room by many  
7       experts, of which I am not one of them, that  
8       can certainly talk about the technological  
9       issues what has been done and what is being  
10      done and what will continue to be done to be  
11      ensure we have a communication process that's  
12      reliable and meets the 21st century needs of  
13      an urban city like Philadelphia.

14          I think the question -- it's been  
15      almost two years I think. In fact, I remember  
16      it because it was just as I was assuming the  
17      position as Managing Director that we went  
18      live on this system. And I think that when  
19      you look at it from a two-year period of time,  
20      the system has worked well, which is not to  
21      say perfectly. And I continue to believe that  
22      the system that this City has invested money  
23      in is a better system and provides better  
24      public safety than the old antiquated system  
25      that we had.

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2           I think the issue we have as a City  
3       and as a Council is very simple: Do we have a  
4       system that meets our public safety needs? Is  
5       it a system that's reliable that our men and  
6       women in our uniformed services can depend on  
7       and can rely on? And I think that as with any  
8       new system, there's always shake-out problems,  
9       there's always issues that have to be dealt  
10      with.

11          I think over the past many months  
12      since we had a few issues bubble up, that the  
13      City, working with Motorola and subsequently  
14      Verizon, has addressed a lot of these issues,  
15      has tried to determine which of the issues are  
16      related to the system itself, to the actual  
17      Motorola system; which issues have been human  
18      error; what we have to do in order to improve  
19      our protocols, our testing and our cooperation  
20      among Motorola, Verizon, as well as the City  
21      of Philadelphia and make sure that we are  
22      communicating effectively and promptly with  
23      the men and women in our uniformed services so  
24      they know where we are and what's going on.

25          I think I can say today that we've



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2           had no -- and I say this somewhat nervously,  
3           we have not had any issues since the last  
4           hearing, that we have made enormous progress.  
5           I personally have met with Verizon, and we  
6           probably had 12 of their representatives were  
7           in my conference room pledging to do what  
8           needs to be done and also making sure that  
9           they are working effectively with Motorola.

10                  This is an issue where there is  
11           never one single problem or source of a  
12           problem. It's where you have a lot of  
13           different parts. And where we have had  
14           issues, as I said, sometimes they've been a  
15           Motorola issue, sometimes they've been a  
16           Verizon issue, probably there's been times  
17           that they've been a City issue. And then we  
18           have an overriding issue we have on the  
19           national level of the amount of traffic that  
20           now comes into our City no one ever  
21           anticipated, and these are FCC issues that  
22           important issues to us. But they are issues  
23           that we as a City cannot solve by ourselves.

24                  We started some preventive testing,  
25           I think it was yesterday, with Motorola.

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2       Verizon is going to be doing testing. And I  
3       think we can say that we have a much better  
4       comfort level in the system and our ability to  
5       be communicating with the people in the field,  
6       and the field back to headquarters, and in the  
7       field among themselves.

8           We're beginning work with SEPTA.

9       We're beginning work with the School District  
10      of Philadelphia to make sure that we can be  
11      operable among those agencies, and we have a  
12      project going on. It's funded by Home Land  
13      Security funds to allow us to be communicating  
14      with other counties and other counties with  
15      us.

16           So there has been a lot work, and I  
17      think that we all recognize this as an  
18      important issue and we're going to make sure  
19      that our processes are correct in our systems,  
20      both the protocols are proper and the  
21      communications among our different vendors and  
22      the City is running seamlessly. And I think  
23      we're a long way there, but we cannot get  
24      comfortable in what we've done; we've got to  
25      remain vigilant because it's an important

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2       area.

3           So I'd be glad to answer any  
4       questions and have any of the experts come up  
5       and help me out.

6           COUNCILWOMAN MILLER: I have a  
7       question as it relates to human error.  
8       Certainly, you know the technology and all  
9       those other errors are things that -- I don't  
10      want to say we can't avoid, however, what is  
11      happening the area to correct the human error  
12      mistakes? Additional training? What are the  
13      needs?

14          MR. GOLDSMITH: Some of it is  
15      training. Again, I don't want to be here  
16      pointing fingers. But part of it happened  
17      with some of the other vendors. Part of it is  
18      training issue. Part of it is understanding  
19      that the human error took place first place as  
20      opposed to thinking the cause was over here,  
21      to understand that some cases someone was  
22      doing some maintenance upgrade and forgot to  
23      plug something back in. I mean, that's sort  
24      of my very simple explanation of what  
25      happened.

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2           Like anyone of us that run large  
3 organizations, it becomes an issue of training  
4 and accountability and making sure that you  
5 have written protocols in place so people know  
6 what is expected of them and what has to be  
7 done. And I think in this case, both Motorola  
8 and Verizon have said that they are trying to  
9 tighten their end up, and we as a City are  
10 trying to do the same thing.

11           COUNCILWOMAN MILLER: Okay.

12           Councilman Rizzo.

13           COUNCILMAN RIZZO: Mr. Goldsmith,  
14 it's been reported that there have been three  
15 issues that did not involve Motorola that were  
16 -- either two of them have been agreed upon  
17 that have been Verizon's responsibility and  
18 one that in fact there's still questions on  
19 what occurred there.

20           The protocol that you mentioned  
21 earlier -- I understand that we have some  
22 equipment that's in a landlord tenant  
23 facility. Those protocols, could you comment  
24 in the event we have another issue with a hub  
25 or power outage and batteries going dead that

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2       we now are in the situation and we have the  
3       ability not -- it was a boondoggle that  
4       incident that occurred where the system was  
5       off for -- there's a lot troubles with the  
6       system. Sometimes we say the system was off.  
7       It wasn't; it was in the backup mode. But  
8       obviously that's not as desirable as it is in  
9       its normal operating configuration.

10               What have we done to be assured that  
11       the support that any vendor, including Verizon  
12       -- it's troubling to me that a power outage  
13       that lasted more than eight hours could have  
14       the effect that it did on the system, what we  
15       call a T1 line that is buried in the ground  
16       between here and one of the transmitter sites  
17       could become defective and take the system  
18       out. And that's why I was hoping that Verizon  
19       would be here today and be able to explain  
20       that.

21               Maybe you can assure us all that  
22       what you refer to as protocol, communication  
23       between the monitoring center Verizon and any  
24       other vendor that supports this system, how  
25       confident are you that all these are now where

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2           they need to be?

3                   MR. GOLDSMITH: Well, I think I  
4           might ask Joe James to come up and help me  
5           with this. But let me say that we met with  
6           Verizon at our request. We told them we were  
7           concerned about some of these issues that had  
8           been occurring. They came in and we talked  
9           about these issues, and some of them they  
10          readily acknowledged and understood had to be  
11          resolved and fixed. We impressed upon them  
12          the importance and the urgency of this.

13                   Now, I think from my conversation  
14          with them that they understand. They  
15          understood and took responsibility for, in  
16          that particular case, what happened. I think  
17          they were chagrined about it, and I think  
18          they understood that they had some systemic  
19          issues that they had to address. And I'm  
20          going under the assumption that those issues  
21          are being addressed or have been addressed,  
22          but I prefer for the Deputy Commissioner Joe  
23          James to talk about the specifics.

24                   MR. JAMES: Thank you. Good  
25          afternoon, Councilman and Chair.

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2           In regard to that particular  
3       incident, we have worked very closely with  
4       Verizon and Motorola together to unite the two  
5       service management teams together in an effort  
6       to avoid this type of human error or, as you  
7       describe, faux pas happening in the future.

8           I think one of the things that was  
9       apparent once when we reviewed the cause  
10      analysis of that particular incident, there  
11      were some systemic issues in how they process,  
12      do their response to an outage. And it was  
13      clear in our review of it and what we needed  
14      to apply the fix was to make sure that the  
15      protocols that they were speaking in common  
16      nomenclature and the processes involved and  
17      oversight that was very similar to what we had  
18      instituted with Motorola when we started to  
19      experience those problems of an early alert  
20      system that got our response team on board the  
21      moment that we saw issues arise and not wait  
22      until the general experiences that there were  
23      two hours and the power wouldn't come back up  
24      and we don't have to dispatch tonight, we can  
25      wait until tomorrow. So we've gone through a

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2           very exhaustive process with both teams to  
3           unite the teams along with our team to align  
4           it so that the processes and protocols are  
5           uniform, language is used in a uniform manner,  
6           and the alert system is systemic to how we do  
7           our business and how we make our responses  
8           when we have an outage.

9                   COUNCILMAN RIZZO: Commissioner, do  
10          you feel confident that today that all the  
11          support, whatever vendor, Verizon, you name  
12          it, that all of the Achilles heal that support  
13          this system has been tested, quality assured  
14          that -- and maybe you can just take 30 seconds  
15          and explain how a single telephone line could  
16          cause you all of this confusion. It seems to  
17          me it is so vulnerable -- and I'm hoping that  
18          the redundancies are going to be in place or  
19          lines that we know aren't 50, 60 years old in  
20          the ground supporting the system. It's  
21          mind-boggling to me to think that a phone line  
22          could put us in a backup situation that  
23          easily.

24                   MR. JAMES: Well, in response to  
25          this was one of the things the Managing



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2           Director discussed very specifically with the  
3           Verizon team when we met. We wanted to look  
4           at an overall to process to install  
5           preventative maintenance process that would  
6           give us the kind of reassurance and the  
7           quality controls that every component of the  
8           system that they touched is being checked and  
9           checked on a somewhat regular basis to ensure  
10          that we didn't have to wait until we had a  
11          problem.

12                 And as you described, our radio  
13          system basically has to touch the ground at  
14          some point for communications to operate, and  
15          our dispatch consoles are connected using  
16          facilities that are provided by Verizon. If  
17          any one of those links were to go down would  
18          have an impact on the ability of the  
19          dispatcher to use their primary means of  
20          communication or affect the ability of a tower  
21          to have the coverage of a particular section  
22          of the City.

23                 I think since our meeting and our  
24          efforts have been underway, one of the things  
25          that we're going through that's been started

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2       is a preventative maintenance plan, a joint  
3       preventative maintenance plan between Verizon  
4       and Motorola and the City to go out to every  
5       site, touch every piece, verify every  
6       component, test every circuit and make sure  
7       that we have the kind of comfort level and the  
8       kind of quality controls in place. And I  
9       think we're in that process. We expect that  
10      to last about 30 days, and we can go into some  
11      further program testing.

12           COUNCILMAN RIZZO: Thank you.

13           MR. JAMES: Sure.

14           COUNCILWOMAN MILLER: Thank you.

15           I'd like to say before we call up  
16      our other witnesses from Motorola that in  
17      future meetings when you're discussing this,  
18      we'd like you to make sure that this Committee  
19      knows about those meetings so that  
20      Councilmembers can be attendance and any other  
21      Members of this Committee.

22           MR. GOLDSMITH: Sure.

23           COUNCILWOMAN MILLER: Thank you.

24      Thank you for your testimony.

25           We'd like to call up John McFadden

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2           from Motorola.

3                   MR. MCFADDEN: Good afternoon.

4                   COUNCILWOMAN MILLER: Good  
5           afternoon.

6                   MR. MCFADDEN: Good afternoon,  
7           Chairperson Donna Miller, Councilman Rizzo,  
8           O'Neill, Blondell Reynolds. Thank you very  
9           much for allowing us to come today and talk  
10          about the system.

11                   One of the things I'd like to talk  
12          about before we start is on July 14th I came  
13          before this Committee and testified and again  
14          on July 30th. At that time, I was the sales  
15          vice president for the Northern Division for  
16          Motorola. At this time, I'm a consultant to  
17          Motorola specifically for projects like  
18          Philadelphia that I was involved in the sale  
19          of. I also from Motorola have the authority  
20          to bind the company and to testify at the  
21          hearings for Motorola. I just want to make  
22          sure you understand my role. It has changed a  
23          little.

24                   COUNCILMAN RIZZO: I hope we were  
25          helpful in that change.

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2           MR. MCFADDEN: Yes, you were.

3           With me today is Brian Swan who is  
4           our systems manager and also Bob Janice who is  
5           our quality director for the Northern Divisio.

6           We don't have a prepared statement.

7           COUNCILWOMAN MILLER: We'd actually  
8           like to be updated. It's my understanding the  
9           failure hasn't occurred since October 8th or  
10          whatever date. I don't have my glasses on, so  
11          I can't find the date real quick. But we want  
12          to be updated on the status of -- what's been  
13          corrected? What still needs to be worked on?  
14          We heard the testimony from the Managing  
15          Director who says he's been working with  
16          Verizon and Motorola. And what do we have to  
17          look forward to moving into the future with  
18          this whole system?

19          MR. MCFADDEN: That is correct, we  
20          are working with Verizon to make sure that  
21          this system is swept, that we are one team  
22          working on this together.

23          Let's go back to the incidents. The  
24          incidents we had going back over the last year  
25          can basically be described as kind of

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2       shake-out of a new system. There are 200 of  
3       these systems around the United States, cities  
4       like Cleveland, Baltimore, Washington, D.C.  
5       Each of the municipalities or cities has a  
6       different operating procedure, so they kind of  
7       overlay their operating procedure over the  
8       system.

9           In Philadelphia's case, there were  
10      things that were -- so we had the basic  
11      system, and as we overlayed the operations,  
12      things appeared. As those things appeared,  
13      they were basically corrected by software  
14      changes over the last year. There hasn't been  
15      what we would consider any of those incidences  
16      probably since August. I think the Managing  
17      Director kind of indicated that the system is  
18      extremely stable at this time. But they were  
19      software modifications done to the system  
20      basically to optimize it for your operation.  
21      There were some issues that were actually  
22      parts that needed to be repaired or parts that  
23      had an issue and were replaced. So it was a  
24      combination of software upgrades that we made  
25      and parts that -- in one case, there were

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2           timing boards that had a problem. We replaced  
3           them. We provided spares.

4                       So at this point, I think a lot of  
5           that stuff, in our minds, is behind us. We  
6           stand ready to work with the City and continue  
7           to monitor this system. This system, again,  
8           is monitored 24 hours a day out of our  
9           headquarters in Chicago. We have not left the  
10          City of Philadelphia's as a customer we don't  
11          intend to. We'll be here. We'll continue to  
12          support whatever you want to do. That's kind  
13          of been our commitment, and we intend to  
14          continue to do that.

15                      COUNCILWOMAN MILLER: Well, we do  
16          have a warranty. That means that you have to  
17          do it anyway, correct?

18                      MR. MCFADDEN: Well, the warranty --  
19          I don't know the exact terms of the warranty,  
20          but when you buy a system from us, if there's  
21          something wrong or something you don't like,  
22          we don't leave. The warranty could be  
23          expired; we don't leave. I'm not sure the  
24          exact status of the warranty. I know we're in  
25          a maintenance mode at this point. So our

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2           commitment is, regardless of what our warranty  
3           says, we're going to be here and put people on  
4           this system until you're comfortable and  
5           happy.

6                   COUNCILWOMAN MILLER: Thank you.

7                   Councilman Rizzo.

8                   COUNCILMAN RIZZO: Thank you.

9                   Mr. McFadden, again, thanks for all  
10          your cooperation and your company's  
11          cooperation throughout this process.

12                  What I'd like to ask you is that we  
13          had three incidences, two definitely  
14          associated with Verizon; one we're not sure  
15          whether they were just implicated because of  
16          some human error or what. Why is this  
17          system -- Commissioner James explained this  
18          closer working relationship between the  
19          vendors that you are so very dependent upon to  
20          keep this system in an up status. Why is the  
21          Verizon component so critical? And what I'm  
22          trying to express is, why can these minor --  
23          they sound just like minor hardwire telephone  
24          company issues -- put the system into this  
25          distress? What are you doing? And we heard

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2       that they're checking everything that supports  
3       the system. You would have thought that that  
4       would have been done by the provider of these  
5       services and not had to be asked. But why are  
6       we so vulnerable here? And do you feel more  
7       confident now with this new relationship or  
8       this renewed relationship and the work that is  
9       going on, the quality assure? Because these  
10      issues are hurting the system and even though  
11      it's not Motorola's issue, it's still an issue  
12      that really affects our fire fighters, our  
13      police officers. They don't care whether it's  
14      a Verizon problem or Motorola problem. They  
15      know their radios go bonk or whatever.

16           MR. MCFADDEN: These are network  
17      issues. There's redundancy built into the  
18      system. We always talk about the redundancy.  
19      And the redundancy in the system is if there  
20      was -- and the example everybody's using,  
21      suppose there was a terrorist attack and there  
22      were no phone lines. Suppose that there was a  
23      terrorist attack and there was no electricity  
24      for three days from the power company. This  
25      system has enough redundancy to stay on the



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2       air. So when we talk about redundancy,  
3       there's multiple levels of redundancy.

4           The issue we talked about, I guess,  
5       during December affected two consoles. And I  
6       don't know the details, quite frankly, of the  
7       phone lines and how they work or what happened  
8       with the phone lines. But we're willing to  
9       work with Verizon and keep working if that  
10      would help them and help ourselves and help  
11      the City, quite frankly. I mean, it's our  
12      goal to keep this system as reliable as  
13      possible. And that's the redundancy. So  
14      there's multiple levels of redundancy,  
15      telephone lines, multiple things that make up  
16      the system.

17           COUNCILMAN RIZZ0: You say you have  
18      200 of these systems throughout the United  
19      States. I know you even have it in foreign  
20      countries.

21           MR. MCFADDEN: In the United States  
22      there are 200 systems of this release.  
23      There's others of other releases. So it's  
24      actually more, but 200 that look exactly like  
25      Philadelphia's system.

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2           COUNCILMAN RIZZO: Since this system  
3 is so dependent on hardwire, is there anything  
4 Motorola could recommend to our communications  
5 people? Is it about money? Is there a better  
6 way to do this? Could our own internal  
7 network be a better alternative to -- how do I  
8 put it? A telephone company technician could  
9 go change one pair to another pair while he's  
10 installing a residential phone and again cause  
11 chaos to the system.

12           Have you ever made recommendations  
13 to get away from this relationship and do it  
14 differently?

15           MR. MCFADDEN: No, there really  
16 isn't in a major City -- the best way to do  
17 this is with T1 lines because -- there's other  
18 ways of doing it, but they're as reliable as  
19 T1 lines. There's always that issue that  
20 everything is 99.999 percent reliable. It's  
21 always that one piece that's not a hundred.  
22 In any kind of network that you have, there's  
23 always something that could affect the network  
24 or part of the network or a percentage of the  
25 network. So it's very difficult to say you

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2       should be using something else versus phone  
3       lines.

4           We find the phone lines of T1s to be  
5       the best way to do this in a major  
6       metropolitan area.

7           COUNCILMAN RIZZO: Thank you. And I  
8       want to thank you personally. It's refreshing  
9       to hear you say that you're with us and that  
10      this system is going to work well and you're  
11      not going to run from us even though you may  
12      not have any official responsibility, or at  
13      least that's what you implied.

14          MR. MCFADDEN: My name is on this  
15      too.

16          COUNCILMAN RIZZO: Exactly. We  
17      appreciate you did not duck one little bit  
18      from this issue, and it's refreshing to see a  
19      company like yours participate in this hearing  
20      process. And I'm confident that you want to  
21      assure that name Motorola is serving the City  
22      well.

23          MR. MCFADDEN: Thank you.

24          COUNCILMAN O'NEILL: Can I ask one  
25      question? Have we already paid the 52

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2           million, or is it in installments over 10  
3           years?

4                   MR. MCFADDEN: It's paid for.

5                   COUNCILMAN O'NEILL: We really  
6           appreciate you coming here. Thank you.

7                   COUNCILWOMAN MILLER: Thank you very  
8           much for coming.

9                   The next witness is Don Marino from  
10          the Law Department and Michael Eichert.

11                  Good afternoon. State your name for  
12          the record.

13                  MR. MARINO: Donald C. Marino. I'm  
14          Chair of the Litigation Group in the City's  
15          Law Department.

16                  MR. EICHERT: And Michael Eichert,  
17          Chief Deputy City Solicitor.

18                  COUNCILWOMAN MILLER: We're here  
19          today with question regarding our warranty,  
20          and that's basically what we want to know  
21          about.

22                  MR. MARINO: Well, I think Motorola  
23          has pretty much indicated that -- the original  
24          warranty, I'm advised, has expired. But  
25          despite that, Motorola still has remained

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2       behind and is working with the City to correct  
3       any problems that may arise.

4           COUNCILMAN O'NEILL: How long was  
5       the original warranty? Couldn't have been  
6       very long. We haven't had the system very  
7       long.

8           MR. MARINO: Actually, I believe  
9       Commissioner James is better suited than I to  
10      answer that, but I think it expired in May  
11      of -- what?

12          As I said, the Commissioner has more  
13      information on that than that I do. He may be  
14      suited to answer your specific questions with  
15      regard to the warranty.

16          COUNCILMAN O'NEILL: Hyundai gives a  
17      10-year warranty on a \$10,000 car. Seems like  
18      we got a fairly short one. Whether the  
19      company's willing to stand it its stead or  
20      not, but I'm just talking about from an  
21      upfront perspective. I'd rather not count on  
22      their being nice. If I pay \$62 million -- and  
23      maybe Commissioner James can just shed some  
24      light on that.

25          MR. JAMES: Councilman, it was done

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2       in phases because we did it over a phase  
3       period of time, so different components came  
4       out of warranty at different points in time.  
5       It's a one-year warranty. When we negotiated  
6       the contract, what we had received assurance  
7       from Motorola was a 10-year commitment on the  
8       ability to get equipment and parts for the  
9       system, but we only signed up for a one-year  
10      warranty so that we stay within the bounds of  
11      looking at the warranty and be able to  
12      renegotiate it depending on what we think is  
13      appropriate for us to do.

14           COUNCILMAN O'NEILL: Hindsight is  
15      beautiful. I love it. But you were there at  
16      the negotiating table. I'm sure there was  
17      trade-offs in how long the warranty would be  
18      and how much you'd pay and all that.

19           Councilman Rizzo just mentioned it  
20      started at 52 and went up to 62 million.  
21      Where did the last 10 come in?

22           MR. JAMES: I'm not sure about the  
23      62 million number. The original project was  
24      \$52 million.

25           COUNCILMAN O'NEILL: If Councilman

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2           Rizzo says it's \$62 million, he knows more  
3           about the system than anybody in the City, I  
4           thin, so I would defer to his numbers.

5                   COUNCILMAN RIZZO: What I am  
6           interested in while you're here at the table,  
7           we have paid -- and you know the City  
8           Controller is doing an audit on this. The  
9           original price of the system was \$52,767,380,  
10          which was amended in August 2004 to  
11          54,811,406, then 3,597,713 in annual warranty  
12          and maintenance costs for three years. Now  
13          while we're having all these difficulties, do  
14          you really believe that -- I understand there  
15          are some things that break that aren't  
16          associated with our problems, but we're  
17          talking 3 and a half million dollars over a  
18          three-year period that we're paying in  
19          maintenance. Seems to me that we need to  
20          recover something here.

21                   MR. JAMES: Well, as you recall when  
22          we had the discussion in the previous hearing,  
23          the City and Motorola at the time we were  
24          experiencing the problems, Motorola brought in  
25          additional resources that were beyond what we

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2       considered was covered in the warranty at  
3       their cost. They also provided additional  
4       management of the system at their cost which  
5       was not part of the warranty, but they were  
6       doing that as part of their commitment to  
7       resolve the issues and the problems that we  
8       were experiencing. Again, I think they had a  
9       strong commitment to make sure that the system  
10      re-establish the credibility, that they were  
11      there, they were going to be here, if they  
12      need to bring additional people, staffing  
13      people at the police 911 headquarters,  
14      whatever they needed to do they did so at  
15      their cost not at our cost. We have not made  
16      a payment on the warranty since we started to  
17      experience the problems. We have held off  
18      making any more warranty payments and having  
19      Motorola fit the expense of this entirely on  
20      their on.

21           COUNCILMAN RIZZO: But that doesn't  
22      mean they're forgiven.

23           COUNCILMAN O'NEILL: Commissioner,  
24      can I give a perspective to this?

25           MR. JAMES: Sure.



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2           COUNCILMAN O'NEILL: It would seem  
3           to me that whatever the warranty is -- you  
4           know, everybody would like to have a little  
5           longer warranty rather than the shorter  
6           warranty. Given that the warranty is a year,  
7           whether I like it or somebody else doesn't  
8           like it, it seems that the warranty would  
9           begin -- and this is for the lawyers probably  
10          rather than the Commissioner of Public  
11          Property. The warranty would kick in once  
12          everyone agrees that the system is running and  
13          is what you got what you paid for. If  
14          something isn't working from the day you got  
15          it the way both parties anticipated it  
16          working, it would seem the warranty would  
17          start whenever that point in time was where  
18          everybody said, "Yeah, we got it," whatever  
19          those shake-outs were, whatever those parts  
20          were that had to be replaced, we got it now  
21          and now your warranty starts. Then after that  
22          year if the company wants to stay on because  
23          of its own good name and its relationship with  
24          the City and other cities all that, that's  
25          something totally different than what they're

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2           required to do. It seems like we're under  
3           warranty when we still don't have, I'll call  
4           it the finished product that we expected when  
5           we paid whatever number we paid, somewhere  
6           between 52 and 62 million.

7           MR. JAMES: I think the way the  
8           original contract was structured was as  
9           certain phases were up and accepted by the  
10          City, then you have a period of time on the  
11          warranty and then you start paying  
12          maintenance. So you have a year warranty and  
13          then after that you start paying maintenance  
14          on maintaining the system.

15          The system was fully accepted by the  
16          City in about February of '03. The system was  
17          fully accepted. Everyone was fine. The  
18          problems really didn't start appearing until  
19          March was the first time there was an issue.

20          COUNCILMAN O'NEILL: March of '03?

21          MR. JAMES: March of '03.

22          COUNCILMAN O'NEILL: Right after we  
23          accepted the system.

24          MR. JAMES: Yes.

25          COUNCILMAN O'NEILL: Naturally.

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2           MR. JAMES: March of '04. I'm  
3       sorry. March of '04.

4           COUNCILMAN O'NEILL: Oh, a year  
5       later.

6           MR. JAMES: Yes, it was a year  
7       later.

8           COUNCILMAN O'NEILL: So everything  
9       was hunky-dory for a year.

10          MR. JAMES: Everything was fine.  
11       Everything was working as spec. A year later  
12       after the system was fully accepted that we  
13       started to experience these problems.

14          COUNCILMAN O'NEILL: Wouldn't  
15       shake-out occur in the first year rather than  
16       subsequent?

17                When I hear it, it sounds very  
18       normal. You know, you start a new system, you  
19       have overlays and all that. Why does it work  
20       for a year and then all of a sudden --

21          MR. JAMES: That was part of our  
22       dilemma in trying to deal with some of the  
23       issues because the way this project was  
24       scheduled and phased is that we made sure that  
25       police were brought on last because we wanted

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2           to make sure that there was a shake-out period  
3           and if problems would occur, they would occur  
4           when the municipal departments were up and  
5           using the system as opposed to fire and police  
6           on the system. So we brought the system up.  
7           The system performed as spec. The problems  
8           that did not occur in 2004 --

9           COUNCILMAN O'NEILL: The police had  
10          no problems for a year?

11          MR. JAMES: None of these problems  
12          occurred until March of '04.

13          COUNCILMAN O'NEILL: Okay. I just  
14          wanted to make that clear.

15          COUNCILMAN RIZZO: Councilman, can I  
16          add to the numbers so we can come up to  
17          \$62 million.

18          MR. JAMES: I'm going to have to get  
19          my calculator.

20          COUNCILMAN RIZZO: Payments to RCC,  
21          the consultant, in the amount of 1,876.507.  
22          Tell us what that was about.

23          MR. JAMES: We've had RCC on the  
24          project going back to the designing of the  
25          RFP. They've been our technical engineering

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2           firm who's been supporting us on a number  
3           components on the project. And their cost is  
4           the engineering services that they delivered  
5           to the project.

6           COUNCILMAN RIZZO: Payments all to  
7           management, the project manager in the amount  
8           of 1,648,758.

9           MR. JAMES: Right. Very similar to  
10          what we did when we constructed CJC, we hired  
11          a contract manager, you know, someone outside  
12          the City with the expertise to do the  
13          day-to-day contract management, and that's who  
14          we hired.

15          COUNCILMAN RIZZO: This one I should  
16          overlook, but it adds up to 62 million. V-Com  
17          for \$24,500.

18          MR. JAMES: V-Com was a recent  
19          expenditure on the part of the Department, and  
20          this goes back into the later part of the fall  
21          of last year where because we were having  
22          those problems, there was a decision that  
23          maybe we ought to bring in an independent  
24          engineering firm just to take a look at  
25          everything we've done so far and go all the

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2       way back to the original statement of work,  
3       look at the original documents, look at what  
4       was the design documents, look at all of the  
5       technical details. And we had a list of what  
6       we considered to be the known issues that we  
7       were experiencing problems and have an  
8       independent set of eyes kind of come in and  
9       take a look at it. It was a smaller purchase  
10      to kind of bring them in and for them to  
11      develop a report and kind of give us a road  
12      map for the future to say what we ought to do  
13      differently when we're looking at maintenance  
14      issues or we're looking at warranty issues or  
15      we're looking at enhancement as we plan to  
16      continue to enhance the system, what do we  
17      ought to be doing differently. And that's  
18      what the V-Com expenditure was for.

19               But, again, the original -- my  
20      statement about the 52 million had to deal  
21      with what we paid Motorola for the system as  
22      part of the project. A lot of these, I did  
23      not count in.

24               COUNCILMAN RIZZO: In all due  
25      respect, though, the original price was 52,

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2       almost 53. It was amended in August of 2004  
3       to 55.

4           COUNCILMAN O'NEILL: Does that mean  
5       we had the system with a year warranty,  
6       nothing happened during that warranty so we  
7       had to wind up paying more for additional  
8       warranty? Because the Councilman mentioned a  
9       \$3 million item in August for three years of  
10      warranty. I don't understand that.

11          COUNCILMAN RIZZO: Payments for then  
12      3,597,017 in annual warranty and maintenance  
13      costs for three years.

14          MR. JAMES: I'll have to get back to  
15      the Chair on that. I believe when we  
16      originally came to the project in May of 1999  
17      before City Council, we were looking at a  
18      five-year program for maintenance as part of  
19      the approval process for the project. And I  
20      think maybe that's part of that maintenance  
21      payments over those five year periods. Let me  
22      respond back to the Chair with a direct answer  
23      to that.

24          COUNCILMAN O'NEILL: I know this  
25      whole project precedes the current

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2       Administration. That's been mentioned several  
3       times. Was it during the Rendell  
4       Administration where it began?

5           MR. JAMES: Yes.

6           COUNCILMAN O'NEILL: I know that  
7       from prior testimony that the operating  
8       departments pretty much, including Public  
9       Property, designed and worked as a team on the  
10      project that MOIS people weren't involved. I  
11      also know our IS Department was not of the  
12      same caliber 10 years ago or so go than it is  
13      now. So I'm not going to get into that. But  
14      has any point even since the first incident in  
15      March of '04, almost a year ago, have we  
16      brought in anybody from MOIS to help us or  
17      talk to us or participate, bounce things off,  
18      whatever you want to call it? I mean, these  
19      are our technical, you know, IT. This is all  
20      technology and it's pretty sophisticated  
21      stuff. They also have lightning quick  
22      communication with their peers and others in  
23      other cities who do the same thing. And I  
24      don't think I've said it at a hearing but I  
25      mentioned it at the FOP a month or so ago, a



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2       lot of cities have combined the  
3       telecommunications and IT departments to  
4       recognize the changes that have occurred in  
5       the world recently. Whether it's by Charter  
6       restriction or because we just have decided  
7       not to do it yet, we haven't done that. But  
8       have they become at all part of the team, even  
9       added on in the last year? Or has there been  
10      any attempt to use that resource that we have  
11      to help us with this?

12           MR. JAMES: Well, for some of the  
13      particular problems that we've had on the  
14      radio system, we have not gone to MOIS for  
15      support on that issue. And I can't question  
16      their capabilities on the radio side. On the  
17      networking side, they have been involved in  
18      some of the issues that we've looked at in  
19      particular as they affect Verizon and the  
20      network. And the calls that -- if there are  
21      network issues, they do go through Verizon  
22      through the MOIS help desk. So from a network  
23      side, they are engaged in that particular  
24      aspect of the project. On the radio and the  
25      RF side, we have not engaged them on the

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2       issues.

3           COUNCILMAN O'NEILL: You say radio  
4       like it's real simple. This is a highly  
5       sophisticated system or we wouldn't be having  
6       the problems. The old analog we had no  
7       problem with.

8           I would suggest, just friendly  
9       advice, it doesn't cost you anything. They  
10      work with us, for us, for the Mayor that, that  
11      they at least be brought in to just bounce  
12      something off of them. It's not -- it's  
13      really looking forward not Monday morning  
14      quarterbacking going backwards. We didn't  
15      capacity there that we have today.

16          MR. JAMES: I will certainly take  
17      that advice. Thank you.

18          COUNCILWOMAN MILLER: Councilwoman  
19      Reynolds Brown.

20          COUNCILWOMAN BROWN: Are there any  
21      plans underway, any discussions pending that  
22      are designed to bring those two worlds  
23      together so that we can work more efficiently?

24          MR. JAMES: I'm not aware of any  
25      plans to merge the telecommunications and

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2       communications division with MOIS at this  
3       present time. I don't know. There may be  
4       talks and discussions about it, I'm just not  
5       privy to or aware.

6           COUNCILWOMAN BROWN: For my own  
7       understanding, internally when contracts of  
8       this scale come to the desk of the  
9       Commissioner, procedurally what happens  
10      internally within Public Property with regard  
11      to the final checkoff of a contract of this  
12      scale? Is there a step above the Commissioner  
13      level for review, for analysis, for  
14      authorization? Help me understand.

15          MR. JAMES: As far as the radio  
16      project, the radio project from its infancy  
17      was actually ran through the Procurement  
18      Department. And at the time Mayor Rendell had  
19      put together a team mainly run out of the  
20      Managing Director's Office of all the various  
21      operating departments to participate component  
22      in designing and drafting of the system. The  
23      system when it was finally -- the RFP, it went  
24      out and was again reviewed by this team.  
25      There were several teams whose job was focus

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2           to on the technologies, a legal team look at  
3           the contractual issues. There was a number of  
4           different teams that were all part of this  
5           project. And at the final point, there was a  
6           recommendation that was sent to the Mayor at  
7           the time to say, you know, from all the teams  
8           "This is our recommendation on who we think  
9           the award should go to and these are what we  
10          thing are the issues." And once the Mayor  
11          agreed that was acceptable to him, at that  
12          time, it was brought to City Council for  
13          review. It was done by a City Council  
14          ordinance, and the contract and the proposals  
15          and the RFP were all amendments to the  
16          ordinance. It was, again, reviewed and we had  
17          hearings here in City Council and then it was  
18          finally approved by City Council. It wasn't  
19          done just by the Commissioner; it was a very  
20          exhaustive and very long process.

21                 COUNCILWOMAN BROWN: That's very,  
22                 very helpful. So this particular contract has  
23                 been in place since pre-1999.

24                 MR. JAMES: In May 1999 I believe is  
25                 when we had the Council hearing and it was

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2           around the time that it was approved and it  
3           was shortly after that we got the contract  
4           finalized and went into construction.

5           COUNCILWOMAN BROWN: Thank you for  
6           that explanation

7           COUNCILMAN O'NEILL: Was this system  
8           paid for with tax dollars? Was it the fee  
9           that people pay on their phone bill for 911  
10          service?

11          MR. JAMES: Yes, it was funded  
12          largely through the 911 surcharge and a  
13          component was paid through Water Fund and a  
14          component was paid by Aviation.

15          COUNCILMAN O'NEILL: So General Fund  
16          really wasn't on the hook for this.

17          MR. JAMES: I don't know if you  
18          recall, but back then we were in a process  
19          where we had licenses in spectrum that was  
20          awarded by the FCC to new carriers, and they  
21          were required to reimburse the City for moving  
22          out of that spectrum. So we had a component  
23          of about \$5 million that we used to cover the  
24          non-public safety agencies component of it.  
25          So it was kind of that component, the 911

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2           Fund, and Water and Aviation Funds.

3                   COUNCILMAN O'NEILL: Was there any  
4           General obligation?

5                   MR. JAMES: I believe that \$5  
6           million that we used from that covered the  
7           general obligation. We had actually  
8           accumulated about \$15 million by that in our  
9           911 fund specifically for that project. So we  
10          had kind of --

11                   COUNCILMAN O'NEILL: Is there any  
12          money in the 911 Fund today?

13                   MR. JAMES: We continue to get money  
14          in the fund.

15                   COUNCILMAN O'NEILL: How much is  
16          there, do you know?

17                   MR. JAMES: We get about \$7 million  
18          that goes into Capital from the 911 surcharge.  
19          And then the remain which is like a 60/40  
20          split between the money that comes in. The  
21          balance of it goes to paying the operating  
22          expense for police and fire for running the  
23          911 dispatch centers.

24                   COUNCILMAN O'NEILL: For operations?

25                   MR. JAMES: Yes, for operations.

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2           COUNCILMAN O'NEILL: Not for the  
3 cost of this system.

4           MR. JAMES: No, we have a capital  
5 component and then we have an operating fund,  
6 so we get about \$7 million.

7           COUNCILMAN O'NEILL: I think it's a  
8 million and a half maintenance on this system.  
9 Does that come out of the 911 Fund.

10          MR. JAMES: That's coming right not  
11 out of Operating. Public Property Operating,  
12 and there's a component that's reimbursed by  
13 Water and Aviation for their portion of it.

14          COUNCILMAN O'NEILL: Thank you. I  
15 have no further questions.

16          I think we're ready for the Law  
17 Department either publicly or privately.

18          COUNCILWOMAN MILLER: We actually  
19 want the Law Department to let us know if  
20 you're ready to answer -- maybe you're not  
21 ready to answer today -- whether there is any  
22 recovery, financial recovery?

23          COUNCILMAN O'NEILL: We can meet in  
24 private. This is something not usually  
25 discussed at public hearings.

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2           MR. MARINO: But I do want to assure  
3 Council since your last hearings, we are in  
4 the loop. We have been meeting with  
5 representatives of the Managing Director's  
6 office, with Public Property, Mr. James.  
7 We've had meetings. Mike Eichert has been  
8 reviewing the paperwork, the contracts. So  
9 we're right there. And if and when the time  
10 comes, we'll be prepared to act accordingly in  
11 respect to this.

12           As I said to Councilman Rizzo  
13 earlier, his office made a request of us with  
14 regard to information. We are preparing an  
15 answer for that and hopefully will have that  
16 to him within the next week.

17           COUNCILWOMAN MILLER: Very good.

18           We're just concerned that we get  
19 what we paid for. We all are consumers and  
20 whatever we purchase we want to make sure we  
21 get what we paid for.

22           I have an air conditioning in on my  
23 office. And, you know, they're putting in  
24 brand-new -- you may not know, but I know that  
25 Joe James in Public Property knows. They're



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2       putting in new air conditioners all through  
3       City Hall. And within a year, mine broke.  
4       And people keep coming to repair it. Don't we  
5       have a warranty that replaces it? I mean,  
6       that's the way I buy things at home.

7           So we just want to make sure,  
8       particularly in this time of fiscal  
9       tight-beltening that we get what we pay for.

10           Anybody else?

11           COUNCILMAN O'NEILL: I think the  
12       analogy is a good one because it's simple and  
13       it's something we personally did deal with.  
14       But I think the impact here as I see our  
15       uniformed officers in attendance, either in  
16       uniform or out of uniform, it's not just  
17       public safety that's affected but it's the  
18       safety of our own people. And I think that's  
19       the added dimension beyond the more simple get  
20       what you pay for warranty thing that we're  
21       hoping you're really involved in with them.

22           MR. MARINO: We are looking at that.

23           COUNCILWOMAN MILLER: Councilman  
24       Rizzo.

25           COUNCILMAN RIZZO: Just to finish up

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2       and thank everyone. I think this process has  
3       really helped this radio problem immensely.  
4       But again, there's been Counselors there's  
5       than a significant amount of money spent by  
6       the City, Police Department, down in the radio  
7       room while there was testing going on. Lots  
8       and lots and lots of man hours put in to give  
9       support to try to come up with the solution to  
10      this problem. So there's a significant amount  
11      of time and effort. Sometimes people don't  
12      look at City employees' time is money. I do.  
13      I'm just hoping that the Law Department can  
14      goof, Motorola, Verizon, all these companies  
15      that have affected us. We really need to see  
16      what it has cost us and what the disposition  
17      is of the maintenance agreement. I don't  
18      truly understand where we have -- Commissioner  
19      James suggested that we stopped paying the  
20      maintenance agreement. But I'm sure that  
21      that's just not going to go away and you need  
22      to focus on what our obligation is to pay for  
23      a maintenance agreement or prorate a  
24      maintenance agreement during the course of  
25      these problems.

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2           MR. MARINO: Councilman, your  
3 concerns are our concerns. And I assure you  
4 we are looking at all that and will act  
5 appropriately if and when the time comes.

6           COUNCILMAN RIZZO: Thank you.

7           COUNCILWOMAN MILLER: We want to  
8 thank everyone for coming out. This is, I  
9 believe, the fourth hearing. And we look  
10 forward to just paying attention to what's  
11 going on. And hopefully, if the system needs  
12 improvements or continued monitoring, because  
13 we care about the safety of not just our  
14 uniformed officers but everyone. Thank you.  
15 Thank you for coming.

16           This Committee is actually  
17 adjourned.

18           (Council adjourned at 3:11 p.m.)

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing  
proceedings of the Council of the City of  
Philadelphia of Thursday, February 10, 2005,  
were reported fully and accurately by me, and  
that this is a correct transcript of the same.

RE: COMMITTEE ON PUBLIC SAFETY and  
TECHNOLOGY AND INFORMATION SERVICES

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Lisa C. Bradley, RPR