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COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC HEARING

COMMITTEE ON FINANCE

- - -

Room 696, City Hall
Philadelphia, Pennsylvania
Wednesday, March 26, 2003
10:20 a.m.

- - -

BILL 030015 - An Ordinance amending Title 17 of the
Philadelphia Code...
BILL 030022 - An Ordinance amending Chapter 19-200
of the Philadelphia Code...
BILL 030023 - An Ordinance amending Chapter 19-200
of the Philadelphia Code...

- - -

PRESENT:

COUNCILWOMAN JANNIE BLACKWELL, Chair
COUNCIL PRESIDENT ANNA C. VERNA
COUNCILMAN DAVID COHEN
COUNCILMAN FRANK DICICCO
COUNCILMAN W. WILSON GOODE
COUNCILMAN JAMES KENNEY
COUNCILMAN MICHAEL NUTTER
COUNCILMAN ANGEL ORTIZ
COUNCILWOMAN MARIAN TASCO

- - -

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I N D E X

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JAMES CUORATO, Director of Commerce 4

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COREY KEMP, City Treasurer 90

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2 COUNCILWOMAN BLACKWELL: Good morning.

3 Thank you all for attending our Finance hearing. We
4 will now begin the public hearing part of it.

5 Today we will hear Bill No. 030015,
6 introduced by Councilman Nutter; and Bill No. 030022
7 and 030023, introduced by my colleague Councilman
8 Goode.

9 We will ask the Clerk to read the Bill
10 030015.

11 THE CLERK: Bill No. 030015, an
12 Ordinance amending Title 17 of the Philadelphia
13 Ordinance entitled, "Contracts and Procurement," by
14 adding a new Chapter requiring that a Bill or
15 Resolution approving funding for certain development
16 projects must include an economic statement, and
17 providing for certain powers and duties of the City
18 Controller in connection with the preparation of
19 economic impact statements; all under certain terms
20 and conditions.

21 COUNCILWOMAN BLACKWELL: Thank you very
22 much.

23 We see our City representative and
24 Director of Commerce, Jim Cuorato. You're going to
25 testify on this Bill?

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2 MR. CUORATO: Yes.

3 COUNCILWOMAN BLACKWELL: Thank you.

4 Good morning.

5 MR. CUORATO: Good morning.

6 COUNCILWOMAN BLACKWELL: Please identify
7 yourself to the record and begin your testimony.
8 Thank you.

9 MR. CUORATO: Good morning, Councilwoman
10 Blackwell and Members of City Council. My name is
11 James Cuorato and I'm a City Representative and
12 Director of Commerce.

13 I appreciate this opportunity to submit
14 testimony regarding Bill 030015, an Ordinance that
15 would require that the City Controller prepare an
16 economic impact statement, or EIS for purposes of
17 this testimony, for certain large development
18 projects receiving City funds.

19 Last fall, we testified before this
20 Committee in opposition to a similar Bill, Bill No.
21 020481. This new, revised version of the
22 legislation addresses some of the concerns we raised
23 in our original testimony regarding the Bill's
24 potentially harmful impact on the timing and bottom
25 line of the many development projects that are so

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2 critical to our City's growth, prosperity and
3 success.

4 For example, Bill 030015 does not
5 mandate an EIS at any level of City investment, but
6 rather, requires an EIS only for projects over
7 \$50 million in which the City contributes more than
8 10 percent of the funding of the project.

9 Additionally, Bill 030015 allows for
10 more flexibility than the previous legislation
11 because it would allow for a development project to
12 proceed if it can be documented that the City
13 Controller is unable to provide a requested analysis
14 and it excludes pass-through funding where the City
15 merely serves as a conduit for the funds for a
16 project.

17 However, despite these constructive
18 practical changes, the legislation remains
19 problematic and, like Bill 020481, would be at
20 cross-purposes with ongoing efforts to streamline
21 the City's regulatory process to encourage growth in
22 the Philadelphia. Specifically, the Bill is
23 ambiguous both with regard to the definition of what
24 constitutes a development project, and with regard
25 to any timing constraints on the Controller's

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2 required responsibilities under the legislation.

3 For these reasons, I still cannot offer my support
4 on this measure.

5 The legislation defines, "City-funded
6 development project," solely by outlining the total
7 cost of a project, the percentage of the funding
8 which is contributed by City funds and by what will
9 be considered to be City funds. The failure to more
10 particularly define "City-funded development
11 project" by casting a net far and wide over every
12 project that has City support creates a very
13 problematic ambiguity that could lead to confusion
14 and ultimately delay in many potential projects that
15 may have minimal City involvement.

16 Notably, the legislation does require
17 that the City contribute at least 10 percent of the
18 total funding to a project for requirement of an EIS
19 to be applicable. This is an improvement over the
20 previous legislation, which offered no base level of
21 involvement by the City to trigger the same
22 requirement.

23 However, similar to Bill 020481, this
24 legislation defines what constitutes City funds
25 contributed by a City or City-related agency with a

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very broad brush. According to the legislation, determinations regarding the total amount of City funding for a project shall include any amounts of funding contributed by a City or City-related agency including, in part, any in-kind contribution to the project including, but not limited to, any transfer of any interest in real estate, site improvements, environmental remediation, infrastructure improvements which benefit the project including, but not limited to, curbs, sidewalks, streets, drainage or water and sewer mains; tax incentives, tax abatements, or provides any other form of public supported financing, which in whole or in part is subject to authorization or approval by City Council.

This far-reaching definition is so broad and sweeping in what would be considered to be City funding that almost any action by either the City or a City-related agency in any context could be considered assistance. In fact, under this definition, it is hard to think of anything that is not considered assistance. While the project specific funding that requires City Council approval may be nominal, the fact that a project is generally

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2 eligible for a tax abatement could trigger the need
3 for an EIS. This can only contribute to the further
4 confusion.

5 Like its predecessor, Bill 030015 also
6 creates unpredictability because it does not require
7 that the Controller act within any specific time
8 parameter, creating, in effect, a unilateral veto in
9 the Controller over any proposed development simply
10 by inaction. Notably, there is an effort to address
11 this issue. Under Section 17-1102(1)(b), the
12 legislation would allow for the legislation
13 supporting the project to be introduced if it can be
14 documented that an effort was made in writing to
15 have the City Controller provide an analysis.
16 Although this new language provides some additional
17 flexibility, in the end it still creates a
18 requirement that another governmental unit be
19 involved in the preparation of a proposal for
20 development.

21 As you know, many real estate projects
22 are sensitive to construction timing and must retain
23 the maximum flexibility to address last minute
24 project modification. A requirement that the
25 Controller act within a certain set time frame, or

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2 be deemed to be in support in a project would
3 eliminate the undue leverage and give a measure of
4 predictability to the City's development process.

5 What may be the most problematic aspect
6 about this legislation, however, may be the message
7 that it sends to our business community. Each time
8 the number of conditions on City approval of a
9 project are increased, we increase the cost of
10 development in the City and discourage the very
11 investments that are so critical to our economic
12 future. The requirement that an economic impact
13 statement must be prepared by the City Controller
14 prior to City Council consideration will be seen by
15 the development community as another barrier to
16 investing in the City.

17 Please let me be totally clear. The
18 Administration strongly supports Council's interest
19 in being fully informed when considering whether to
20 provide City financial support to major
21 developments. Council presently has the right to
22 request any information, including an EIS completed
23 by the Controller or by an independent agency, prior
24 to their approval of any project that requires
25 Council approval. This legislation does not change

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that. What this legislation does do is create, whether it is accurate or not, the perception that business is that much more difficult to do in Philadelphia. Ultimately, this new reporting requirement will be viewed by the business community as an additional risk for project delay and it will be seen as resulting in the escalating costs associated with that delay.

Again, let me emphasize that the Administration supports Council's need to be fully informed when making decisions about City-funded projects. To that end, allow me to note that we currently provide economic impact reports to City Council for every tax increment financing transaction brought to you for consideration, regardless of total development cost. These reports are prepared by PIDC as part of any TIF Plan and are provided to the City Controller and to PICA for review and comment. We also provide a detailed financial analysis to Council for all major capital projects requiring City capital or bond authorization. The Administration is willing to work with this Council to provide any additional information whenever it is requested.

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2 For the reasons I've outlined, I cannot
3 support Bill 030015. Thank you for the opportunity
4 to appear before you today. I would be pleased to
5 respond to any questions that you may have.

6 COUNCILWOMAN BLACKWELL: Thank you, Mr.
7 Cuorato.

8 The Chair notes that the President of
9 Council is here for purposes of a quorum. The Vice
10 Chair of the Committee is here, Councilwoman Tasco;
11 Councilman Ortiz; Councilman Nutter; and to my left,
12 Councilman W. Wilson Goode. So we thank you all.

13 In your testimony you mention that the
14 City is available to give information. Do we create
15 economic impact statements for major developments
16 now?

17 MR. CUORATO: I believe we do,
18 Councilwoman. They may not have the formal title of
19 an economic impact statement, but for any major
20 capital project that we bring to City Council, and
21 certainly for any tax increment financing project
22 that we bring to City Council, we provide a detailed
23 economic analysis that I believe includes all of the
24 information that is called for in this Bill, and
25 then some. I believe we try to provide City Council

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2 with as much information as we possibly have so that
3 you can make an informed decision about projects
4 that we bring to you.

5 COUNCILWOMAN BLACKWELL: And I believe
6 you also mentioned in your testimony that -- or did
7 you -- that the Bill does not indicate when or how
8 long the Controller would have the responsibility, a
9 window for a response, as one of the issues?

10 MR. CUORATO: That is correct,
11 Councilwoman. For me, it is a major issue. My
12 concern is not with the City Controller's office,
13 either generally or in particular. This has
14 nothing to do with Mr. Saidel. My concern is that
15 it sets up a time frame of uncertainty where the
16 City Controller could, for whatever reason, not move
17 ahead with this type of analysis in a time frame
18 that is consistent with the goals of a project that
19 we're trying to get approved. It basically takes
20 that element and applies uncertainty to it.

21 And as I noted in my testimony, this
22 will be viewed by the business community and the
23 real estate development community as another hurdle
24 that has to be overcome in getting projects approved
25 in the City of Philadelphia. And at a time when we

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2 are working hard to try to streamline the approval
3 process and send developers the message that you can
4 come into Philadelphia and invest in good projects,
5 this, I think, sends the opposite signal. It's
6 another hurdle that has to be overcome and, frankly,
7 that's why we're opposed to it.

8 COUNCILWOMAN BLACKWELL: Another
9 question for me is, quote/unquote, who controls the
10 Controller? I mean, what if there's a disagreement?
11 Since the Controller has to approve a project, what
12 if there's a disagreement about his economic impact
13 statement, what happens then?

14 MR. CUORATO: Well, I've thought that
15 process through as well, and it really does create a
16 situation where we could, I believe, be at somewhat
17 of a standstill. I had suggested that the process
18 really be kept between the Administration and City
19 Council, such that for any major project we bring to
20 you, we provide you with all of the information that
21 we think you need to make an informed decision.
22 And, in fact, I think Members of City Council have
23 been very forthright in asking us for additional
24 information, if they're not satisfied with what we
25 present.

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2 We present the information. Council
3 makes a decision on whether to approve a project or
4 not, but that process is within the boundaries of
5 the Administration and City Council. To bring the
6 City Controller into this process as an independent
7 third party sets up a situation where, if a
8 Controller, for whatever reason, is opposed to a
9 project that the Administration supports, my fear is
10 that there are no safeguards that could prevent the
11 project from being stalled or delayed by the City
12 Controller. And that is what concerns me.

13 COUNCILWOMAN BLACKWELL: Thank you.

14 I only have one more question,
15 Councilman. Is that okay?

16 COUNCILMAN NUTTER: Yes.

17 COUNCILWOMAN BLACKWELL: Finally, how
18 would this affect our ability to streamline projects
19 funded through NTI or CDBG? Would this effect that
20 whole process as well?

21 MR. CUORATO: I believe in reading the
22 legislation that it would affect that process. And
23 again, it will be viewed negatively and as another
24 bureaucratic hurdle that has to be overcome at a
25 time when we are going to great lengths to try to

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2 expedite projects and move ahead with projects. And
3 certainly, both the NTI and CDBG programs,
4 Councilwoman, which you mentioned, both I think
5 receive a very intense level of scrutiny as it is.
6 To bring in an independent third party analysis only
7 adds to the timing and the confusion the process.

8 COUNCILWOMAN BLACKWELL: One thing is
9 for sure, we're having enough problems now getting
10 that stuff expedited.

11 Councilman Nutter, you wanted to make a
12 statement or ask a question?

13 COUNCILMAN NUTTER: Thank you, Madam
14 Chair. And I didn't mean to cut across your
15 question. The only reason I spoke up is because Mr.
16 Cuorato knows how much I deeply respect his opinion
17 and his views --

18 COUNCILWOMAN BLACKWELL: Watch out.

19 COUNCILMAN NUTTER: -- and we've had an
20 opportunity to work together on a number of
21 occasions. But I think there is one piece of
22 information that needs to be clearly stated -- and
23 the Chair is also aware that I've circulated some
24 amendments that I think will provide greater clarity
25 here and clear up other any confusion.

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2 The context, the general context, and I
3 think the most important issue that Mr. Cuorato
4 raised in his testimony and then with the Q and A,
5 is this belief somehow that the Controller gets
6 either a vote or can hold up a project or has any
7 say over a project. And I would specifically refer
8 to page 4 of Mr. Cuorato's testimony. In the middle
9 he talks about the requirement that an economic
10 impact statement must be prepared by the City
11 Controller prior to City Council consideration.
12 From my perspective at least, it's just absolutely
13 false. The only requirement here is that the
14 Controller be asked to prepare a statement. If the
15 Controller decides not to do so, the Bill provides
16 for -- and let me say also say, Madam Chair, and to
17 my colleagues, this second version of the Bill, in
18 addition to the amendments, comes as a result of the
19 testimony from the last Bill and the information
20 supplied in the Mayor's veto message about the
21 previous Bill. I took that seriously. I took every
22 element of the Mayor's veto message and sought to
23 address those issues, working in conjunction with
24 legal staff and the Law Department. And the way
25 that we tried to deal with that was twofold.

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2 One, the only projects that would fall
3 under the purview of this particular legislation are
4 projects that meet two tests; one, that the total
5 project cost is at least \$50 million, which is not
6 the normal project that comes through the City on a
7 regular basis; and second, that that same project
8 receive 10 percent or more of its funding from the
9 City. And so there are hundreds, if not thousands,
10 of projects that will never, ever reach the level of
11 scrutiny of this particular legislation.

12 Secondly, while there is the requirement
13 to include as an exhibit an economic impact
14 statement, in Section 17-102 there are two different
15 ways to fulfill that requirement: Either provide
16 the economic impact statement or a letter from the
17 Controller stating that the Controller is not going
18 to provide one, or in the Controller's opinion, one
19 is not needed. That's the first test. Or second,
20 that the sponsor or an interested party detail their
21 attempts that have been made to comply with that
22 subsection, including a copy of a written request to
23 the Controller to prepare an economic impact
24 statement for the project, and any written response
25 from the City Controller to such request.

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2 If you make the request and the
3 Controller never responds, that's the end of the
4 conversation. You add the letter to the Bill and
5 the Controller is, in essence, out of it. So there
6 is no veto by the Controller. There is no
7 interference by the Controller and there is no
8 ability whatsoever under the legislation for the
9 Controller to stop a project. Last I checked, that
10 was still within the purview of City Council. And I
11 don't even think the State has tried to interfere
12 with our ability to vote on Bills and Resolutions.

13 I think what's happened here is the
14 residue from the first Bill combined with a certain
15 distress or paranoia that something untoward is
16 going to happen, when all the Council is doing is
17 asking for information which, quite honestly, I
18 think should be included as a part of the initial
19 legislation in the first place. There aren't many
20 \$50-plus million projects that are going to pop up
21 overnight and somehow you're not able to put an
22 economic impact statement together before it were to
23 come in the door. And, again, even if it were in
24 excess of the \$50 million, it still must include
25 that the City is providing 10 percent or more of

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2 funding.

3 I can deal with the amendments at the
4 time, Madam Chair. I think also the amendments
5 should ease some of the concern with regard to the
6 Controller. It removes a major sentence that I'm
7 sure is of concern on page 3 of the legislation in
8 section 5.

9 So it is certainly my belief that in
10 looking at the veto message and the legal advice
11 received from the Law Department, that between the
12 Bill as introduced and the proposed amendments, the
13 City and the Commerce Department and PIDC will be in
14 a great position to move projects along and provide
15 Council with the necessary information. And if, for
16 whatever reason, the independent watchdog of the
17 City chooses not to participate in the process, the
18 City is not delayed in any way, shape, or form.

19 But I at least want the record to be
20 clear, that the economic impact statement, while it
21 must be prepared by the Controller, it is not a
22 requirement for a project to move forward. And the
23 mere attachment of a written request to get the
24 information would satisfy the requirement of Section
25 17-1102.

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2 Thank you, Madam Chair.

3 COUNCILWOMAN BLACKWELL: May I ask the
4 Bill sponsor a question?

5 On page 3 of Mr. Cuorato's testimony.
6 Quote, it is unclear what the requirement is for
7 projects assisted with condemnation, eminent domain,
8 relocation assistance or economic stimulus funding.
9 That's a major, major --

10 COUNCILMAN NUTTER: Is that in the
11 middle of the paragraph there?

12 COUNCILWOMAN BLACKWELL: Yes, it's in
13 the middle of the page. That's a major issue for
14 every development project in the City. And economic
15 stimulus funding, as you know, could be big dollars.
16 It's just a major, major consideration if this issue
17 is unclear. I have that as a question. We're
18 really, really concerned about that.

19 My other concern is that the Controller
20 has stated that in order for him --

21 COUNCILMAN NUTTER: Madam Chair, if I
22 can better understand the question. What is the
23 concern? Because I didn't understand the statement
24 in Mr. Cuorato's testimony.

25 COUNCILWOMAN BLACKWELL: You said that a

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2 Controller could or did not have to do a report?

3 COUNCILMAN NUTTER: He's not required to
4 do one, no. He can not respond. That would be his
5 answer.

6 COUNCILWOMAN BLACKWELL: Do we put him
7 in a political situation where he's for or against
8 a project? I don't know how we --

9 COUNCILMAN NUTTER: Well, I think the
10 Controller can decide whether he wants to join in
11 the fray or not. I mean, the Controller has audit
12 responsibility and actually, I believe, has prepared
13 these kinds of reports in the past. I would hope
14 that the Controller would not engage in politics in
15 the course of doing his audit responsibility. And
16 if he felt that for some reason he could not do
17 that, the legislation allows him to hire an
18 independent entity with no interest in the project
19 retained by the Controller to prepare such
20 statement. I mean, the numbers are what the numbers
21 are on a particular project. We're asking the
22 Controller, as a party that should not have an
23 interest in any of these projects, to make sure that
24 a legitimate, credible statement, economic impact
25 statement is prepared.

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2 COUNCILWOMAN BLACKWELL: But you're
3 saying if he chooses. My only question is, if the
4 Controller can prepare or not prepare, if it is --
5 it makes it seem arbitrary if he can do an impact
6 statement or not do the statement. Then I don't
7 know why we have legislation that gives him the
8 authority to do a statement or not do a statement.
9 I'm really, really concerned -- and I'll yield to
10 the will of the Committee; I'll say that up front.
11 And the Controller also said he would need more
12 money to implement this anyway. He said that when
13 we had run into him in different places.

14 COUNCILMAN NUTTER: He said that in the
15 first hearing.

16 COUNCILWOMAN BLACKWELL: Okay. So I
17 don't know how much more money we would give him. I
18 don't understand --

19 COUNCILMAN NUTTER: He said he might
20 need \$50,000.

21 COUNCILWOMAN BLACKWELL: Well, that's
22 not serious dollars. But I just don't understand
23 how -- if he can choose to do an impact statement,
24 if he can choose not to do it, why do we need him to
25 perform this role, especially since he's a

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2 Controller and already reports for various
3 departments and on various issues anyway? I don't
4 understand how this is going to help us. If you
5 want an impact statement, I don't see that as
6 something we need legislation for. We can request
7 that from the City and get that from Commerce, get
8 that from OHCD, get that from NTI, the Redevelopment
9 Authority, if it's a housing project. We have the
10 ability to do that. So my question is, I don't know
11 how this does not create another bureaucratic level,
12 but helps expedite projects that we invest in.
13 That's my question.

14 COUNCILMAN NUTTER: I appreciate that,
15 Madam Chair. I think the short answer to that is,
16 not even in a perfect world, just in a properly
17 functioning world, that information would be
18 provided as a part of the legislation. It would be
19 provided up front and in no way, shape, or form
20 meant to or intended to slow anything down. It's
21 just what you do in the normal course of business.
22 If one group of people are putting a Bill together
23 and another group of people are putting the
24 financing together, you know up front that you need
25 to put an economic impact statement together as you

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2 send the Bill over. So it's not going to slow
3 anything down.

4 Second, the Controller does not do this
5 work as a normal course of business. The
6 Controller's responsibility, at least under the
7 Charter, is to audit the departments and agencies of
8 the government. And as you said, for what the
9 Controller said he might need -- I mean, again,
10 let's be honest. There's not going to be that many
11 economic impact statements created because of the
12 thresholds here that are in the legislation. But I
13 believe also that the Controller has to have,
14 legally, the flexibility to decide or not decide
15 whether or not to create these statements. And I
16 think we all know that we cannot require him to do
17 so, and at least paid that much deference to the Law
18 Department's opinion about this.

19 Again, I want to be really clear for the
20 record. I have no interest in trying to slow a
21 project down. But as Mr. Cuorato said, they do
22 provide up front the economic impact statement, and
23 no one's ever complained that the production of
24 those economic impact statements slowed any of the
25 projects down.

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2 I do probably slightly disagree with
3 him -- although he can provide us with the
4 documentation. I doubt that any of the economic
5 impact statements that have been provided to us on
6 even some of the larger projects have met all of the
7 criteria of an economic impact statement in Bill
8 030015. And I'm not sure if we received an economic
9 impact statement for projects like Kvaerner. I know
10 we received some documentation certainly for the
11 stadiums, although there were some who raised some
12 questions about those particular reports. But I
13 have no interest in slowing anything down. Lord
14 knows, for some of these projects, everything should
15 be done to speed them up. But the reality, though,
16 is that most of the projects we're talking about
17 wouldn't meet the threshold in the legislation in
18 the first place because they're usually not more
19 than \$50 million.

20 COUNCILWOMAN BLACKWELL: We are sure of
21 your intentions. That was not our question. We
22 know that that is not your intention. That you
23 would only want to expedite projects.

24 The Chair notes the presence of
25 Councilman DiCicco and Kenney.

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2 COUNCILMAN NUTTER: Madam Chair, I do
3 want to ask if the Sergeant-at-Arms -- I know all of
4 our colleagues have a copy of the proposed
5 amendments, but I think Mr. Cuorato does not. But
6 there may be questions. I didn't mean to short
7 circuit anything.

8 COUNCILWOMAN BLACKWELL: Thank you.

9 Councilman Ortiz has his hand up.

10 And then, Councilman, before we do
11 amendments, we'll ask that you explain what you want
12 to do, but we'll entertain questions. Thank you.

13 Councilman Ortiz.

14 COUNCILMAN ORTIZ: Mr. Cuorato, do you
15 have a problem submitting economic impact statements
16 about projects?

17 MR. CUORATO: I do not, Councilman. I
18 do not have a problem with the Administration
19 submitting an economic impact statement. I do have
20 a problem with this legislation requiring that the
21 City Controller prepare the economic impact
22 statement.

23 COUNCILMAN ORTIZ: Before anything is
24 approved, before anything goes to a vote, you don't
25 have a problem of submitting an economic impact

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2 statement with the project that is being put
3 forward?

4 MR. CUORATO: Councilman, I have no
5 problem whatsoever with that. It is my job in
6 bringing development into this City that requires
7 City Council approval to convince you that the
8 project is worthy of your approval. And as part of
9 that process, we, the Administration are open to any
10 requests for information, no matter how detailed or
11 specific they might be. It's our job to provide
12 that information to you so that you can make an
13 informed decision on projects that we bring you. I
14 view that as my job.

15 COUNCILMAN ORTIZ: So the only problem
16 that you have with the legislation, then, would be
17 the timeliness of when the economic statement is
18 submitted to Council by the Controller?

19 MR. CUORATO: No. I have a problem with
20 the Controller being involved in this process,
21 period.

22 COUNCILMAN ORTIZ: Well, do you have a
23 problem with Council going out and trying to get an
24 independent viewpoint as to what the economic impact
25 is of certain projects from the Administration?

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2 MR. CUORATO: No. I mean, from my
3 standpoint, City Council can do whatever it wants.

4 COUNCILMAN ORTIZ: Well, if we do that,
5 would that hold up the project a little bit longer?

6 If we have the Controller, who many view
7 as independent, and you give him a time line -- and
8 I would imagine that, from your testimony, it's the
9 open-ended aspect that more or less would be sort of
10 like a pocket veto of the Controller. But if you
11 give the Controller a certain time line so that it
12 will be timely and we would have -- it's like going
13 to a doctor and getting one opinion, and you don't
14 like that doctor's opinion, so you go to another
15 one; to be able to make a very educated decision as
16 to where it is that we're going to spend City
17 taxpayers' money when it's a project of this
18 magnitude.

19 Because I believe that we haven't had
20 information given to us in many of the projects that
21 we had. And when information has been given to us,
22 it has been given to us at such a late date that we
23 haven't had the time or the wherewithal to be able
24 to analyze it in any sort of way to be able to give
25 a responsible judgment on it. And then we're asked

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2 to vote on it without really knowing what's in it.
3 The stadium is a case in point. We were given
4 materials at midnight. In fact, the papers were
5 still warm from the copy machine. And then we were
6 asked to vote on it, and many of us did. And I
7 think a lot of us are now looking back at that vote
8 and wishing that we'd given it more thought.

9 So I don't see where it is that this
10 legislation does what you say it does, which is
11 delay and put road blocks to investment in the City.
12 I don't see the rationale for your position on that.

13 MR. CUORATO: Okay. Councilman, if I
14 may respond. Let me just outline two scenarios for
15 you.

16 I bring a major development to City
17 Council which, under these guidelines, would require
18 City Council approval. Without this legislation, I
19 am in control of the process. I prepare an economic
20 analysis for you. I present it to you as part of my
21 efforts to win your approval of this project. You
22 come back to me and say, "I have questions. I need
23 more information. Can you clarify this?" I control
24 that process. I provide you with the information
25 that you need. That is entirely within my control.

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2 I can keep a project moving. I know what my
3 deadlines are, and I provide that information.

4 The other scenario, which this
5 legislation would set up, is a situation where a
6 request is made for the City Controller -- and,
7 again, I know Councilman Nutter referred to possible
8 paranoia on my part, which I'm trying not to be.
9 But let's assume a City Controller, for whatever
10 reason --

11 COUNCILMAN ORTIZ: Paranoia is
12 non-existent in this building.

13 MR. CUORATO: Thank you, Councilman.

14 A City Controller, for whatever reason,
15 does not support a project that the Administration
16 does support. This scenario gives the Controller
17 the ability to hold up and delay that project.

18 COUNCILMAN ORTIZ: Again, we're going to
19 an issue of timeliness. And what you're objecting
20 to -- once again, I am saying to that, that is
21 easily repairable. If you say that there's a
22 certain amount of time, at that point, the
23 Controller waives that right that he has. It is an
24 issue of not just giving an open-ended situation.
25 You just don't want the Controller involved or any

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2 other agency outside of your office involved in
3 giving an opinion about an economic impact
4 statement.

5 MR. CUORATO: I have two problems.
6 Number one, I don't believe a City Controller should
7 be involved, period, as I've already stated.

8 COUNCILMAN ORTIZ: Well, that's a
9 different point.

10 MR. CUORATO: I believe it's my job to
11 convince you that these projects are worthwhile.

12 And number two, bringing in a third
13 party takes control of the process out of our hands
14 and puts it in a situation where it can be delayed
15 by a third party for whatever reason. The
16 Controller could decide he doesn't like a project
17 and, in accordance with this Bill, could write back
18 to me and say, this is a very complex project. It's
19 going to take four months to do an economic
20 analysis, and that's my response. Four months may
21 not work for me. It may kill a project. And yet
22 that's the situation I'm being presented with.

23 COUNCILMAN ORTIZ: I think we're getting
24 to the point of timeliness again. How do you then
25 structure legislation so that you avoid that type of

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2 situation?

3 COUNCILWOMAN BLACKWELL: Thank you.

4 Councilman Kenney.

5 I'm sorry, Councilman Ortiz. Did I cut

6 you off?

7 COUNCILMAN ORTIZ: No.

8 COUNCILWOMAN BLACKWELL: Thank you.

9 Councilman Kenney.

10 COUNCILMAN KENNEY: Thank you, Madam

11 Chair.

12 Jim, in, say, the last four to eight
13 years, how many projects -- and I know you don't
14 have all the numbers at your fingertips right now --
15 but in your estimation, how many projects would have
16 fit into this particular piece of legislation? I
17 know the stadiums would have; Kvaener would have.
18 Any other? I mean, it can't be that many. Since
19 those are the ones that jump out, they may be the
20 only ones in, perhaps, the last four to eight years.

21 MR. CUORATO: Penns Landing, but that
22 was a TIF and we do a pretty detailed submission of
23 information anyway.

24 COUNCILMAN KENNEY: So we're talking no
25 more than 7 to 10?

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2 MR. CUORATO: You are correct,
3 Councilman. I'm not disputing the fact that there
4 are not a large number of projects this would
5 affect.

6 And I would like to say in response to
7 Councilman Nutter's comment earlier that the problem
8 we had with the earlier Bill where it was so broad,
9 that aspect of it has been narrowed.

10 COUNCILMAN KENNEY: But let me attack
11 this from another angle, as far as being able to
12 promote projects and to get things done in a timely
13 fashion and to have the City open to these kinds of
14 Public Works projects.

15 I think one of the problems is, is that
16 the public resists public investment into things
17 like stadiums and other types of things because they
18 never can understand the relationship to their
19 neighborhood, to their life, to their employment
20 possibilities. I think in many ways if we had this
21 kind of road map, this kind of information in the
22 public domain prior to us voting on issues, it may
23 get more public support and be less of a drain on us
24 responding to our constituents who have concerns
25 about these public investments, in ultimately

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2 privately-owned stadiums, for example. And if we
3 had this kind of information that people in the
4 minority community could share, people in the
5 non-minority community could share, employment --
6 not only goals and things that are set, but how it's
7 going to impact their situation economically,
8 tax-wise, otherwise, may make it easier for us in
9 the future to do public projects of that size
10 without all of the lack of information, the
11 suspicion and the fear.

12 And I think in some ways, even though
13 you may view it from your perspective as being a
14 hinderance, in the long run, in the macro sense, it
15 may be a facilitator of public financing for public
16 projects because people will be relatively assured
17 from a non-involved party that this, in fact, is a
18 good thing for them and for their tax dollars to be
19 used for.

20 So I'd like you to maybe look at it from
21 that perspective, that the more information we share
22 with the public, the less suspicious they are, the
23 more cooperative they may be in helping us vote for
24 projects like this. It's just a thought.

25 COUNCILWOMAN BLACKWELL: Thank you.

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2 The Chair notes the presence of
3 Councilman David Cohen.

4 Councilman DiCicco.

5 COUNCILMAN DICICCO: Thank you, Madam
6 Chair.

7 Just following up on Councilman Kenney's
8 questions. When we've done projects that require
9 the TIF, in effect, we do an economic impact
10 statement because we show the number of jobs that
11 are created because that is what goes towards --
12 maybe not paying down the TIF -- but the life of the
13 TIF. And we talk about over a 10-year or 20-year
14 period, whatever the life of the TIF is, that the
15 revenues that are generated via the various taxes
16 that we are foregoing, so we are doing some sort of
17 an economic impact statement on certain types of
18 projects anyway. Is that correct so far?

19 MR. CUORATO: That's correct,
20 Councilman.

21 And again following up on Councilman
22 Kenney's statements. I know Councilman Cohen is an
23 example, and a few other Members of Council, we
24 talked about doing some other types of legislation,
25 like tax exemptions or tax abatement Bills. We went

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2 through the public process. We had public hearings.
3 And you, myself, and other folks who were supporting
4 those Bills had to go through lots and lots of time
5 and testimony to try to explain why it was important
6 to do these abatements, not necessarily because it
7 was going to line the pockets of the rich or give a
8 tax break. I can remember some of the comments
9 coming out of a few of the Members of Council like,
10 why would we do an abatement for somebody to move
11 into a luxury condominium or apartment in Center
12 City? Why are we giving the rich a tax break?

13 And we would try to explain in our best
14 way of explaining what that benefit was to the City
15 by bringing new residents in, the economic impact,
16 wage taxes, the sales taxes, and stuff like that.
17 So I think we wind up getting to that point anyway,
18 and I suspect that the intent of the legislation is
19 to do that up front. I think that's the intent of
20 the legislation. We wind up going down that path
21 anyway. I don't see that it was a burden to any of
22 the developers. Now, I could be wrong. And I think
23 that's what Jimmy was asking you, if there's a way
24 you can give us an example of who may not have come
25 to town to develop had this Bill in place at the

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2 time.

3 You know what my position is. I want to
4 get things done as well. I think most of us feel
5 the same way. It is true that when people hear of
6 certain types of legislation or certain types of
7 development that there's public investment in, they
8 immediately think that we're giving some rich
9 developer monies that they normally should not be
10 getting in the first place, that that money should
11 be spent somewhere else.

12 I think you and I had a conversation a
13 while ago -- I would love to be able to get my hands
14 on, if possible, a break-out of all of the jobs that
15 were created in the building trades, as an example,
16 because of the TIFs, because of the 10-year tax
17 abatement and the 10-year exemptions, and their wage
18 taxes, their sales taxes and all the other things
19 that we're benefiting by so that the public
20 understands that we're just not giving breaks to one
21 or two individuals. We all benefit as result of
22 that. And maybe this is not the best process for
23 that today, but I think there's some sort a
24 combination of what you would like to see and what's
25 in here to come together. I think it would be a

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2 wonderful document for the public to review.

3 MR. CUORATO: Councilman, I don't have
4 any problem with your sentiments or those expressed
5 by Councilman Kenney. I believe that information
6 should be provided.

7 I think as Councilman Kenney pointed
8 out, if we're able to clearly articulate the merits
9 and the benefits of projects, that serves us all
10 well and serves Council well also. My problem is
11 taking that information providing process out of my
12 hands and putting it into the hands of another party
13 of which we have no control.

14 I've said it in my testimony. I've said
15 it in response to a question. I will say it one
16 more time with emphasis. This will be viewed as
17 another bureaucratic obstacle by the real estate
18 development and investment community. That is not
19 something we can afford to do.

20 COUNCILMAN DICICCO: Thank you.

21 Thank you, Madam Chair.

22 COUNCILWOMAN BLACKWELL: Thank you.

23 I'll have another question, Councilman
24 Nutter, if I might ask him another question when we
25 get to the amendment part. But for this part, for

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2 general discussion, let me call on Councilman Cohen.

3 COUNCILMAN COHEN: Mr. Cuorato, what is
4 the real estate development investment community?
5 Could you identify it? And could you name some
6 projects that they're involved in, how this economic
7 impact statement would prevent them from moving
8 ahead or act as a disincentive? I don't understand
9 that.

10 See, a lot of people think that the
11 current impact statement is a campaign impact
12 statement that's considered. This would give the
13 Administration a clear signal whereby they could
14 publicly come out and indicate, so that nobody can
15 have any question why they're doing it. What is the
16 economic impact. Rather than have all of these
17 rumors about campaign influence and campaign
18 contributors. It seems this Bill is completely in
19 the interest of the community. And why would a real
20 estate developer be concerned at all to have this
21 kind of information? If they want a free pass to
22 the City's money supply or to the City's ability to
23 raise money, I don't think they ought to have it
24 because I don't think they have a good intent in
25 mind. But if they're prepared to make a case, then

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2 I think they have something they can talk about. I
3 would think the real estate investment community
4 would want to show from the beginning on the purpose
5 of why they're seeking this assistance from the
6 City. So I'm having great difficulty in
7 understanding why you and the Administration would
8 be opposed to it.

9 My understanding is, at a state level
10 every Bill must contain an economic impact
11 statement. And it doesn't create any problems at
12 all. It makes people think clearly before they ask
13 and that's important.

14 I'd like your comments on that.

15 MR. CUORATO: I'll be glad to provide
16 you with a list of developers who do business and
17 are large investors in the City. And I can tell you
18 that I deal with developers on a daily basis. I
19 routinely hear about the difficulties of doing
20 projects in the City of Philadelphia because of
21 bureaucracy and regulatory approvals. And that goes
22 beyond City Council. That's the different
23 commissions and licenses and all the different
24 approvals that are required.

25 COUNCILMAN COHEN: And they may be right

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2 with respect to that because we have a lot of
3 nonsensical rules that they have to follow.

4 MR. CUORATO: But what I'm saying is,
5 for any development project for which we are seeking
6 approval, we, the Administration, should submit to
7 you the information that you require. And then when
8 it comes time for a public hearing, the two people
9 sitting at this table should be myself and the
10 developer to answer any questions about a project.
11 We should be able to give you all the information
12 you need. There's no need for an independent
13 analysis by the City Controller as part of this
14 process. All of the information that you need can
15 and should be provided by the Administration and the
16 developer.

17 COUNCILMAN COHEN: Well, I think, Mr.
18 Cuorato, respectfully -- because I have a great deal
19 of admiration for the way you've conducted the
20 business -- I think you've got to do more than
21 supply for what we need. We're not as experienced
22 in the field as you are. We want to know how you've
23 analyzed the matter. What are the considerations
24 you've given to it? You're much better at
25 developing the strength of an economic impact

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2 statement than we are, because we're not experts.
3 We're working in all the fields simultaneously. But
4 we need to have from you something that indicates
5 that your department has considered many different
6 factors, you fit it into the current situation that
7 exists and you find a conclusion after consideration
8 of many factors, which you explain to us what the
9 factors. We'll then have confidence in your
10 judgment. And that's what we're looking for.

11 We look for you to help guide us in our
12 thinking, because none of us are experts in this
13 field. We deal with it. We may easily miss a very
14 important consideration. But we ought to be able to
15 have the assurance that everything was thought of
16 that had to be thought of with respect to the
17 economic development's interest and the City's
18 interest in that form of economic development.
19 You're the expert in the field. You ought to tell
20 us how you've analyzed it and what your
21 considerations were and why you came to this
22 conclusion. Then those who charge improper
23 motivations or inappropriate considerations, whether
24 illegal or not, won't have any argument. It will
25 show the City means business.

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2 The real estate developers, I think,
3 will have much greater respect for the City. As it
4 is now, I think they think we can skip over a lot of
5 hurdles, that they're unimportant, that all they've
6 got to do is get to you and get to the Mayor or get
7 to Council, get to somebody who is going to carry
8 their water for them without even knowing all the
9 facts. We want to change that. We're not saying
10 that that's the way it is now, but we'd like to have
11 the assurance that you've given your expertise to
12 every aspect of this, whatever the project is.

13 That's the reason this seems to me to be
14 a very good Bill. It's not perfect. We'll probably
15 want to change it from time to time, but it's going
16 to be a very useful tool for us and give us
17 confidence in our judgment. When the community asks
18 us why we did that, did you do that because so and
19 so is a friend of the Mayor's or the head of PIDC or
20 something like that, we'll be able to say, no. Here
21 are the considerations that went into it. This is
22 why we did it, because we were convinced for the
23 following reasons, that it was a good thing. So I
24 think it's a good Bill all around and I don't think
25 it will cause any delay, because I'm sure before you

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2 move ahead on the project you give thought to all of
3 these considerations.

4 Thank you, Madam Chair.

5 COUNCILWOMAN BLACKWELL: You are
6 welcome.

7 Are there further questions from Members
8 of the Committee?

9 Councilman Nutter.

10 COUNCILMAN NUTTER: Madam Chair, you
11 said you had a question for me, I think, before
12 Councilman Cohen.

13 COUNCILWOMAN BLACKWELL: My question was
14 on your amendments.

15 Councilman Goode has a question.

16 COUNCILMAN GOODE: Thank you, Madam
17 Chair.

18 I'm trying not to take sides in this
19 issue for several reasons. I will eventually have
20 to vote on it one way or the other, but not
21 necessarily today. I want to ask a couple questions
22 just for clarification because I believe that, in
23 coming to City Council, one of the things I tried to
24 do in one of my first Resolutions is tried to
25 establish public benefit criteria of economic

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2 development projects.

3 Knowing and understanding the need for
4 more information, I have a few questions I want to
5 pose to you, Mr. Cuorato, just to be fair in defense
6 in some of my colleagues' positions.

7 How long have you been with the City's
8 Commerce Department on and off?

9 MR. CUORATO: Both stints?

10 COUNCILMAN GOODE: Yes.

11 COUNCILMAN NUTTER: It's like tours of
12 duty.

13 MR. CUORATO: Two tours of duty, coming
14 up on 11 years.

15 COUNCILMAN GOODE: Has Council ever
16 rejected a project over \$50 million?

17 MR. CUORATO: I'd have to give that a
18 little thought.

19 COUNCILMAN GOODE: Well, my quick guess
20 is no. Has Council ever severely altered a project
21 over \$50 million?

22 MR. CUORATO: No.

23 COUNCILMAN GOODE: And then my third
24 question is, why do you think that is?

25 MR. CUORATO: I don't want to get into a

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2 debate over NTI because I am not the NTI expert in
3 the Administration. I know that that was a long
4 process that did undergo quite a bit of revision
5 during the process. I don't know if you would
6 categorize that as --

7 COUNCILMAN GOODE: I would not, because
8 it is essentially a demolition project and it's
9 still a demolition project. My question is, why do
10 you think large scale projects have never been
11 defeated in City Council and have never been
12 severely altered?

13 MR. CUORATO: I would hope that the
14 answer is we've made a strong case that the projects
15 are good for the City of Philadelphia, that they
16 create jobs and strengthen our economic base and our
17 arguments have been convincing and City Council has
18 gone along with that position.

19 COUNCILMAN GOODE: So you don't give any
20 latitude to the fact that it might be a lack of
21 information or lack of things being examined within
22 the project or being presented to Council? Because
23 in the end, my feeling is that whether we do it
24 through economic impact statements done by the
25 Controller or by some independent entity by the

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2 Administration, what I hear my colleagues saying is
3 that we need to define public benefit criteria, as I
4 suggested that we do through a Resolution early on,
5 that Council needs a way of examining economic
6 development projects that is essentially consistent,
7 so we consistently can make decisions and we
8 consistently can make our case to the taxpayers
9 about public investment.

10 But my feeling has always been,
11 particularly from having been on the other side,
12 that essentially the case that has always been made
13 has been very simple, is that the economic
14 development projects create jobs. But there are
15 more variables to be considered while examining an
16 economic development project than whether it creates
17 jobs or doesn't create jobs, particularly in light
18 of the fact that we have absolutely no authority
19 after the projects are done to actually track or
20 monitor job creation.

21 MR. CUORATO: Councilman, I think we
22 do --

23 COUNCILMAN GOODE: I guess the question
24 I'm asking is, it could be possible that, as been
25 suggested, to have more information leads to less

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2 questions as opposed to more questions?

3 MR. CUORATO: If the issue is
4 information or the lack there of, I'm certain that
5 we are able to deal with that. And I say, we,
6 meaning the Administration.

7 Once again, getting back to this Bill,
8 my problem is the injection of a third party into
9 the process which can set up a mechanism for delay
10 or obstruction of a project that we're anxious to
11 move forward with.

12 COUNCILMAN GOODE: And I might
13 absolutely agree with that position, but I felt the
14 need just because from having worked in the Commerce
15 Department and from having focused on economic
16 development here, from having dealt with the issue
17 of public benefit criteria for economic development
18 projects, I have raised concerns over the last few
19 years about the fact that, at times, we actually
20 received briefings for TIF projects that were
21 basically one page long. It's just a series of
22 sentences. They were actually summaries, as opposed
23 to analyses. So I'm not getting into a debate about
24 whether it should be the Controller or whether it
25 should be an independent entity or whether it should

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2 come from the Administration, but how we standardize
3 criteria in terms of what we're examining in terms
4 of public benefit. And I guess my question is,
5 don't you believe that it's possible that Council
6 has not rejected any projects or severely altered
7 any projects simply because the only public benefit
8 criteria was job creation and that we would benefit
9 in terms of a better investment of public dollars in
10 economic development projects, particularly large
11 scale economic development projects, if we examine
12 more public benefit criteria, other than just job
13 creation?

14 MR. CUORATO: Yes, Councilman, I do
15 agree with that.

16 COUNCILMAN ORTIZ: Madam Chair, if I
17 may.

18 COUNCILWOMAN BLACKWELL: Yes.
19 Councilman Ortiz, do you have a question?

20 COUNCILMAN ORTIZ: I think it's a
21 follow-up on Councilman Goode's position.

22 We've sat here many times -- Mr.
23 Cuorato, you know that -- and the information has
24 not been forthcoming. And then at the last minute
25 we're asked, you've got to do this because the

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2 deadline is yesterday. And you've got to pass this
3 because if you don't do it now, it will just go out
4 the window; it will not be done. That was the
5 arguments on the stadiums. It took a year actually
6 to sign the contracts after we approved the
7 legislation on that midnight night of December. And
8 we provide a certain amount of information about the
9 economics and benefits of certain things. And I
10 think we prove in terms of the stadium that, other
11 than the feel good aspect of it, it's not going to
12 be an economic development machine as such. So I
13 can't go along with that aspect that you just say,
14 we're going to do it and you've got to trust us to
15 do it, because that relationship really hasn't been
16 established.

17 We have had and we approved projects in
18 this Body here over the years, even before you got
19 here to the position, that really have been with
20 very little information as to their economic impact
21 and how the City taxpayers were going to benefit
22 from it, other than the Administration said, "we
23 need it now." I think this legislation is needed.

24 COUNCILWOMAN BLACKWELL: Thank you very
25 much.

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2 Councilman Nutter.

3 COUNCILMAN NUTTER: Thank you, Madam
4 Chair.

5 COUNCILWOMAN BLACKWELL: Councilman
6 Nutter yields to Councilman Cohen?

7 COUNCILMAN NUTTER: Yes.

8 COUNCILMAN COHEN: We're going into
9 election cycle where all kinds of issues are going
10 to be discussed. Everybody is aware of the fact of
11 this very important election six, seven, eight
12 months down the road, but it's going to be a heavy
13 campaign time.

14 One of the issues is going to be, as
15 Governor Rendell has suggested, well, is it a fact
16 that the Mayor of the City is his own worst enemy?
17 Because he seems to not be very communicative.
18 That's the general consideration of everybody.
19 Everybody wants a Mayor like Rendell seemed to be --
20 I'm not saying he was -- but I said he seemed to be
21 open, ready to schmooze with anybody, ready to
22 discuss any issue at any time.

23 I think this legislation is important to
24 define a Democratic Administration of openness. A
25 Democratic Administration ought to want to make it

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2 known to people, we have nothing to hide, everything
3 is on the table. If it's the beginning of a project
4 and we haven't had time to study the whole thing,
5 we're going to say that. We're going to tell you
6 how much we've studied, what there is yet to study,
7 and what our conclusions are thus far, and we'll
8 keep you advised as we go along. We've gone far
9 enough to recommend this. But it's still got a
10 hearing process and we're going to continue to study
11 and we'll let Council know. I think that if the
12 Administration continues its reclusive policy of
13 shutting out everybody else and saying, "Trust the
14 Mayor, he's got all the wisdom in the world," I'll
15 tell you maybe it works in other parts of the world,
16 but it's not going to work in the United States
17 because we happen not to believe in that philosophy.
18 By the "we" in this case, I don't mean just the City
19 Council, I mean everybody. Everybody is concerned
20 about openness. Everybody wants to feel the
21 government is open to them.

22 Why the government would feel we've got
23 to cower to real estate developers who may have lots
24 of things they're interested in hiding in a project,
25 why we want to say, "Well, we worry so much about

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2 you, we're going bend down on our knees and plead
3 with you, just take this money from us and do
4 whatever you want." That's not the way it ought to
5 work. And that's not the way it's going to work, if
6 this Council has anything to do with it. I think
7 just the opposition of the Administration to this
8 Bill hurts us, hurts everybody in Philadelphia to
9 have the Administration compel its spokespeople to
10 come here and say, "Trust us. Don't worry about
11 economic impact. We will take care of that. You
12 don't have to worry about that."

13 And so, Mr. Cuorato, I think you've got
14 a very important issue here. I don't want to blame
15 you because I know you may not be in a position to
16 make the decision. But we're going to fight any
17 such concept because we think it's bad government.
18 I think it's wrong to tell the people of
19 Philadelphia, the City of Philadelphia makes
20 important investments without being in a position to
21 explain fully the economic impact. We don't think
22 the people are important enough or are in a position
23 to know what's good for them. We're going to make
24 the decision for them, and they've got to take it.
25 We're not going to take it. The people of

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2 Philadelphia aren't going to take it. And I wish
3 this Democratic Administration would speak like a
4 Democratic Administration -- I mean capital D's, not
5 small D's -- like a Democratic Party that's open to
6 the people. We have that responsibility. And this
7 Bill is aimed at showing that we meet our
8 obligations as a Democratic Party.

9 This is a Democratic City
10 Administration, but it's being challenged. It's
11 being tested. I think that's a good procedure to
12 have, challenge and testing. I'm all for the
13 two-party system. Maybe it ought to be three or
14 four or five parties that I don't know. But
15 certainly, we've got to at least have two parties.
16 And no Mayor can take the position, I have all the
17 information and what I do has to be accepted without
18 question. That's what Mayor Street is apparently
19 asking us to do when he says, "Don't be concerned
20 about economic impact. Take my judgment. It's a
21 good thing."

22 That's the reason this is so important
23 and why I certainly hope this Council is going to be
24 ready to make this a major issue in this
25 Philadelphia.

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2 We know you may not be able to even
3 respond to that statement because of the reclusive
4 aspect. Everybody is talking about it in
5 Philadelphia. The newspaper articles are talking
6 about it. Columnists are talking about it. The
7 City Administration ought not to hide from that
8 charge. It ought to face it and it ought to make it
9 clear that the charge is untrue and that this City
10 Administration wants everybody to be an informed
11 citizen and have an opinion based upon the
12 revelation of facts, facts that the City
13 Administration places before us, and permits us to
14 challenge them. When we challenge those facts and
15 we prove unsuccessful in our ability to find fault
16 with that, then you've got the best case you want
17 and you give the people of full confidence.

18 If there's anything you want to say in
19 reply to my comments, feel free to do so, but you
20 don't have to, because I am convinced that the way
21 the City Administration operates today, it is a
22 one-person operation. And that's bad. That's not
23 good for the City of Philadelphia to be so viewed.
24 We ought to be able to put all the facts out before
25 everybody and have everybody convinced it's a good

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2 thing.

3 Thank you, Madam Chair.

4 MR. CUORATO: Madam Chair, with all due
5 respect, and if I may, I would like to respond.

6 COUNCILWOMAN BLACKWELL: Certainly, Mr.
7 Cuorato.

8 MR. CUORATO: I'm not sure where to
9 begin.

10 COUNCILMAN COHEN: Start with the whole
11 issue. I think this is a good time to raise it.

12 MR. CUORATO: The Mayor appointed me to
13 this position and charged me with heading up our
14 economic development efforts in Philadelphia, and I
15 take my job very seriously. The Mayor has given me
16 broad responsibility to bring new businesses into
17 the City, to get projects moving forward, to create
18 jobs. There are no restrictions on my activities.
19 There is no one who has compelled me to testify
20 regarding any legislation.

21 In my position as Director of Commerce,
22 I feel very strongly about the position that I am
23 taking today. I have communicated that position
24 with the Mayor and was basically encouraged to
25 express my position. And I am representing the

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2 Administration in my position as Director of
3 Commerce, and I will tell you I feel very strongly
4 about the views that I've expressed today with
5 respect to this legislation.

6 If I can just also comment on what I
7 sense is a common thread that I've heard from
8 Councilman Ortiz, Councilman Cohen, and Councilman
9 Goode that has to do with the provision of
10 information, and I say this with all due respect to
11 Councilman Nutter who is the Bill's sponsor and with
12 whom I've worked on a number of projects, and I
13 think we've had a good working relationship. If
14 there is criticism of the way information is
15 supplied to Council for economic development
16 projects, then we should listen to that and we
17 should respond. If there are questions now about
18 the amount of information that is provided as we go
19 forward for economic development projects that we
20 bring to you, we should address that now. And this
21 gets back to Councilman Goode's point. And I'm fine
22 with that. If the issue is information coming too
23 late for Council to have a chance to fully consider
24 it, then we should take steps to remedy that. And
25 as the head of the economic development in the City,

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2 it's my job to do that.

3 However, having said all of that, this
4 Bill will not address those issues. This Bill will
5 add another layer of bureaucracy to a system that is
6 already too complicated and already too time
7 consuming. This Bill brings in a third party over
8 whom we do not have control. It sets no timing
9 parameters and it gives the City Controller the
10 ability to stop a project that we may want very much
11 to support. That's where I have the problem here
12 today.

13 COUNCILMAN NUTTER: Mr. Cuorato, I don't
14 mean to interrupt you, but your last statement for
15 me may have, at a minimum, touched a little bit of a
16 nerve. That statement would almost leave the
17 impression that your rejection of the third party,
18 which is the Controller who, last I checked, is
19 actually a part of the government, over whom you
20 don't have control, might lead one to think that you
21 would rather deal with Council, who you believe you
22 may have some control over. I mean, what are you
23 saying here?

24 MR. CUORATO: Councilman, let me
25 clarify. The issue with a third party is both

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2 timing --

3 COUNCILMAN NUTTER: It's not some
4 unknown entity pulled out of the sky. It's the City
5 Controller of Philadelphia. He's listed in the City
6 Charter. There is a clear role and responsibility.
7 He has the ability, I think, under the Charter to
8 stop any payments to anyone for anything; is that
9 true?

10 MR. CUORATO: Yes.

11 COUNCILMAN NUTTER: We're not talking
12 about some munchkin, some minimized entity that's
13 just kind of hanging out, out there. It's a fairly
14 serious, weighty, important job. Do you think the
15 Controller -- I'm not speaking of the current one.
16 Do you think anyone in that position -- although I
17 think our Controller has been in office at least
18 three terms now -- do you think he doesn't take his
19 job seriously? Does he ever willy-nilly by
20 happenstance, woken up one morning and said, "You
21 know, I'm not going to pay any bills today. I think
22 I'm not going to do my job or my responsibility. I
23 think I'm not going to audit anybody for the next
24 couple months." I mean, what are you talking about?

25 MR. CUORATO: This legislation gives the

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2 City Controller the right to hold up a project, and
3 that's not right.

4 COUNCILMAN NUTTER: Mr. Cuorato, you are
5 wrong. You are wrong.

6 MR. CUORATO: That is not right,
7 Councilman.

8 COUNCILMAN NUTTER: You are wrong. And
9 we're are just going to argue about that for a long
10 period of time. You are absolutely wrong. If you
11 would read the section and not have it already
12 embedded in your mind as to what it says, it says
13 there's a need for a request. If the Controller
14 never responds, you know as well as I do -- if you
15 read 17-1102(1)(B), the person makes the request.
16 If the Controller never responds, you add the letter
17 that you made the request to the legislation, end of
18 discussion. Now, that's what it says. You may not
19 believe that's what it says. You may not read it
20 that way, but that's what the words say.

21 MR. CUORATO: Councilman, respectfully,
22 when is never? You said the City Controller never
23 responds --

24 COUNCILMAN NUTTER: Mr. Cuorato, read
25 the legislation.

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2 MR. CUORATO: I have read the
3 legislation.

4 COUNCILMAN NUTTER: It says, you make
5 the request. And if there is a response, you attach
6 it. But you have met your obligation under
7 17-1102(1)(A). You have met the obligation. It
8 says, either you do A or you do B. Now, that's what
9 it says. What does it say? Why don't you read it
10 into the record? Tell me what it says. And you
11 tell me why you're confused.

12 It says, "A Bill or Resolution that
13 authorizes or approves funding for a City-funded
14 development project" -- and I'm going to now read
15 from the amended version, because you have the
16 amendments -- "must include as an exhibit either:
17 A, an economic impact statement prepared in
18 accordance with Subsection 2; or the City
19 Controller's statement as to why an economic impact
20 statement was not prepared or why in the City
21 Controller's opinion an economic impact statement is
22 not needed; or B, a statement from the sponsor or
23 interested party" -- that could be you -- "detailing
24 the attempts that have been made to comply with
25 Subsection A, including a copy of a written request

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2 to the City Controller to prepare an economic impact
3 statement for the project and any written response
4 from the City Controller to such request."

5 If you have no response, you don't even
6 have to deal with that part of the question.

7 COUNCILWOMAN BLACKWELL: Point of
8 information.

9 COUNCILMAN NUTTER: Yes, Madam Chair.

10 Madam Chair, I apologize for raising my
11 voice, but you know me long enough to know that if
12 somebody is going to put an inappropriate or
13 incorrect statement on the record related to
14 anything that I'm working on, I'm going to resist it
15 at every turn.

16 COUNCILWOMAN BLACKWELL: Well, I was
17 waiting until the stated meeting to discuss the
18 amendment, but since we are in general only
19 discussing the Bill, then we'll allow it for our
20 public hearing. But that's my question. "A
21 statement from the sponsor or interested party,"
22 could an interested party, for example, be Acorn?
23 Who's an interested party?

24 COUNCILMAN COHEN: Well, suppose it is
25 Acorn?

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2 COUNCILWOMAN BLACKWELL: Well, I support
3 Acorn, Councilman. Give me a break now. Let me ask
4 my question. I support Acorn. I was in an
5 hour-long meeting with Acorn last night. My
6 question is, would the interested party be a City
7 agency --

8 COUNCILMAN NUTTER: Yes, Madam Chair.

9 COUNCILWOMAN BLACKWELL: -- or a
10 Councilperson?

11 Councilman Cohen, don't assume somebody
12 is on the other side of something because they ask a
13 question, now.

14 COUNCILMAN NUTTER: Madam Chair, in B,
15 that sentence, "a statement from the sponsor,"
16 naturally, 99 times out of a 100, a sponsor is a
17 Councilmember. Or the interested party, as we know,
18 we get legislation that comes over to us that is
19 sponsored by the Administration. It comes to the
20 President. More often times than not you introduce
21 it as majority leader. That would be the interested
22 party. That's a government entity. Most of these
23 projects, naturally, are either Commerce Department
24 driven or they are PIDC driven, maybe Redevelopment
25 Authority, maybe Public Property. But on our blue

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2 backs, on our legislation, it will usually say,
3 interested party, and that's who that would be. It
4 is a government entity.

5 COUNCILWOMAN BLACKWELL: Thanks. If the
6 Controller decides that he doesn't want to reply to
7 the Mayor or to the Bill sponsor, even if the Bill
8 is going on a track -- and you said the time frame
9 does not effect the passage of a Bill. What if the
10 Controller -- I don't know how -- but what if the
11 Controller then gets a letter from Councilman Cohen
12 asking for this and the Controller decides, I don't
13 want to respond, then how do we view that? Will not
14 that be viewed in a political context, as
15 everything is these days? How do we view that?

16 COUNCILMAN NUTTER: I'm trying to be
17 less political, actually.

18 But at least from a legislative
19 standpoint -- and I think it goes right to the heart
20 of Mr. Cuorato's concern. The requirement of one,
21 under 17-1102, is that the Bill or the Resolution
22 must include as an exhibit and then it says, either.
23 In the scenario that you laid out, the request
24 having been made, regardless of what the Controller
25 does or doesn't do, fulfills that requirement. A

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2 request was made. If a Controller refuses to accept
3 delivery of the letter, if the Controller never
4 responds, if the Controller says, "I got your letter
5 and I'll be glad to talk to you the 1st of never,"
6 that's the end of that conversation. The request
7 was made. That's what I was trying to convey to Mr.
8 Cuorato.

9 And, again, I apologize for my rather
10 excited nature. But I try as best as possible, and
11 sometimes I don't succeed, to be clear. And I think
12 what, again, happens here is Mr. Cuorato, as a part
13 of his job, has to look at every possible scenario;
14 both the real, the potential and even at times
15 playing things out to an illogical conclusion. I
16 understand that. But we're legislators. We write
17 words on a piece of paper and words have meaning.
18 And because of that concern and because of the veto
19 message, I wrote that provision in so that the
20 Controller will not be able to hold up a project,
21 regardless of what the Controller's view is or view
22 is not.

23 Again, the Controller is an independent
24 third party. The Controller is also elected. Now,
25 if the Controller decides that in the course of

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2 doing his or -- at some future point in time -- her
3 job, that these requests are coming in for -- as
4 Councilman Goode pointed out again -- \$50 million
5 plus projects, which are not the norm around here,
6 the Controller continues to refuse to respond to
7 requests for economic impact statements on these
8 kinds of projects -- and I'm not saying anything
9 about Controller Saidel -- I think members of the
10 general public, if not this City Council, will start
11 to wonder about whether the Controller is doing his
12 or her job.

13 COUNCILWOMAN BLACKWELL: If we ask the
14 Controller now for any information on a project, he
15 gives it. I mean, a Controller has never --

16 COUNCILMAN NUTTER: And that was
17 actually going to be one of my questions to Mr.
18 Cuorato.

19 COUNCILWOMAN BLACKWELL: We have a point
20 of information.

21 Councilman Goode.

22 COUNCILMAN GOODE: Mr. Cuorato, I hate
23 to ask this question, but I have to. For the
24 record, isn't part of your concern with this Bill
25 the fact that the Controller being involved in the

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2 process precludes finalizing negotiation on a
3 project?

4 COUNCILMAN NUTTER: Councilman, could
5 you give me the last part of that question?

6 COUNCILMAN GOODE: Isn't part of your
7 concern with the Controller being involved in this
8 process the fact that the Controller having to be
9 involved in this process actually precludes
10 finalizing negotiation on a project?

11 MR. CUORATO: Yes.

12 COUNCILMAN GOODE: Can you please
13 explain that for the record?

14 MR. CUORATO: It creates an uncertainty
15 and an unpredictability about the process. When
16 we're negotiating with a developer for a major
17 transaction --

18 COUNCILMAN GOODE: Because to a certain
19 extent, public benefit and economic impact are
20 actually negotiated and are very fluid. They don't
21 become objective until actually the project has
22 finalized negotiation.

23 MR. CUORATO: And are taken into
24 consideration by us as we're negotiating the
25 transaction.

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2 COUNCILMAN GOODE: Can you just please
3 elaborate on that for the record?

4 MR. CUORATO: It gets back again to the
5 timing and the unpredictability of the issue.

6 When we're negotiating a major
7 transaction with a developer, there may be a hundred
8 issues that we have to address. And as we're
9 narrowing these down, we always have our eye on
10 economic benefits to the City, jobs, increase to the
11 tax base, positive impact on the surrounding
12 community. These are all factors that we take into
13 consideration. As we're negotiating the
14 transaction, we may be more willing to give up on
15 certain items if there is an impact that we see that
16 might necessarily be quantified. And a lot of
17 times, those will come towards the very end of the
18 process.

19 COUNCILMAN GOODE: For example, you
20 can't determine cost per job. While you may know
21 how many jobs, you can't determine cost per job
22 until you know how much money you're going to give
23 them.

24 MR. CUORATO: Correct.

25 COUNCILMAN GOODE: And so that is

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2 something that is actually set in stone after the
3 deal is final, but it cannot be even an independent
4 analysis about what the cost per job could be
5 because a cost per job could be anything up until
6 the point where you decide how much you're going to
7 give the developer.

8 MR. CUORATO: Correct.

9 COUNCILMAN GOODE: Thank you.

10 MR. CUORATO: Madam Chair, if I may,
11 just one last response to the last comment by my
12 friend Councilman Nutter.

13 COUNCILWOMAN BLACKWELL: Absolutely.
14 Take your time, Mr. Cuorato.

15 MR. CUORATO: The language in the Bill
16 talks about a written request from the sponsor to
17 the City Controller to prepare an EIS, and any
18 written response from the City Controller to such
19 request.

20 COUNCILMAN NUTTER: Mr. Cuorato, where
21 are you?

22 MR. CUORATO: 17-1102(B), the language
23 that you just read into the record.

24 COUNCILMAN NUTTER: Okay.

25 MR. CUORATO: The uncertainty comes from

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1
2 us writing to the Controller, and in the
3 Councilman's words, if the Controller never
4 responds, end of story. And my question back to the
5 Councilman was, when is never? So if I come back in
6 two weeks and say, I've gotten no response from the
7 City Controller. Is that acceptable? Who knows?
8 In some people's eyes, two weeks may be a long time.
9 In some people's eyes, two weeks may be no time at
10 all. The Controller may be at a busy time of the
11 year. If I come back in 30 days and I haven't
12 heard anything from the Controller, does that
13 constitute compliance with this Ordinance? Nobody
14 knows. Is 30 days enough time? Is 30 days
15 unreasonable? If I come back in 90 days and I
16 haven't heard anything from the Controller, is that
17 a reasonable time? There are no time frames given
18 in this Bill. It sets up a total situation of
19 unpredictability.

20 COUNCILMAN NUTTER: So let me ask you a
21 question, Mr. Cuorato. What's a reasonable time
22 frame for you?

23 MR. CUORATO: I was addressing your
24 specific citing of this provision of the Bill. And
25 I'll answer your question, but I don't want my

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2 answer to the question to be interpreted as my
3 support for injecting the City Controller into this
4 process.

5 COUNCILMAN NUTTER: I understand you're
6 opposed to that. You've raised the issue a number
7 of times. And then I'm going to tell you why
8 there's nothing there. You've raised the issue a
9 number of times that there's no time frame. My
10 problem initially with putting it in is that
11 whatever was put in there was going to be objected
12 to by you guys. So that's why I want to know what
13 is an acceptable time frame from your perspective?

14 MR. CUORATO: Well, once we establish a
15 time frame, and I certainly would argue for a short
16 a time frame as possible.

17 COUNCILMAN KENNEY: I have to leave the
18 Chamber for Council business. If any vote comes on
19 amendments or any of the Bills on the calendar
20 today, I would like to be recorded as voting aye,
21 but I hope to get back before the vote. Thank you.

22 MR. CUORATO: For any time frame that
23 would be inserted, I certainly would argue for as
24 short a time frame as possible. But even at that,
25 let me just -- and again, you pointed out,

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2 Councilman, as part of my job, I have to look at
3 every possible scenario. So I write to the
4 Controller requesting an economic impact statement.
5 In three weeks, the Controller writes back to me and
6 says, "This is a very complex project you've
7 presented to us and it's going to take an
8 independent analyst to do this. And we will go
9 through the process of selecting someone and we'll
10 do the analysis and we'll be back to you in 90
11 days." I could lose a deal.

12 COUNCILMAN NUTTER: See, that's my
13 problem with your whole conclusion there. That's
14 the answer. You made a request. You got a letter
15 back. All we're saying is, attach that to the Bill.
16 That's the end of that discussion. What we do with
17 it is an entirely separate story. Because the
18 Council may decide that that response is not
19 adequate for our purposes in making a decision and
20 go on ahead with the project. That's the whole
21 issue, Mr. Cuorato.

22 MR. CUORATO: But it puts me on the
23 defensive of having to come here and say to you --

24 COUNCILMAN NUTTER: You are not on the
25 defensive. You got a response from the City

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2 Controller. I think our response is, "Mr.
3 Controller, a request was made of you. We have a
4 big project in front of us. A request was made of
5 you in a timely fashion to get an economic impact
6 statement. You sent us this garbage letter back
7 that it's going to take you 90 days. It's not
8 acceptable." But you have met your requirement
9 under the Bill. It's not your problem at that
10 point.

11 MR. CUORATO: The City Controller holds
12 up a copy of this Bill and says, "City Council wants
13 me to do an economic impact analysis. If you want
14 me to do an economic impact analysis, it's going to
15 take me 90 days to do it." Then I'm on the
16 defensive because I've got to come here and say to
17 you --

18 COUNCILMAN NUTTER: And you're going to
19 say, that doesn't meet our time table.

20 MR. CUORATO: But I'm on the defensive
21 because I then have to come here and convince you
22 that I can't wait 90 days. And I would much prefer
23 a scenario where I've given you all the information
24 you asked for --

25 COUNCILMAN NUTTER: Why don't you do the

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2 EIS up front?

3 MR. CUORATO: -- I bring you the project
4 and you vote on it.

5 COUNCILMAN NUTTER: Why don't you do the
6 EIS up front and include it with the Bill? You are
7 arguing against logic here. If you send us over a
8 Bill -- you don't draft these Bills overnight.
9 There's a lot of time and attention put into deals,
10 certainly a \$50 million deal. Why don't you just
11 save yourself all the aggravation and send over the
12 economic impact statement attached? You've done
13 your work up front. You are not going to walk in
14 here next Thursday with a \$50 million deal; isn't
15 that true? Don't they take time?

16 MR. CUORATO: They do take time.

17 COUNCILMAN NUTTER: Okay. Then why
18 wouldn't you make the request at the earliest time
19 that you think that you're going to be working on a
20 project, get your economic impact statement up front
21 and attach it to the Bill? You've added no time to
22 the project. You've created no delay here in City
23 Council -- you're shaking your head. What does that
24 mean?

25 MR. CUORATO: Going back to the point

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2 that Councilman Goode makes, I can't ask the
3 Controller three months before a deal might be done
4 or an Ordinance might be introduced in Council to do
5 an economic impact analysis when, in fact, we may be
6 in negotiating terms right up until time when
7 legislation is going to be introduced, and then we
8 have to go back and do the whole thing over again.

9 COUNCILMAN NUTTER: And you'd have to do
10 that because of what?

11 MR. CUORATO: Because if I try to start
12 the process too early and the transaction ends up
13 not looking like what it did when I asked the
14 Controller to do the economic impact analysis, then
15 we're being redundant and we're going to do the same
16 work over again.

17 COUNCILMAN NUTTER: You're being what?
18 I'm sorry.

19 MR. CUORATO: We're going to ask the
20 Controller, "Well, we asked you 90 days ago to do an
21 economic impact analysis for a project, and by the
22 way, the project has completely changed because of
23 the transaction we've negotiated, so now we're going
24 to ask you to do it again. And, oh, by the way,
25 it's going to take another 90 days." There's too

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2 much uncertainty associated with bringing a third
3 party into this.

4 If on the other hand you put the
5 onus on me to give you all the information that you
6 need, I'll give it you.

7 COUNCILMAN NUTTER: But just remember
8 that this conversation started with your complaint
9 that there wasn't a defined time period. Now you're
10 saying that even you are finding it difficult to put
11 a defined time period to it; isn't that your
12 statement now?

13 MR. CUORATO: No. I was responding to
14 the very specific --

15 COUNCILMAN NUTTER: And I asked you a
16 question, so give me an answer. What's the time
17 frame you'd like on the tail end of that sentence?

18 MR. CUORATO: I was responding to a very
19 specific statement you made in defense of this
20 provision that said, we write to the City
21 Controller. If the City Controller never responds,
22 then end of story.

23 COUNCILMAN NUTTER: And you said, how
24 long. And I said, tell me what time frame you'd
25 like. I'm still waiting for an answer.

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2 MR. CUORATO: But, Councilman, it can't
3 just be a time frame, because then I'll give you a
4 time frame and then I'm going to take you right to
5 the next phrase, which is written response from the
6 City Controller. So I'll give you a time frame, but
7 then you and I are going to debate what a written
8 response from the City Controller has to say.

9 COUNCILMAN NUTTER: Why are we going to
10 debate that? I don't care what it says.

11 MR. CUORATO: If there's no response
12 whatsoever or if the City Controller comes back and
13 says, "This is a complex project. It's going to
14 take 90 days." I come back to you. Is that a
15 written response that means end of story? No.
16 Maybe it is and maybe it's not.

17 COUNCILMAN NUTTER: As far as I'm
18 concerned, it is, if it fills a requirement of
19 Section 1. A request was made. A response was
20 given.

21 MR. CUORATO: To you it does. Other
22 Members of Council may say, "Let's wait 90 days."

23 COUNCILMAN NUTTER: That's their
24 business. That's their right.

25 MR. CUORATO: And I lost a project.

1 3/26/03 - FINANCE - BILL 030015

2 COUNCILMAN NUTTER: Well, suppose the
3 Bill never existed and somebody asked the same
4 question and you came back with the same answer and
5 under your scenario it was unacceptable? What do
6 you mean, you lose a project?

7 MR. CUORATO: Because I can control the
8 timing of any information that I provide to you.
9 You call me up and say, I want to know how many
10 Philadelphia residents are going to be employed on
11 this job. I'll get you the information in 24 hours.
12 I can control that. I can control that. If a third
13 party is doing the analysis, I can't control it.

14 COUNCILMAN NUTTER: I yield to
15 Councilwoman Tasco.

16 COUNCILWOMAN TASCO: What happens if you
17 bring the Bill to us and we decide we're going to do
18 an impact study? What does it do to your deal?
19 Because we have to right to do that, too, once the
20 Bill is introduced.

21 MR. CUORATO: Absolutely, Councilwoman.

22 COUNCILWOMAN TASCO: If the issue is the
23 timing of the project and whether or not you lose
24 the deal, once you bring it here we could decide,
25 well, we need an impact study and we can go out and

1 3/26/03 - FINANCE - BILL 030015

2 get a third party. It doesn't take 90 days; it
3 takes six months.

4 MR. CUORATO: Councilwoman, you're
5 absolutely right. Council can do an economic impact
6 analysis on anything that we bring to you. My
7 problem is legislating that the City Controller has
8 to do this.

9 COUNCILMAN COHEN: Why? He's elected
10 for that purpose.

11 COUNCILWOMAN TASCIO: And he's going to
12 do an audit of the project at the end of the
13 project.

14 COUNCILMAN COHEN: You know the City
15 Controller has the responsibility as to how
16 government money is spent in the City of
17 Philadelphia. Why do you oppose him? That's what
18 he's there for. And if he calls attention to
19 something, we ought to pay attention to it. Then
20 the decision is ours. Why do feel you ought to have
21 the right to go ahead with the project even if the
22 City Controller says, "This is a huge waste of
23 money; the project has no merit"? Is that what
24 you're saying, you don't want to be interfered with?
25 You want to control the flow of information to us?

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2 You have no right to control that flow
3 of information to us. We want it from everybody,
4 not just from the proponents of a project. We want
5 to hear from the opponents of a project so we can
6 make a sound decision.

7 You sound just like the Mayor. No
8 wonder you don't have to talk to the Mayor. You're
9 following his view. You want to have the absolute
10 right. You're not going to get it from this Council
11 because it would violate the Home Rule Charter. It
12 would violate the best interests of the citizens of
13 the City. Why do you feel you ought to have the
14 right to control the flow of information to the
15 Council?

16 COUNCILWOMAN BLACKWELL: I think we need
17 another office because we need somebody to control
18 the Controller and then we're there.

19 COUNCILMAN NUTTER: Is the Controller
20 out of control?

21 COUNCILWOMAN BLACKWELL: That's right.
22 The Controller could be out of control, and we need
23 somebody to control the Controller, since we're
24 creating new jobs and responsibilities.

25 Councilman Nutter.

1 3/26/03 - FINANCE - BILL 030015

2 COUNCILMAN NUTTER: Madam Chair, I know
3 that you have some questions for me on the
4 amendments, and I also saw your note and I've made
5 what I think might be a potential response to that.
6 I just need to ask Mr. Cuorato, I think, maybe two
7 questions.

8 One, the developers that you mentioned
9 earlier that do projects in the City, do they
10 conduct their own feasibility studies or economic
11 impact statements before they spend their money?

12 MR. CUORATO: Any development needs any
13 assistance for the credit.

14 COUNCILMAN NUTTER: Forget about the
15 City. I'm in the development business. I want to
16 build a big building. Does the president of the
17 organization or the CEO or the chairman just say,
18 "Hey, today we're going to build XYZ building. It's
19 going to cost ABC amount of money. Start work
20 tomorrow." Is that what they do?

21 MR. CUORATO: And they need no
22 assistance from the City?

23 COUNCILMAN NUTTER: Forget about the
24 City. I'm just talking about business people, how
25 they spend their money. Does the chief financial

1 3/26/03 - FINANCE - BILL 030015

2 officer, does the investment officer, does the
3 comptroller of the company, does a clerk in the mail
4 room, does somebody say, "What's it going to cost
5 and what's it going to do for us and what's the cost
6 benefit analysis and what's the return on investment
7 and what is this going to mean for the company?" Is
8 that what they do when they're trying to figure out
9 how to spend their money?

10 MR. CUORATO: Of course they do. Of
11 course they do.

12 COUNCILMAN NUTTER: So do you think that
13 the City Controller would inappropriately or
14 unnecessarily seek to not provide an economic impact
15 statement, if asked?

16 MR. CUORATO: I don't know.

17 COUNCILMAN NUTTER: That's a fair
18 response.

19 Under the framework that we've laid out
20 in some of the discussion that we've had here, do
21 you feel we have a need for a City Controller?

22 MR. CUORATO: As it relates to this
23 Bill, or is that a general overall philosophical
24 question?

25 COUNCILMAN NUTTER: It's not a

1 3/26/03 - FINANCE - BILL 030015

2 philosophical question. It's a public policy
3 question.

4 MR. CUORATO: As it relates to this
5 Bill, I believe the City Controller has no role --

6 COUNCILMAN NUTTER: No, not as it
7 relates to this Bill.

8 MR. CUORATO: Yes, I believe we have a
9 need for the City Controller.

10 COUNCILMAN NUTTER: Why?

11 MR. CUORATO: As an independent watchdog
12 of the government.

13 COUNCILMAN NUTTER: Okay. Thank you.

14 Madam Chair, you had some questions for
15 me on the proposed amendments?

16 COUNCILWOMAN BLACKWELL: I think we've
17 explored my questions in this wonderful, positive
18 discussion.

19 Do we have more questions about this
20 Bill?

21 COUNCILMAN NUTTER: I do want to put the
22 amendments forward and I want to seek to incorporate
23 what you had given me.

24 COUNCILWOMAN BLACKWELL: All right. Do
25 you want to do that in the stated meeting part after

1 3/26/03 - FINANCE - BILLS 030022, 030023

2 we discuss the next two Bills?

3 COUNCILMAN NUTTER: That will be fine.

4 COUNCILWOMAN BLACKWELL: Any other
5 questions on this Bill.

6 (No response.)

7 COUNCILWOMAN BLACKWELL: All right.

8 We will now have the Clerk read the
9 titles of the next two Bills introduced by
10 Councilman Goode, Bill Nos. 030022, 030023. After
11 the titles of the Bills are read, Councilman Goode
12 will make opening statements and then we'll ask you
13 for your testimony.

14 THE CLERK: Bill No. 030002, an
15 Ordinance amending Chapter 19-200 of the
16 Philadelphia Code entitled, "City Funds - Deposits,
17 Investments, Disbursements," by prohibiting the City
18 Treasurer from depositing funds in banks and
19 institutions that have failed to submit statements
20 of community reinvestment goals for low and moderate
21 income neighborhoods in the City of Philadelphia,
22 under certain terms and conditions.

23 And Bill No. 030023, an Ordinance
24 amending Chapter 19-200 of the Philadelphia Code
25 entitled, "City Funds - Deposits, Investments,

1 3/26/03 - FINANCE - BILLS 030022, 0300023

2 Disbursements," by revising the list of City
3 depositories because of non-compliance with certain
4 provisions of that Chapter, under certain terms and
5 conditions.

6 COUNCILWOMAN BLACKWELL: Thank you.

7 Councilman Goode.

8 COUNCILMAN GOODE: Thank you, Madam
9 Chair. I will try to move very quickly, although I
10 do have some ground to cover.

11 For Members of the Committee, there is a
12 red folder here that actually contains the
13 reinvestment statements that have been offered by
14 the banks that offer them. Also, the package with
15 the binder clip on it is actually related to these
16 two Bills.

17 I just wanted to start by saying that
18 when I came to City Council a few years ago, one of
19 the first things that I did within my first month of
20 being sworn in was issue a report, the Greater
21 Philadelphia Capital Access report, which was
22 focused on small business lending within the region.
23 The report showed that 90 percent of the lending was
24 concentrated in middle and upper income
25 neighborhoods, that only 10 percent of lending

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2 resources were available to low and moderate income
3 neighborhoods.

4 In September of that year, I met with
5 Greater Philadelphia Urban Affairs Coalition's
6 Committee on Community and Economic Development and
7 began to work with some of the banking members of
8 that community on a solution to that. That solution
9 was never really forthcoming by members of that
10 committee.

11 After that, I actually met with members
12 of the banking community to try to forward how we
13 would resolve this problem and address the issue of
14 disparity in lending between low and moderate income
15 neighborhoods and middle and upper income
16 neighborhoods in separate meetings. Still, no real
17 proposal was forthcoming.

18 I've offered additional reinvestment
19 legislation, including the forming of a commission
20 where members of the banking community sit. And
21 this past fall, we actually held hearings on the
22 state of community reinvestment within the City,
23 with particular attention still paid to small
24 business lending. And we found that, since my
25 initial policy legislative work a couple of years

1 3/26/03 - FINANCE - BILLS 030022, 0300023

2 ago, actually, that disparity had actually widened.

3 At that point we found within testimony
4 at that hearing that the banking community wanted to
5 be represented by the Greater Philadelphia Urban
6 Affairs Coalition. They chose to be represented by
7 the Federal Reserve Bank, which I felt was
8 inappropriate. In the last week or so, they chose
9 to be represented by the Greater Philadelphia
10 Chamber of Commerce in trying to not only oppose
11 these two Bills through those entities, but also
12 escape their individual policy positions. We
13 actually have had no direct response from any member
14 of the banking community.

15 I've met with several over the last week
16 or two, over the last several months, before the
17 hearings in the fall. No bank, First Union, PNC,
18 Citizens, Commerce, United Bank or any other bank
19 has opposed these Bills directly. In fact, I'm very
20 proud of what they have done in actually issuing
21 their reinvestment statement. Because of the
22 statements they have issued -- and you'll find the
23 full statements in the red package and summaries of
24 the statements within the package with the binder on
25 it. Because members of this Council passed a Fair

1 3/26/03 - FINANCE - BILLS 030022, 030023
2 Lending Law, co-introduced by all members of
3 Council, passed by all Members of Council, signed by
4 the Mayor, we have a commitment this year for those
5 five banks mentioned before of 1,377 small business
6 loans, 3,056 home improvement loans, home mortgages,
7 other refinances and 15 community development
8 investments. I think for the \$361 million we have
9 invested in those banks, deposit in those banks on a
10 daily basis, it's only right that they tell us what
11 they're going to do in low and moderate income
12 communities.

13 So on one hand, I salute those five
14 banks for their reinvestment statements. I have to
15 note for the record that through the Greater
16 Philadelphia Chamber of Commerce, through the
17 Pennsylvania Bankers Association, through Greater
18 Philadelphia Urban Affairs Coalition, they still
19 behind the scenes are trying to shelf their
20 responsibility of telling us on an annual basis how
21 they will reinvest in our communities.
22 Interestingly enough, the vehicle they're trying to
23 use is Act 55, which is a law that was passed on the
24 state level to actually take action against
25 legislation authored by Councilwoman Tasco in her

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2 fight against predatory lending. And while they
3 claim that they can preempt any legislation that we
4 offer in this Council, I believe that the City and
5 the City Solicitor can defend its actions and decide
6 what they do with City depositories. We decide, as
7 a matter of Home Rule, who we deposit our money in.
8 This Council decides, as a matter of Home Rule, who
9 is authorized to receive those deposits, not only by
10 the last Charter, but by the Charter before it.
11 Even by the 1919 Charter, that power is invested in
12 this Council to decide who is authorized. So those
13 statements, I will just say that I look forward to
14 the testimony.

15 I plan on moving, taking action on the
16 first Bill today, 030022. I'm planning on amending
17 the second Bill because, actually, there's a
18 technical mistake in it. The way the Bill reads
19 now, it actually lists the five banks that we want
20 to keep as City depositories because of their
21 commitments. We actually need to make that
22 technical amendment to show the banks that we would
23 actually be striking from the list of City
24 depositories in order to keep those five. I want to
25 keep that Bill in Committee after amending it, not

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2 only to deal with some of the technical issues
3 involved and to make sure that we are legally
4 amending it by holding another hearing on it, but
5 also, I don't think we should take the
6 responsibility of axing City depositories lightly.
7 So I want this Committee, I want this full Council
8 to do it and to do it for the right reasons, decide
9 which ones we will ax.

10 And finally, I would note for the record
11 that the actual list of City depositories actually
12 needs a lot of cleaning up anyway, because there are
13 banks that are defunct, have merged and so forth.
14 So I will be taking action on 22, but I will
15 actually seek to amend 23 and keep it in Committee.

16 Thank you, Madam Chair.

17 COUNCILWOMAN BLACKWELL: Thank you,
18 Councilman.

19 Please identify yourself for the record.

20 Good morning.

21 MR. KEMP: Should I read my testimony on
22 both Bills?

23 COUNCILWOMAN BLACKWELL: Please, yes.

24 MR. KEMP: First, I'd like to make note
25 that there is an error in my written testimony.

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2 COUNCILWOMAN BLACKWELL: Please identify
3 yourself first.

4 MR. KEMP: Good Morning, Chairwoman
5 Blackwell. I'm Corey Kemp, the City Treasurer. I
6 want to make note that there is an error in my
7 written testimony. It speaks to the Committee on
8 Commerce and Economic Development instead of the
9 Finance Committee. I apologize for that oversight.

10 Like I said before, I am Corey Kemp,
11 City Treasurer. With me is Joseph Faraldo, Deputy
12 City Treasurer. We are here to provide information
13 relative to Bill No. 030022, which requires the City
14 Treasurer on July 1st of each year to certify to the
15 President of Council whether or not each bank on the
16 list of City depositories have provided the City
17 with an annual statement of community reinvestment
18 goals. Bill No. 030022 also requires the City
19 Treasurer to withdraw all funds from any bank or
20 institution that has not complied with this
21 requirement. The following banks have provided
22 information pertaining to their annual statements of
23 community reinvestment goals:

24 Citizens Bank, whose goals include 800
25 residential mortgage loans, 200 home improvement

1 3/26/03 - FINANCE - BILLS 030022, 0300023

2 loans, 300 small business loans and 15 community
3 development loans.

4 Commerce Bank, whose goals include 150
5 residential loans, 50 home improvement loans, 80
6 small business loans and \$3 million of grants in
7 community investments.

8 First Union, whose goals include 1,290
9 residential mortgage and home improvement loans and
10 579 small business loans.

11 PNC, whose goals include 500 residential
12 mortgage and home improvement loans, 400 small
13 business loans and \$1,500,000 of grant funding in
14 community development investments.

15 United Bank, whose goals include 18
16 small business loans, 66 consumer loans, 500 student
17 loans, 500 credit card approvals and 30 loans to
18 disabled individuals.

19 Mellon Bank, HSBC, and Republic First
20 Bank also provided information in response to their
21 community reinvestment goals.

22 We are also here to provide information
23 relative to Bill No. 030023. To be considered as a
24 City depository, a bank or financial institution
25 must be insured by a federal corporation, have been

Banks or institutions designated by City Council as depositories of City funds shall deposit with a Federal Reserve Bank or another commercial bank, secure these as described in Chapter 19-201, Section 4A as collateral for such deposits.

Thank you for the opportunity to appear before the Committee today. I will be happy to answer any questions the Committee has for me at this time.

Questions from Members of the Committee?

1 3/26/03 - FINANCE - BILLS 030022, 0300023

2 Councilman Goode.

3 COUNCILMAN GOODE: Mr. Kemp, very
4 quickly. Which banks do you view as being in
5 compliance with the Fair Lending Law?

6 MR. KEMP: You want me to name them all?

7 COUNCILMAN GOODE: Yes.

8 MR. KEMP: Citizens Bank, Commerce Bank,
9 First Union National Bank, PNC, United. And I also
10 included Mellon, HSBC and Republic First Bank
11 because they did reply to the request for
12 information.

13 COUNCILMAN GOODE: If we were to limit
14 the list of City depositories to those eight, would
15 that provide any problems in terms of our depository
16 relationships in terms of where our money is
17 deposited at this point?

18 MR. KEMP: Not at this time.

19 COUNCILMAN GOODE: If we limit it to the
20 five that I've talked about that actually presented
21 numerical goals, would that present any particular
22 problems?

23 MR. KEMP: It would only because Mellon
24 Bank has our pension payroll account, which
25 obviously we use to pay our pensioners on a monthly

1 3/26/03 - FINANCE - BILLS 030022, 0300023

2 basis. So we would have to make some changes to
3 that.

4 COUNCILMAN GOODE: Has Mellon Bank
5 refused to give numerical goals?

6 MR. KEMP: I have not received numerical
7 goals from Mellon Bank.

8 COUNCILMAN GOODE: For the record, can
9 we ask them again for numerical goals?

10 MR. KEMP: Yes, I will ask them again
11 for numerical goals.

12 COUNCILMAN GOODE: Thank you.

13 Thank you, Madam Chair.

14 COUNCILWOMAN BLACKWELL: Thank you very
15 much.

16 Are there further questions from Members
17 of the Committee with regard to either of these two
18 Bills?

19 (No response.)

20 COUNCILWOMAN BLACKWELL: Thank you very
21 much.

22 We will then close our public hearing
23 and enter into stated meeting.

24 - - -

25 COUNCIL OF THE CITY OF PHILADELPHIA

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PUBLIC MEETING
COMMITTEE ON FINANCE

- - -

March 26, 2003

- - -

Public Meeting conducted by the
Committee on Finance, held in Room 696, City Hall,
Philadelphia, Pennsylvania, on the above date, to
consider action on the following:

BILLS 030015, 030022, 030023.

- - -

PRESENT:

COUNCILWOMAN JANNIE BLACKWELL, Chair
COUNCIL PRESIDENT ANNA C. VERNA
COUNCILMAN DAVID COHEN
COUNCILMAN FRANK DICICCO
COUNCILMAN W. WILSON GOODE
COUNCILMAN JAMES KENNEY
COUNCILMAN MICHAEL NUTTER
COUNCILMAN ANGEL ORTIZ
COUNCILWOMAN MARIAN TASCO

- - -

1 03/26/03 - FINANCE - PUBLIC MEETING

2 COUNCILWOMAN BLACKWELL: The Chair would
3 like to recognize Councilman Nutter with regard to
4 amendments to Bill No. 030015.

5 COUNCILMAN NUTTER: Thank you, Madam
6 Chair.

7 Madam Chair, the proposed amendments
8 have been circulated with regard to 030015. There
9 is one additional amendment that I wish to put
10 forward at the Chair's recommendation with regard to
11 some of the discussion around the term, "interested
12 party."

13 We put on the record what the
14 legislative intention was, but I think the Chair's
15 note on that, what I would suggest is that I could
16 in that -- on Page 2, Section 17-1102(B), right
17 after the phrase, "interested party," Madam Chair, I
18 could put in parentheses or suggest in parentheses,
19 "which may be the City, a City" --

20 COUNCILWOMAN BLACKWELL: Excuse me one
21 moment. We're going to write exactly what you say.
22 You want the words, "which may be"?

23 COUNCILMAN NUTTER: Yes. I was going to
24 insert it right after "interested party" and then
25 put in parentheses so that it's defining the

1 03/26/03 - FINANCE - PUBLIC MEETING

2 interested party. "(Which may be the City, a
3 City-related agency or Member of City Council)" and
4 then the sentence would continue, detailing the
5 attempts.

6 COUNCILWOMAN BLACKWELL: All right. And
7 I believe the other amendments have been circulated?

8 COUNCILMAN NUTTER: The other amendments
9 have been circulated and they are printed and I'll
10 tremendously quickly go through.

11 On page 2, 17-1102, in one, that
12 sentence could have been read to be construed that a
13 member could not introduce a Bill or Resolution on a
14 particular matter. Obviously, that actually doesn't
15 make any sense, and I would not be seeking to
16 prevent any member from introducing anything. So
17 the word "no" is deleted and the word "a" to start
18 that sentence is added.

19 The other significant amendment is on
20 page 3, number 5. It strikes the first sentence
21 which reads, "It shall be the duty of the City
22 Controller upon receiving a written request from the
23 Mayor or a Member of Council to provide an economic
24 impact statement or other statement required by
25 Subsection 1A." That addresses a concern raised by

1 03/26/03 - FINANCE - PUBLIC MEETING

2 the Law Department as to Council's legal authority
3 to require action by the City Controller. They have
4 a very long and detailed legal explanation about the
5 separation between the two entities, but suffice to
6 say, I want to address that particular issue.

7 And then all of the other amendments are
8 listed in the Bill, but those were the significant
9 ones.

10 COUNCILMAN NUTTER: Madam Chair, I would
11 move the adoption of the amendments as printed, and
12 as read into the record, the additional one
13 regarding better defining "interested parties" to
14 Bill 030015.

15 (Duly seconded.)

16 COUNCILWOMAN BLACKWELL: It has been
17 moved and seconded that the amendment as read and
18 also circulated for Bill No. 030015 be approved.

19 All in favor?

20 (Aye.)

21 COUNCILWOMAN BLACKWELL: Opposed?

22 (No response.)

23 COUNCILWOMAN BLACKWELL: The ayes have
24 it. And so the amendment is reported out of this
25 stated meeting.

1 03/26/03 - FINANCE - PUBLIC MEETING

2 The Chair recognizes Councilman Nutter
3 for a motion for Bill No. 030015, as amended.

4 COUNCILMAN NUTTER: Thank you, Madam
5 Chair.

6 I move that Bill 030015 as amended be
7 reported out of this Committee with a favorable
8 recommendation and a further recommendation that the
9 Rules of Council be suspended so as to permit first
10 reading at our next Session.

11 (Duly seconded.)

12 COUNCILWOMAN BLACKWELL: It has been
13 moved and seconded.

14 All in favor?

15 (Aye.)

16 COUNCILWOMAN BLACKWELL: Opposed?

17 (No response.)

18 COUNCILWOMAN BLACKWELL: The ayes have
19 it. And therefore, Bill No. 030015, as amended, has
20 been reported out of Committee with a favorable
21 recommendation, and also a recommendation for
22 suspension of the Rules so as to be considered at
23 our next Session of Council.

24 The Chair now recognizes Councilman
25 Goode with regard to Bill 030022.

1 03/26/03 - FINANCE - PUBLIC MEETING

2 COUNCILMAN GOODE: Madam Chair, I move
3 that Bill 030022 be reported out of Committee with a
4 favorable recommendation and that the Rules of
5 Council be suspended as to permit first reading at
6 our next Council Session.

7 (Duly seconded.)

8 COUNCILWOMAN BLACKWELL: It has moved
9 and seconded that Bill No. 030022 be reported out of
10 Committee with a favorable recommendation, and also
11 a recommendation for a suspension of the Rules so as
12 to be considered at our next Session of Council.

13 All in favor?

14 (Aye.)

15 COUNCILWOMAN BLACKWELL: Opposed?

16 (No response.)

17 COUNCILWOMAN BLACKWELL: Councilman
18 Goode, we would like to recognize you with a
19 statement with regard to Bill No. 030023.

20 COUNCILMAN GOODE: Thank you, Madam
21 Chair.

22 With regard to Bill 030023, I circulated
23 amendments to all Members of the Committee and I
24 move for the approval of the amendment.

25 (Duly seconded.)

1 03/26/03 - FINANCE - PUBLIC MEETING

2 COUNCILWOMAN BLACKWELL: It has been
3 moved and seconded that amendment to Bill No. 030023
4 be approved.

5 All in favor?

6 (Aye.)

7 COUNCILWOMAN BLACKWELL: Opposed?

8 (No response.)

9 COUNCILWOMAN BLACKWELL: Therefore, the
10 amendment to Bill No. 030023 has been approved.

11 Councilman Goode.

12 COUNCILMAN GOODE: Thank you, Madam
13 Chair.

14 I would like to hold that Bill as
15 amended in Committee for further hearings.

16 COUNCILWOMAN BLACKWELL: So moved.

17 All in favor?

18 (Aye.)

19 COUNCILWOMAN BLACKWELL: All right.

20 Thank you very much.

21 This will end our Finance hearing.

22 We thank all Members of the Committee as
23 well as all those who testified and who are here.

24 Thank you.

25 (Council adjourned at 12:20 p.m.)

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

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of March 26, 2003, were reported fully
and accurately by me, and that this is a correct
transcript of the same.

RE: COMMITTEE ON FINANCE

Lisa C. Bradley, RPR
and Notary Public