

1

2

- - -

3

COUNCIL OF THE CITY OF PHILADELPHIA

4

PUBLIC HEARING - COMMITTEE ON LAW & GOVERNMENT

5

- - -

6

Room 400, City Hall

7

Philadelphia, Pennsylvania

8

Thursday, May 5, 2005, 2:20 p.m.

9

- - -

10 Bill 050286 - An Ordinance providing for the
11 submission to the qualified electors
12 of the City of Philadelphia of the
13 proposal set forth in a Resolution
14 approved by Council proposing
15 amendment of the Philadelphia Home
16 Rule Charter relating to Council's
17 power to adopt by ordinance
18 standards for the organization of
19 the Fire Department and the manner
20 by which the Fire Department carries
21 out its powers and duties, including
22 the deployment of Fire personnel,
23 and the duty of the fire
24 Commissioner, Managing Director and
25 Mayor to abide by any such standards
in managing and supervising the work
of the Fire Department; and
authorizing the appropriate officers
to publish notice and to make
arrangements for the special
election.

22

- - -

23

V A R A L L O Incorporated

24

Litigation Support Services

25

1835 Market Street, Suite 600
Philadelphia, Pennsylvania 19103
215.561.2220 215.567.2670

1

2 Bill 050301 - An Ordinance amending Title 20 of
3 The Philadelphia Code, entitled
4 "Officers and Employees," by
5 amending the provisions relating to
6 campaign contributions and
7 expenditures, relating to, including
8 but not limited to, the District
9 Attorney, City Controller, Register
10 of Wills, Sheriff, Clerk of Quarter
11 Sessions Court and City
12 Commissioner.

13 Res. 050292 - Resolution proposing an amendment to
14 the Philadelphia Home Ruler Charter
15 relating to Council's power to adopt
16 by ordinance standards for the
17 organization of the Fire Department
18 and the manner by which the Fire
19 Department carries out its powers
20 and duties, including the deployment
21 of Fire personnel, and the duty of
22 the Fire Commissioner, Managing
23 Director and Mayor to abide by any
24 such standards in managing and
25 supervising the work of the Fire
Department, and providing for the
submission of the amendment of the
electors of Philadelphia.

PRESENT:

18

19 COUNCILMAN JAMES F. KENNEY, Vice Chair
20 COUNCILMAN DiCICCO
21 COUNCILMAN JACK KELLY
22 COUNCILMAN RICHARD T. MARIANO
23 COUNCILMAN MICHAEL NUTTER
24 COUNCILMAN BRIAN J. O'NEILL
25 COUNCILMAN FRANK RIZZO

1 Law & Gov't - 5/5/05

2 - - -

3 P R O C E E D I N G S

4 - - -

5 COUNCILMAN KENNEY: Ladies and
6 gentlemen, may I have your attention.

7 Present today are Councilmen
8 DiCicco, O'Neill, Mariano and Rizzo.

9 Under normal circumstances,
10 Councilman Cohen would be chairing this
11 committee, but I as vice chair am sitting in
12 for him today.

13 We will be hearing testimony on
14 three bills today. The first is Bill Number
15 050286, which is an ordinance providing for
16 the submission to the qualified electors of
17 the City of Philadelphia of the proposal set
18 forth in a Resolution approved by Council --
19 I'm sorry. We're going to strike that.

20 I'm going to go back to Bill Number
21 050301, which is an ordinance amending Title
22 20 of The Philadelphia Code, entitled
23 "Officers and Employees," by amending the
24 provisions relating to campaign contributions
25 and expenditures, relating to, including but

1 Law & Gov't - 5/5/05
2 not limited to, the District Attorney, City
3 Controller, Register of Wills, Sheriff, Clerk
4 of Quarter Sessions Court and City
5 Commissioner.

6 Is there anybody from the
7 administration that's scheduled to testify on
8 this bill?

9 (No response.)

10 COUNCILMAN KENNEY: Councilman
11 O'Neill, do you have anything you'd like to
12 say prior to the testimony?

13 COUNCILMAN O'NEILL: No.

14 COUNCILMAN KENNEY: Anyone here to
15 testify on this bill? Please come forward
16 and identify yourself for the record.

17 The Chair recognizes Councilman
18 O'Neill.

19 COUNCILMAN O'NEILL: Thank you, Mr.
20 Chair.

21 The two possible amendments today
22 that may want to be commented on. I thought
23 it might be a good idea to speak up front.

24 Councilman Nutter had mentioned that
25 he thought he would have an amendment

1 Law & Gov't - 5/5/05
2 prepared to take the individual yearly
3 contribution limit from 1,000 to 2,000 to
4 make it the same, consistent with the current
5 version of the bill that is still in the
6 process of, hopefully, being passed, dealing
7 with pay to play, that he has sponsored.

8 And also to be consistent with that
9 bill as well, that the PAC contribution limit
10 be raised from five to 10,000 because that's
11 what's in the other bill. So this would be a
12 straight -- a straight line.

13 The only other thing I mentioned for
14 the committee members present -- and I had
15 mentioned to it Councilman Nutter -- is that
16 the row offices that are in this bill are set
17 at 50,000 a year in the non-election years,
18 in terms of their fund raising limit.

19 And in the election year the
20 voluntary piece that's in the original
21 legislation is the same as Council's 200,000
22 spending limit, if the candidate chooses to.

23 And many people have suggested, not
24 just from the row office standpoint, but from
25 Council's standpoint, that more reasonable

1 Law & Gov't - 5/5/05

2 numbers may be 75,000 in the three off years,
3 in terms of the fund raising limit, and
4 \$250,000, in terms of the voluntary spending
5 limit in an election year. I'll leave that
6 up to the committee, and if Councilman Nutter
7 comes on the other.

8 COUNCILMAN KENNEY: Any witnesses on
9 this bill, please feel free to comment on the
10 additional comments made by Councilman
11 O'Neill.

12 Please identify yourself for the
13 record.

14 MR. LEVINSON: Yes. Councilman
15 Kenney, thank you very much.

16 COUNCILMAN KENNEY: You're welcome.

17 MR. LEVINSON: My name is Hillel
18 Levinson. I am the Republican candidate for
19 City Controller.

20 And I've been invited here to
21 testify on the amendment to the ordinance
22 having to do with campaign contributions.

23 I guess first let me start off by
24 saying this is the first time I've been back
25 in these chambers since 1979.

1 Law & Gov't - 5/5/05

2 COUNCILMAN KENNEY: How's it look?

3 MR. LEVINSON: Looks pretty good.

4 You did a good job on fixing it up.

5 But it's a very comfortable thing.

6 I had some very interesting moments and hours
7 here back in the '70s, as you probably
8 remember.

9 But I thank you very much.

10 I'm here just to support the
11 amendments to the ordinance. I think it's
12 only fair that if there are restrictions or
13 conditions imposed upon the Mayor and City
14 Council, that they also be imposed upon other
15 elected officials in the City of
16 Philadelphia.

17 And I'm very comfortable with either
18 limit, by the way. I don't necessarily feel
19 it's important for me to be able to
20 distinguish between the limit that's in the
21 original version that I saw, and the
22 suggested changes that Councilman Nutter has
23 made.

24 But let me go on to add, if I may,
25 that I hope we can all agree that this is

1 Law & Gov't - 5/5/05
2 probably just a starting point, in terms of
3 trying to straighten out some of the critical
4 issues that are facing the City of
5 Philadelphia.

6 I've been campaigning now for a
7 little better than three months. And I go
8 into every neighborhood that I'm invited and
9 some neighborhoods that I'm not invited.

10 But across the board, in every
11 neighborhood, people are disgusted by what
12 they at least are reading. And again, I'm
13 not here to say that everything they read is
14 accurate.

15 But the impression that most of the
16 taxpayers, the responsible taxpayers, in the
17 City of Philadelphia have is that things are
18 out of control in the City of Philadelphia,
19 and someone really has to stand up and do
20 something about it.

21 My father used to tell me when I was
22 a kid growing up, when I would come and
23 complain to him that... He would say,
24 Hillel, stop complaining and do something
25 about it.

1 Law & Gov't - 5/5/05

2 Well, I think maybe that's something
3 that all of us can look at and see whether we
4 have an opportunity to do something about it.

5 This is clearly a good starting
6 point. But again, if everyone here thinks
7 this is all we have to do to straighten out
8 the operation of City government, I think
9 we're deluding ourselves.

10 So, I thank you for the opportunity.
11 I appreciate it.

12 I would like to leave you with one
13 more thought. One of the things that I'm
14 running as a Republican is that in the City
15 Charter, in the first section it refers to
16 the City Controller as being independent of
17 the officials that he will audit.

18 I think the realities of party
19 politics today is very difficult for someone
20 in the same party -- And it has nothing to do
21 with whether the Democrats are in control or
22 the Republicans are in control.

23 With party politics, it's very
24 difficult for a person who is of the same
25 party as the Mayor and City Council to be as

1 Law & Gov't - 5/5/05

2 critical and as much of a watch dog as is
3 necessary in the Controller's Office.

4 And I would respectfully request you
5 to look at the issue of whether or not an
6 amendment to the City Charter could be
7 created that would require the Controller to
8 be in some way more independent of the party
9 system that we now have in place.

10 I think it would go a long way, in
11 addition to what you're doing today, to help
12 straighten out the situation.

13 And I thank you very much.

14 COUNCILMAN KENNEY: Thank you for
15 your testimony.

16 Any questions for Mr. Levinson?

17 (No response.)

18 COUNCILMAN KENNEY: Seeing none, we
19 thank you for coming in and for your
20 thoughts.

21 MR. LEVINSON: Thank you.

22 COUNCILMAN KENNEY: Thank you.

23 I'd like the record also to reflect
24 that former City Controller or I guess he's
25 current City Controller.

1 Law & Gov't - 5/5/05

2 Jonathan Saidel has sent a letter.

3 Dear Councilman O'Neill: I hope this
4 correspondence finds you in good health.

5 It's my understanding the hearing on
6 Bill 050301 will be held on May 5th for the
7 Law and Government Committee.

8 Though I believe the campaign
9 contributions and expenditures bill in
10 question leaves a lot to be desired, I
11 support the inclusion of the City Controller
12 election and these limitations the. Other
13 officers mentioned should also be included.

14 We also have a memo or -- Yeah, memo
15 from the Philadelphia League of Women Voters,
16 who are also sporting the amendment or this
17 particular piece of legislation.

18 Is there anyone else in the room to
19 testify on Bill Number 050301?

20 Please.

21 We will let also the record reflect
22 Councilman Nutter is also in attendance,
23 along with Councilman Kelly.

24 MR. SCHWARTZ: Good afternoon.

25 COUNCILMAN KENNEY: Good afternoon.

1 Law & Gov't - 5/5/05

2 Please identify yourself for the record.

3 MR. SCHWARTZ: My name is Louis
4 Schwartz.

5 COUNCILMAN KENNEY: Please proceed.

6 MR. SCHWARTZ: I'm an attorney in
7 the City.

8 Let me also add I am the Republican
9 candidate for District Attorney, and for the
10 record I am in favor of this bill.

11 I think we can all agree that the
12 increasingly high cost of political campaigns
13 is counterproductive to democracy, for many,
14 many reasons.

15 And a lot of politicians are of the
16 opinion that they can benefit financially
17 from policy decisions. And for this reason I
18 think we need to impose limitations.

19 COUNCILMAN KENNEY: Thank you very
20 much for your testimony.

21 Questions for the witness?

22 (No response.)

23 COUNCILMAN KENNEY: Seeing none,
24 anyone else in the room to testify on this
25 bill?

1 Law & Gov't - 5/5/05

2 Please.

3 MR. SHERIDAN: Chris Sheridan,
4 Committee of 70.

5 COUNCILMAN KENNEY: Thank you.

6 Please identify yourself for the
7 record.

8 MR. SHERIDAN: Sure. My name is
9 Christopher Sheridan. I am Policy Director
10 for the Committee of 70.

11 Good afternoon, Councilman Kenney.

12 COUNCILMAN KENNEY: Good afternoon.

13 MR. SHERIDAN: Members of the Law
14 and Government Committee.

15 I'm here in my professional capacity
16 as Policy Director for on the Committee of
17 70. And I thank you for the opportunity to
18 address this body this afternoon on an issue
19 the Committee of 70 considers an important
20 matter of public interest.

21 As an initial consideration,
22 extending the current campaign finance
23 ordinance to all elected municipal offices
24 serves the interests of both consistency and
25 uniformity.

1 Law & Gov't - 5/5/05

2 With all candidates for municipal
3 office covered by the same dollar limits,
4 contributors would have a uniform set of
5 rules to follow without exception.

6 Extending the contribution limits
7 applicable to mayoral and City Council
8 candidates which are as proposed, a though
9 per person and five thousand for political
10 committees to the Offices of District
11 Attorney, City Controller, Register of Wills,
12 Clerk of Quarter Sessions, and City
13 Commissioner, will give the public increased
14 confidence that those who are elected to
15 these offices will not be beholden to major
16 contributors.

17 It would also create an incentive
18 for candidates for these offices to organize
19 more fund raising that is targeted towards
20 modest contributions of 25, 50 or a hundred
21 dollars, and actively solicit the
22 participation of a wider cross-section of the
23 community in funding their -- in the funding
24 of their campaigns.

25 Regarding the effective date for the

1 Law & Gov't - 5/5/05

2 proposed amendments, 70 favors an effective
3 date after the conclusion of the current
4 election cycle, for example, January 1, 2006.

5 If these amendments take effect
6 immediately upon passage by City Council and
7 this bill becomes law prior to the municipal
8 election on November 8th, there's the
9 potential to disrupt the current campaigns
10 for District Attorney and City Controller.

11 A 2006 effective date would also be
12 consistent with implementation of the
13 original legislation which became law on
14 December 18, 2003 which was after the
15 completion of the 2003 municipal cycle and
16 well ahead of the first covered cycle at that
17 time, the 2007 mayoral cycle.

18 It should also be noted that the
19 2006 effective date for these amendments
20 would not preclude the 2005 candidates for
21 D.A. and City Controller from publicly
22 pledging or from agreeing with their
23 opponents to voluntarily comply with these
24 provisions.

25 As a final consideration, 70's legal

1 Law & Gov't - 5/5/05
2 staff publicly expressed concerns in early
3 2004 that the original campaign finance
4 legislation covering candidates for Mayor and
5 City Council might be partially struck down
6 by the Pennsylvania courts as preemptive by
7 the Pennsylvania Election Code, which is
8 Title 25, on the basis that the General
9 Assembly had created a comprehensive body of
10 legislation governing public elections.

11 Our legal staff still has concerns
12 about the enforceability of Philadelphia's
13 campaign finance law.

14 But as with every legally enacted
15 ordinance, it is the law of the City unless
16 and until a successful legal challenge is
17 brought.

18 COUNCILMAN KENNEY: Not always.
19 Sometimes we pass laws in here that just get
20 ignored before any judge rules on them.

21 But I understand your position. I
22 couldn't -- Your comment just elicited that
23 immediate response from me because I have one
24 instance now that we're dealing with.

25 So, please proceed. I didn't mean

1 Law & Gov't - 5/5/05

2 to interrupt you.

3 MR. SHERIDAN: Thank you.

4 The passage of these amendments will
5 also reaffirm the commitment of this Council
6 to municipal campaign finance reform, and
7 send a message to our citizens, prospective
8 candidates, prospective contributors, the
9 Pennsylvania General Assembly, and the
10 Pennsylvania courts that Philadelphia's
11 elected legislators consider both
12 contribution limits and increased
13 transparency via the section which mandates
14 singular campaign accounts as priorities for
15 municipal elections.

16 Finally, the Committee of 70 is
17 pleased to have been included in the original
18 version of this legislation pertaining to the
19 creation of election reform board, and would
20 welcome the opportunity to participate.

21 Thank you for your time and
22 consideration, and thank you Councilman
23 O'Neill to appear here today.

24 COUNCILMAN KENNEY: Thank you.

25 The Chair recognizes Councilman

1 Law & Gov't - 5/5/05

2 Rizzo.

3 COUNCILMAN RIZZO: Thank you.

4 There's some... And I don't want to
5 use the word controversy, but there's some, I
6 think, confusion on my part.

7 I've heard that the Register of
8 Wills cannot be affected by this particular
9 legislation because it's some constitutional
10 issue. Maybe the sponsor --

11 COUNCILMAN KENNEY: Councilman, I
12 believe that Councilman O'Neill does have
13 information relative to the Register of Wills
14 and what may be done.

15 COUNCILMAN O'NEILL: I have a
16 severability clause.

17 COUNCILMAN RIZZO: Could you explain
18 what the issue is?

19 COUNCILMAN O'NEILL: Well, there's a
20 question as to whether or not --

21 COUNCILMAN MARIANO: Councilman
22 O'Neill, before you ask that question, let me
23 ask this to you or him, whoever wants to
24 answer. Looks like it's you, that... maybe
25 the second part of Councilman Rizzo's

1 Law & Gov't - 5/5/05

2 question. The D.A., too. Aren't they county
3 employees? Do we have the authorization to
4 do that?

5 COUNCILMAN O'NEILL: Here's the
6 question on --

7 COUNCILMAN RIZZO: Turn your light
8 on.

9 COUNCILMAN O'NEILL: There's an
10 issue with the D.A. I don't think it's a big
11 issue. Because we know that under the Arlen
12 Specter case in 1967 the Supreme Court ruled
13 that the D.A. is subject to not state law,
14 even though it's technically a state
15 position, but to the City Charter, in terms
16 of having to resign to run.

17 The decision came down a week before
18 the election. So, the Supreme Court said, in
19 this case because it's one week before the
20 general election that we're making our
21 decision, Mr. Specter, the District Attorney,
22 does not have to resign.

23 Going forward, D.A.s have to resign.
24 And I understand now Justice Castille
25 resigned when he ran for Mayor.

1 Law & Gov't - 5/5/05

2 So, you can argue yes, no, but
3 there's a severability clause here, that if
4 it's challenged and it's taken out, it won't
5 affect everyone else.

6 I think from a policy standpoint
7 it's incumbent upon us to treat every office
8 under this -- under this bill the same.

9 And there's an argument that can be
10 made with the Register of Wills that it's a
11 constitutional office not bound by the
12 Charter.

13 If this Register or another Register
14 of Wills wants to go there and say, I'm
15 different from everybody else; I need more
16 money or I need bigger contributions which I
17 don't think is going to happen, there's a
18 severability clause that doesn't affect
19 everyone else, if some judge removes that
20 portion of it affecting in one case the
21 District Attorney, in the other case -- But I
22 think there would be enough political
23 pressure on both offices not to want to go
24 there.

25 And I think it's important that --

1 Law & Gov't - 5/5/05

2 that we deal with it the way we think it
3 should best be done today and not play judge
4 and jury, trying to figure out what some
5 court might do later.

6 I think we're doing the right thing
7 if we bring them in, but allow severability.
8 I have the amendment here that the Solicitor
9 has prepared.

10 COUNCILMAN MARIANO: Councilman,
11 would that include the Clerk of Quarter
12 Sessions also?

13 COUNCILMAN O'NEILL: I don't think
14 there's any question about the Clerk of
15 Quarter Sessions. They're in it. Nobody's
16 raised the issue with the Clerk of Quarter
17 Sessions at all.

18 COUNCILMAN MARIANO: And the Sheriff
19 also?

20 COUNCILMAN O'NEILL: Sheriff also,
21 yes.

22 COUNCILMAN MARIANO: Okay. Thank
23 you.

24 COUNCILMAN KENNEY: Any questions?
25 Councilman?

1 Law & Gov't - 5/5/05

2 COUNCILMAN MARIANO: I have a
3 question. And I'm sorry. I forgot your
4 name.

5 MR. SHERIDAN: I'm Chris Sheridan.

6 COUNCILMAN MARIANO: Are you an
7 attorney?

8 MR. SHERIDAN: Yes.

9 COUNCILMAN MARIANO: Thank God.
10 Explain to me the part that the
11 original bill that the Councilman's basing
12 this on which is the one that affected this
13 cycle coming up for the Mayor's election.

14 Were you or the Committee of 70 --
15 You said something --

16 MR. SHERIDAN: Right.

17 COUNCILMAN MARIANO: -- about
18 concerns that the legality of it may not --
19 You had some questions. The committee had
20 some.

21 Explain to me like, I'm not an
22 attorney and I'm plain stupid. Okay? If you
23 could do that.

24 MR. SHERIDAN: We had concerns about
25 the enforceability, based on a prior case.

1 Law & Gov't - 5/5/05

2 That was the case where this Council sought
3 to regulate firearms. I believe it was -- I
4 don't know if it was Commonwealth vs. Ortiz
5 or Ortiz vs. Commonwealth.

6 COUNCILMAN KENNEY: Assault weapon
7 ban?

8 MR. SHERIDAN: Right. In the mid
9 '90s.

10 And essentially the theory on this
11 is that where the state enacts a
12 comprehensive legislative scheme, the cities
13 and counties are preempted from legislating
14 in that area, as is the same case with the
15 federal government versus the 50 states.

16 So the concern is that because they
17 have a comprehensive regulatory scheme for
18 campaign finance, although it does not
19 include dollar limits, they've legislated the
20 field so that you don't have the power to act
21 in this area.

22 COUNCILMAN MARIANO: So -- So,
23 basically, in my non-legal mind, you're
24 saying that the current bill that we passed,
25 that I voted against, anyway because I didn't

1 Law & Gov't - 5/5/05
2 get into all that legality part. I just
3 thought it wouldn't be fair if some state rep
4 wanted to run against a City Councilman or
5 Mayor and wouldn't have to resign.

6 That bill could be struck down due
7 to state constitutionality; is that what
8 you're saying?

9 MR. SHERIDAN: Right. It could be
10 preempted by -- The actions of Council
11 could --

12 COUNCILMAN MARIANO: Be preempted
13 by --

14 MR. SHERIDAN: -- be found to have
15 been preempted by --

16 COUNCILMAN MARIANO: -- by state --

17 MR. SHERIDAN: -- of the General
18 Assembly.

19 COUNCILMAN MARIANO: Legislation --
20 As -- As this Ortiz bill, over guns or
21 assault guns.

22 MR. SHERIDAN: Right. But that
23 remains to be seen.

24 COUNCILMAN MARIANO: So what's
25 keeping that from happening? Is somebody

1 Law & Gov't - 5/5/05

2 doing that?

3 MR. SHERIDAN: Someone has to bring
4 a case.

5 COUNCILMAN MARIANO: That could be
6 any citizen?

7 MR. SHERIDAN: And it works its way
8 through the courts.

9 COUNCILMAN MARIANO: Any citizen of
10 the Commonwealth or the City of Philadelphia
11 could bring a case against that campaign
12 finance bill that we passed here?

13 MR. SHERIDAN: I would believe
14 anyone who has standing, someone who would
15 want to contribute in excess of the limits or
16 a candidate who felt that the limits
17 improperly impinged on his or her ability to
18 raise money.

19 So I would say it would have to be a
20 potential contributor or a candidate to have
21 standing under that bill to challenge it.

22 COUNCILMAN MARIANO: Thank you.
23 Thanks for the explanation.

24 MR. SHERIDAN: You're welcome.

25 COUNCILMAN O'NEILL: Let me just

1 Law & Gov't - 5/5/05

2 add, Councilman Mariano, the standing
3 question is clear. Somebody has to have
4 standing to bring the action, and a lot of
5 people could claim standing here, I think.

6 But it's not so clear that it would
7 be -- that this legislation would be knocked
8 out by a preemption of the state.

9 The Supreme Court, both in state and
10 in the federal government, move back and
11 forth in this area as to where they see
12 preemption.

13 For instance, a state's rights,
14 where, you know, sometimes states rights,
15 sometimes federal. You don't know until you
16 get there, to be sure.

17 Environmental laws, you know, a lot
18 of liberals become state's rights activists
19 because states can enforce stricter
20 environmental laws than the Federal
21 Government.

22 In other areas they can't. So
23 you've got -- It's -- It's far from clear.
24 But the issue being raised, I think, is
25 important, so we know -- and I think the

1 Law & Gov't - 5/5/05

2 severability clause, if there's a particular
3 portion -- not what I talked about today, but
4 something else, maybe as to expenditures.

5 Maybe it's as to contributions.

6 Maybe it's as to one office versus another.

7 The severability at least leaves everything
8 else in place, if that's all that gets dealt
9 with in that.

10 COUNCILMAN MARIANO: So, Councilman,
11 as a citizen of the City of Philadelphia
12 which is a City of the First Class -- You
13 know, and correct me if I'm wrong here. I'm
14 going both on your legal abilities -- and you
15 can jump in here to sure I got this right.

16 In the State of Pennsylvania you can
17 do certain things. But if you come into this
18 City of Philadelphia -- I'm trying to think
19 of something that you can do in Bucks County
20 that you can't do here, that I'm sure. I
21 just can't think of something. There's
22 something, if anybody can think of something.
23 Is there an example? Can you think of an
24 example?

25 COUNCILMAN O'NEILL: Sometimes we're

1 Law & Gov't - 5/5/05
2 specifically excluded as a City of the First
3 Class. Sometimes we are included only as a
4 City of the First Class.

5 But you just don't know until
6 something's being challenged, until you get
7 to court. But I think raising the issue and
8 making it known that someone can is fine.

9 COUNCILMAN MARIANO: Could we relate
10 it to the current gun laws in the City of
11 Philadelphia?

12 I mean ten years ago it was really
13 hard to get a permit to carry a concealed
14 weapon in the City of Philadelphia. Then
15 about four or five or six years ago they were
16 relaxed.

17 Now, that was to, I thought, again,
18 in my non-legal mind, it was to level the
19 state -- across the state. Like, why should
20 you be able to get a permit to carry in
21 Shamokin, Pennsylvania?

22 Be easier than -- I mean, the
23 reasons to you and I are obvious. And what
24 we're seeing on the streets of
25 Philadelphia -- and this isn't a shot at

1 Law & Gov't - 5/5/05

2 anybody having to do with them gun laws.

3 I'm just trying to understand.

4 Because if I don't understand this, people

5 out here that are -- actually don't

6 understand this that are listening to this

7 and maybe reading about this tomorrow -- I

8 mean, this country was founded on state's

9 rights. And the Federal Government has

10 rights. And the City has rights.

11 I mean, which one is it, guys? I

12 mean, I hear what you're saying, Councilman.

13 And you're saying that just because it gets

14 challenged doesn't mean it's going to -- It

15 can be knocked down.

16 COUNCILMAN O'NEILL: You know, it's

17 just that you're better off if you know that

18 there are possible challenges. You're also

19 better off if there's a severability clause

20 to allow the law to stand, if only part of

21 the --

22 COUNCILMAN MARIANO: Because we as a

23 municipality or whatever we call

24 Philadelphia, the legal term, we -- we -- e

25 do that. We have certain laws that we can

1 Law & Gov't - 5/5/05

2 deem responsible, as may not be as
3 responsible outside that's the City borders.

4 COUNCILMAN O'NEILL: It's very
5 difficult to predict.

6 COUNCILMAN MARIANO: You got nothing
7 to say?

8 MR. SHERIDAN: No. I just... In
9 the event that we're challenged, given the
10 difference in subject matter, it would be a
11 case of first impression.

12 And depending on whether... the
13 degree of deference the courts want to show
14 to local control would determine -- partially
15 determine that outcome.

16 By passing these amendments, the
17 City Council of Philadelphia would send a
18 message to all involved that you're serious
19 about campaign finance reform, which I think
20 makes a stronger case in the event it is
21 ultimately challenged.

22 COUNCILMAN MARIANO: Thanks. Thanks
23 a lot.

24 COUNCILMAN KENNEY: Any other
25 questions for this witness?

1 Law & Gov't - 5/5/05

2 (No response.)

3 COUNCILMAN KENNEY: Am I right? Is
4 this the first official testimony of the new
5 regime of the Committee of 70 here in
6 Council? Have you been here at any other
7 hearing before or is it? Is this the first?

8 MR. SHERIDAN: My first official
9 appearance.

10 COUNCILMAN KENNEY: Congratulations.
11 And welcome officially. Thanks.

12 Any other questions for this
13 witness?

14 (No response.)

15 COUNCILMAN KENNEY: Seeing none,
16 thank you very much.

17 Any other witnesses on this bill?

18 (No response.)

19 COUNCILMAN KENNEY: Seeing none, we
20 will move to Bill Number 050286 and
21 Resolution Number 050292.

22 Resolution 050292 is a resolution
23 proposing an amendment to the Philadelphia
24 Home Ruler Charter relating to Council's
25 power to adopt by ordinance standards for the

1 Law & Gov't - 5/5/05
2 organization of the Fire Department and the
3 manner by which the Fire Department carries
4 out its powers and duties, including the
5 deployment of Fire personnel, and the duty of
6 the Fire Commissioner, Managing Director and
7 Mayor to abide by any such standards in
8 managing and supervising the work of the Fire
9 Department, and providing for the submission
10 of the amendment of the electors of
11 Philadelphia.

12 And Bill Number 050286, an ordinance
13 providing for the submission to the qualified
14 electors of the City of Philadelphia of the
15 proposal set forth in a Resolution approved
16 by Council proposing amendment of the
17 Philadelphia Home Rule Charter relating to
18 Council's power to adopt by ordinance
19 standards for the organization of the Fire
20 Department and the manner by which the Fire
21 Department carries out its powers and duties.

22 Could Managing Director Ramos and
23 Commissioner Ayers please, if they have
24 testimony, present themselves to the witness
25 table.

1 Law & Gov't - 5/5/05

2 Mr. Managing Director, is there
3 written testimony that -- Has it been
4 circulated?

5 MR. RAMOS: You have it.

6 COUNCILMAN KENNEY: Okay. Hold on.
7 Thank you.

8 Please identify yourselves for the
9 record and proceed.

10 MR. RAMOS: Good afternoon.

11 My name is Pedro Ramos. I'm
12 Managing Director of the City of
13 Philadelphia.

14 MR. AYERS: Good afternoon.

15 COUNCILMAN KENNEY: Good afternoon.

16 MR. AYERS: Fire Commissioner Lloyd
17 Ayers.

18 COUNCILMAN KENNEY: Whoever would
19 like to go first, please proceed.

20 MR. RAMOS: Good afternoon,
21 Councilman Kenney and members of the
22 Committee on Law and Government.

23 I am Pedro Ramos, Managing Director.
24 I am here to testify on Bill Number 050286
25 and Resolution 050292, which propose a

1 Law & Gov't - 5/5/05
2 Charter Change amendment and ordinance that
3 would empower City Council to manage the Fire
4 Department, by mandating standards for the
5 organization of the Fire Department, and by
6 directing the manner by which the Fire
7 Department carries out its powers and duties,
8 including the deployment of fire personnel
9 and the duty of the Fire Commissioner to
10 abide by standards determined by City
11 Council.

12 I am joined today by Fire
13 Commissioner Lloyd Ayers.

14 The administration opposes the
15 proposed legislation for two primary reasons.
16 First, the legislation assumes that the
17 current decision-making process is flawed,
18 and that the administration has erred in
19 making its proposed redeployment of fire and
20 emergency medical services personnel and
21 equipment.

22 Second, the resolution attempts to
23 make a fundamental and I think ill advised
24 change to the modern form of local government
25 established under the Home Rule Charter and

1 Law & Gov't - 5/5/05

2 does so in a piecemeal manner.

3 I recognize that Council is
4 concerned about the redeployment of public
5 safety officials and equipment.

6 No one is more concerned about the
7 safety of our residents and the safety of our
8 firefighters than the professional leadership
9 of the Philadelphia Fire Department.

10 With over 100 years of experience
11 among them, the City's Fire Commissioner and
12 deputies of the Philadelphia Fire Department
13 completed a careful and meticulous analysis
14 ensuring any proposed closure of fire, ladder
15 and engine companies would not affect
16 service, quality for firefighter safety.

17 Geo-coded maps were created that
18 detailed the location of all engine and
19 ladder companies, and the volume, distance
20 and response time for calls.

21 Fire Department management used
22 these maps to select the appropriate
23 companies for closure, to ensure this would
24 not impact service or safety.

25 Simulated runs were performed in

1 Law & Gov't - 5/5/05

2 June and August 2004 to check the time it
3 would take affected perimeter companies to
4 respond to their new first-in local areas.
5 This testing was done under a worst-case
6 scenario, at reduced speeds and without
7 lights or sirens.

8 It was against this factual
9 background that an arbitrator recently ruled
10 in the City's favor on the legality of the
11 department's proposed action.

12 As the City pointed out in
13 successfully defending a grievance filed by
14 the International Association of
15 Firefighters, the City developed the
16 redevelopment plan to address the shift in
17 demand from fire suppression to emergency
18 medical services, and to provide both fire
19 suppression and EMS services to the public in
20 the context of the City's current fiscal
21 crisis.

22 Again, this plan was well considered
23 and thoroughly evaluated by fire commanders
24 who in the aggregate had more than a hundred
25 years of firefighting experience.

1 Law & Gov't - 5/5/05

2 Field tests were conducted to
3 measure firefighter safety, and the
4 department additionally hired a consultant
5 who evaluated the plan, using the same
6 technology recommended by the Firefighters
7 International Union.

8 The results of these examinations
9 were consistent with earlier testimony from
10 the IAFF's expert on safety issues given at a
11 previous interest arbitration proceeding that
12 the number of companies did not present a
13 firefighter safety issue.

14 We are committed to maintaining our
15 record as one of the best metropolitan
16 emergency service departments in the country
17 and ensuring that our employees keep their
18 jobs, jobs that are safe.

19 It bears emphasis that the changes
20 the City of Philadelphia has proposed were
21 not solely a response to budget issues, but a
22 thoughtful effort to provide the best service
23 with the available resources.

24 They were designed to address the
25 changing environment that the Fire Department

1 Law & Gov't - 5/5/05

2 is facing, the needs of the City as they
3 change from time to time.

4 The nature of response calls has
5 changed drastically since fiscal year 1990.
6 While structural fires have been
7 significantly reduced, from approximately
8 4500 in fiscal year 1990 to 2500 in fiscal
9 year 2003, emergency medical service runs
10 have increased from just over 100,000 runs in
11 fiscal year 1990 to slightly fewer than
12 200,000 in fiscal year 2003, an increase of
13 almost 100 percent.

14 Thus, while four ladder companies
15 and four engine companies are considered for
16 realignment and the equipment and personnel
17 redeployed, we are also expanding EMS units
18 by eight advanced life support units.

19 This addition would not only
20 increase the total number of active EMS units
21 available to 48, but would redeploy these
22 added vehicles to neighborhoods where they
23 are most needed, namely, Old City, Richmond,
24 Greenwich, Fairmount, Port Richmond, Bella
25 Vista, Summerdale and Overbrook.

1 Law & Gov't - 5/5/05

2 The realignment plan by the Fire
3 Department will not leave any areas of the
4 City unprotected. Boundaries for each region
5 have been reconfigured to accommodate the
6 engine and ladder realignments to ensure that
7 there is adequate and safe coverage.

8 They will not affect the number of
9 companies and personnel responding to a call,
10 and the Fire Department will continue to meet
11 the standard for response time established by
12 the National Fire Protection Association.

13 Fundamentally speaking, City
14 management must have the flexibility to
15 manage resources to changing needs. This is
16 essential to any administration, present and
17 future, and to the executive function of
18 government, especially under the design of
19 our City Charter.

20 I hope that I have demonstrated the
21 meticulous analysis that preceded our
22 decision. I would stress again that part of
23 our plan was to increase our capacity to
24 provide EMS services. In other words, we
25 hope to enhance, not diminish, the total

1 Law & Gov't - 5/5/05
2 services citizens receive from the Fire
3 Department, which living within the City's
4 means, and while ensuring that other
5 departments had the resources they needed to
6 fulfill their responsibilities to your
7 constituents.

8 In short, I believe that the
9 administration fulfilled its responsibilities
10 under the Charter to provide safety and
11 provide other City services and maintain a
12 balanced budget.

13 The proposed Charter amendment
14 contained in Resolution 050292 would
15 interfere with the capacity of any
16 administration to fulfill those
17 responsibilities in the years ahead.

18 If enacted into law by the voters,
19 Resolution 050292 would unravel the very core
20 of our Home Rule Charter and do a profound
21 disservice to our -- to your constituents.

22 It would obliterate the bright line
23 distinction between executive and
24 administrative responsibilities on the one
25 hand, and legislative responsibilities on the

1 Law & Gov't - 5/5/05

2 other, a bright line that the framers of the
3 Charter fought so hard to establish in the
4 name of true reform and that now risks death
5 by nicks and cuts.

6 Today's Charter keeps the management
7 of municipal affairs outside of the
8 legislative branch.

9 The proposed legislation recognizes
10 this, but would change the Home Rule Charter
11 to give Council that power with respect to
12 managing the affairs of the Fire Department.

13 Council understandably is concerned
14 about the administration's plans to cut back
15 on staffing of certain fire engines and
16 ladder companies.

17 But as I have tried to demonstrate
18 today, the administration's plans are well
19 thought out and the appropriate domain of the
20 administration.

21 The Charter framers were correct to
22 vest this responsibility in the
23 administration. Attacking the Charter
24 because one disagrees with a decision of one
25 administration is not in anyone's best

1 Law & Gov't - 5/5/05

2 interests.

3 The Philadelphia Home Rule Charter
4 is a product of many years of thoughtful
5 deliberate work by many public spirited
6 citizens, dating back to at least 1922, when
7 a constitutional commission proposed, and the
8 General Assembly and the voters ultimately
9 adopted, a Home Rule amendment to the
10 Constitution.

11 That work culminated in 1951, when a
12 commission of civic leaders, after months of
13 deliberation, produced the current Home Rule
14 Charter, our Constitution, approved by the
15 voters in April of that year.

16 The Charter was not designed as a
17 collection of rules but as a system of
18 governance, with interdependent parts.

19 That Charter remains essentially the
20 same today as it did upon adoption. The
21 strong mayor form of government is one of the
22 critical hallmarks of that document,
23 supported by extensive deliberation and
24 consideration of the commission in reaction
25 to the extraordinary inefficiencies of ward

1 Law & Gov't - 5/5/05

2 driven governance unanimous in that era.

3 While City Council was vested with
4 critically important powers over budgeting,
5 appropriations, taxation, multi-year
6 municipal projects, and the police power of
7 the City, the framers of the Charter made a
8 conscious, thoughtful, deliberative decision,
9 reflected in the minutes of their extensive
10 meetings, to vest responsibility and
11 accountability for running the day-to-day
12 affairs of the government, including in
13 particular fiscal management, in one
14 City-wide elected official, the Mayor.

15 This decision was in direct response
16 to the prior form of government, in which
17 responsibility was diffuse, and hence
18 accountability was non-existent.

19 If the City experiences a fiscal
20 crisis, the voters should be able to look to
21 one place to assess blame. But if
22 responsibility for spending and management
23 and administrative decisions is shared
24 between the Mayor and Council, no one is
25 accountable and no one takes responsibility

1 Law & Gov't - 5/5/05

2 and no one can be blamed.

3 The framers of the Charter were
4 pragmatic. They recognized that it is
5 excruciatingly difficult for a legislative
6 body, particularly one with most of its
7 elected officials from districts, to support
8 any action that is perceived as a reduction
9 of services, no matter how thoughtfully
10 planned that reduction may be.

11 By vesting administrative and fiscal
12 responsibility in one City-wide elected
13 official, the framers of the Charter sought
14 to ensure that the interests of the City as a
15 whole, including fiscal responsibility, would
16 remain paramount.

17 They also sought to ensure that
18 there would be one place in government with
19 the day-to-day responsibility for balancing
20 the competing demands and needs for
21 government services.

22 And the framers were firm in their
23 commitment to the division of responsibility
24 between the executive and legislative
25 branches. As you know, one of the hallmarks

1 Law & Gov't - 5/5/05
2 of the budgetary process under our Charter is
3 lump sum budgeting.

4 The annotation to Section 2-300
5 explains why. Appropriations -- This is a
6 quote. Appropriations are to be made by such
7 categories to offices, departments, boards
8 and commissions which will, subject to the
9 direction and control of the Mayor and the
10 Director of Finance, decide how money within
11 any category is to be spent for the purposes
12 designated by that category.

13 How many persons are to be employed,
14 how many automobiles are to be purchased, and
15 similar questions of administrative policy
16 will be determined within overall
17 appropriation limits by the executive branch
18 and not the Council.

19 Without the type of deliberative
20 proceedings, the formation of our current
21 system of government, these general
22 principles are being diminished both in
23 Harrisburg and in the bill under
24 consideration by City Council today.

25 The takeover of the Parking

1 Law & Gov't - 5/5/05

2 Authority, and the requirement that the City
3 continue to enforce local parking regulations
4 through a state-controlled authority is an
5 excellent example.

6 A current and very much alive
7 example is the pending proposal in the
8 General Assembly to restrict the City's
9 ability to determine how to manage fire
10 companies and staffing of fire locations.

11 Similarly, the proposed legislation
12 before you today would unravel the strong
13 mayor structure of government, driven not by
14 broad disagreement on our system of
15 government but disagreement over an
16 administrative decision.

17 Yet, we have something that's
18 excellent and worth preserving in our
19 Charter, a reform document that has withstood
20 the test of time.

21 I would not contend for a minute
22 that a healthy examination of how government
23 is structured in Philadelphia is never
24 appropriate or called for, but piecemeal
25 incursions on the fundamental elements of the

1 Law & Gov't - 5/5/05
2 Home Rule Charter are not healthy. They only
3 respond to the needs of the moment.
4 Piecemeal incursions, divorced from the
5 bigger picture, run the danger of destroying
6 Home Rule and destroying the fiscal and
7 administrative accountability,
8 responsibilities and efficiencies established
9 under the carefully crafted and balanced Home
10 Rule Charter.

11 I recognize and appreciate how
12 strongly some of you disagree with the
13 planned changes, and no one would expect
14 anything less than your zealous advocacy for
15 that in which you believe.

16 But I believe that a Charter change,
17 especially in such a piecemeal manner, is the
18 wrong way to go.

19 Whoever is the next mayor should not
20 be confronted with a form of government that
21 is dramatically inferior to the one we have
22 today, especially without a full exploration
23 of the consequences for our system offer
24 local government under the charter.

25 I respectfully urge Council not to

1 Law & Gov't - 5/5/05
2 go forward with Bill 050286 and Resolution
3 050292. And finally, Councilman, I'd like to
4 wish you a happy Sinco de Mayo.

5 COUNCILMAN KENNEY: Thank you.
6 Gracias.

7 Commissioner, would you please
8 identify yourself for the record and proceed
9 with your testimony.

10 MR. AYERS: Good afternoon
11 Councilman Kenney, and members of the
12 Committee of Law and Government.

13 I am Fire Commissioner Lloyd Ayers,
14 and I am here to testify along with deputy
15 commissioners McGrath, Harget and Augustin on
16 the impact of proposed Bill 050286 and
17 Resolution 050292 which propose a Charter
18 Change amendment and ordinance that would
19 empower City Council to manage the Fire
20 Department, by mandating standards for the
21 organization of the Fire Department, and by
22 directing the manner by which the Fire
23 Department carries out its powers and duties,
24 including the deployment of fire personal and
25 the duty of the Fire Commissioner to abide by

1 Law & Gov't - 5/5/05

2 standards determined by City Council.

3 With all due respect to this August
4 legislative body, I must state in the
5 strongest possible terms the total objection
6 to these proposals by myself and by my deputy
7 commissioners.

8 We four individuals seated here
9 before you have over 120 years of combined
10 experience in the operations and
11 administration of the fire service in
12 Philadelphia.

13 Our appointments were made by the
14 Mayor, under the authority of the Home Rule
15 Charter, based on our career body of work,
16 our education and training, our experience in
17 the fire service, and on our demonstrated
18 ability as managers.

19 As department managers, we advise
20 the Managing Director and the Mayor and carry
21 out City policy in the areas of our
22 expertise, emergency service delivery,
23 mindful of the dynamic and dangerous
24 environment in which our department members
25 work and of the ever-changing emergency

1 Law & Gov't - 5/5/05

2 service needs of the public whom we serve.

3 We do not make decisions on this
4 service in a vacuum or take our
5 responsibility for the safety of the public
6 and our men and women lightly.

7 Every phase of our operation, from
8 fire suppression, fire prevention and fire
9 investigations, to the delivery of emergency
10 medical services and the training and
11 deployment of personnel are guided by
12 industry standards.

13 These standards, such as National
14 Fire Protection Association 1710, the
15 standard for the organization and deployment
16 of fire suppression operations by career fire
17 departments, and Pennsylvania Acts 45 and 82,
18 which govern emergency medical service
19 delivery, provide the Fire Department with
20 the flexibility, as well as the direction
21 necessary for a Fire Commissioner to respond
22 to the various and ever-evolving emergency
23 service needs of the public.

24 No Fire Commissioner could manage a
25 department effectively under the restrictive

1 Law & Gov't - 5/5/05
2 and intrusive intent of the proposed Council
3 resolutions.

4 I believe that the adoption and
5 passage of these resolutions would lead to
6 ongoing political pressure on the day-to-day
7 operations of the Fire Department and
8 ultimately result in less effective
9 management of a department that has been
10 called the crown jewel of the City's
11 operating departments, and which has served
12 the public well and faithfully for over 134
13 years, often in times of fiscal retrenchment
14 that necessitated staffing reductions and
15 station closings.

16 Yet, the department has always
17 fulfilled its mandate to protect the public.

18 Accordingly, my deputies and I must
19 question the need for these resolutions and
20 why the Fire Department is being singled out
21 for a shift from the executive branch of City
22 government to the legislative branch of City
23 government.

24 Over the last 15 years fire deaths
25 have been driven to all-time lows, and

1 Law & Gov't - 5/5/05

2 dwelling fires have been significantly
3 reduced, as the demand for emergency medical
4 service has skyrocketed.

5 While we are acutely aware of the
6 concern over the department's redeployment
7 plan, necessitated by the difficult financial
8 situation facing the City, it is our belief
9 that we have, we are and we will continue to
10 provide professional, safe and effective
11 emergency services to all of our citizens.

12 As such, we do not believe that
13 there is a need or a rational reason to alter
14 the City Charter. To do so would show a lack
15 of confidence not only in the leadership of
16 this department, but also a lack of respect
17 for the established avenues of legal redress,
18 namely, the grievance arbitration process and
19 the Pennsylvania Labor Relations Board, which
20 are already addressing the underlying issues
21 instigating this action.

22 For these reasons, we object to the
23 passage of Council Bill 050286 and Resolution
24 050292.

25 This concludes my testimony.

1 Law & Gov't - 5/5/05

2 COUNCILMAN KENNEY: Thank you very
3 much.

4 First for Commissioner. Is this
5 your idea to make these reductions? Was
6 this -- Did you initialize the idea of
7 reducing 14 or 15 ladder and engine
8 companies?

9 MR. AYERS: No, it was not my idea.

10 COUNCILMAN KENNEY: Whose idea was
11 it?

12 MR. AYERS: It was the -- How many
13 companies did you say?

14 COUNCILMAN KENNEY: Whatever the
15 reduction. It's 14?

16 MR. AYERS: No, no, no, no, no.

17 COUNCILMAN KENNEY: 15.

18 COUNCILMAN DiCICCO: 15 companies.

19 There are 15 companies that are being
20 affected. Realignment effects 15 stations.

21 COUNCILMAN KENNEY: Impact on 15.

22 MR. AYERS: There is a resolution --
23 I mean, there is a plan to redeploy personnel
24 and equipment which would result in a
25 reduction of four engines, four ladder

1 Law & Gov't - 5/5/05

2 companies, and an increase in eight medic
3 units.

4 COUNCILMAN KENNEY: Was that your
5 idea?

6 MR. AYERS: No.

7 COUNCILMAN KENNEY: Okay. So how
8 did you go -- How were you directed to go
9 about implementing this reorganization?

10 MR. AYERS: We were directed by the
11 former Fire Commissioner Hairston to stop,
12 look at all of the resource that we had, and
13 to come to a conclusion.

14 COUNCILMAN KENNEY: Was it his --

15 MR. AYERS: It was not my initial
16 idea. It was the work that was done by
17 myself, Deputy Commissioner McGrath, Mike
18 Moore, who's the Chief Dispatcher, and
19 Commissioner Hairston to come up with the
20 results that we came up.

21 COUNCILMAN KENNEY: To your
22 knowledge, was it Commissioner Hairston's
23 idea?

24 MR. AYERS: It was Commissioner
25 Hairston's idea to make sure that we come up

1 Law & Gov't - 5/5/05

2 with the alignment that would --

3 COUNCILMAN KENNEY: That's not my
4 question. Commissioner Hairston initialized
5 on his own, this plan, or directed you to
6 come up with this plan.

7 MR. AYERS: He directed us.

8 COUNCILMAN KENNEY: I understand.
9 Was it your information that it was
10 Commissioner Hairston's sole idea himself
11 that this -- was this needed to be done?

12 What prompted Commissioner Hairston
13 to direct you to do this plan?

14 MR. AYERS: A cut in funding to the
15 Philadelphia Fire Department budget.

16 COUNCILMAN KENNEY: So, Commissioner
17 Hairston was required, due to notification of
18 a cut in funds, to have you guys do your best
19 to come up with this plan.

20 MR. AYERS: That is correct.

21 COUNCILMAN KENNEY: Okay. And who
22 do you believe informed Commissioner Hairston
23 that this needed to be done?

24 MR. AYERS: I believe the Managing
25 Director.

1 Law & Gov't - 5/5/05

2 COUNCILMAN KENNEY: Is the Managing
3 Director a fire official or a fire expert?

4 MR. AYERS: The fire -- the Managing
5 Director is not a fire official or fire
6 expert.

7 COUNCILMAN KENNEY: So, why would,
8 then, you not be -- or you or Commissioner
9 Hairston -- be as concerned about the
10 direction of a civilian, in telling you to
11 reduce your operations, however safely you
12 may think you're reducing them, but a
13 civilian, similar to the civilian nature of
14 this legislative body, directing you to do
15 the same.

16 Why would that not be as upsetting
17 to Commissioner Hairston or to you as
18 Commissioner now, that a civilian, either the
19 Mayor, Mayor's Chief of Staff, or the
20 Managing Director would impose upon you a
21 need to do these reductions? What's the
22 difference between these civilians and those
23 civilians?

24 MR. AYERS: The direction was to
25 examine the department and to make a

1 Law & Gov't - 5/5/05
2 reconfiguration of the department that would
3 save and provide a service to the citizens,
4 and to do so, based on the budget that we
5 received.

6 And I think that, when we advise the
7 Managing Director the same as we would advise
8 our members in the field, as to what's going
9 on, what the cuts are, et cetera.

10 COUNCILMAN KENNEY: And make no
11 mistake. I in no way ever questioned your
12 team's desire to implement that mandate as
13 safely as you possibly thought you could.

14 However, had not the Managing
15 Director and/or the Mayor and/or whoever else
16 it was that was directing this had not
17 directed you to do it, would Commissioner
18 Hairston or yourself have made these
19 reductions?

20 MR. AYERS: I believe that the
21 catalyst that caused us to make these
22 reductions was the budget, but I also
23 believe -- I also believe that it's the
24 responsibility of the Fire Commissioner to
25 examine and to make suggestions to the

1 Law & Gov't - 5/5/05

2 Managing Director on what is going on, as far

3 as the configuration of fire service

4 delivery, those types of things. So...

5 COUNCILMAN KENNEY: I don't

6 disagree.

7 MR. AYERS: So my point -- My point,

8 with all due respect.

9 COUNCILMAN KENNEY: Please.

10 MR. AYERS: My point is that to say

11 that the catalyst that started us to look at

12 this situation was the budget does not mean

13 that it was never going to be looked at and

14 that it wasn't going to be a suggestion to

15 rearrange and make more effective and

16 efficient the delivery of fire and EMS

17 services in this City.

18 COUNCILMAN KENNEY: Are you telling

19 me that without a mandate from the Managing

20 Director or the administration, relative to

21 the budget, that Commissioner Hairston or

22 yourself would have recommended the

23 inoperation of eight ladder and engine

24 companies.

25 That was something you guys would

1 Law & Gov't - 5/5/05

2 have come to the Council or came to the
3 administration. Says, you know what? We're
4 going to reduce eight ladder and engine
5 companies because we think it's a good thing
6 to do.

7 Or would you have only done it by
8 being directed by your boss who either the
9 Mayor or the Managing Director to go ahead
10 and investigate how we can, in your opinion,
11 safely do it. Would you have done that?
12 Would you have shut those companies down on
13 your own?

14 MR. RAMOS: Councilman, can I
15 just --

16 COUNCILMAN KENNEY: No, no, no, no.
17 I'm sorry. This is a professional -- Listen.
18 Let me make sure I understand this.

19 MR. RAMOS: I have questions for
20 you, too.

21 I'm not going to answer I just want
22 to make sure that I -- that we all understand
23 what your question is because your question
24 is focusing on part of the change which is
25 the cut, not the addition. And you're

1 Law & Gov't - 5/5/05

2 asking --

3 COUNCILMAN KENNEY: No, that's not
4 my -- No, no, no, no. His testimony, as I
5 understand it -- and I respect his
6 testimony -- is that they are the fire
7 professionals. They are the people with the
8 hundred years' worth of experience.

9 And I know them all, and I don't
10 disagree with their experience. My concern
11 in the testimony today is that the civilian
12 legislative branch should butt out of this
13 business because the professionals know what
14 they're doing. And I don't discount that.

15 But the point is is that this whole
16 exercise came about as a result of a civilian
17 telling them their budget was going to be
18 cut; make the best of it.

19 And I don't think in my opinion that
20 they would have made that decision to do that
21 other than a civilian, who doesn't have
22 firefighting experience or anything else,
23 told them to get this done.

24 My point is, what's the difference
25 between a civilian legislative elected body

1 Law & Gov't - 5/5/05

2 or a civilian appointed official who neither
3 of us have any fire experience. These guys
4 do.

5 And I find it hard to believe that
6 unless they were mandated to do it for budget
7 constraint reasons, they would have ever
8 suggested that this be done.

9 Not that you wouldn't have suggested
10 maybe the expansion of paramedic and those
11 kinds of things, but I doubt in my heart you
12 would ever suggest to close eight engine and
13 ladder companies, other than mandated to do
14 it by a civilian, with no fire experience.
15 That's all I'm saying.

16 So I don't know whether or not you
17 would have made those cuts without being told
18 to do it, but I think it's pretty odd that
19 one civilian, who happens to be appointed,
20 can initiate this reduction when 17 civilians
21 who are elected, it's the worst thing in the
22 world for them do. I find there's a big
23 inconsistency there.

24 MR. AYERS: I understand what you're
25 asking. And the point, again, what I'm

1 Law & Gov't - 5/5/05

2 trying to tell you is, you referenced the
3 medic units.

4 What I'm saying is that my staff at
5 some point would evaluate what the fire
6 service delivery is.

7 Would we have come up with, based on
8 the budget that we had before, to, hey, let's
9 trim this? I don't believe so.

10 COUNCILMAN KENNEY: Right.

11 MR. AYERS: What I'm telling you,
12 though, is we were -- the catalyst was the
13 financial situation and we were told to
14 examine the situation, and to say -- and to
15 tell the administration as to whether or not
16 we could do this, do it safely, and still
17 provide the service that was being demanded
18 by the public which is the medic EMS service.

19 COUNCILMAN KENNEY: Commissioner,
20 there's no doubt that this is a budget driven
21 issue.

22 My only point in this record is that
23 if it is a terrible thing for civilians to
24 direct decisions being made about
25 professional fire service in the legislative

1 Law & Gov't - 5/5/05

2 body, it's as equally bad for civilians in
3 the executive branch to be doing the same
4 thing.

5 And as you said to me now, you may
6 have decided through review to expand EMS
7 system but you probably wouldn't without the
8 budgetary requirement or budgetary problem
9 decided to cut the engine ladder companies.
10 Is that a fair assessment?

11 MR. AYERS: It's a fair assessment
12 except for the fact that we've been asking
13 for an expansion of EMS for a long period of
14 time.

15 COUNCILMAN KENNEY: No argument.

16 And I think you have a right and the
17 ability and the knowledge to request that.
18 But the reduction in the Fire Company's
19 ladders and engines would not have happened
20 other than a civilian in the executive branch
21 giving you a budget number and telling you to
22 live with it. Fair?

23 MR. AYERS: I understand what you're
24 saying.

25 COUNCILMAN KENNEY: I just -- And --

1 Law & Gov't - 5/5/05

2 Okay. I have a -- Just let me ask a couple
3 questions of Mr. Ramos, because both as
4 former City Solicitor and Managing
5 Director --

6 MR. RAMOS: Oh, I can only do it as
7 Current Managing Director.

8 COUNCILMAN KENNEY: You are an
9 attorney who has experience in government.

10 So, what do you think the role of
11 Council's budget process is? What's your
12 assessment of what we go through every year
13 that I've been going through for the past 14
14 years, other people in here -- Councilman
15 O'Neill -- for a lot longer.

16 MR. RAMOS: Some of where you were
17 leading in the question with the Commissioner
18 goes, I think -- I agree with your point
19 to -- with what you're saying to a point.

20 In the -- In every year Council has
21 to approve a budget, lump sum budgeting by
22 department.

23 COUNCILMAN KENNEY: Okay.

24 MR. RAMOS: And in fact, every year
25 since the Charter, you have, you 17

1 Law & Gov't - 5/5/05

2 civilians, have directed the Fire Department
3 on its resources.

4 Sometimes it's up. Sometimes it's
5 down. But as a group, you -- that's exactly
6 what you've done. When you pass a budget,
7 you're saying live within these means, just
8 as the Mayor in a different stage of the
9 budget process says, this is the processed
10 expenditure level for -- And it's done in a
11 consultative process. Like -- As you said --

12 COUNCILMAN KENNEY: Consultative
13 process with who?

14 MR. RAMOS: Within the government.

15 COUNCILMAN KENNEY: With -- With --
16 With...

17 MR. RAMOS: And I wasn't -- I do
18 recognize -- Now, the Commissioner and I
19 weren't -- weren't -- weren't -- weren't in
20 our respective roles at the time, but my
21 understanding of the process leading to the
22 current proposals was that it was a lot more
23 iterative than what you're saying here. Live
24 within this number, that it was -- that it
25 was back and forth.

1 Law & Gov't - 5/5/05

2 And it was trying to balance the
3 fiscal situation that -- that -- that -- with
4 the safety needs and the -- and the service
5 needs.

6 It would have been a lot easier to
7 make some, you know, engine ladder reductions
8 and not increase EMS.

9 So it was done -- And at the end of
10 the day, and I think there's testimony in
11 Council, as well as in -- before the
12 arbitrator and in the court, as to that
13 process.

14 The fire -- Both the former Managing
15 Director and the Former Fire Commissioner
16 have said -- and then there's a point where
17 we said, does this get us there? Is it still
18 within the national standards. And they --
19 And they --

20 COUNCILMAN KENNEY: I don't mean to
21 cut you short. I don't mean to cut you
22 short. I'm not talking about the specifics
23 of the process. I'm asking you what you
24 think --

25 MR. RAMOS: Every year you exercise

1 Law & Gov't - 5/5/05

2 the role that you just described.

3 COUNCILMAN KENNEY: Okay. The Mayor
4 sends over his proposed budget. We
5 deliberate it. We tinker with it. We change
6 it. We up it. We down it and we pass it.

7 Once it's passed, what do you think
8 the requirement for the administration is to
9 follow that budget? Do you think that they
10 have a Charter required mandate to follow the
11 budget that we deliberate and pass?

12 MR. RAMOS: The how... I think that
13 there is a -- a -- that you've given
14 permission to a different branch of
15 government to spend the money, and you've
16 given policy, and you've given direction
17 whether there is a -- whether -- And I think
18 it's also established that -- And I'm not
19 speaking as Solicitor -- that -- that --
20 that -- that the decision on spending is one
21 that legally resides with the executive
22 branch.

23 COUNCILMAN KENNEY: So --

24 MR. RAMOS: And then Council -- the
25 Council has political recourse through the

1 Law & Gov't - 5/5/05
2 Charter -- has lots of ways of exercising its
3 will through the -- through it's -- through
4 the big hammer of -- of -- of budget
5 appropriation to -- to -- to -- to deal with
6 the other branch of government.

7 COUNCILMAN KENNEY: What good is it
8 if the Council deliberates the proposed
9 budget, makes changes, finds ways within
10 their own process to replace some of the cuts
11 that are proposed by the Mayor, shows how
12 that replacement money would be provided for
13 in a responsible fashion, and passes the
14 budget, what right under the Charter does the
15 Mayor then have to ignore the budget and
16 continue spending or not spending his or
17 her -- in this particular case his -- agenda
18 outside the parameters of the budget?

19 I mean, if Council is a weak form of
20 Council and a strong Mayor, the Mayor's got
21 all the power that he or she needs right now.
22 The only power that the Council has
23 remaining, for the most part, is its budget
24 function.

25 If we pass a budget, and we put

1 Law & Gov't - 5/5/05

2 things back, and we do it responsibly, and
3 the Mayor decides, I'm not spending it
4 because I'm ignoring the budget, is that -- I
5 mean, you're here for the most part, you
6 know, defending the Charter -- The Charter
7 framers insistence that, you know, this is
8 how they wanted it.

9 Well, do you think the Charter
10 framers wanted a budget process that was
11 meaningless?

12 MR. RAMOS: Well, no. The -- The --
13 The framers meant for that budget process to
14 give the enormous leverage that it has
15 because no money can be spent in the
16 government without --

17 COUNCILMAN KENNEY: Really?

18 MR. RAMOS: -- without -- without --
19 without --

20 COUNCILMAN KENNEY: How about
21 unbudgeted --

22 MR. RAMOS: -- in the City
23 government without the appropriation.

24 COUNCILMAN KENNEY: How about 40, 50
25 \$60 million in unbudgeted police overtime for

1 Law & Gov't - 5/5/05

2 Operation Safe Streets? Did he have the
3 authority to spend that money? Without
4 Council's approval?

5 When we asked for information about
6 how much money was being spent, we were told,
7 mind your own business.

8 They took money that was unbudgeted
9 and spent it, without our authorization. Now
10 you're going to tell me that --

11 MR. RAMOS: Well, you -- you --
12 you -- you -- Council has a budgetary
13 process. Council in the past also has --
14 has -- when it believes that -- that -- that
15 the -- in the past when -- when Council as a
16 body has believed that -- that the executive
17 branch has exceeded its authority or not
18 fulfilled its authority, Council has also
19 sought redress in the courts. And we --
20 we -- we -- we --

21 COUNCILMAN KENNEY: We're in court a
22 lot.

23 MR. RAMOS: And courts have decided,
24 you know, have decided some of those, and you
25 know --

1 Law & Gov't - 5/5/05

2 COUNCILMAN KENNEY: If -- If -- If
3 this --

4 MR. RAMOS: And the other point,
5 Councilman, that I was making in the
6 testimony, too, is -- The point I don't want
7 to lose is... I mean, there's an argument --
8 You know, the -- the -- You know, the strong
9 Mayor form of government, you know, to some
10 extent is what it is.

11 And if we're going -- And if the
12 idea -- And if -- If this point in the City's
13 history or evolution there should be a
14 reconfiguring or any kind of modification, it
15 should be done -- it should be done in a
16 broad deliberative way, just the way the
17 Charter was initially done.

18 COUNCILMAN KENNEY: You and I don't
19 disagree. But I will say one thing because
20 I've dominated this too much and I want to
21 move on.

22 We're here because this
23 administration has decided not to follow the
24 Charter that you so eloquently defended
25 because our process here and our work here

1 Law & Gov't - 5/5/05

2 and our budgeting here is totally ignored.

3 And that is why we're sitting here
4 debating this particular issue because if the
5 administration at least respected the minor
6 role in this government that Council has in
7 the budget process, we wouldn't be dealing
8 with this now, you see, because the
9 overreaction that we're seeing now is based
10 on five, six years of being totally degraded
11 in our process that we go through.

12 We sit in this room. We listen to
13 testimony. We ask questions. And we make
14 amendments. And we move money around. And
15 we send it but we pass it. We send it on,
16 and it gets ignored, year in, year out, year
17 in, year out.

18 And that's why we're sitting here
19 today because the frustration level on many
20 Council members is so high that you wind up
21 having to deal with issues like this because
22 our process and our role is totally
23 disrespected.

24 And that's before you got here.
25 Commissioner, I apologize. It's before you

1 Law & Gov't - 5/5/05
2 got here, but it's ongoing today.
3 Councilman Kelly.
4 COUNCILMAN KELLY: Thank you.
5 MR. RAMOS: I think the Charter
6 framers, except for the part about doing it
7 by Charter amendment, probably would not take
8 issue with what's going on here. They would
9 say, you know, there are vehicles for when
10 there's that type of fundamental
11 disagreement --
12 COUNCILMAN DiCICCO: Where are they?
13 MR. RAMOS: -- between the branches
14 of government.
15 COUNCILMAN KENNEY: What are the
16 vehicles? Court?
17 MR. RAMOS: No. In this very
18 budgetary process we're in right now.
19 COUNCILMAN KENNEY: The budgetary
20 process we're in right now?
21 If we pass the budget -- We put
22 things back in this budget and show
23 responsibly where we're putting them back,
24 and the administration ignores the budget.
25 What's our redress? We go to court.

1 Law & Gov't - 5/5/05

2 MR. RAMOS: I feel the redress all
3 the time.

4 COUNCILMAN KELLY: I'd just like to
5 follow up on Councilman Kenney's question.
6 What assurance do we have that the Mayor is
7 going to spend the money the way we
8 appropriate it?

9 In other words, if we did restore
10 full funding to the Fire Department which in
11 our minds that you could keep those stations
12 open, the ladder companies intact and
13 whatnot, what assurances do we have that it's
14 going to happen?

15 We last year appropriated a million
16 dollars to the library. We don't know where
17 that money was ever spent. But I know the
18 libraries didn't receive it.

19 So, again, it comes back to what
20 assurances do we have? We have no assurance
21 if we're going to find that, as Councilman
22 Kenney just stated, that if we find it
23 responsibly, if we found the money, if we
24 found a way to raise the money, that doesn't
25 mean that it's going to be spent the way that

1 Law & Gov't - 5/5/05

2 we intended to be spent.

3 COUNCILMAN KENNEY: Furthermore, as
4 a matter of fact, the administration has
5 clearly told Council tech staff that if we
6 found the money and put it back, he'd refuse
7 to spend it, I mean. So, where's the give
8 and take here? Where's the cooperation?

9 MR. RAMOS: I mean, there's --
10 there's also more at issue than that
11 question, which is take -- take the -- the
12 budget issue and assume that we agreed on how
13 much money should be spent on the Fire
14 Department.

15 The other issue that's -- that --
16 that is -- that's on the table with the
17 Charter proposal isn't just -- it isn't the
18 budgetary question.

19 It is you're also seeking to
20 legislate the manner in which the Fire
21 Department goes about spending that money.
22 And I think that does go far beyond the
23 structure set up in the City Charter.

24 The Fire Commissioner and the people
25 charged with the administrative function of

1 Law & Gov't - 5/5/05
2 the government should be able to say -- You
3 know, again I'm assuming that parties agreed
4 on how much money -- that this engine company
5 belongs here and not there; that ladder
6 company belongs there and not here; and we
7 should have more EMSs, without -- and --
8 and -- And by -- by putting that exclusively
9 in the administrative branch, I think the
10 Charter --

11 COUNCILMAN KELLY: I think everyone
12 agrees that the Fire Department is the one
13 that should make those decisions. There's no
14 doubt about it. We're not going to be up
15 here trying to run the Fire Department,
16 believe me.

17 MR. RAMOS: Just as I'm sure that --

18 COUNCILMAN KELLY: But our position
19 is to make sure that you have the sufficient
20 appropriations to run the Fire Department as
21 you would like to run it. And that's what
22 our job is.

23 MR. RAMOS: But when we talk about
24 standards of deployment and all that, what
25 we're -- what we're doing is, you know, the

1 Law & Gov't - 5/5/05

2 former Managing Director, nor I, I'm
3 confident, would ever be so presumptuous as
4 to say where to put an engine company, where
5 to put a ladder company, how much -- how many
6 EMSs do you need.

7 Getting into setting those types of
8 standards -- And I'm now, you know -- I --
9 I -- moving -- you know, making a different
10 point than the money -- than the money issue.
11 We -- We -- We shouldn't go there. I mean, I
12 think that --

13 COUNCILMAN KELLY: Well, I think
14 it's --

15 MR. RAMOS: And I think you agree on
16 that point.

17 COUNCILMAN KELLY: Absolutely. But
18 I think it's the role of the Fire
19 Commissioner to come before us and say, look,
20 if you want these stations manned adequately,
21 if you want to have excellent fire
22 protection, this is what it's going to take.
23 It's going to take "X" amount of dollars, and
24 this City Council has to find a way to obtain
25 that money, that revenue, and to put it up

1 Law & Gov't - 5/5/05
2 there, and to make sure that the Fire
3 Department sufficiently receives the
4 appropriations it should.

5 And that's where -- That's where we
6 come in. But there's no guarantee. There's
7 no assurance that even if we raise the money
8 it's going to even get to the Fire
9 Department.

10 COUNCILMAN KENNEY: If you put the
11 money back in, the Commissioner, with all due
12 respect to him, is going to be told not to
13 spend it. I mean, that's where we're at

14 COUNCILMAN KENNEY: Councilman
15 Mariano.

16 COUNCILMAN MARIANO: Thank you,
17 Councilman.

18 As the Managing Director and the
19 Fire Commissioner can see, people's emotions
20 on this subject are really high. And I know
21 the sponsor personally. And he means -- he
22 means it. And you can see by Councilman
23 Kenney's Irish temper, his face getting
24 red --

25 COUNCILMAN KENNEY: No. I'm pretty

1 Law & Gov't - 5/5/05

2 much in control, I think.

3 COUNCILMAN MARIANO: -- he means it.

4 He feels out of control. Not out of control.

5 I'm sorry. But he feels that it's

6 irresponsible.

7 And I don't feel the same way he

8 does. And that's the difference between

9 apples and oranges.

10 My problem here is -- and the

11 Managing Director, unbeknownst to me, said

12 when he wrote this thing, the framers of the

13 Charter were pragmatic.

14 They recognized it is an

15 excruciating difficult -- difficulty --

16 extremely difficult for a legislative body,

17 particularly one with most of its members

18 elected from districts that support any

19 action that is perceived as a reduction of

20 services.

21 If I grew up next to that fire house

22 in Port Richmond that's in his district --

23 and it's been there forever -- If my store is

24 across the street from that -- and I've said

25 this before to people. If all of a sudden

1 Law & Gov't - 5/5/05

2 that fire house closes or cuts services in
3 half -- and they may be services -- because
4 that neighborhood at one time may have had a
5 lot of factories. And there's not that many
6 factories now. And the population may be
7 getting older.

8 So for instead of a ladder that was
9 important, now it's EMSs because there's a
10 bigger need for that. And it's happening.

11 That's why it's hard for us to get
12 anything done here. And I feel his
13 frustration. And a lot of it's because we
14 are constantly running for election.

15 The only hope I could give the
16 Councilman -- and he won't heed this -- is
17 there's going to be another Mayor here in two
18 years, and maybe another Fire Commissioner
19 another Managing Director, and these issues
20 will stay around.

21 COUNCILMAN KENNEY: They can stay.
22 As far as I'm concerned, they can stay.

23 COUNCILMAN MARIANO: That's up to
24 whoever the Mayor is going to be. It's not
25 going to be me, I guarantee you that. But it

1 Law & Gov't - 5/5/05

2 will be somebody different than it is on the
3 second floor right now.

4 Dislike or like this guy, it becomes
5 difficult to go back to the fireman that I
6 went to grade school and high school with,
7 and say, hey, Tim, I can't -- I don't want to
8 be in charge of the Fire Department. I don't
9 know anything about it. I don't want to know
10 anything about it.

11 But I understand the frustration of
12 the people that are concerned, not just the
13 elected officials. The people that live in
14 that -- Because it's hard for us -- It
15 becomes hard for to us make these decisions.

16 And people will say, well, that's
17 why you get the money, to sit here and do
18 that. Certainly.

19 Now, I'm not sure how I'm going to
20 vote on this thing because I think the right
21 thing to do is to vote against it because we
22 shouldn't be in this business.

23 He almost convinced me without
24 talking to me by what he said to vote the
25 other way. But when I look at it and sit

1 Law & Gov't - 5/5/05
2 down here and think about this, I didn't run
3 for City Council to be a Fire Commissioner or
4 to be a fireman.

5 And I understand that -- the
6 sponsor's frustration. He has nowhere else
7 to turn. Now, that's a dynamics problem
8 between this legislative body and the
9 executive branch on the second floor.

10 I was going to ask the Fire
11 Commissioner, do you have a degree in
12 economics that you didn't tell us about? If
13 you do, good. I don't really care if you do.
14 I have to depend on you or the guy before you
15 to say there's a reduction in service.

16 And you're not going to want a
17 reduction in service unless someone comes to
18 you along the line and says, the plain facts
19 of the matter are, we have less money coming
20 into the City of Philadelphia.

21 And what we do is, we have to raise
22 taxes or we have to cut services. The last
23 thing we should think about cutting is police
24 and fire. But also, I don't want them to cut
25 Councilman Cohen's library. I don't want

1 Law & Gov't - 5/5/05

2 them to cut that rec center up the street
3 from me.

4 And again, back to the frustration
5 that Councilman Kenney so elegantly spoke
6 about. Where do we go with this? We're
7 between a rock and a hard place here with
8 this stuff.

9 And I got to believe Commissioner
10 Ayers. He's the expert on it. He has the
11 guy sitting back there with the white hats,
12 they know about this stuff.

13 The guy with the white hair that
14 looks like Senator Tartaglione's Chief of
15 Staff I told him before this. He's the
16 expert on the other thing.

17 I know diddly squat about firemen
18 except on December the something this year
19 when I was laying on the floor of my house
20 convulsing, they were standing there taking
21 me to a rescue squad. So they were there
22 when I needed them.

23 The people in this City care about
24 everything, but they care when they're laying
25 on the floor of their house or their house is

1 Law & Gov't - 5/5/05
2 on fire, that people are going to be there.
3 You can't guarantee me,
4 Commissioner, and I don't think you're
5 foolhardy enough -- I know the Managing
6 Director isn't -- to guarantee me if that
7 ladder that Councilman DiCicco can tell me
8 the number that I can't remember right now
9 or whatever is, that closes there up in
10 Richmond, if there's a fire somewhere up in
11 Richmond or Juniata, and that fire truck is
12 somewhere else because of the this closing,
13 that's your worst nightmare.

14 We do this, right? And that happens
15 next week -- You don't have to answer. So
16 that's what happens to us here. We could do
17 this stuff back and forth, day in and day
18 out. We're not going to change what he wants
19 to do on the second floor. Friend or enemy,
20 Managing Director, you have to do your job.

21 MR. RAMOS: And I think the manner
22 of dealing with this issue is perhaps
23 compounding the problem. You know, you --
24 you don't want... You know, you have --
25 last -- last -- I think it was 2004 you had

1 Law & Gov't - 5/5/05
2 over 200,000 calls for medical assistance
3 compared to 54,940, I think, or 640 calls for
4 fires or other 9-1-1 calls.

5 And the question is, when you had
6 that medical episode, knowing the data about
7 the need for the -- for the ladder versus the
8 need for the EMS in your particular
9 neighborhood --

10 COUNCILMAN DiCICCO: Point of order.

11 MR. RAMOS: -- do you really want --
12 do you really want that medical emergency
13 responded to by a ladder company?

14 COUNCILMAN DiCICCO: Point of order.

15 COUNCILMAN KENNEY: Hold it. Hold
16 it. Hold it. Hold it. Hold it. Hold it.
17 Hold it. There's a point of order that
18 Councilman DiCicco has.

19 COUNCILMAN DiCICCO: Mr. Managing
20 Director, you have said it on a couple
21 occasions during your testimony, you question
22 the -- or you bring up the situation about
23 EMS.

24 We currently meet the standards for
25 EMS response with the current number of EMS

1 Law & Gov't - 5/5/05

2 units we have.

3 We do not currently meet the
4 national standards for response, in terms of
5 firefighting calls currently.

6 MR. AYERS: No, that's not correct.

7 COUNCILMAN DiCICCO: Well, you
8 testified to that the last hearing,
9 Commissioner.

10 MR. AYERS: Would you restate what
11 you just stated? You said we meet the --

12 COUNCILMAN DiCICCO: Standards for
13 EMS.

14 MR. AYERS: Yes, we do.

15 COUNCILMAN DiCICCO: And do we
16 not -- Are we not below the national
17 standards for response time with firefighting
18 equipment, putting out fires, whatever the
19 term is?

20 MR. AYERS: Are you saying that we
21 do not meet the standards --

22 COUNCILMAN DiCICCO: We're below the
23 national standard.

24 MR. AYERS: -- for fire -- for
25 emergency response for fires?

1 Law & Gov't - 5/5/05

2 COUNCILMAN DiCICCO: I'm saying that
3 the national standard --

4 MR. AYERS: Yeah.

5 COUNCILMAN DiCICCO: -- for
6 response, for fire calls, we are below
7 national standards currently.

8 MR. AYERS: Oh. Okay. We meet or
9 exceed national standards. Is that what
10 you're saying?

11 COUNCILMAN DiCICCO: No. We are
12 below national standards.

13 MR. AYERS: Oh. No. I never
14 testified that we're not -- You're saying
15 we're not doing as good as we should, with
16 fire apparatus, engines and ladders?

17 COUNCILMAN DiCICCO: Yes.

18 MR. AYERS: Oh, no, I never
19 testified to that.

20 COUNCILMAN DiCICCO: At the last
21 meeting or hearing we had, you --

22 MR. AYERS: You misunderstood me
23 or --

24 COUNCILMAN DiCICCO: Well, maybe you
25 misunderstood me.

1 Law & Gov't - 5/5/05

2 MR. AYERS: Yeah, maybe.

3 COUNCILMAN DiCICCO: What is the
4 time -- What is the response time today? Not
5 EMS. Not EMS.

6 Call comes in for a fire.

7 MR. AYERS: You're saying the
8 average response time?

9 COUNCILMAN DiCICCO: Yeah, today, in
10 the City of Philadelphia.

11 MR. AYERS: Average response time is
12 four minutes and some change. Couple of
13 seconds OR so.

14 COUNCILMAN DiCICCO: And what's the
15 national standard?

16 MR. AYERS: The national standard?

17 COUNCILMAN DiCICCO: Four minutes?

18 MR. AYERS: No. The national
19 standard is four minutes for the first
20 apparatus -- See, you -- you -- you missing
21 the whole thing.

22 The national standards for the --
23 for apparatus to get to a call is four
24 minutes or eight minutes for the -- for the
25 entire box. That's -- That's what the

1 Law & Gov't - 5/5/05

2 national standard is.

3 The Philadelphia Fire Department
4 meets the national standards. We meet it
5 very -- on a regular basis.

6 COUNCILMAN DiCICCO: And if we
7 reduce the number of ladders and engines as
8 being proposed, I have to assume we're going
9 to get some of the testimony that we're going
10 to fall below that.

11 MR. AYERS: Yeah. It's an
12 assumption. We would still meet those
13 standards.

14 COUNCILMAN DiCICCO: It's an
15 assumption based on what I as a lay person
16 and the rest of us lay persons believe
17 because you gave us an example of the day
18 care center in South Philadelphia that was on
19 fire a few months ago, if ladder 11, I
20 believe it is, at 12th and Reed were not
21 there.

22 You said, well, we can get there
23 just in the same amount of time if the ladder
24 came from Fourth and Snyder which I still
25 can't figure that out.

1 Law & Gov't - 5/5/05

2 MR. AYERS: I didn't say we could
3 get there in the same amount of time.

4 COUNCILMAN DiCICCO: Well, we would
5 get there in a reasonable amount of time.

6 MR. AYERS: We could get there
7 within the national standard amount of time.

8 COUNCILMAN KENNEY: Let me make a
9 suggestion. The point -- Councilman DiCicco,
10 the point of order has gone a little long.
11 What I'd like to do is maybe have you come
12 back to that when we recognize you for direct
13 questioning.

14 Councilman Mariano, please continue.

15 COUNCILMAN MARIANO: Thank you.

16 And my point is --

17 MR. RAMOS: Can I answer -- finish
18 my answer?

19 COUNCILMAN MARIANO: Let me finish
20 my statement, then you can, and then we can
21 all go our merry ways.

22 My point was, when I was laying on
23 that floor, it didn't matter to me who was
24 there first. I saw firemen.

25 The actual fire truck came first and

1 Law & Gov't - 5/5/05

2 took care of me and made me know that I was
3 still alive.

4 The rescue squad which seemed
5 probably seconds later got there and they
6 took me out in a rescue squad.

7 But there was firemen, four or five
8 of them in my living room, standing around
9 me. And I felt good because I didn't know --
10 And then there was an EMT -- which, by the
11 way, there was a female EMT that took me out,
12 so I remember her as much, more than I
13 remember the four firemen.

14 But it was there. There was a fire
15 truck there in two minutes, three minutes.
16 And I live on 4300 Block of Lawndale Street.
17 Which made me feel like that I wasn't dying
18 because I thought I was dying.

19 Then when I got in the rescue squad,
20 there was an EMT that took me to Frankford
21 Hospital.

22 At that point it didn't matter, as
23 long as I got to it. And I know the
24 Councilman's up on his numbers and
25 everything. I'm not. It's what's in our

1 Law & Gov't - 5/5/05

2 minds what makes this people tick that live
3 in this City.

4 So the Managing Director's point
5 about us -- exactly what I repeated about
6 what you said -- makes this a viable and a
7 tough question for any of us because this
8 keeps going on beyond us and this legislative
9 body, downstairs, next term, next term, next
10 term.

11 Short of term limitations -- and
12 maybe that's what we ought to do. Maybe
13 there should be term limits around here, and
14 then we would always make sure that the Mayor
15 and Council are all fresh and new. And I'm
16 sure somebody would have a problem with that.
17 So I don't know how to sell that. And it's a
18 real quandary how to vote.

19 Managing Director.

20 MR. RAMOS: I think you -- you --
21 you -- you answered -- You said what I was
22 going to say.

23 COUNCILMAN MARIANO: Thank you.

24 MR. RAMOS: I mean --

25 COUNCILMAN MARIANO: Thank you.

1 Law & Gov't - 5/5/05

2 COUNCILMAN KENNEY: Councilman
3 O'Neill.

4 COUNCILMAN O'NEILL: Yes. I just
5 have a quick question for the Commissioner.
6 And it really doesn't deal directly with
7 this. It's just something I was wondering
8 about.

9 When the first responder units go
10 out, they're basically all firefighters. And
11 they wait for the EMS. They perform a great
12 service.

13 I mean, I know there's a lot of
14 controversy about that when I first started
15 years ago. But I was told -- and I can't
16 remember if I was told by somebody in the
17 City or somebody around the country that I've
18 talked to -- that if one of the firefighters
19 in the first responder unit -- because we're
20 not the only -- a lot of jurisdictions use
21 them --

22 MR. AYERS: Correct.

23 COUNCILMAN O'NEILL: -- the first
24 responder system, that if one of the Fire
25 Department members that goes out on those

1 Law & Gov't - 5/5/05

2 ladders or engine vehicles are EMS trained as
3 well, joint EMS, that we can be reimbursed by
4 insurance, as opposed to not being reimbursed
5 by just the fire -- and it's just, you know,
6 out of the General Fund. I know EMS units
7 are reimbursed.

8 MR. AYERS: Yes.

9 COUNCILMAN O'NEILL: Can you clarify
10 that for me, what that would -- whether it
11 would make a difference if one of the members
12 of the Fire Department who are going out was
13 also an EMS trained person, that we could
14 recoup insurance for that?

15 I'm just thinking of this, how it
16 kind of fits into the whole thing. But it's
17 not relevant to whether we should manage it
18 or, you know, Council should --

19 MR. AYERS: Yeah, you're relating to
20 if a firefighter on the engine was a
21 paramedic.

22 COUNCILMAN O'NEILL: And could do --
23 And could do more than a firefighter? Is
24 that --

25 MR. AYERS: Could do more than a

1 Law & Gov't - 5/5/05

2 emergency medical technician?

3 COUNCILMAN O'NEILL: Well, you can
4 give me the level of -- Whatever it would
5 take for you to get reimbursed, that person
6 would be trained in it; that I'm thinking of
7 it as a budget issue, as much as a service
8 issue, probably actually more than a service
9 issue.

10 I'm just wondering if it's true and
11 if there's been any thought to doing it.

12 MR. McGRATH: Councilman, my name is
13 John McGrath, Deputy Commissioner for
14 Operations for the City of Philadelphia Fire
15 Department.

16 Councilman O'Neill, when a request
17 for service that has an EMS nature comes in,
18 if the first in medic unit or the second due
19 medic unit is not available, we send a engine
20 or a ladder, a first responder company, that
21 has a qualified emergency medical technician.
22 This is so that we can preserve life.

23 COUNCILMAN O'NEILL: Okay.

24 MR. McGRATH: We can open an airway.
25 We can restart a heart. We can stem

1 Law & Gov't - 5/5/05

2 bleeding.

3 When we send that, we bill as one
4 request for service.

5 COUNCILMAN O'NEILL: Oh.

6 MR. MCGRATH: The medic unit follows
7 up.

8 That would be the same thing as
9 differentiating when we respond to a fire.
10 Some fires only require an engine and ladder.
11 Some require four engines, two ladders, two
12 chiefs.

13 It's one response. We send what we
14 need to send to bring completion to the
15 emergency.

16 COUNCILMAN O'NEILL: Okay.

17 MR. AYERS: We would not be eligible
18 nor would the insurance companies allow us to
19 differentiate.

20 COUNCILMAN O'NEILL: Okay.

21 MR. MCGRATH: We do differentiate on
22 some services.

23 If we administer oxygen, we bill for
24 that. If we do certain things, we bill. But
25 to bill separately for the first responder

1 Law & Gov't - 5/5/05

2 company and the medic unit, they would not
3 allow that because we send what we need to
4 send for one request.

5 COUNCILMAN O'NEILL: And the first
6 responder unit is always going to get a
7 follow-up from a medic unit.

8 MR. McGRATH: Always.

9 COUNCILMAN O'NEILL: Yes.

10 MR. McGRATH: There is never a time
11 where we only send a first responder.

12 COUNCILMAN O'NEILL: Okay.

13 MR. McGRATH: As a matter of fact,
14 our procedures do not allow the EMT to recall
15 the medic unit. They come in and then we use
16 their level of expertise to determine what
17 course of action needs to be taken.

18 COUNCILMAN O'NEILL: Okay. Now, you
19 mentioned two different levels of training on
20 the medical side.

21 MR. McGRATH: Correct? We have what
22 they call an emergency medical technician.

23 COUNCILMAN O'NEILL: Okay.

24 MR. McGRATH: Which all new
25 firefighters who come through the academy as

1 Law & Gov't - 5/5/05

2 cadets are trained.

3 COUNCILMAN O'NEILL: Okay.

4 MR. McGRATH: They maintain state
5 certification. And we go through a retaining
6 process over a period of time.

7 And then there is another level,
8 what we call paramedic.

9 COUNCILMAN O'NEILL: Okay.

10 MR. McGRATH: Paramedics can
11 intubate. They interface with the doctor.
12 They actually can do a lot of the bidding of
13 the doctor at the scene where an EMT cannot.

14 COUNCILMAN O'NEILL: Okay. Let me
15 amend my question a little bit. If that EMT
16 were a paramedic that was on the first
17 responder unit, also a firefighter.

18 MR. McGRATH: That's correct.

19 COUNCILMAN O'NEILL: Would it make
20 any difference in our reimbursements?

21 MR. McGRATH: Not any difference.
22 There are models out there in other
23 departments. And they're actually in the
24 process of -- because we are actually in the
25 process of being overwhelmed with our

1 Law & Gov't - 5/5/05

2 requests as they rise throughout the City of
3 Philadelphia.

4 We're looking at other models in how
5 other cities deliver EMS service. And there
6 are models that have paramedics on the
7 engines and ladders. We're looking at that.

8 Our present model does not have that.
9 But even if there was, there would be no
10 separate billing.

11 COUNCILMAN O'NEILL: Okay. So it
12 would be a service level increase, but it
13 wouldn't be a reimbursement level increase.

14 MR. McGRATH: That's correct.

15 COUNCILMAN O'NEILL: Okay. Thank
16 you.

17 MR. AYERS: In that system, that
18 model, which many jurisdictions talk about,
19 one of the things that we face here in the
20 City of Philadelphia is the fact that
21 three-quarters, over 75 percent of our calls
22 can be handled with a basic life support
23 unit, that we don't need all ALS.

24 And that is one of the reasons that
25 we are doing that research. And based on

1 Law & Gov't - 5/5/05
2 whether or not we'd be able to implement to
3 bring the service, demand that we actually
4 get from the City, which is less fire service
5 demand and more emergency medical service
6 demand, that we'll be able to not only handle
7 the fire service with the current budget
8 that's proposed, but we'll also be able to
9 increase the medical service delivery to the
10 people. It's -- It's -- It's through the
11 roof.

12 COUNCILMAN O'NEILL: That analysis
13 is still being done?

14 MR. AYERS: That we're working with
15 it right now.

16 One of the things that we wanted to
17 do was get through the arbitration and the
18 PLRB process so that we could make the
19 alignments that's necessary, get the overtime
20 what we're paying out currently back in
21 order, and then do effective and efficient
22 delivery of service to the citizens.

23 COUNCILMAN O'NEILL: Okay.

24 MR. AYERS: That's what we were
25 asked to do. That's what we looked at.

1 Law & Gov't - 5/5/05

2 That's what we examined. And we do it or we
3 exceed national standards. That's what we
4 do.

5 COUNCILMAN O'NEILL: Thank you,
6 Commissioner.

7 COUNCILMAN KENNEY: Councilman
8 DiCicco.

9 COUNCILMAN DiCICCO: Thank you, Mr.
10 Chairman.

11 I can probably ask a dozen questions
12 or so, but I think this is my third or fourth
13 time that we've had this discussion. So I'm
14 just going to try to see if I can articulate
15 the issue before us and how... I think that
16 we're probably all talking about the same
17 thing, but you gentlemen obviously have a
18 directive.

19 You've been given direction, and you
20 need to follow that. You're hired by the
21 Mayor. We're elected by the people.

22 Mr. Ramos, in your testimony on Page
23 1, paragraph three, with over 100 years of
24 experience, among them City Fire
25 Commissioner, deputies of the Fire Department

1 Law & Gov't - 5/5/05

2 completed a careful and meticulous analysis
3 insuring any proposed closure of fire ladder
4 and engine companies would not effect service
5 quality or firefighter safety.

6 I'm going to go through and read a
7 couple of highlights from each paragraph and
8 then kind of put the question into a
9 statement more or less.

10 The next paragraph. As the City
11 pointed out in successfully defending a
12 grievance filed by the International
13 Association of Firefighters, the City
14 developed the redeployment plan to address
15 the shift in demand from fire suppression to
16 emergency medical service, and to provide
17 fire suppression and EMS services to the
18 public in the context... in the context of
19 the City's current fiscal crisis.

20 On the next page, it bears emphasis
21 that the changes that the City of
22 Philadelphia has proposed were not solely a
23 response to budget issues, but were carefully
24 thought out to provide the best services with
25 available resources.

1 Law & Gov't - 5/5/05

2 So far, those three -- In my
3 opinion, those three statements speak to one
4 issue. It's money, money, money, the way I
5 see it so far.

6 Not because it's in the best
7 interests of the Fire Department that will
8 give them the ability to provide better
9 service. They will provide the best service
10 that they can, and they do the best service,
11 and always have, based on what monies that
12 they have available.

13 It's not because this realignment is
14 going to better serve the public, in my
15 opinion. It's because it will serve the
16 public in the best manner, based on the money
17 that you have to spend.

18 So, why I'm reading this the way I
19 am is because everything keeps coming back to
20 the issue which caused me to do this
21 resolution.

22 The realignment plan by the Fire
23 Department will not leave any area of the
24 City unprotected. Boundaries of each region
25 have been reconfigured to accommodate engine

1 Law & Gov't - 5/5/05

2 and ladder realignments, to ensure that
3 there's adequate and safe coverage.

4 I don't know how we do that. I've
5 asked that question a dozen times. If you
6 take a ladder and/or engine from point "A"
7 and eliminate that, how does point "B"
8 respond to the locations in point "A" that
9 were originally responded to by that engine
10 and ladder, when they're much further away?

11 If you're two miles further away
12 from where the engine and ladder company were
13 normally responding to a fire, you can't get
14 there in the same amount of time.

15 It may meet national standards
16 because I know we can play with those numbers
17 all day, but it just -- you can't get there
18 in the same amount of time. It's going to
19 take you longer, no matter how you look at
20 it.

21 On Page 3 at the bottom you said
22 that -- We get into the Charter. The
23 decision was in direct response to the prior
24 former government which responsibility was
25 diffuse and hence accountability was

1 Law & Gov't - 5/5/05

2 nonexistent.

3 If the City experiences a fiscal
4 crisis, the voter should be able to look to
5 one place to assess blame.

6 Well, that's all well and good, but
7 because of the Charter which has a two-term
8 limit Mayor, we, the other elected members of
9 City Council who are not restricted under
10 term limits, are left holding the bag,
11 because any Mayor in his or her second term
12 can make all these crazy decisions and it's
13 too late for the public to do anything about
14 it because the results of the past election
15 are in, and unless you impeach the person
16 which will be almost impossible, we're stuck.

17 So the only recourse the public has
18 is to go to their other elected officials and
19 ask for relief. There is no other way of
20 getting around it.

21 I doubt if this Mayor would have
22 proposed this in his first term because maybe
23 the public would have placed the blame in the
24 one place that they should have, and he may
25 not have been Mayor today.

1 Law & Gov't - 5/5/05

2 It's not just Mayor Street. It
3 could be Mayor John Doe. There is no
4 recourse. But the other elected members of
5 City Council, other elected members of the
6 City of Philadelphia.

7 And on Page 4 at the top you said,
8 but if responsibility for spending and
9 management and administration decisions are
10 between the Mayor and Council, no one is
11 accountable, and no one takes responsibility,
12 and no one can be blamed.

13 Well, it just goes to what I just
14 said before, that we're going to be blamed,
15 we. I can go out to any community group in
16 my district and say, you know, I really like
17 to do this for you or I'd like to do that for
18 you; but, you know, I have no control. It's
19 the Mayor.

20 People get tired of hearing us make
21 excuses that we can't do anything about it.
22 Because you know what they tell us? Well, I
23 won't use the exact words that they use in
24 some of the neighborhoods, but they say,
25 well, who needs you?

1 Law & Gov't - 5/5/05

2 So, Commissioner, in your testimony
3 you sound somewhat defensive. You're taking
4 it personal. Why is the Fire Department
5 being singled out?

6 No one ever questions your ability.
7 We've said that time and time again. We all
8 respect the work that the Fire Department
9 does. And as far as I'm concerned, they're
10 underpaid. And I've said that in the past.
11 And they should be paid more for what they do
12 for the service they always provide.

13 So, we're doing it here because we
14 as a body -- I think the majority. The vote
15 hasn't been taken in this committee yet. And
16 we'll see what the body, the Committee of the
17 Whole does, want to help your department.

18 We want to give you back money which
19 we believe, based on your testimony and your
20 predecessor's testimony, that but for the
21 budget you never would have made these
22 processed changes in the first place.

23 So, we're coming back to you and
24 saying, forget those changes, because you
25 didn't want to have to do them anyway. We

1 Law & Gov't - 5/5/05

2 want to give you back the money.

3 There is not a department, I think,
4 that has come before us so far in the budget
5 process that has ever said to us, we don't
6 need any of this money that we're being cut,
7 you know. It's okay.

8 They all want it back. They're all
9 calling us and saying, could you help us get
10 some of that money back. So, we're trying to
11 help you. We're not here to hurt you.

12 Is this the best way to do it?
13 Probably not. But it's the only way we're
14 going to get it done under this
15 administration, because as you had testified,
16 the \$6.8 million that Council put back in the
17 budget last year is being spent by your
18 department because a temporary restraining
19 order is in place which says you can't make
20 these changes until the TRO is exhausted and
21 all the appeals. So you're spending it.

22 My question to you, then,
23 Commissioner is, if this Council -- and I
24 think Councilman Kenney may have touched on
25 it and possibly Kelly -- if we find the

1 Law & Gov't - 5/5/05

2 money, would you turn it down if we get it to
3 you, the \$6.8 million? And would you still
4 move forward on the -- move forward on the
5 realignment implementation?

6 Would you -- Would you do the
7 implementation of the realignment if we gave
8 you the \$6.8 million?

9 MR. AYERS: If the money was placed
10 in my budget to be used for the companies
11 that's currently there, I would spend the
12 money, and the companies would be there.

13 COUNCILMAN DiCICCO: Thank you. I
14 have no further questions. Thank you.

15 MR. AYERS: But that --

16 COUNCILMAN DiCICCO: No. You can
17 answer if you want. I just don't have any
18 more questions. That's all I want to know.

19 MR. AYERS: He stated which I was
20 getting ready to say about emergency medical
21 service.

22 COUNCILMAN DiCICCO: To keep the
23 current status of the department as it is
24 today, keeping the engines and the fire and
25 the ladder companies intact, as you currently

1 Law & Gov't - 5/5/05

2 are, and if we put the \$6.8 million, would
3 you use that money to keep that current level
4 in -- in process -- Looking for a better
5 word. Would you continue to use that money
6 to staff your department at its current
7 level, notwithstanding the EMS stuff. That's
8 a whole different issue we can talk about.
9 But the only reason --

10 MR. AYERS: Well, EMS service
11 delivery is the issue.

12 Right now --

13 COUNCILMAN DiCICCO: But that's not
14 the reason -- I have to interrupt you.
15 That's not the reason you came up with this
16 plan. The plan was, cut your budget by \$6.8
17 million, go figure out what you need for EMS,
18 and we'll make it work.

19 But if we put the \$6.8 million back,
20 based on what you have said in the past, your
21 testimony, and your predecessor, you never
22 would have came up with this plan in the
23 first place.

24 MR. AYERS: With all due respect,
25 Councilman, the way -- the money for the

1 Law & Gov't - 5/5/05

2 emergency medical services enhancement was
3 always a part of the plan.

4 COUNCILMAN DiCICCO: Would you spend
5 the \$6.8 million? You said you would not
6 change what you currently have in your
7 department.

8 MR. AYERS: Well, when I said that,
9 I assumed that you were going to give me --
10 assumed again -- that you was going to give
11 me those eight medic units as well.

12 COUNCILMAN DiCICCO: Maybe we will.
13 Maybe we will.

14 MR. AYERS: I'm dreaming about money
15 now.

16 COUNCILMAN DiCICCO: Let's bifurcate
17 the two issues. Forget the EMS. We have a
18 situation where this administration is
19 looking to close in my -- and I use the word
20 close -- 15 fire stations in the City of
21 Philadelphia. Okay?

22 MR. RAMOS: Councilman, may I
23 respond? All right.

24 COUNCILMAN DiCICCO: And close is a
25 word that we can all use in different --

1 Law & Gov't - 5/5/05

2 MR. RAMOS: As you know --

3 COUNCILMAN KENNEY: Mothball, close,
4 deactivate.

5 COUNCILMAN KENNEY: What is it? A
6 semantic argument? Because in the firehouse
7 where there used to be two apparatus, there's
8 only going to be one.

9 COUNCILMAN DiCICCO: Or none.

10 COUNCILMAN KENNEY: Or none.

11 So I mean, just because the house is
12 there doesn't mean it's not closed.

13 COUNCILMAN DiCICCO: It's not
14 closed.

15 MR. AYERS: That's not true.

16 COUNCILMAN KENNEY: Well, correct
17 the record, then.

18 MR. McGRATH: Councilman, that are
19 no fire houses closing. There are some
20 companies will not be there. There were no
21 fire houses that will not have a fire
22 apparatus that had one before.

23 COUNCILMAN DiCICCO: A fire
24 apparatus for 4th and Arch?

25 COUNCILMAN KENNEY: Now, wait. Hold

1 Law & Gov't - 5/5/05

2 it. Is it a fire engine or ladder or do you
3 mean a fire apparatus --

4 MR. McGRATH: An engine -- There is
5 no fire house that will not have an engine or
6 a ladder in it or both.

7 COUNCILMAN KENNEY: But in the two
8 slots in the door of the fire house where
9 there used to be an engine and a ladder,
10 there will be one -- some with both of --
11 missing either one.

12 MR. AYERS: There will be one.

13 COUNCILMAN DiCICCO: 4th and Arch?

14 MR. McGRATH: 4th and Arch heavy
15 rescue moves in there from --

16 MR. AYERS: Heavy rescue and the
17 medic unit.

18 MR. McGRATH: -- 4th and Girard.

19 COUNCILMAN DiCICCO: What happens to
20 the ladder and/or engine that's there now?

21 MR. McGRATH: They go out of
22 service, and heavy rescue unit responds in
23 that --

24 COUNCILMAN KENNEY: It's not -- So
25 heavy rescue is not what the average citizen

1 Law & Gov't - 5/5/05

2 would typically think is an engine or leader.

3 COUNCILMAN DiCICCO: We went through
4 this the last hearing.

5 MR. McGRATH: No, it's not an engine
6 or ladder. It's a specialized, highly
7 trained --

8 COUNCILMAN KENNEY: But they're not
9 throwing a ladder up on your wall and going
10 in your window to save you.

11 MR. McGRATH: They have done that or
12 had the capability of doing that.

13 COUNCILMAN KENNEY: In the average
14 dwelling fire, does heavy rescue respond to a
15 regular dwelling fire?

16 MR. McGRATH: Yes, sir, we do.

17 COUNCILMAN KENNEY: How often do
18 they do that?

19 MR. McGRATH: Heavy rescue responds
20 or one of our new squad companies which --

21 MR. AYERS: Every one.

22 MR. McGRATH: Every one.

23 If they have a working tactical box,
24 they respond.

25 COUNCILMAN KENNEY: And they're

1 Law & Gov't - 5/5/05

2 first in? They're first in on the scene?

3 MR. McGRATH: They're not the first
4 in company, no. In that local that they
5 would --

6 COUNCILMAN KENNEY: Who's the first
7 in?

8 COUNCILMAN DiCICCO: That's the
9 point.

10 MR. McGRATH: At what location, sir?

11 COUNCILMAN KENNEY: In a typical
12 residential dwelling fire with people inside,
13 who's the first response generally? Is it
14 engine or ladder company?

15 MR. McGRATH: It's an engine.

16 COUNCILMAN KENNEY: It's an engine.
17 So it's not heavy rescue. It's first
18 response.

19 MR. McGRATH: No.

20 COUNCILMAN KENNEY: Okay. So, heavy
21 rescue is really not an issue in most
22 dwelling fires, correct?

23 MR. McGRATH: Not if you're talking
24 about first in, who's first in.

25 COUNCILMAN KENNEY: Well, isn't the

1 Law & Gov't - 5/5/05

2 first in people the one who we're concerned
3 about? Isn't it the first people on the
4 scene are the ones most likely to save life?

5 UNIDENTIFIED VOICE: Guy with the
6 ladder.

7 MR. McGRATH: Yes, sir, that's true.
8 And that's why we adhere -- we meet or exceed
9 national standards for response times.

10 COUNCILMAN KENNEY: We're getting --
11 Managing Director, you didn't answer.

12 MR. RAMOS: You mentioned the heavy
13 rescue at 4th and Arch. Are there other
14 cases like that or is that --

15 MR. McGRATH: No.

16 MR. RAMOS: I just want to follow
17 up. I was asking whether there were any --
18 whether in addition to 4th and Arch, whether
19 there was another situation where you had a
20 box -- whether you had, you know, a box with
21 only heavy rescue. What's the -- Are
22 there -- How many other -- How many other
23 fire houses are there where there wouldn't be
24 an engine or a ladder?

25 MR. McGRATH: Engine 20 at 10th and

1 Law & Gov't - 5/5/05

2 Cherry. They pick up the workload in that
3 area.

4 COUNCILMAN KENNEY: Do you want to
5 waste your time?

6 COUNCILMAN DiCICCO: No.

7 I understand they pick it up, and
8 then if they have a call and somebody's got
9 to pick up 10th and Cherry, it just moves
10 down the chain.

11 I know you gentlemen are trying your
12 best. You've got your direction from the
13 second floor to make this work, and it's
14 not --

15 COUNCILMAN KENNEY: Well, the
16 direction's coming from civilians. The
17 direction is coming from civilians.

18 COUNCILMAN DiCICCO: It just doesn't
19 work. It doesn't work.

20 MR. RAMOS: But this is -- This
21 is -- I mean, I -- There's -- There's -- I
22 mean -- I mean -- I'd like to ask one
23 question. I know it's not my prerogative.
24 Ask your indulgence.

25 COUNCILMAN KENNEY: Go ahead. Maybe

1 Law & Gov't - 5/5/05

2 we'll learn something. Go ahead.

3 MR. RAMOS: And if -- You know, I'm
4 trying to figure out what the expectation
5 because you said let's separate the -- the --
6 the -- the -- the EMS from the engine and
7 ladder issue.

8 But if -- The way I read the
9 proposal, you know, what you're saying is
10 that every -- that engine and ladder
11 companies end up having to stay where they
12 are unless Council gives permission, forever.

13 And it's not just about money
14 because you're not -- you weren't asking the
15 Fire Department whether, you know, they had
16 the money, whether they could, you know,
17 whether they could -- would get to the point
18 where they would be more satisfied. You were
19 saying, take the engine -- take the
20 engines -- take the EMSs out of it.

21 So, is the question -- You know,
22 is -- you're -- you're taking away the
23 prerogative of moving things around as needed
24 or adding something and taking something else
25 away, apart from the dollar.

1 Law & Gov't - 5/5/05

2 COUNCILMAN DiCICCO: But that was
3 you guys --

4 COUNCILMAN KENNEY: You guys are
5 taking away the whole credibility of the
6 budget process which is enshrined in the
7 Charter also.

8 (Mr. Ramos and Councilman Kenney
9 speaking simultaneously, not reportable.)

10 COUNCILMAN KENNEY: You want to be
11 fair about defending the executive branch's
12 rights in the Charter, that's fine. But then
13 again, you trample over the legislative
14 body's rights in the Charter. And that's
15 fine, too. You can't have it both ways.

16 MR. RAMOS: Well, I'm just asking
17 what the position is with respect to the
18 sponsor's position.

19 COUNCILMAN DiCICCO: The library --
20 Department head of the library comes in and
21 says, we're being cut \$2 million. We would
22 like to have it back because we need to do
23 "X," "Y" and "Z." We tried to get it back
24 in.

25 Fire Department comes and says,

1 Law & Gov't - 5/5/05

2 we're cutting our budget by \$6.8 million
3 because the administration told us to because
4 there's a fiscal crisis in this City. So
5 we're going to have to try to figure out how
6 we run our department with \$6.8 million less.

7 Not that we want to do it. Not that
8 it's something we embrace and we think is in
9 the best interests of the citizens. But
10 that's all we have to spend.

11 We say, we're going to give it back
12 to you so you don't have to make that
13 hardcore decision.

14 MR. RAMOS: And that's what I'm
15 asking, whether you're saying we'll give it
16 back to you --

17 COUNCILMAN DiCICCO: I don't want to
18 run the Fire Department. If I wanted to, I'd
19 be a fireman today.

20 MR. RAMOS: -- or whether you're
21 saying, here, I'll give you back the \$2
22 million if you do "X," "Y," and "Z" or with
23 the direction to do "X," "Y" and "Z"

24 COUNCILMAN DiCICCO: Well, because
25 there's no other way of doing it because we

1 Law & Gov't - 5/5/05

2 put it back in and they say, you're not
3 spending it anyway, even though the
4 department by its own initiative didn't make
5 the decision to realign the department. They
6 were forced into making the realignment.

7 COUNCILMAN KENNEY: Is it your
8 position, Managing Director, that you guys
9 would spend the money if we put it back.

10 MR. RAMOS: No. I think what I was
11 trying -- I think -- I think -- I think we
12 represent -- you know, we've testified as
13 to --

14 COUNCILMAN KENNEY: You will or you
15 won't? You will or you won't spend the money
16 if we put it back?

17 MR. RAMOS: Can't hear you.

18 COUNCILMAN KENNEY: You will or you
19 won't spend the money if we put it back?

20 MR. RAMOS: The -- You -- You had
21 asked, you know, that -- that -- that -- that
22 question before.

23 COUNCILMAN KENNEY: Yeah. What was
24 the answer?

25 MR. RAMOS: I think that -- that --

1 Law & Gov't - 5/5/05

2 that -- that I think that at any given moment
3 the departments will run to their --
4 according to their budgets and adjusting as
5 they go along to whatever --

6 COUNCILMAN KENNEY: I don't
7 understand the answer to that question. The
8 question I asked was, if we find a way to
9 responsibly and show where it's coming from
10 and put it back, the Commissioner said he'd
11 love to spend the money. Would you allow him
12 to spend the money or no, to retain our
13 current level of service?

14 MR. RAMOS: My -- My -- My question
15 is whether you're telling him how to spend
16 the money.

17 COUNCILMAN KENNEY: No.

18 MR. RAMOS: You're not? I thought
19 that's what the resolution did.

20 COUNCILMAN KENNEY: He wouldn't have
21 done what he has to do unless he was directed
22 by a civilian on a budget issue to do it.

23 And if the only issue is the budget,
24 and the money goes back in the budget, what
25 would be the need for him to continue on this

1 Law & Gov't - 5/5/05

2 plan if the money was replaced?

3 By the way, how much money does the
4 Fire Department turn over to the City General
5 Fund from its collections on EMS
6 reimbursements a year? How much last year?

7 MR. AYERS: We tracked in 20
8 million.

9 COUNCILMAN DiCICCO: And going up.

10 COUNCILMAN KENNEY: How much?

11 MR. AYERS: We tracking 20 to 22
12 million.

13 COUNCILMAN KENNEY: And increasing.

14 COUNCILMAN DiCICCO: And going up.

15 COUNCILMAN KENNEY: And increasing?

16 MR. AYERS: Yes.

17 COUNCILMAN KENNEY: And you don't
18 find a problem, just fairness wise, that a
19 department that turns over more than \$20
20 million a year back to the City coffers is
21 being asked to take this draconian cut of
22 \$6.8 million which they wouldn't have done
23 unless they were forced to by the budget
24 constraints? I mean, you don't find any
25 inequity there?

1 Law & Gov't - 5/5/05

2 MR. AYERS: One of the things that
3 need to be understood about that is that \$22
4 million is in payment for the emergency
5 medical service delivery. And it's still
6 short by about \$10 million.

7 COUNCILMAN KENNEY: But you're
8 turning it over to the General Fund.

9 MR. AYERS: Yes, we turn funds back
10 over --

11 MR. RAMOS: -- cost, is what the
12 Commissioner is saying.

13 And you've had the budget -- I -- I
14 think there's a different -- you know,
15 there's a budget difference there's a
16 political difference, there's a political
17 difference.

18 And the issue, you know, and today's
19 hearing is on -- on whether the solution
20 here -- and I understand the sponsor's
21 frustration that -- feeling that this is the
22 only -- feeling that this is the only
23 vehicle. And I -- you know, I'll respect
24 that -- that view, whether this is the way to
25 go about it.

1 Law & Gov't - 5/5/05

2 This body collectively has means of
3 dealing with the -- with the Mayor through
4 the budget process.

5 COUNCILMAN KENNEY: What budget
6 process?

7 COUNCILMAN DiCICCO: Just one final
8 statement for me. You know, we keep
9 referring to the Charter and the framers of
10 the Charter.

11 Well, you know, everything starts
12 someplace and ends some place, but things do
13 get amended and adjusted. It's 54 years old,
14 this Charter.

15 It doesn't necessarily mean that
16 it's not time to look at it and make some
17 changes, whether it's for this issue before
18 us today or other issues.

19 There was an attempt a few years
20 ago. It was soundly defeated because of one
21 issue which I still can't remember what that
22 issue was, that killed the whole deal on
23 Charter reform.

24 Had it not been for that one Charter
25 issue, there may have been some changes.

1 Law & Gov't - 5/5/05

2 That's the process. I mean, laws are made,
3 and there are amendments to things.

4 We shouldn't be of the mindset that,
5 you know, it's set in stone for eternity. It
6 was necessary at the time it was created in
7 '51.

8 I started reading the history of the
9 Charter. Just last night I read about ten
10 pages. It's a report from the Committee of
11 70. And it's very scary. And I would
12 encourage people in here to read it, when you
13 look at the similarities of what caused the
14 Charter to be implemented in the first place.

15 Fiscal spending, corruption. You
16 name it. Very, very similar issues were
17 going on back in those days prior to '51,
18 which ultimately led the citizenry to rise up
19 and say, we want a change, not unlike the
20 citizens are telling each of us in our
21 districts that we don't want these fire
22 stations closed and we don't want our
23 libraries closed.

24 And they look to us as elected
25 officials, again, who for better or worse do

1 Law & Gov't - 5/5/05

2 not have term limits, as the Mayor does.

3 He's gone in two years, and we're left

4 holding the bag.

5 And I can't make excuses as to why I

6 couldn't do anything about it because my

7 office, the way it's set now, in my opinion,

8 for the most part, based on some of the

9 testimony and comments about the Charter, the

10 Office of the District Council or

11 Councilman-at-large for that matter has been

12 basically relegated to a pothole hot line

13 because you can't make any other changes.

14 COUNCILMAN KENNEY: Thank you.

15 Any other questions for these

16 witnesses?

17 (No response.)

18 COUNCILMAN KENNEY: Seeing none,

19 anyone else to testify on these bills or

20 resolutions?

21 (No response.)

22 COUNCILMAN KENNEY: Seeing none,

23 that will conclude our public hearing.

24 We will now convene a public

25 meeting, and the Chair recognizes Council

1 Law & Gov't - 5/5/05
2 member O'Neill for a motion to amend Bill
3 Number 050301.

4 COUNCILMAN O'NEILL: Amendment
5 circulated both to the stenographer and to
6 the members of the committee and the Chair.

7 It's a joint amendment with
8 Councilman Nutter. I mentioned these items
9 at the beginning of the hearing.

10 Page 1 of the amendment is just some
11 chapter and section changes.

12 Page 2, the following changes are
13 made: New Section 20-1002, Section 1, Line
14 1, delete person and insert individual.

15 Line 2 of Section 1, first word
16 added is calendar before the word year.

17 Going to the Line 3, delete \$1,000.
18 Insert \$2,000.

19 Line 4 the numeral \$2,000 is added.

20 And then going to Section 2 on the
21 same page -- We're still on Page 2. This is
22 Section 2 of Section 20-1002. In the first
23 sentence after the first word which is no, we
24 add the new language, person, comma, other
25 than individuals who are covered under

1 Law & Gov't - 5/5/05

2 20-1002, subsection 1, and no. That's the
3 entire rest of the first line.

4 Going down to the third line, add
5 the word calendar just before the word year
6 at the beginning of that line.

7 And then later in that line,
8 deleting \$5,000 and adding \$10,000.

9 Further down there, Section 3, new
10 subsection 3, we change in the fourth line
11 \$50,000 to \$75,000 per year.

12 And then on Page 3, in each case
13 where City Council, Register of Wills,
14 Sheriff, Clerk of Quarter Sessions, and City
15 Commissioner, we're deleting 200,000 and
16 inserting 250,000. I believe they are
17 consistent with what I had mentioned earlier.

18 And then at the very end on Page 4
19 is the severability provision. New section 3
20 reads as follows: If any provision of this
21 ordinance, comma, or the application of such
22 provision to any person or circumstance,
23 comma, shall be held invalid, comma, the
24 remainder of the ordinance, comma, and
25 application of such provision to persons or

1 Law & Gov't - 5/5/05
2 circumstances other than those as to which it
3 is held invalid, comma, shall not be affected
4 thereby, period.
5 COUNCILMAN KENNEY: Thank you. Do
6 you move those?
7 COUNCILMAN O'NEILL: Yes. I'll ask
8 somebody on the committee.
9 COUNCILMAN KENNEY: They've been
10 moved.
11 UNIDENTIFIED COUNCIL PERSON:
12 Second.
13 COUNCILMAN KENNEY: All in favor?
14 (Chorus of "ayes.")
15 COUNCILMAN KENNEY: There are none
16 opposed.
17 Bill Number 050301 will be amended
18 accordingly.
19 Chair recognizes Councilman O'Neill
20 for a motion on the amended bill.
21 COUNCILMAN O'NEILL: I'm not sure I
22 can, not being on the committee.
23 COUNCILMAN KENNEY: Oh, I'm sorry.
24 COUNCILMAN O'NEILL: I'm not on the
25 committee. I'd be up there.

1 Law & Gov't - 5/5/05

2 COUNCILMAN KENNEY: All right.

3 Councilman Kelly, please.

4 COUNCILMAN KELLY: Thank you, Mr.

5 Chairman.

6 I move that Bill Number 050301, as
7 amended, to be moved out of this committee
8 with a favorable recommendation, and also
9 move that there be a suspension of the rules
10 in order to allow first reading at the next
11 session of Council.

12 COUNCILMAN NUTTER: Second.

13 COUNCILMAN KENNEY: Moved and
14 seconded.

15 All in favor?

16 (Chorus of "ayes.")

17 COUNCILMAN KENNEY: There are none
18 opposed.

19 Bill Number 050301, as amended,
20 reported out of this committee favorably;
21 request been made for rule suspension to
22 allow first reading at our next Council
23 session.

24 Chair recognizes Councilman DiCicco
25 for an offering of an amendment which will be

1 Law & Gov't - 5/5/05

2 offered by the committee once he explains it.

3 COUNCILMAN DiCICCO: Thank you, Mr.
4 Chairman.

5 There's a technical change that
6 needs to be made to the bill. On Page 1,
7 Section 1, second line, a sentence where it
8 says were the election to be held May 17,
9 2005. That needs to be changed to November
10 8, 2005.

11 And also, on Page 2, Section 4, the
12 same change, changing the date from May 17,
13 2005 to November 8, 2005.

14 COUNCILMAN KENNEY: Thank you.

15 Councilman Kelly, would you like to
16 offer that amendment?

17 COUNCILMAN KELLY: I offer the
18 amendment to be accepted as read.

19 COUNCILMAN NUTTER: Second.

20 COUNCILMAN KENNEY: Been moved and
21 seconded.

22 All in favor?

23 (Chorus of "ayes.")

24 COUNCILMAN KENNEY: There are none
25 opposed.

1 Law & Gov't - 5/5/05

2 Bill Number 050286 will be amended
3 accordingly.

4 Is there an additional requirement
5 for an amendment to the resolution?

6 No.

7 The Chair recognizes Council member
8 Kelly for a motion on the amended bill.

9 COUNCILMAN KELLY: Yes. Mr.
10 Chairman, I move that Bill Number 050286, as
11 amended, be moved out of this committee with
12 a favorable recommendation, and also ask for
13 the suspension of the rules in order that
14 this bill may be heard at the next session of
15 Council.

16 COUNCILMAN KENNEY: Second?

17 COUNCILMAN NUTTER: Second.

18 COUNCILMAN KENNEY: Moved and
19 seconded.

20 All in favor.

21 (Chorus of "ayes.")

22 COUNCILMAN KENNEY: Any opposed?

23 COUNCILMAN MARIANO: Opposed.

24 COUNCILMAN Kenney: Let the record
25 show that Councilman Mariano votes no.

1 Law & Gov't - 5/5/05

2 The Chair recognizes Councilman
3 Kelly on a motion to approve Resolution
4 050292.

5 COUNCILMAN KELLY: I move that
6 Resolution Number 050292 be reported out of
7 this committee with a favorable
8 recommendation, and also ask for the
9 suspension of the rules in order that the
10 resolution may be approved at the next -- may
11 be read at the next session of Council.

12 COUNCILMAN NUTTER: Second.

13 COUNCILMAN KENNEY: The resolution
14 has been moved and seconded.

15 All in favor of Resolution 050292?
16 (Chorus of "ayes.")

17 COUNCILMAN KENNEY: Let the record
18 show that Councilman Mariano voted no.

19 Bill Number 050292 is reported out
20 of this committee accordingly.

21 That concludes the business of the
22 Law and Government Committee public hearing.

23 Thank you for your attendance.

24 (Public hearing and meeting
25 concluded at 4:08 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the public hearing of The Philadelphia City Council, taken on May 5, 2005, and that this is a true and correct transcript of same.

DAVID A. DEIK, RPR and
Commissioner of Deeds

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)