

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON LABOR AND CIVIL SERVICE

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, June 4, 2013
10:20 a.m.

PRESENT:

COUNCILMAN JAMES KENNEY, CHAIR
COUNCILWOMAN CINDY BASS
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BOBBY HENON
COUNCILMAN BRIAN J. O'NEILL
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ
COUNCILMAN MARK SQUILLA

BILL 130307 - An ordinance amending the ordinance of March 1, 1963, entitled "An ordinance authorizing the Board of Pensions and Retirement to enter into an agreement or agreements to administer employee retirement benefits for the Philadelphia Industrial Development corporation...

RESOLUTION 130360 - Resolution authorizing the Committee on Labor and Civil Service to hold hearings to examine the Neighborhood Transformation Initiative contracts awarded to LP Group 2 from 2004 to 2006.

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COUNCILMAN KENNEY: Good morning, ladies and gentlemen. The Committee on Labor and Civil Service is in session. We have a quorum of City Councilmembers Goode, Squilla, and Henon.

The first bill we will hear today is Bill No. 130307, which is an ordinance amending the ordinance of March 1st, 1963, entitled "An ordinance authorizing the Board of Pensions and Retirement to enter into an agreement or agreements to administer employee retirement benefits for the Philadelphia Industrial Development Corporation, Passenger Services Improvement Corporation, Food Distribution Center, and the Philadelphia Parking Authority, under certain terms and conditions," as amended, to provide for revised reimbursement rates, under certain terms and conditions.

Mr. Koonce.

(Witnesses approached witness table.)

1 6/4/13 - LABOR - BILL 130307, etc.

2 COUNCILMAN KENNEY: Good
3 morning. Please identify yourself for
4 the record.

5 MR. KOONCE: I'm actually with
6 my Finance Director.

7 MR. QUINN: Jim Quinn.

8 MR. KOONCE: Good afternoon,
9 Chairman Kenney, other members of the
10 City Council Labor and Civil Service
11 Committee. My name is Michael Koonce and
12 I have the pleasure of servicing as the
13 Executive Vice President of the
14 Philadelphia Housing Development
15 Corporation, commonly referred to as
16 PHDC.

17 I'm here to testify in support
18 of Bill No. 130307, which would amend the
19 ordinance of March 1st, 1963 and permit
20 PHDC to reimburse the City for
21 contributions made to the City pension
22 and retirement benefits system on behalf
23 of the PHDC employees at a rate equal to
24 the minimum obligation rate. This
25 contribution rate change would place PHDC

1 6/4/13 - LABOR - BILL 130307, etc.

2 on par with City agencies, while in no
3 way jeopardizing the fiscal soundness,
4 reliability, and solvency of the PHDC
5 pension and retirement benefits plan for
6 its retired, current, and future
7 employees. In fact, Bill No. 130307
8 would require PHDC to reimburse the City
9 for any unfunded liability owed for its
10 retired and current employees in the
11 event PHDC decided to terminate its
12 participation in the City pension and
13 retirement benefits system.

14 PHDC's operations are almost
15 entirely funded by federal, state, and
16 local government appropriations through
17 contracts with the Commonwealth's
18 Department of Community and Economic
19 Development and the City's Office of
20 Housing and Community Development. With
21 the exception of reimbursement of certain
22 administrative costs and expenses, the
23 use of all PHDC revenue is restricted and
24 must be allocated toward the provision of
25 housing related services to low- and

1 6/4/13 - LABOR - BILL 130307, etc.
2 moderate-income Philadelphians and the
3 maintenance of its real property
4 portfolio.

5 The Committee should note that
6 while PHDC has experienced a sizeable
7 reduction to its operations, personnel,
8 and programs, PHDC's pension and
9 retirement benefits liability has not.
10 From the time that PHDC opened its doors
11 and hired employees, PHDC has annually
12 reimbursed the City for contributions
13 made to the City pension and retirement
14 system on behalf of PHDC employees,
15 quote, the total normal cost of the
16 benefits provided at rates most recently
17 established by the actuary of the Board
18 of Pension and Retirement of the City or
19 the Pension Board, based upon the
20 actuarial experience of the applicable
21 plans of the retirement system of the
22 City, as required by the ordinance of
23 '63. That ordinance is entitled "An
24 ordinance authorizing the Board of
25 Pensions and Retirement to enter into an

1 6/4/13 - LABOR - BILL 130307, etc.
2 agreement or agreement to administer
3 employee retirement benefits for the
4 Philadelphia Industrial Development
5 Corporation, Passenger Services
6 Improvement Corporation, Food
7 Distribution Center, and the Parking
8 Authority, under certain terms and
9 conditions. As a result of PHDC's annual
10 reimbursement of this rate, PHDC
11 presently has virtually no unfunded
12 pension and retirement benefits
13 liability. Yet, this fulfillment of
14 PHDC's contractual and fiduciary
15 responsibility comes with an expensive
16 price tag, which is the reimbursement to
17 the City at a rate that far exceeds the
18 minimum municipal obligation rate
19 contributed by City agencies and
20 reimbursed by other quasi City agencies.

21 In order to eliminate any
22 confusion, I'd like to define for the
23 Committee the term "minimum municipal
24 obligation rate." Unlike the normal
25 benefits, costs are established by the

1 6/4/13 - LABOR - BILL 130307, etc.
2 Pension Board's actuary as required by
3 the ordinance of '63. The minimum
4 municipal obligation rate is the smallest
5 quantity mandated by the Commonwealth of
6 Pennsylvania that the City must
7 contribute to its pension and retirement
8 system. This quantity is calculated
9 using actuarial science to ensure that
10 the City's pension and retirement system
11 is sufficiently funded. Because PHDC has
12 virtually no unfunded pension and
13 retirement benefits liability, annual
14 reimbursements at the minimum municipal
15 obligation rate will permit PHDC to
16 continue to sufficiently meet its pension
17 and retirement liability to its retired,
18 current, and future employees and also
19 free up funds to permit PHDC to assist
20 more Philadelphia's low- and
21 moderate-income citizens and help them
22 remain in their homes.

23 As I mentioned in the
24 beginning, this bill would amend the
25 ordinance of '63 to permit PHDC to

1 6/4/13 - LABOR - BILL 130307, etc.
2 reimburse the City for contributions made
3 to the City pension and retirement
4 benefits system on behalf of PHDC
5 employees at the minimum municipal
6 obligation rate. For the aforementioned
7 reasons, I respectfully request the
8 Committee to vote to move this bill out
9 of Committee with a favorable
10 recommendation and suspend the rules.

11 Thank you, and I remain
12 available to answer any questions that
13 the members of the Committee may have.

14 COUNCILMAN KENNEY: Thank you
15 for your testimony. Is that all the
16 testimony being offered?

17 MR. KOONCE: Yes.

18 COUNCILMAN KENNEY: Councilman
19 Goode.

20 COUNCILMAN GOODE: Thank you,
21 Mr. Chairman.

22 Mr. Koonce, how did you become
23 familiar with this bill?

24 MR. KOONCE: I'm sorry?

25 COUNCILMAN GOODE: How did you

1 6/4/13 - LABOR - BILL 130307, etc.

2 become familiar with this bill?

3 MR. KOONCE: I became Executive
4 Director -- well, I took over as
5 Executive Vice President of PHDC in
6 December of last year, and the bill --
7 one of my -- at one of my briefings, I
8 was informed that we faced a deficit of
9 approximately \$700,000, and that deficit
10 was due to PHDC being paid -- I mean,
11 making payments to the pension fund at a
12 higher rate than the other City agencies.
13 And I was also informed that it had been
14 anticipated this bill would have been
15 introduced last fall, and so the budget
16 was accepted.

17 COUNCILMAN GOODE: So PHDC was
18 already included in this legislation or
19 proposed legislation before you became
20 Director?

21 MR. KOONCE: Yes.

22 COUNCILMAN GOODE: So you don't
23 know the origin of this bill?

24 MR. KOONCE: No, I don't.

25 COUNCILMAN GOODE: And you

1 6/4/13 - LABOR - BILL 130307, etc.
2 don't know why the other agencies are
3 included?

4 MR. KOONCE: The other agencies
5 that are referenced in -- the agencies
6 that are excluded, along with PHDC, are
7 the Philadelphia Parking Authority and
8 the Philadelphia Municipal --

9 COUNCILMAN GOODE: But you
10 don't know why they're included?

11 MR. KOONCE: No, I do not.

12 COUNCILMAN GOODE: Do you know
13 who originated the bill, whose idea it
14 was?

15 MR. KOONCE: I believe it came
16 from the Finance Department, the City's
17 Finance Department.

18 COUNCILMAN GOODE: We don't
19 know particularly who made the decision
20 about what agencies go in the bill and
21 what agencies don't?

22 MR. KOONCE: No. I wasn't a
23 part of those discussions.

24 COUNCILMAN GOODE: Is there
25 anyone else here from the Administration

1 6/4/13 - LABOR - BILL 130307, etc.

2 that can answer those questions?

3 (No response.)

4 COUNCILMAN GOODE: Is there

5 anyone here from the Pension Board?

6 MR. KOONCE: Yes. Mr. Bielli

7 is here from the Pension Board.

8 COUNCILMAN GOODE: Thank you.

9 (Witness approached witness
10 table.)

11 COUNCILMAN KENNEY: Please
12 identify yourself for the record.

13 MR. BIELLI: Francis Bielli,
14 Executive Director of the Board of
15 Pensions.

16 COUNCILMAN KENNEY: Pull the
17 microphone close to you and could you
18 reintroduce yourself.

19 MR. BIELLI: Francis Bielli,
20 Executive Director, Board of Pensions.

21 COUNCILMAN KENNEY: Thank you.

22 COUNCILMAN GOODE: For the
23 record, do you know how this bill
24 originated and when it originated and
25 whose idea it was?

1 6/4/13 - LABOR - BILL 130307, etc.

2 MR. BIELLI: I do not know how
3 it originated. I do know that the Board
4 of PHDC considered the bill and was
5 having discussions with the
6 representatives of the PHDC union.
7 That's all I know.

8 COUNCILMAN GOODE: But there
9 are a number of agencies included in this
10 bill. So my question is, do you know how
11 the bill originated, whose idea it was,
12 and who decided which agencies to include
13 in the bill?

14 MR. BIELLI: No, I do not.

15 COUNCILMAN GOODE: Is there
16 anybody here from the Administration that
17 can answer that question?

18 (No response.)

19 COUNCILMAN GOODE: I didn't
20 think so.

21 Thank you.

22 COUNCILMAN KENNEY: Thank you,
23 Councilman.

24 Also, the issue of the minimum
25 pension payment requirement, isn't that

1 6/4/13 - LABOR - BILL 130307, etc.
2 what got us into the trouble we're into
3 with our larger pension fund? I mean,
4 isn't the fact that we were just paying
5 the minimum required by state law over
6 such a period of time that helped
7 contribute to the underfunded nature of
8 the Pension Fund?

9 MR. BIELLI: There's a
10 difference between the MMO and what's
11 called the City funding policy. Under
12 the City funding policy, the contribution
13 of the City would be larger, certainly,
14 and since 2004, the contribution has been
15 made under the MMO versus the City
16 funding policy.

17 COUNCILMAN KENNEY: So --

18 MR. BIELLI: I think there were
19 various factors concerning the
20 underfunding, but certainly it's a lesser
21 contribution.

22 COUNCILMAN KENNEY: Why would
23 we go down the road with this particular
24 pot of pension money?

25 MR. BIELLI: I don't know if I

1 6/4/13 - LABOR - BILL 130307, etc.
2 can answer that question, although as
3 Mr. Koonce did testify to, all other City
4 employees aside from the quasi agencies
5 do pay at the MMO level since 2004. I
6 can only assume the idea was to create
7 some sort of parity in contribution
8 level.

9 COUNCILMAN KENNEY: Parity of
10 underfundedness?

11 MR. BIELLI: Parity of employee
12 contribution. I don't know.

13 COUNCILMAN KENNEY: Again, I
14 don't mean to be smart with you. To me
15 it seems like it's the mistake we made
16 with the 2004 decision.

17 Mr. Koonce.

18 MR. KOONCE: Well, what it
19 would do for -- I can only tell you what
20 it would do -- how it would impact our
21 agency. We currently have a \$700,000
22 deficit now, because the budget, as I
23 said earlier, was passed last fall or
24 late last summer with anticipation that
25 this bill would also be passed. And all

1 6/4/13 - LABOR - BILL 130307, etc.
2 of our funding comes from State and City
3 funding, either the Housing Trust Fund,
4 CDBG or state DCED dollars. We also --
5 all of our programs are preservation
6 programs generally serving folks that
7 would be -- it would be a huge impact on
8 the low-income population if we could not
9 stick with the same level of services. I
10 already -- or PHDC already has a three-
11 or four-year backlog in Basic Systems
12 Repair program, up to a year's backlog in
13 Adoptive Mod. We face lots of other
14 challenges. We don't know exactly what
15 our state funding is going to be this
16 fall.

17 But my point in all of this is
18 that we would have to use CDBG dollars,
19 which are -- well --

20 COUNCILMAN KENNEY: Or dollars
21 from some place else in the government.

22 MR. KOONCE: Yes.

23 COUNCILMAN KENNEY: So it's not
24 just this bill or nothing.

25 MR. KOONCE: It's not just this

1 6/4/13 - LABOR - BILL 130307, etc.
2 bill or nothing, but I'm not so sure
3 that -- we would probably, conservatively
4 speaking, have to lay off probably 15
5 people if we don't get this passed.

6 COUNCILMAN KENNEY: Well, if
7 you don't get the deficit erased.

8 MR. KOONCE: Yes. Well, if we
9 don't get parity with the other City
10 agencies.

11 COUNCILMAN KENNEY: But there's
12 other ways to reduce the deficit,
13 correct?

14 MR. KOONCE: We could reduce
15 our programs.

16 COUNCILMAN KENNEY: No, no, no.
17 I'm saying is the government -- does the
18 City government have the capacity to have
19 the authority to provide for the
20 shortfall?

21 MR. KOONCE: I've just received
22 my budget for next year, and the only
23 funds that I'm getting from the City are
24 Housing Trust funds and CDBG dollars.

25 COUNCILMAN KENNEY: Again, I'm

1 6/4/13 - LABOR - BILL 130307, etc.
2 not saying you could make this happen.
3 I'm saying that the 700,000 odd dollars
4 could come from somewhere else in the
5 government to make up the shortfall that
6 you're experiencing as a result of this
7 pension issue?

8 MR. KOONCE: Yes, it could.

9 COUNCILMAN KENNEY: Is there
10 any reason you may know of, Mr. Bielli,
11 why the Passenger Services Improvement
12 Corporation and Food Distribution Center
13 is listed in the title of the bill, when
14 I think they no longer exist, or they no
15 longer exist in the form that the Food
16 Distribution Center did exist in?

17 MR. BIELLI: This all came out
18 of the original 1963 bill.

19 COUNCILMAN KENNEY: So this was
20 the title of the 1963 bill?

21 MR. BIELLI: Yeah. So what
22 that bill did was give the Pension Board
23 the ability within the framework of the
24 actual bill to contract with quasi
25 agencies, if they wanted to be part of

1 6/4/13 - LABOR - BILL 130307, etc.
2 our Pension Fund, and all those quasi
3 agencies, whether they're in still in
4 existence or not in existed, are still
5 listed in that bill. As you've heard
6 earlier, Parking Authority, PHDC,
7 Municipal Authority has one employee, but
8 they're still active and contracting with
9 us.

10 COUNCILMAN KENNEY: I was here
11 in 2004, but I don't remember. Did we
12 have to pass legislation to do the MMO in
13 2004 for the main Pension Fund?

14 MR. BIELLI: No. In fact, the
15 MMO has been around since 1983.

16 COUNCILMAN KENNEY: What was
17 the 2004 issue?

18 MR. BIELLI: 2004 issue was
19 that the Administration chose to fund
20 pursuant to Act 205 under the MMO for the
21 first time. I assume it was an economic
22 issue. I was not here at that time.

23 COUNCILMAN KENNEY: But we
24 didn't vote on it?

25 MR. BIELLI: You did not vote

1 6/4/13 - LABOR - BILL 130307, etc.

2 on it. It was not necessary for you to
3 vote on it.

4 COUNCILMAN KENNEY: So why is
5 this one necessary?

6 MR. BIELLI: This is necessary
7 because if we're going to contract with
8 quasi agencies, the statute currently
9 requires that we do it within the
10 specific framework as set out in the
11 statute in Section 4 -- I believe it's
12 Section 4 of the statute -- it
13 specifically says that the quasi agencies
14 must fund at the City funding policy
15 rate, normal cost rate, as opposed to the
16 MMO rate. So that is the only way that
17 relief could be given to PHDC, by
18 changing the statute.

19 COUNCILMAN KENNEY: All right.
20 Any other questions?

21 (No response.)

22 COUNCILMAN KENNEY: Seeing
23 none, thank you very much.

24 Anyone else to testify on this
25 bill?

1 6/4/13 - LABOR - BILL 130307, etc.

2 MR. KOONCE: Thank you.

3 COUNCILMAN KENNEY: No one
4 else?

5 Please let the record reflect
6 that Councilmember Bass is also in
7 attendance.

8 (Witness approached witness
9 table.)

10 COUNCILMAN KENNEY: Please
11 identify yourself for the record.

12 MR. SKAZIAK: My name is
13 Chester Skaziak and I'm a City resident
14 and a pensioner.

15 Thank you for clearing up those
16 two issues with the Transportation
17 Authority and the Food Distribution
18 Center, but I listened to the parity that
19 Mr. Koonce spoke of, but one of my issues
20 is with that parity comment. When the
21 City employees in Act 205 were forced to
22 take a 2.2 and 2 percent pension cut, the
23 PHDC enjoyed a 2 and a half percent
24 pension up until 2002 or for 15 years.
25 Everyone who was hired received a 2 and a

1 6/4/13 - LABOR - BILL 130307, etc.
2 half percent, and then they were taken
3 down to 2 percent. And it seems to me
4 that that MMO as it is today, those
5 individuals are retiring and it's one way
6 for the PHDC to step up and pay for that
7 cost.

8 COUNCILMAN KENNEY: So you're
9 in favor of the bill or --

10 MR. SKAZIAK: I'm in favor of
11 the bill. I'm just disappointed that the
12 state law, Act 205, when it came out and
13 said that the City must reduce the
14 pensions of all City employees, PHDC
15 somehow or a quasi governmental agency
16 isn't considered in state law. That's
17 the only question I have.

18 COUNCILMAN KENNEY: The state
19 confuses us often.

20 MR. SKAZIAK: Pardon me?

21 COUNCILMAN KENNEY: The state
22 often confuses us.

23 MR. SKAZIAK: I agree.

24 COUNCILMAN KENNEY: Okay.

25 Thank you. Thank you for your testimony.

1 6/4/13 - LABOR - BILL 130307, etc.

2 MR. SKAZIAK: Thank you for
3 allowing me to speak today.

4 COUNCILMAN KENNEY: You're
5 welcome. Thanks for coming in.

6 Anyone else to testify on this
7 bill?

8 (No response.)

9 COUNCILMAN KENNEY: Seeing
10 none, we will now deal with Resolution
11 No. 130360, which is a resolution
12 authorizing the Committee on Labor and
13 Civil Service to hold hearings to examine
14 the Neighborhood Transformation
15 Initiative contracts awarded to LP Group
16 2 from 2004 to 2006.

17 Mr. Vernon Ray, please.

18 (Witness approached witness
19 table.)

20 COUNCILMAN KENNEY: Good
21 morning. Please identify yourself for
22 the record and proceed with your
23 testimony.

24 MR. RAY: Good morning.

25 COUNCILMAN KENNEY: Good

1 6/4/13 - LABOR - BILL 130307, etc.
2 morning.

3 MR. RAY: My name is Vernon
4 Ray, R-A-Y.

5 COUNCILMAN KENNEY: Thank you
6 for appearing today. Please continue
7 with your testimony.

8 MR. RAY: I'm here because I
9 was having problems with the pay issue
10 with a company, contracting company, that
11 I was working for. Approximately in 2003
12 I was employed by Mr. Garnett Littlepage
13 as being one of the foreman/supervisor to
14 run his company, stucco company, to
15 ex-offenders, pre-released ex-offenders.
16 At the time, we taught them life skills,
17 carpentry, plumbing, stucco, concrete.
18 That was my primary job, was the stucco
19 and the concrete.

20 Approximately -- trained the
21 students, ex-offenders, pre-released
22 approximately 30 to 45 days, then we take
23 them in the field and actually work on
24 the properties. Again, each class
25 consisted of about 30 to 45 days, then we

1 6/4/13 - LABOR - BILL 130307, etc.
2 take them to the field. Connection
3 Training and the stucco -- we had stucco
4 and demolition. I ran the stucco part as
5 a foreman/supervisor, and Mr. Harris ran
6 the demolition and the safety classes.
7 We done approximately 300 to 500
8 properties demolition, stucco.

9 At the time we were working, I
10 wasn't aware of prevailing wages, and at
11 the time, I was a trainer and not one of
12 the trainees. I was actually training
13 the ex-offenders and pre-released guys.
14 At this time, I didn't know anything
15 about prevailing wages, but at the time,
16 Mr. Littlepage and the company was under
17 investigation and under surveillance of
18 violations and pay scale mishaps.

19 After about a year and a half,
20 two years, we found out that
21 Mr. Littlepage was in violation of not
22 paying prevailing wages.

23 Let me start from here. Not
24 aware of all these buildings in City and
25 federal contracts Mr. Littlepage had, all

1 6/4/13 - LABOR - BILL 130307, etc.
2 the trainees were being paid
3 approximately half of our pay salary. We
4 soon found out later on that during the
5 process, during this 300 to 500 houses,
6 Labor Standards issues came in with
7 summons and violations and told the guys
8 that if they weren't paid prevailing
9 wages, they was on the wrong job site,
10 call the office and discuss the issues
11 with the Labor Standards and the City,
12 which after we found out what the total
13 was, we was being deprived by
14 approximately \$288,000 that wasn't paid
15 to the workers because we was getting
16 paid half of our pay scales.

17 Approximately seven years later
18 after that, we was fighting and fighting
19 for hearings for these pay scales.
20 Anyway, in 2010, March of 2010, we had a
21 hearing. We won the hearing outright.
22 The City paid out some of the money.
23 They didn't pay -- I think it was maybe
24 approximately \$100,000, which it left
25 over \$188,000 balance after that. And

1 6/4/13 - LABOR - BILL 130307, etc.
2 that was in March of 2010, and we haven't
3 been paid the rest yet. Myself, I
4 haven't been paid a dime, not one
5 quarter. And I was the trainer. I
6 trained these guys. Like I said, I had
7 between 18 to 25 ex-offenders that I took
8 out in the field every day and trained.
9 My primary job was stucco, but we did
10 stucco and NTI contracts.

11 And, again, I've been fighting
12 and fighting and fighting and
13 spearheading this thing to get this thing
14 for another hearing to get the balance of
15 this money being paid, which have been
16 held by the City. It's been missing out
17 of our account in the City. We haven't
18 received any money yet, and here it is
19 2013. And now another three years later,
20 we're still waiting to get paid.

21 COUNCILMAN KENNEY: How many
22 individuals are involved in the shorting
23 of the wages?

24 MR. RAY: How many?

25 COUNCILMAN KENNEY: How many

1 6/4/13 - LABOR - BILL 130307, etc.
2 people were involved?

3 MR. RAY: Approximately 50
4 plus.

5 COUNCILMAN KENNEY: And are
6 those folks still in the area or some
7 are --

8 MR. RAY: Some of them are
9 still in the area. Some of them is
10 incarcerated and some -- and a lot of
11 them is here.

12 COUNCILMAN KENNEY: All right.
13 Any questions for -- Councilman
14 Squilla.

15 COUNCILMAN SQUILLA: Yes.
16 Thank you for your testimony. During the
17 process when you were working, you were
18 training the workers, but the workers
19 were actually physically doing the stucco
20 and the demolition?

21 MR. RAY: Yes. We was doing
22 the -- demolition, Mr. Harris and his
23 crew would come demo the houses, then I
24 brought a crew in. We erected the
25 scaffolds and we done the stucco part of

1 6/4/13 - LABOR - BILL 130307, etc.
2 the work.

3 COUNCILMAN SQUILLA: So you
4 were actually performing the part of the
5 skilled labor, your guys?

6 MR. RAY: Yes. They was
7 actually plasterers. They was doing the
8 plaster work, skilled laborers, plaster,
9 yes.

10 COUNCILMAN SQUILLA: And during
11 the process, in the beginning when you
12 got your pay, you were not aware of the
13 prevailing wages? Did you realize they
14 were short at that time or not?

15 MR. RAY: I had no -- right. I
16 wasn't aware of prevailing wages. I just
17 thought that was what the pay scale
18 called for, but I was a master plasterer
19 and my wage, it was double what I was --
20 it was less than half of what I was
21 getting, what the plasterer rates were.

22 COUNCILMAN SQUILLA: Okay.
23 Thank you very much.

24 COUNCILMAN KENNEY: Also let
25 the record reflect that Councilman

1 6/4/13 - LABOR - BILL 130307, etc.

2 O'Neill and Councilmember Sanchez is also
3 here.

4 And the Chair recognizes
5 Councilmember Bass.

6 COUNCILWOMAN BASS: Thank you,
7 Mr. Chairman.

8 Good morning, Mr. Ray.

9 MR. RAY: Good morning.

10 COUNCILWOMAN BASS: I just have
11 a question. So you said you were getting
12 paid about half of your salary?

13 MR. RAY: Yes.

14 COUNCILWOMAN BASS: Can you
15 give us some idea in terms of what that
16 actually was.

17 MR. RAY: The pay scale called
18 for \$47 an hour, and actually I was
19 getting paid less than half. I was
20 getting paid about 19 -- \$18 to \$20 an
21 hour. It fluctuates. Some jobs he'll
22 pay us \$18 an hour, then the other job
23 sites he'll pay us \$20 an hour, which was
24 all supposed to have been the same pay
25 scale.

1 6/4/13 - LABOR - BILL 130307, etc.

2 COUNCILWOMAN BASS: And were
3 there benefits included in that?

4 MR. RAY: No benefits until the
5 very end. After the Labor Board stepped
6 in and put them under investigation, they
7 came and gave us medical plans, but by
8 that time, you know, it was at the end of
9 this mess.

10 COUNCILWOMAN BASS: So for most
11 of the time that you were employed, you
12 didn't have healthcare?

13 MR. RAY: Yes. We didn't have
14 any healthcare, no coverage of anything.

15 COUNCILWOMAN BASS: And you
16 were like a supervisor?

17 MR. RAY: Yes.

18 COUNCILWOMAN BASS: You were
19 training and so forth. And so for the
20 folks who were under you, do you have an
21 idea of what their pay scale was?

22 MR. RAY: Their pay scale was
23 basically the same thing, from \$16 an
24 hour to \$20 an hour. Some guys made a
25 little more, a little less, 22, 25 an

1 6/4/13 - LABOR - BILL 130307, etc.

2 hour, but it wasn't what the pay scale
3 called for.

4 COUNCILWOMAN BASS: Okay.

5 Thank you.

6 COUNCILMAN KENNEY: Thank you
7 very much.

8 Any other questions for this
9 witness?

10 (No response.)

11 COUNCILMAN KENNEY: Seeing
12 none, thank you for coming in and thank
13 you for your persistence.

14 Mr. Divirgilio, please.

15 (Witnesses approached witness
16 table.)

17 COUNCILMAN KENNEY: Good
18 morning and thanks for being here. I was
19 a little concerned I wasn't going to see
20 you this morning, but nice that I am.
21 Thank you.

22 MR. DIVIRGILIO: Good morning.

23 COUNCILMAN KENNEY: Good
24 morning.

25 MR. DIVIRGILIO: Good morning,

1 6/4/13 - LABOR - BILL 130307, etc.
2 Chairman Kenney, Vice Chairman Goode, and
3 members of the Committee on Labor and
4 Civil Service. My name is Perritti
5 Divirgilio. I am the Director of the
6 Philadelphia Labor Standards Unit. I am
7 providing testimony regarding citations
8 issued by my office to LP Group 2 for
9 violating prevailing wage on Neighborhood
10 Transformation Initiative contracts
11 awarded to LP Group 2 between 2004 and
12 2006. Because this matter remains
13 pending before the Board of Labor
14 Standards, I am limiting the scope of my
15 testimony, as I do not wish to compromise
16 the City's ability to seek remedies
17 against LP Group 2 for these prevailing
18 wage violations, including payment to the
19 aggrieved workers.

20 The Labor Standards Unit
21 determined that LP Group 2 failed to pay
22 the prevailing wage to its workers on the
23 following seven NTI demolition projects:
24 Salford and Beaumont, Chester Avenue,
25 Lindenwood, Peach and Ruby, 49th and

1 6/4/13 - LABOR - BILL 130307, etc.
2 Saybrook, Allegheny West, and Haddington
3 B. Citation letters were sent to LP
4 Group 2 and a hearing was held before the
5 Labor Standards Unit on October 27th,
6 2005. LP Group 2 appealed the Unit's
7 decision to uphold the citations to the
8 Board of Labor Standards.

9 Also, on March 21st, 2006, the
10 Unit issued a citation to LP Group 2 for
11 failing to pay prevailing wage on City
12 Contract 040520 for NTI stucco services.
13 LP Group 2 had a hearing before the Unit,
14 which upheld the citation, and LP Group 2
15 also appealed that determination to the
16 Board.

17 The Board met four times on LP
18 Group 2's appeals between 2007 and March
19 2010, and in each appearance before the
20 Board, LP Group 2's attorney insisted
21 that the Board only consider the stucco
22 appeal. On March 18th, 2010, the Board
23 found that LP Group 2 failed to pay
24 prevailing wage, including fringe
25 benefits to its workers on the NTI stucco

1 6/4/13 - LABOR - BILL 130307, etc.
2 services contract and ordered that the
3 City pay LP Group 2's workers from
4 withheld contract funds. Those workers
5 identified in the stucco citation have
6 been paid through my office.

7 To this date, LP Group 2 has
8 not petitioned the Board of Labor
9 Standards to hear its appeal of the NTI
10 demolition citations. Accordingly, I
11 have written a letter to the Chairman of
12 the Board of Labor Standards, Mike
13 McAnally, requesting that the Board issue
14 an order, without further delay,
15 directing that LP Group 2 workers
16 identified in the NTI demolition citation
17 letters be paid out of contract funds
18 withheld on these contracts. I have a
19 copy of that letter.

20 COUNCILMAN KENNEY: Are you
21 concluded?

22 MR. DIVIRGILIO: Yes. Also
23 with me is Michelle Flamer from the Law
24 Department and Kevin Dow from Commerce.

25 COUNCILMAN KENNEY: Can you do

1 6/4/13 - LABOR - BILL 130307, etc.

2 me a favor, go back to the beginning of
3 your testimony and re-explain to me what
4 you can't talk about.

5 MR. DIVIRGILIO: I mean, I
6 don't know what I can't talk about, but I
7 guess we just didn't want to get into it
8 too much in case anything that I say may
9 be used in the future when the hearings
10 come up.

11 COUNCILMAN KENNEY: Is
12 anyone --

13 MR. DIVIRGILIO: Upon advice of
14 attorney.

15 COUNCILMAN KENNEY: Is anyone
16 at the table aware what proceedings are
17 going on relative to this?

18 Please identify yourself.

19 MS. FLAMER: Councilman Kenney,
20 members of the Committee --

21 COUNCILMAN KENNEY: Can you
22 pull that closer.

23 MS. FLAMER: Hi. Councilman
24 Kenney, members of the Committee, my name
25 is Michelle Flamer. I'm a Senior

1 6/4/13 - LABOR - BILL 130307, etc.
2 Attorney with the City of Philadelphia's
3 Law Department, and among my
4 responsibilities in the Solicitor's
5 Office, I serve as legal counsel to the
6 Labor Standards Unit.

7 There is an appeal that LP
8 Group 2 made to the Board of Labor
9 Standards concerning both the stucco
10 violations and the NTI demolition
11 violations. I have advised
12 Mr. Divirgilio that some of his testimony
13 should probably be limited in this
14 proceeding simply because he may be
15 called as a fact witness in any
16 proceedings before the Board of Labor
17 Standards.

18 At the same time,
19 Mr. Divirgilio has submitted a letter to
20 Michael McAnally, the Chair of the Board
21 of Labor Standards, requesting that the
22 Board issue an order directing immediate
23 payment of the workers for the NTI
24 demolition out of the withheld contract
25 funds.

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2 It's our opinion that LP Group
3 2 has had adequate due process. They've
4 had four meetings, four hearings before
5 the Board of Labor Standards, since 2005
6 to deliberate these citation letters, and
7 at every instance, their lawyer at the
8 time insisted that the Board only hear on
9 the stucco violations, not the NTI
10 demolitions, even though the City
11 attorney -- it wasn't me; it was another
12 attorney -- was ready to go forward on
13 the NTI demolitions. So, in our view,
14 there's been a deliberate failure to
15 prosecute the NTI demolition citation
16 letters, and those deliberation -- or
17 that citation issued from the Unit should
18 stand.

19 There was a hearing before the
20 Unit on those NTI demolition. LP 2
21 appealed it. They had an opportunity
22 before the Board, and they've had four
23 opportunities and nothing has been done.
24 So at this point, what we have done is,
25 we've requested the Board of Labor

1 6/4/13 - LABOR - BILL 130307, etc.

2 Standards to direct that the City pay the
3 workers.

4 COUNCILMAN KENNEY: Out of
5 retainage, the money that was retained --

6 MS. FLAMER: Yes, out of the
7 withheld contract funds.

8 COUNCILMAN KENNEY: That
9 request was made when?

10 MS. FLAMER: That request was
11 just made yesterday to Mike McAnally, the
12 Chair of the Board of Labor Standards.

13 COUNCILMAN KENNEY: Because we
14 have been making requests to the Law
15 Department for that to happen quite some
16 time ago.

17 When was the most recent appeal
18 filed by LP, the one --

19 MS. FLAMER: I believe it was
20 December 22nd, 2006 was the last appeal
21 on NTI demolition.

22 COUNCILMAN KENNEY: So what
23 current --

24 MS. FLAMER: And the last
25 hearing before the Board was March of

1 6/4/13 - LABOR - BILL 130307, etc.
2 2010. Part of the issue -- and I'm going
3 to explain. Part of the issue has been
4 the disposition of the contract funds.
5 It had been believed that the hold that
6 the City had on those NTI demolition
7 funds had failed in some regard, that
8 somehow LP Group had been paid all of the
9 contract funds under both NTI and the
10 stucco contracts. Since that time -- and
11 I'm still seeking confirmation from the
12 Finance Department on this, but since
13 that time, I have discovered by reviewing
14 the payment vouchers myself that in fact
15 there was about \$330,000 withheld from LP
16 Group 2 contracts that remained with the
17 City. A check was made out to Maxine
18 McIntyre. It was held by the Finance
19 Department, given to L&I, L&I deposited
20 it.

21 COUNCILMAN KENNEY: How much
22 was the check made out?

23 MS. FLAMER: I have it here.

24 COUNCILMAN KENNEY: Thank you.

25 MS. FLAMER: \$300,328.15.

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2 COUNCILMAN KENNEY: And where
3 is that money sitting today?

4 MS. FLAMER: I believe in the
5 General Fund.

6 COUNCILMAN KENNEY: And the
7 release of it is prompted by whose
8 action? Who has to release the money?

9 MS. FLAMER: Well, I think --

10 COUNCILMAN KENNEY: Is it the
11 Law Department? Is it the Finance
12 Director? Is it the Mayor?

13 MS. FLAMER: Well, in my view,
14 it's really the Board has to make a final
15 adjudication on this matter, the Board of
16 Labor Standards, because LP did appeal.
17 These were contract funds withheld from
18 their contract as a result of violation
19 of 17-107 of The Philadelphia Code.

20 COUNCILMAN KENNEY: But they
21 appealed in 2006?

22 MS. FLAMER: That was their
23 last appeal on any of the NTI demolition
24 contracts, yes.

25 COUNCILMAN KENNEY: So why

1 6/4/13 - LABOR - BILL 130307, etc.
2 would not a decision of adjudication been
3 made by the Board of Labor Standards from
4 a 2006 appeal?

5 MS. FLAMER: Well, I agree with
6 you. I don't know why it hasn't been
7 made. I do know that there were four
8 appearances by LP Group 2 and the City
9 before the Board of Labor Standards, and
10 in those four appearances, the Board did
11 not issue any order with regard to the
12 NTI demolition cases, only in the stucco
13 matter. Part of that was a result of LP
14 Group 2's lawyer insisting that they were
15 only there to hear the stucco violations.
16 So, in my view, either they have
17 withdrawn their appeal or they have
18 failed to prosecute their appeal. So at
19 this point, I think the Board should
20 simply order that the City pay the
21 workers out of the money that we have.

22 COUNCILMAN KENNEY: Okay. And
23 that decision was made when? First of
24 all, don't get me wrong. I'm glad it was
25 made. It's just been a long road in

1 6/4/13 - LABOR - BILL 130307, etc.
2 getting there.

3 MS. FLAMER: I agree.

4 COUNCILMAN KENNEY: I mean, a
5 long road for us, for my office just
6 being involved in the length of time we
7 were in it. These guys have been on the
8 road for a decade. I mean, it's just not
9 fair. So I'm glad that that -- when do
10 you think that might happen?

11 MS. FLAMER: Well, I haven't
12 heard back yet from the Chair, Michael
13 McAnally, who's the Chair of the Board of
14 Labor Standards. They're also
15 represented by another attorney from the
16 Solicitor's Office, Robert Aversa. So I
17 would have to hear from Mr. Aversa.

18 COUNCILMAN KENNEY: Who was
19 involved in the original decision to
20 withhold the money and not to pay?
21 Wasn't there an order saying that LP
22 could not be paid as a result of the
23 violations that were issued?

24 MS. FLAMER: Yes. Jim Ferraro
25 from the Labor Standards Unit requested

1 6/4/13 - LABOR - BILL 130307, etc.
2 of both Finance Department and the City
3 Controller's Office to withhold monies on
4 those contracts, and apparently the money
5 was withheld, \$300,000.

6 COUNCILMAN KENNEY: But was
7 there money paid that was supposed to be
8 withheld?

9 MS. FLAMER: No. Well, the
10 only monies that had been paid so far to
11 the workers was a hundred --

12 COUNCILMAN KENNEY: No, no, no.
13 I thought that the money was embargoed to
14 LP, that LP was not supposed to be paid,
15 that there was an order from either the
16 Law Department, the Finance Department,
17 Labor Standards some time ago that they
18 were not to be paid because of the
19 existing violations. Are you aware of
20 any of that?

21 MS. FLAMER: Well, I'm aware of
22 that they were to withhold contract sums
23 equalling or equal to the amount of the
24 violation. So during that four, five
25 years that LP Group 2 held both stucco

1 6/4/13 - LABOR - BILL 130307, etc.
2 and the NTI demolition contracts, they
3 earned about \$8.1 million from the City
4 of Philadelphia on all of those
5 contracts. Out of that 8.1 million, we
6 withheld \$300,000, which equals the
7 amount of the prevailing wage violation.

8 COUNCILMAN KENNEY: Because
9 there was some speculation earlier that
10 he was paid or the company was paid
11 despite the fact that there was an order
12 or a ruling that he wasn't supposed to be
13 paid.

14 MS. FLAMER: Yes.

15 COUNCILMAN KENNEY: Is that not
16 correct?

17 MS. FLAMER: You're correct,
18 Councilman, and that was erroneous.

19 COUNCILMAN KENNEY: How much
20 was that money?

21 MS. FLAMER: Well, there was
22 the belief that --

23 COUNCILMAN KENNEY: Oh, the
24 belief was erroneous?

25 MS. FLAMER: Yeah.

1 6/4/13 - LABOR - BILL 130307, etc.

2 COUNCILMAN KENNEY: The belief
3 was erroneous?

4 MS. FLAMER: The belief was
5 erroneous.

6 COUNCILMAN KENNEY: All right.
7 Councilman Squilla had a couple of
8 questions.

9 COUNCILMAN SQUILLA: Thank you.
10 Thank you for testifying. The belief was
11 erroneous, but I know we were told in the
12 hearing that we had previous to this that
13 money was paid out to LP 2 Group and that
14 it was up to them to pay the employees;
15 therefore, the City wasn't responsible.
16 And that was said here. I'm sure we
17 could get documentation of that. And the
18 reason why we had the hearing is that we
19 thought that the City actually paid LP 2
20 Group and that you wanted us to get them
21 attorneys to sue LP to try to get the
22 money back. So all of that information
23 that was given to us was in error?

24 MS. FLAMER: Yes. On that
25 point, that was an error, and I myself

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2 also believed that the money had not --
3 that all of the money under all of these
4 contracts had already been paid to LP,
5 and in fact, there was a check left in
6 the system that was made payable to LP
7 Group in care of the Finance Department.
8 That check was then deposited to L&I, and
9 then L&I, I believe, deposited it into
10 the General Fund. Now, all of that has
11 to be confirmed by the Finance
12 Department, but that is what I discovered
13 when I went through the financial records
14 on my own.

15 COUNCILMAN SQUILLA: So this
16 money was just floating in the General
17 Fund and was it -- it wasn't accounted
18 for for any specific payment at the time
19 that you're aware of?

20 MS. FLAMER: Not that I'm aware
21 of.

22 COUNCILMAN SQUILLA: Is anybody
23 here from the Administration aware of
24 that money, that it was in there?

25 MR. DOW: No.

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2 COUNCILMAN SQUILLA: So your
3 research then enabled us to be able to
4 locate the money and say the money was
5 sitting in the General Fund?

6 MS. FLAMER: Correct.

7 COUNCILMAN SQUILLA: Okay. So
8 now that the money is in the General
9 Fund, the gentleman who spoke, Mr. Ray,
10 had stated that he was a stucco employee.
11 You stated or I think somebody stated
12 here that all the stucco employees were
13 paid previously. Is that the case?

14 MR. DIVIRGILIO: The stucco
15 workers were paid. Part of the
16 demolition process when they're demoing
17 the house, there's stucco work that's
18 associated with that process also, and
19 for some reason Mr. Hart never appeared
20 to certify payrolls for the stucco
21 projects. He appeared on all the NTI
22 projects. So that's why he wasn't
23 originally paid as part of that stucco
24 settlement.

25 COUNCILMAN SQUILLA: But

1 6/4/13 - LABOR - BILL 130307, etc.
2 according to his testimony, he was a
3 supervisor on the stucco part of it. So
4 it was a misrepresentation from LP 2
5 Group or is this something on our side?

6 MR. DIVIRGILIO: We can only
7 base our audit on the certified payrolls
8 that was submitted by LP Group.

9 COUNCILMAN SQUILLA: So it was
10 submitted by LP Group?

11 MR. DIVIRGILIO: Right. So the
12 money he is owed, I mean, we have an
13 accounting of.

14 COUNCILMAN SQUILLA: We know
15 that he's still owed the money.

16 MR. DIVIRGILIO: The stucco was
17 on NTI.

18 COUNCILMAN SQUILLA: So these
19 workers that are owed the money now will
20 get paid, but they're not going to get
21 paid until -- yesterday you sent the
22 letter requesting --

23 MR. DIVIRGILIO: That's
24 correct.

25 COUNCILMAN SQUILLA: -- the

1 6/4/13 - LABOR - BILL 130307, etc.

2 City pay this?

3 MR. DIVIRGILIO: That's
4 correct, or hopefully force them to have
5 the hearing ASAP.

6 COUNCILMAN SQUILLA: And the
7 last hearing was in March of 2010?

8 MS. FLAMER: Yeah, March 18th,
9 2010, and to this date, there's been
10 absolutely no request by LP Group 2 nor
11 its attorney to request a hearing before
12 the Board on the NTI demolition. That's
13 why we'd like to go forward and have the
14 Board order that we pay the workers.

15 COUNCILMAN SQUILLA: In March
16 18th of 2010, they heard the appeal?

17 MS. FLAMER: On just the stucco
18 matter.

19 COUNCILMAN SQUILLA: And they
20 ruled that --

21 MS. FLAMER: They ruled that LP
22 had violated prevailing wage, had failed
23 to pay fringe benefits, and that there
24 was no training program then in effect
25 that would excuse them from paying

1 6/4/13 - LABOR - BILL 130307, etc.
2 prevailing wage, yes. And then they
3 ruled that the city would pay the money,
4 \$116,000.

5 COUNCILMAN SQUILLA: So the
6 City did that at that time?

7 MS. FLAMER: Yes. Actually,
8 the City has paid out \$106,000 and I
9 believe -- and I'm not sure -- I believe
10 the \$10,000 discrepancy is due to the
11 fact that it could possibly be that some
12 of the workers have not been able to be
13 found.

14 COUNCILMAN SQUILLA: Okay. So
15 in March of 2010, they never actually
16 appealed then the NTI portion of it, LP 2
17 Group?

18 MS. FLAMER: Well, technically
19 LP Group 2 appealed each of those NTI
20 demolition citation letters that were
21 issued by the Labor Standards Unit up
22 into December 22nd, 2006, but when it
23 came time for their appearance before the
24 Board, their lawyer insisted that they
25 were only there to hear the stucco

1 6/4/13 - LABOR - BILL 130307, etc.
2 matter. So there was never any hearing
3 on the merits on the NTI demolition. My
4 view, as the attorney who is involved in
5 this case now, is that there's been a
6 failure to prosecute. So, in my view,
7 they've had adequate due process, four
8 appearances before the Board, it's time
9 to pay the workers.

10 COUNCILMAN SQUILLA: All right.
11 So then basically you said up to 2006
12 they did appeal the NTI portion, but when
13 it went to the hearing, they said they
14 were only there to hear the stucco
15 portion.

16 MS. FLAMER: Correct.

17 COUNCILMAN SQUILLA: So,
18 therefore, they agreed to -- I would
19 assume since they didn't want to hear
20 that part, then they must have agreed to
21 drop their appeal for the NTI part? I
22 mean, so, therefore, the Board never
23 ruled at all and the City never followed
24 up and said, What is your ruling on the
25 NTI portion of this contract?

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2 MS. FLAMER: That's correct.

3 COUNCILMAN SQUILLA: Okay. It
4 just sounds hard to believe that we as
5 the City would follow that process
6 through and then we're seven years later
7 and now realizing that, Oh, yeah, we do
8 have the money, and then realizing also
9 that the Board never ruled on that
10 initial appeal.

11 MS. FLAMER: Well, part of the
12 delay in this has been the fact that LP
13 Group 2 took several appeals. One was in
14 the matter of Connection Training
15 Services, and that was in Federal Court.
16 There's also an appeal immediately
17 following the stucco hearing in March of
18 2010. LP immediately appealed that to
19 the Commonwealth Court. It was then, I
20 believe, remanded back to the Common
21 Pleas Court for further adjudication. So
22 that case actually in court was not
23 settled until, I think it was, December
24 of 2011.

25 COUNCILMAN SQUILLA: All right.

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2 So from what I gather from all this is
3 that the City does now have the money.
4 We have it in our General Fund. We're
5 willing to pay it. We're just waiting
6 for a ruling back from the Board in order
7 to do that?

8 MS. FLAMER: Correct.

9 COUNCILMAN SQUILLA: And we're
10 estimating -- we're hoping that they have
11 the ruling shortly. If not, we want to
12 have an appeal heard as soon as possible
13 to make this happen?

14 MS. FLAMER: Yes.

15 COUNCILMAN SQUILLA: All right.

16 Thank you.

17 COUNCILMAN KENNEY: Thank you.

18 Councilman O'Neill.

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

21 How long ago did you discover
22 that there was money that we didn't
23 realize was there? I was reading
24 Mr. Zecca's testimony, and obviously he
25 was trying the case and still doesn't

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2 know about this until today. So I know
3 it happened, but I'm just looking for the
4 time; that's all.

5 MS. FLAMER: Probably about
6 three or four weeks ago on a Friday
7 morning, I looked at the payment vouchers
8 myself.

9 COUNCILMAN O'NEILL: Right.
10 Okay. So recently.

11 I have heard you say several
12 times that the company failed to
13 prosecute their appeal. It seems to me
14 that it was the City that failed to
15 schedule their appeal. If I go into the
16 Zoning Board and I have two matters and I
17 say to the Zoning Board, I'm only here
18 today for one, the other side says, No,
19 we're ready on everything, and the Zoning
20 Board says, Okay, we're going to only
21 hear one, and I still have this shed up
22 in my yard or this addition on my house
23 that I was trying to get a variance for
24 that I already built, if the Zoning Board
25 never reschedules the hearing, I think

1 6/4/13 - LABOR - BILL 130307, etc.
2 it's the Zoning Board's major problem.
3 Usually people don't go back and
4 volunteer for that hearing until they
5 hear something.

6 If it's a criminal case and
7 I've got a robbery and a burglary charge,
8 the burglary charge, my attorney
9 convinces the judge over the DA's
10 objection, who is ready, that they're
11 only here today for the burglary charge
12 and they never schedule the robbery
13 charge, my attorney is probably not going
14 to call up and say, Hey, you haven't
15 scheduled my client's robbery charge yet.

16 It's at least substantially on
17 the government's part to not go three
18 years without -- if they don't do it that
19 day and set a date certain for that part
20 of the appeal.

21 So as bad as this company
22 sounds in what they did, we weren't
23 exactly completely in the right letting
24 this thing go these three years. I just
25 don't think there's any argument for

1 6/4/13 - LABOR - BILL 130307, etc.
2 that. 2006 is even a better story
3 getting to 2010.

4 But my real concern is this:
5 Until three or four weeks ago, everyone
6 in the City believed and the workers
7 believed that LP, whatever it is, had
8 the -- the company had the money, which
9 now we know they don't have. Does the
10 City Solicitor ever consider referring
11 something like this -- because they
12 actually believe that the company had the
13 money, everyone believed it -- referring
14 this to the District Attorney's Office?
15 Because if this were a federal government
16 issue -- and we don't think the federal
17 government is necessarily the most
18 efficient place to go for anything, and
19 the City is much more agile and smaller
20 and closer to the ground, that we
21 wouldn't say, This is criminal and let's
22 get the DA's Office involved in this.
23 First of all, they have a little more
24 leverage than we do oftentimes, but even
25 with the Law Department a while --

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2 because you're a senior attorney and I've
3 seen you at many of our CLEs. Is that
4 something that gets discussed at the Law
5 Department? Because there's an analogous
6 situation and I'm told as we're going
7 through tax collection issues that one of
8 the taxes that is owed to us out there of
9 the 34 or so taxes is where a company has
10 collected wage tax and not submitted it
11 to the City. And if that's not a
12 referral to the District Attorney's
13 Office -- because I know it would be to
14 the U.S. Attorney and is often. Is that
15 something that we just don't have a
16 policy for and it's kind of a case by
17 case, or do we ever do it? I mean, I
18 don't know. Can you give us a little
19 insight into that, a criminal referral?

20 MS. FLAMER: Well, it's
21 probably something that would be best
22 deferred to the City Solicitor in terms
23 of -- we do have an Office of Inspector
24 General as well as the Chief Integrity
25 Officer, and I can say that the Law

1 6/4/13 - LABOR - BILL 130307, etc.
2 Department has, on very many occasions,
3 been involved with the investigations
4 through the Inspector General's Office.

5 With regard to LP Group 2,
6 their responsibility as a contractor was
7 called into question. So you may not be
8 aware of the fact, but on three
9 occasions, LP Group 2's responsibility
10 was determined by the Procurement
11 Department panel -- well, they were
12 determined as a not responsible
13 contractor. So they have not been
14 permitted to submit bids in the City
15 curbside program, the master demolition
16 program.

17 COUNCILMAN O'NEILL: Right, but
18 all that time we thought they were
19 holding this \$300,000.

20 COUNCILMAN KENNEY: Well, the
21 testimony came from the City Solicitor at
22 the budget hearing.

23 COUNCILMAN O'NEILL: I mean,
24 that to me is -- that's a criminal act
25 and/or at least worth investigating as a

1 6/4/13 - LABOR - BILL 130307, etc.
2 criminal act. It's one thing to remove
3 them from doing work. People seem to be
4 able to get around almost everything
5 else, but what you don't get around is an
6 indictment or a criminal charge where you
7 may personally be at risk.

8 I just think there's got to be
9 some -- using all the levers we have, and
10 that being maybe our biggest lever in a
11 situation like this, or on the wage tax,
12 I'll call it, fraud case where people are
13 collecting and not paying us that money,
14 and if that's the discussion we have to
15 have with the Solicitor, that's fine. I
16 appreciate your candor.

17 COUNCILMAN KENNEY: Does the
18 Inspector General still have jurisdiction
19 from a statutory standpoint in any matter
20 discussed in this whole --

21 MS. FLAMER: Yeah. I would
22 believe that the breadth of the executive
23 order that establishes that office, the
24 Inspector General would have authority to
25 investigate these matters certainly,

1 6/4/13 - LABOR - BILL 130307, etc.
2 because they involve City contracts, City
3 funds, yeah.

4 COUNCILMAN KENNEY: So a
5 request to the Inspector General to take
6 a look at this too might not be out of
7 line?

8 MS. FLAMER: I don't believe it
9 would be.

10 COUNCILMAN KENNEY: Okay.
11 Councilwoman Bass.

12 COUNCILWOMAN BASS: Thank you.
13 I just wanted to follow up and
14 echo on Councilman O'Neill's comments,
15 because I find that no matter where the
16 negligence started or where it ended,
17 it's clear that there's been a lot of it
18 that's happened. And when you deal with
19 and speak of a population of primarily
20 ex-offenders who are already a vulnerable
21 population and to not have had this
22 matter dealt with and handled in a more
23 timely fashion, I just find to be
24 completely unconscionable. I mean, I
25 just think that -- and there's plenty of

1 6/4/13 - LABOR - BILL 130307, etc.
2 blame to go around, there seems. There's
3 plenty of responsibility for what has
4 happened to date, and I'm really hopeful
5 that this matter will be pursued from all
6 ends, whether it's from City Council,
7 from your offices, from the Labor
8 Standards Boards, from all areas that we
9 can get this matter wrapped up in a much
10 more timely fashion.

11 Thank you.

12 COUNCILMAN KENNEY: In that
13 regard, then, what is OEO's
14 responsibility in all this? I mean, do
15 they have some responsibility to -- none?
16 Why are you sitting at the table?

17 MR. DOW: Not directly in this
18 situation.

19 COUNCILMAN KENNEY: I mean, do
20 we have a moral responsibility to make
21 sure when people are being ripped off,
22 that they get made whole, especially if
23 they're trying to get their lives back
24 together and get on the right track and
25 be good citizens by going out and doing

1 6/4/13 - LABOR - BILL 130307, etc.

2 honest work? I mean, isn't that part of
3 what our overall responsibility is in
4 looking out for folks?

5 MR. DOW: Sure.

6 COUNCILMAN KENNEY: But unless
7 we have had this hearing, we wouldn't be
8 having this discussion. The money would
9 still be lost somewhere in the General
10 Fund. Because between the City
11 Solicitor, who testified that the money
12 had been paid, and the Mayor's spokesman
13 suggesting that these gentlemen get
14 lawyers, which I don't know what they
15 would pay a lawyer with, but that's
16 another whole argument, but now we're
17 back three weeks later, four weeks later
18 with, Yeah, the money is there, let's pay
19 them, which I think, again, is admirable,
20 but, I mean, no one seemed to care. And
21 I think that's what's most upsetting
22 about this, is that the \$8,000 or \$10,000
23 to these individuals mean much more than
24 does to most people.

25 So you think we can get them

1 6/4/13 - LABOR - BILL 130307, etc.

2 paid?

3 MR. DOW: Yes.

4 COUNCILMAN KENNEY: Okay.

5 Thank you.

6 Councilman Squilla.

7 COUNCILMAN SQUILLA: Yes. And
8 I do -- and I want to thank and commend
9 you for looking through that personally,
10 going through the paperwork and making
11 that effort. And I want to also commend
12 the workers for really having the
13 perseverance and the stick-to-itiveness
14 to keep after us and making this happen.
15 So I do see that hopefully a happy ending
16 to all this. Hopefully we get a result
17 soon, and maybe as soon as you find out,
18 if you could give a report to the Chair
19 when you find out from the Board what's
20 going to happen, that would be great. So
21 thank you.

22 COUNCILMAN KENNEY: Thank you.

23 Any more questions for these
24 witnesses?

25 (No response.)

1 6/4/13 - LABOR - BILL 130307, etc.

2 COUNCILMAN KENNEY: Thank you
3 very much.

4 Mr. Zecca, please.

5 (Witness approached witness
6 table.)

7 COUNCILMAN KENNEY: And you're
8 no longer a City employee, so I assume
9 you can talk.

10 Please identify yourself for
11 the record.

12 MR. ZECCA: Yes. Mark Zecca.

13 Chairman Kenney and members of
14 the Committee, I wanted to commend you
15 for having this hearing. I'm happy to
16 testify today in response to your
17 subpoena, which I did receive.

18 I have prepared written
19 testimony, which I will not read, but I
20 could just summarize, and particularly
21 I'd like to focus on any questions that
22 you might have about that.

23 One thing I would like to point
24 out is the fact that this was prepared
25 based on the knowledge that I had when I

1 6/4/13 - LABOR - BILL 130307, etc.
2 was still with the City as well as, you
3 have stated, the City Solicitor's
4 testimony here, the statements of the
5 Mayor that LP had been paid -- or the
6 Mayor's spokesman that LP had been paid
7 everything. And so that is the basis.

8 I am happy to hear that maybe
9 there is money available to pay the
10 workers. Until I just heard this a
11 second ago, I was unaware of that, and
12 this was written with that in mind.

13 I did note that Ms. Flamer, who
14 I have great respect for, stated that it
15 was awaiting confirmation from Finance.
16 I hope that confirmation comes and that
17 that money is available, because the
18 thrust of this testimony is -- and, by
19 the way, as I noted in here, the things
20 that I'm saying were made public even
21 while I was still with the City.

22 The thrust of this testimony is
23 that it's long past time for the City to
24 pay the workers. And it's not just a
25 moral obligation, but it is a legal

1 6/4/13 - LABOR - BILL 130307, etc.
2 obligation, because as came out of one of
3 the questions, there was a hold placed on
4 the NTI contract funds and on the stucco
5 funds by the Labor Standards Unit. That
6 hold was directed by the law that this
7 Council passed, that when there are
8 violations, there is supposed to be a
9 hold. And the hold was placed by Jim
10 Ferraro, who is here today, Deputy
11 Director of the Board of Labor Standards.
12 And the information that we in the Law
13 Department had up until the time I left
14 and up until the City Solicitor testified
15 with you is that that hold broke down.
16 This was not surprising to me, because
17 there was a prior case, Kedra
18 Environmental case, where I was serving
19 as counsel to the Board, where it had
20 also broken down. And what the City did
21 in that case is, the City paid the money
22 out from City funds, and then the City
23 was free to go after the contractor for
24 the money. In that case, the contractor
25 was insolvent. Here we have a contractor

1 6/4/13 - LABOR - BILL 130307, etc.
2 who is definitely not insolvent. The law
3 allows enforcement against principals as
4 well as the contractor, and the
5 principals here of this company have
6 other lucrative City contracts,
7 Scotlandyard Security. So there are
8 various remedies available to the City to
9 pursue. They're not dealing with an
10 insolvent contractor.

11 So the most important point
12 that I would have is that whether there's
13 confirmation with the Finance Department
14 or whatever, that given the incredible
15 length of time -- and some of this length
16 of time was the City's fault as well in
17 addition to LP's fault, because the City
18 didn't have the Board up and running.
19 There weren't members appointed, and this
20 Committee helped in nudging the
21 Administration to get the members
22 appointed.

23 So the fact is because of all
24 these breakdowns, these workers, who did
25 the work for the City, have been waiting

1 6/4/13 - LABOR - BILL 130307, etc.
2 for years and years and years, and at
3 some point, it really frustrates the
4 enforcement of the law.

5 So I think the most important
6 thing is without delay for the City to
7 pay these workers whatever account and
8 then they can go after LP. The workers
9 just shouldn't have to wait anymore, and
10 that's the thrust of my testimony. It's
11 not just a moral obligation. It's a
12 legal obligation.

13 I could -- I'd be happy to -- I
14 particularly want to answer any questions
15 that you have. I could go into the
16 underlying dispute, but I've filed
17 hundreds and hundreds of pages in court.
18 I handled that 2010 hearing. I don't --
19 I think we're beyond the underlying
20 dispute. The law was clear, they had to
21 pay the prevailing wage. The contract
22 said it. The law said it. They had no
23 exceptions. Nobody told them they didn't
24 have to pay the prevailing wage. They
25 even promised to pay the prevailing wage

1 6/4/13 - LABOR - BILL 130307, etc.
2 when they applied for the contract, and
3 then they just didn't do it. When they
4 got cited, they went to everybody that
5 they could go to. They had a meeting
6 with the City Solicitor. The City
7 Solicitor sends them a letter and says,
8 You have to pay the prevailing wage. And
9 nobody would have had the authority to
10 tell them anything different. The
11 contractor who had the contract before
12 paid the prevailing wage, and it's just
13 open and shut. They repeat the same
14 things. They repeat the same excuses,
15 but there's nothing -- no basis for that
16 in the law.

17 So as far as the hearing,
18 upcoming hearing, I hope none of that
19 delays the immediate payment to the
20 workers, because unless we're holding
21 money of the contractor, the hearing is
22 really moot. I would get the workers
23 paid tomorrow. And then if LP doesn't
24 like it, if LP wants a hearing, let them
25 have a hearing. But I would get the

1 6/4/13 - LABOR - BILL 130307, etc.
2 money immediately out there to the
3 workers. That would be the thrust. And
4 it's doable. In fact, I think it's
5 required at this point by the City.

6 I'd be happy to answer -- oh,
7 in response to Councilman O'Neill's
8 question about the sanctions, even
9 sanctions that are far less than criminal
10 prosecution, we don't utilize and that we
11 need to be utilizing far more
12 effectively. LP got -- or LP's
13 principals got major contracts,
14 extensions of contracts even after these
15 violations; for example, the
16 Scotlandyard. They got a subpoena
17 contract and also for Law Department.

18 So we're not even doing some of
19 those civil things, as Ms. Flamer noted.
20 It's a good thing that there was action
21 on some of the demolition applications
22 that LP had, but we were not collecting
23 money from a company that -- for
24 principals of a company that we give
25 millions of dollars in contracts to. It

1 6/4/13 - LABOR - BILL 130307, etc.

2 sends the wrong message. And so I think
3 at this point, it's incumbent on us to
4 get those workers paid now.

5 COUNCILMAN KENNEY: Councilman
6 O'Neill.

7 COUNCILMAN O'NEILL: Thank you,
8 Mr. Zecca. Could you give us your
9 opinion -- you were in the Law Department
10 for a little bit, as I understand. How
11 many years?

12 MR. ZECCA: Over 20.

13 COUNCILMAN O'NEILL: Thank you
14 for your service.

15 MR. ZECCA: Thank you.

16 COUNCILMAN O'NEILL: But do you
17 think that this is something, when it
18 gets to this point, under the assumptions
19 we had -- maybe we would have found out
20 real quickly that the contractor didn't
21 have the money, and I'll start with
22 Chairman Kenney's question about the
23 Inspector General and then my question
24 with something a little more serious but
25 also could come from the Inspector

1 6/4/13 - LABOR - BILL 130307, etc.
2 General as an intermediary step, criminal
3 referral, in a case like this or I'll use
4 the analogy of the wage tax, lack of
5 forwarding of what has already been
6 collected from workers in wage tax and
7 we're still trying to collect it from the
8 employer.

9 MR. ZECCA: Right. Well, I
10 definitely think the Inspector General
11 has it within the purview, because this
12 was a City contractor, even the work on
13 this particular contract may be over.
14 For example, the Inspector General has
15 handled -- and I used to advise the
16 Inspector General -- has handled
17 investigations regarding fraudulent --

18 COUNCILMAN O'NEILL: I'm
19 thinking more of the referral by the City
20 Solicitor's Office.

21 MR. ZECCA: Now in terms of the
22 criminal --

23 COUNCILMAN O'NEILL: But I'm
24 talking about -- Councilman Kenney's
25 question was maybe you don't want to do

1 6/4/13 - LABOR - BILL 130307, etc.

2 the DA, but how about referring it to the
3 Inspector General while this is going on.

4 MR. ZECCA: Oh, it definitely
5 can be referred to the Inspector General.

6 COUNCILMAN O'NEILL: My
7 question isn't could it be. I know it
8 could be. My question is should it be?

9 MR. ZECCA: Yes, I do think it
10 should be. Absolutely, yes. And, in
11 fact, I believe the Inspector General is
12 already aware of the situation, because
13 they were present at some of the hearings
14 and monitoring the hearing that I put on,
15 for instance, in 2010. So I think --

16 COUNCILMAN O'NEILL: So they
17 knew about it?

18 MR. ZECCA: Yes.

19 COUNCILMAN O'NEILL: Obviously
20 they didn't refer it to -- even though
21 they had the same information everybody
22 else had, they did not refer it to the
23 DA's Office.

24 MR. ZECCA: Well, they don't
25 tell you what they do.

1 6/4/13 - LABOR - BILL 130307, etc.

2 COUNCILMAN O'NEILL: We
3 probably would have read about it by now.

4 MR. ZECCA: You probably would
5 have heard, but I do think there's a
6 basis, because this contract was
7 advertised as a prevailing wage contract.
8 The wage rates were even in the contract.
9 The contractor said when they applied
10 that they would pay the prevailing wage,
11 and then they just didn't do it. And
12 there's a question of whether or not
13 that's evidence of fraud. Fraud is --

14 COUNCILMAN O'NEILL: I know.

15 MR. ZECCA: And so forth. So I
16 agree that it should be referred to the
17 Inspector General. I believe that -- and
18 I know they have been made aware of it.

19 COUNCILMAN O'NEILL: But should
20 it have been referred to the District
21 Attorney's Office?

22 MR. ZECCA: Yes, I do think it
23 should have been referred, because it's
24 gone on long enough and there were a
25 variety of obstructions in terms of

1 6/4/13 - LABOR - BILL 130307, etc.
2 getting certified payrolls, in terms of
3 intimidation of workers. I think that
4 the amount of violations that were
5 written was minimal, because you can only
6 write the violation for what you can
7 document. I think the Labor Standards
8 Unit wrote everything they could
9 document, but I think there was some
10 intimidation going on, so not every
11 violation that could have been written
12 was written.

13 COUNCILMAN O'NEILL: Thank you.
14 I'm just trying to -- I think you're
15 bolstering it. The best hammer we can
16 have when we think somebody has committed
17 a crime is to get it to the DA's Office
18 as quickly as possible.

19 MR. ZECCA: I agree.

20 COUNCILMAN O'NEILL: Okay.

21 COUNCILMAN KENNEY: Thank you.

22 Any more questions for this
23 witness?

24 (No response.)

25 COUNCILMAN KENNEY: Seeing

1 6/4/13 - LABOR - BILL 130307, etc.
2 none, thank you for your time in coming
3 in.

4 Mr. Littlepage, please.
5 (Witnesses approached witness
6 table.)

7 COUNCILMAN KENNEY: Please
8 identify yourself for the record and
9 proceed with your testimony.

10 MR. LITTLEPAGE: My name is
11 Garnett Littlepage.

12 MR. KISSEL: My name is Douglas
13 Kissel.

14 MR. McNEIL: My name is Anthony
15 McNeil.

16 MR. LITTLEPAGE: May we start?

17 COUNCILMAN KENNEY: Please
18 proceed.

19 MR. LITTLEPAGE: First of all,
20 let us thank you for this hearing. It's
21 been probably almost ten years that we
22 have been waiting on an appeal to get an
23 answer on 17-107 as it refers to the
24 exclusion for prevailing wage on City
25 contracts under 200,000, which, just for

1 6/4/13 - LABOR - BILL 130307, etc.
2 the record, contracts that we're here
3 today to talk about that the employees
4 are claiming that they're owed money were
5 all contracts that were in 17-107
6 advertised under \$200,000.

7 Mr. Kissel has a statement that
8 we submitted.

9 MR. KISSEL: If you'd like,
10 I'll read the entire statement.

11 COUNCILMAN KENNEY: How long is
12 it?

13 MR. KISSEL: It's about five
14 minutes.

15 COUNCILMAN KENNEY: That's
16 fine.

17 MR. KISSEL: One of the major
18 purposes of the NTI -- by the way, just
19 so I get this in the record, our
20 organization has never had a hearing
21 before the Labor Standards Board. You
22 heard testimony, by the way, that we had
23 four hearings before the Labor Standards.
24 We have been denied, denied, and denied
25 repeatedly upon request hearings before

1 6/4/13 - LABOR - BILL 130307, etc.
2 the Labor Standards Board on the NTI and
3 on the other one. I just want to make
4 sure I got that into the record as to
5 what's going on here.

6 One of the major purposes of
7 the NTI demolition and economic
8 opportunity plan was to identify the
9 immediate and potential business
10 opportunities for small businesses
11 historically underrepresented in
12 contracting. And this is in particular
13 minority, women, disabled businesses, as
14 well as immediate and potential
15 employment opportunities to maximize
16 recruitment, employment, and training
17 opportunities for minority, female, and
18 disadvantaged residents as a result of
19 this massive undertaking, the NTI
20 program.

21 The City, to further this,
22 sponsored the African American Chamber of
23 Commerce Emerging Contractors Program in
24 which we participated and which
25 Ms. Maxine McIntyre was certified from

1 6/4/13 - LABOR - BILL 130307, etc.

2 our organization as a demolition
3 contractor.

4 The NTI plan says, quote, The
5 City of Philadelphia recognizes the vast
6 potential for employment and training for
7 residents of the affected areas and is
8 committed to working in conjunction with
9 training providers, contractors, and the
10 building trades unions to maximize
11 trainee, apprenticeship, and journeyman
12 employment opportunities for minorities,
13 females, and disabled residents. See
14 that plan, Page 3.

15 Participation by socially
16 conscious contractors like the LP Group 2
17 and others in the NTI program was an
18 excellent way to train and hire
19 neighborhood residents and should have
20 been welcomed by the City. The LP Group
21 2 employed ex-offenders trained to
22 perform demolition, stucco, landscaping
23 with OSHA safety certifications while
24 earning a living wage and removing blight
25 from their neighborhoods. Many had

1 6/4/13 - LABOR - BILL 130307, etc.
2 criminal records as youth and adults and
3 some had been released within the prior
4 90 days. Most of the trainees had never
5 been employed and tested at the third
6 grade level for literacy and mathematics
7 skills. Historically, minorities testing
8 at these academic levels and skill levels
9 have been excluded from union
10 apprenticeship training programs that
11 have involved these disciplines,
12 rendering them virtually impossible for
13 inclusion.

14 In coordination with
15 stakeholders, including the Mayor's
16 Office of Reentry Services, Philadelphia
17 Workforce Development Corporation, the
18 Police Commissioner, and Connection
19 Training Services, we developed and
20 executed a City-approved bona fide
21 training program to effectuate a full
22 inclusion of the affected population.

23 At the City Council hearing on
24 Ordinance No. 990221 on June 8th, 1999,
25 there was a second public -- the City

1 6/4/13 - LABOR - BILL 130307, etc.
2 Councilmembers expressed concern about
3 the level of neighborhood-based
4 employment on City construction
5 contracts. On June 8th, 1999, there was
6 a second public hearing and a friendly
7 amendment sponsored by Councilman Darrell
8 Clarke resulting in the addition of
9 Section 17-107(2)(.2) to the City Code,
10 which is in our exhibits, and this was
11 described as you, Councilman Kenney, as
12 providing opportunities for all
13 Philadelphians of all ethnic backgrounds
14 and color to participate in the
15 renaissance of Philadelphia. This
16 section would have allowed for the
17 exemption of trainees of bona fide
18 City-approved training programs from the
19 prevailing wage laws. At the time, City
20 agencies were discussing with building
21 trades representatives the ways in which
22 City residents could participate in City
23 contracts as employees. One important
24 reason for creating this exemption at the
25 time was that unemployment, crime,

1 6/4/13 - LABOR - BILL 130307, etc.
2 homelessness, and illegal drug sales were
3 widespread in the selected NTI areas.

4 Section 17-107 -- and this is a
5 very important paragraph -- (1)(b) and
6 actually it should be (f), according to
7 the attached documents, contain an
8 exclusion from the prevailing wages for
9 stucco, landscaping, demolition, and
10 other contracts under \$200,000.

11 You heard a litany of contracts
12 cited, Peach and Ruby, Salford and
13 Beaumont, Chester, and many others. All
14 but one were under \$200,000. The City,
15 in order to encourage and support
16 minority contractors hiring of
17 neighborhood residents who were
18 unskilled, passed this ordinance or had
19 an ordinance already in place. They
20 broke the NTI demolition up into packages
21 of less than \$200,000 so that NTI
22 contractors and unskilled employees could
23 be employed. Otherwise, there is no
24 sense in hiring and paying somebody \$40
25 an hour who just got out of prison to do

1 6/4/13 - LABOR - BILL 130307, etc.

2 a job that I can hire somebody and pay
3 them \$40 an hour prevailing wage who has
4 had 20 years experience doing this kind
5 of work.

6 In the reliance upon both of
7 these ordinances included -- that were
8 both included and published in the City
9 Code and under which the City operated as
10 if in effect, we set out to recruit,
11 train, and hire City residents from these
12 affected neighborhoods to participate in
13 City contracts. A non-profit community
14 organization obtained written City
15 approval to be a bona fide training
16 provider, and that approval is in your
17 documents. The LP Group 2 paid
18 neighborhood trainees and ex-offenders in
19 this program \$250 per week for 13 weeks
20 while they were in classrooms. Once they
21 had completed their classroom training,
22 they began working on community projects
23 and on-the-job training for \$15.89 an
24 hour.

25 The LP Group thereafter bid on

1 6/4/13 - LABOR - BILL 130307, etc.
2 and won a number of these NTI demolition
3 contracts, most of -- all but one of
4 which were under \$200,000. Noteworthy is
5 the fact that because of the inexperience
6 and lack of skills of the trainees, we
7 had to employ more managers and work site
8 trainers as well as workers to complete
9 contracts in a timely manner compared to
10 a contractor who had experienced
11 journeymen. Thus for this reason, this
12 was not a matter of making more profits
13 off of low-wage workers.

14 On September 8th of 2005, the
15 PLSU sent a citation notice for NTI
16 projects Allegheny West, Saybrook and
17 Lindenwood to the LP Group 2. We
18 vigorously disputed and continue to
19 dispute that Saybrook, Lindenwood, and
20 all others, except Allegheny West,
21 required the payment of the prevailing
22 wage laws because they were each
23 demolition contracts under \$200,000. And
24 we have -- and I will say that in a
25 meeting which Ms. Flamer was present,

1 6/4/13 - LABOR - BILL 130307, etc.

2 Ms. Tucker of the PLSU -- and I was
3 there, and I asked and they admitted that
4 they had erroneously interpreted the law
5 and thought that only contracts under
6 \$2,000 were exempt. So you asked earlier
7 why we didn't go and beat them over the
8 head for hearings on the NTI, it's
9 because we believed that the PLSU had
10 finally come to the realization that they
11 were not included, except for Allegheny
12 West, and we expected the return of
13 hundreds of thousands of dollars that Ms.
14 Flamer is now finally, finally admitting
15 the City has been holding from us for
16 almost six to eight years. And that's
17 only half of the 620,000 total that is
18 owed us. She didn't find the rest of the
19 money. She needs to look a little deeper
20 for the rest of the money.

21 The City sent these notices,
22 and we have disputed, and most of the
23 employees that are here today included in
24 Exhibit-5 contained -- Exhibit-5 contains
25 the list of names that are the subject of

1 6/4/13 - LABOR - BILL 130307, etc.
2 this hearing today. You will see these
3 employees in that exhibit. These were
4 employees on the NTI sub \$200,000
5 demolition projects.

6 You've also heard, by the way,
7 several -- excuse me; Mr. Luther [sic]
8 Ray testify that he was a trainer and
9 supervisor along with Mr. Harris. They
10 are exempt from prevailing wages on all
11 contracts. So as a supervisor and
12 trainer, he's not entitled to prevailing
13 wages.

14 So on the contrary, as I
15 stated, none of these employees are owed
16 the prevailing -- they were told they
17 were owed the prevailings. They may have
18 been told this by the City by PLSU, but
19 in violation of the prevailing wage laws,
20 the PLSU continues to hold hundreds of
21 thousands of dollars withheld from our
22 money. To this date, the City never
23 released more than -- we have a total of
24 \$341,704.

25 We do not believe that the City

1 6/4/13 - LABOR - BILL 130307, etc.
2 ever told the employees on the original
3 list that included the contracts under
4 200,000 that they were not entitled to
5 prevailing wages and benefits for work on
6 those contracts. Thus, they come here
7 before you as injured parties seeking
8 this money because of the mistaken belief
9 that they were not paid all that they
10 were owed. However, the real injured
11 party is the LP Group 2 that was not paid
12 hundreds of thousands of dollars in
13 contract fees without reason given, that
14 was refused repeated requests for
15 hearings. And we will amend the record
16 to put some letters in to that effect
17 that we've sent to them on the NTI
18 violations. And we finally thank the
19 Committee for investigating this matter,
20 and certainly welcome any investigation
21 by the Inspector General or other office
22 into this matter.

23 Exhibit-7 of ours shows a
24 letter that the City was withholding
25 170,000 for these violations, among other

1 6/4/13 - LABOR - BILL 130307, etc.
2 funds withheld.

3 Exhibit-8 is an e-mail from the
4 City Controller's Office to the PLSU
5 questioning why so much money was being
6 withheld from the LP Group 2 by the PLSU.

7 They were virtually attempting
8 to economically lynch a minority firm by
9 withholding every dollar owed on every
10 contract that we had, period. Not what
11 they thought was owed to workers only.

12 MR. LITTLEPAGE: Excuse me.
13 Councilman, we're going to stop there,
14 because we were under the impression that
15 the City was still claiming that they did
16 not have our money that they paid us,
17 this 300-some-odd thousand, which just
18 for the record, the total amount of money
19 that the City owes us today as we sit
20 here is \$620,105.41. As you've heard
21 earlier testimony where they say that
22 they did pay us, well now you hear again
23 a week or so later where they didn't.
24 The rest of our testimony really just
25 goes into the exhibits proving that they

1 6/4/13 - LABOR - BILL 130307, etc.
2 withheld this money, which they've
3 already admitted that they have some of
4 it.

5 So just to clarify one point as
6 opposed to keep reading, Mr. McNeil --
7 the only contract that was in question,
8 as far as we were concerned, was the
9 contract under \$200,000, which was the
10 Allegheny West -- excuse me; over
11 \$200,000, which was the Allegheny West
12 contract. When that was brought to our
13 attention, Mr. McNeil met with Jim
14 Ferraro, and they set out over a long
15 process of a couple of months, came up
16 with the spreadsheet of what the
17 employees were owed. We delivered those
18 checks. He had the employees sign for
19 those checks, and I have an exhibit of
20 one authorization and release with his
21 signature on there inside this package.

22 So, again, I sit here today
23 saying to you that, yes, some of this has
24 been a misunderstanding to the fact that
25 the contracts -- the language clearly

1 6/4/13 - LABOR - BILL 130307, etc.
2 states -- and no one has questioned it,
3 and as Mr. Kissel vividly points out, is
4 that when we requested our hearings and
5 said, No, these contracts are under
6 200,000, you shouldn't be holding our
7 money, we were just basically ignored.
8 And what they did, if you check the
9 record, they started with the NTI
10 violations on our company, and once we
11 pointed out the fact that these contracts
12 are under 200,000, do not apply; however,
13 we're going to pay the Allegheny under
14 protest, delivered the checks -- and
15 you'll see the exhibit in here -- we
16 never heard anything else from the City
17 on the NTI.

18 What Ms. Flamer tells you today
19 about the hearings, that is just another
20 one of the untruths I heard today. They
21 never gave us our hearing. They ignored
22 us every time we requested a hearing on
23 the NTI, and they ignored all of our
24 demands for payment on that. And, again,
25 it's up until today that they finally

1 6/4/13 - LABOR - BILL 130307, etc.

2 admit that they're holding our money.

3 COUNCILMAN KENNEY: All right.

4 Thank you for your testimony. I'm just
5 curious as to what other legal action you
6 may have or have not taken in order to
7 recover \$600,000 that's been owed to the
8 company for six, seven years now.

9 MR. LITTLEPAGE: As you know,
10 as Ms. Flamer and them just pointed out,
11 we've been in litigation on the NTI
12 stucco. The NTI stucco was a different
13 clause. That was the clause that
14 Mr. Kissel pointed -- I mean, was
15 indicating that you guys said -- as
16 Mr. Clarke put in as a friendly addendum
17 under that bill, which, as you know, come
18 to find out what we find out, we found
19 out years later that MBEC was supposed to
20 get a certification from the unions
21 because that never happened. Now it was
22 claimed that cause was never in effect
23 even though the City and Labor Standards
24 operated as if it was. Suddenly we were
25 penalized. Well, that litigation, as

1 6/4/13 - LABOR - BILL 130307, etc.

2 Ms. Flamer -- actually, that litigation
3 just ended, but there's still some
4 ongoing litigation. We've basically been
5 held back on the NTI, and that's, again,
6 why we welcome these hearings, because
7 we've been constantly told that we can't
8 come after that money until we've had due
9 process.

10 COUNCILMAN KENNEY: I'm saying
11 are there other venues where you could
12 have pursued the payment of this money as
13 far Common Pleas Court or --

14 MR. LITTLEPAGE: Again, this is
15 a new Council. We've been to other
16 Councilpeople. We've been to the City
17 Solicitor. We've actually went to the
18 Inspector General and everybody -- we
19 went to MBEC. We've been to everybody in
20 the City we could possibly go to, and
21 we've just been ignored. It's only to
22 today -- we've even been to the federal
23 government. Yes, we've been everywhere
24 we could possibly be, and this is our
25 next-to-last stop.

1 6/4/13 - LABOR - BILL 130307, etc.

2 MR. KISSEL: I just want to
3 point out that in the case where we did
4 appeal the non-hearing we didn't get
5 before the Board of the Labor Standards
6 to Common Pleas Court, the City filed not
7 one, not two, not three, but at least
8 four affidavits in that case swearing
9 that we had received every dime of our
10 money and, therefore, the case should be
11 dismissed since it was moot, and the
12 judge did so, believe it or not. And
13 that's where we just ran out of funds.
14 We appealed it the Commonwealth Court.
15 We just couldn't keep pursuing this
16 without any funds. The legal fees were
17 over \$200,000 to contest these claims.

18 COUNCILMAN KENNEY: Right.
19 Any questions for this witness?
20 (No response.)

21 COUNCILMAN KENNEY: Seeing
22 none, thank you for coming in.
23 Appreciate it.

24 Anyone else to testify on this
25 resolution or anyone from the City or

1 6/4/13 - LABOR - BILL 130307, etc.

2 anyone like to have any more to say?

3 MR. LITTLEPAGE: Thank you.

4 COUNCILMAN KENNEY: You're

5 welcome.

6 Mr. Zecca, you would like to

7 rebut.

8 (Witness approached witness

9 table.)

10 COUNCILMAN KENNEY: Please

11 re-identify yourself for the record.

12 MR. ZECCA: Yes, Mr. Chairman.

13 Mark Zecca.

14 I'd like to point out a couple

15 things. First of all, the contracts in

16 question that they just mentioned

17 provided that the prevailing wage was

18 required. Hill International also was

19 overseeing NTI. All the NTI contracts

20 were prevailing wage, and in order to get

21 them, any contractor had to assure that

22 they were going to be paying the

23 prevailing wage. LP had to assure that

24 or else they would not have been awarded

25 the contracts.

1 6/4/13 - LABOR - BILL 130307, etc.

2 As far as Mr. Ray, the
3 prevailing wage applies to even people
4 who may have some supervisory duties if
5 they do plastering work. He was listed
6 as a plasterer. He did plastering work.
7 He would have been covered.

8 As far as the payment to
9 Allegheny West, at that time the City was
10 actually withholding a greater amount of
11 money, because the City had the right to
12 actually withhold interest, and the City
13 could also issue penalties. So in order
14 to enable the contractor to keep going,
15 there was something worked out, and they
16 made some payments regarding Allegheny
17 West.

18 If they were truly owed
19 \$600,000, they would be pursuing that.

20 As far as the affidavits that
21 were filed in court, the affidavits dealt
22 with the stucco case, because that was
23 the case that was before the court at
24 that time, and the City employees
25 explained that they had in fact been paid

1 6/4/13 - LABOR - BILL 130307, etc.
2 in stucco. Ms. Flamer's testimony to
3 you, as I understand it, is not
4 inconsistent with those affidavits,
5 because her testimony went to the NTI,
6 which is the remaining issue.

7 So those were some of the
8 points that I wanted to make.

9 COUNCILMAN KENNEY: Their
10 contention that or their position that
11 the City never moved on any of their
12 appeals for the Labor Standards Board,
13 could you --

14 MR. ZECCA: Oh, no. We did in
15 fact have -- for instance, the stucco
16 went all the way through the process. It
17 went through the Board of Labor
18 Standards. That was the one they were
19 moving forward with their counsel and
20 went through Board of Labor Standards and
21 went through Court of Common Pleas.

22 COUNCILMAN KENNEY: Can you
23 recall why -- who would make the
24 decision -- if it's a two-issue hearing,
25 one about stucco and one about

1 6/4/13 - LABOR - BILL 130307, etc.
2 demolition, why would you proceed with
3 just the stucco and not the demolition?
4 Who would make that decision? The Board?

5 MR. ZECCA: Ultimately it was
6 the Board. That severing -- the two were
7 severed before I was representing the
8 City in this matter. The City had asked
9 for them to be joined. LP's attorney,
10 Neil Jokelson specifically, vigorously
11 insisted that they be severed, and the
12 Board acceded to that and said, Okay, we
13 will sever them. And then LP never did
14 anything to move forward on the NTI.

15 COUNCILMAN KENNEY: Well, as
16 Councilman O'Neill spoke to earlier, that
17 if the City didn't pursue the demolition
18 end of it, why would LP have pursued it?
19 Would you consider that the non-pursuit
20 on the part of the City was either an
21 acknowledgment or a mooting of the City
22 standing?

23 MR. ZECCA: Remember, it's
24 their appeal. It's the appeal of the LP,
25 which they have filed.

1 6/4/13 - LABOR - BILL 130307, etc.

2 COUNCILMAN KENNEY: And that
3 appeal could last for as long as five or
4 six years, its validity, its freshness?

5 MR. ZECCA: The appeal, I
6 believe they've abandoned it. I would
7 agree with Ms. Flamer that they've
8 essentially abandoned it. The City never
9 blocked the Board in any way from
10 scheduling a hearing on that appeal. We
11 were tied up with the stucco case through
12 the Board and then through the court.
13 When the stucco case was concluded, we
14 then analyzed the financial records and
15 we came to the conclusion that
16 essentially LP had been paid fully in the
17 NTI matter, so that there was nothing
18 more -- there was no reason to even deal
19 with that, and LP wasn't asking to deal
20 with it. Then at that point, it just
21 became a case of getting the workers paid
22 and then collecting the money from LP.

23 We did inquire from time to
24 time with the Board as to when they were
25 going to schedule it. We were ready,

1 6/4/13 - LABOR - BILL 130307, etc.
2 willing, and able to proceed on that, but
3 the Board never scheduled it.

4 COUNCILMAN KENNEY: The
5 question I have is, is it, in your
6 opinion, the Board's responsibility to
7 reschedule the severed part or was it
8 LP's responsibility to request a
9 rehearing?

10 MR. ZECCA: I think both. I
11 think the Board should have, as
12 Councilman O'Neill pointed out, I think
13 they should have scheduled it. I don't
14 know why they didn't, but, again, when
15 you have an appeal pending and something
16 is not moving, you can also speak up and
17 speak to it, yes. That would be my
18 response.

19 COUNCILMAN KENNEY: All right.
20 Thank you for your testimony.

21 MR. ZECCA: Thank you.

22 COUNCILMAN KENNEY: Sir, if
23 you'd like -- if you want to come back,
24 you can come back. Yes, sir, if you'd
25 like. I mean, there's not that many

1 6/4/13 - LABOR - BILL 130307, etc.
2 folks.

3 MR. RAY: Excuse me.

4 COUNCILMAN KENNEY: Just
5 identify yourself for the record.

6 MR. RAY: Vernon Ray.

7 I just have two short things.
8 One, when we had that hearing, that's
9 what myself been fighting for, myself and
10 the guys working, the workers been
11 fighting for, why did the hearings even
12 got separated, period, because the whole
13 issue was did you pay prevailing wages or
14 not. The Board ruled you did not. So we
15 thought they was all concurrent, running
16 as one.

17 And the other thing is, again,
18 I trained ex-offenders along with
19 Mr. Harris and a couple other guys. I
20 was a working supervisor. I worked on
21 the field. I was excluded from trainees
22 and getting paid. I was still -- right
23 now today, I still haven't been paid a
24 dime, and I was the supervisor, working
25 supervisor, of the stucco crew, primary

1 6/4/13 - LABOR - BILL 130307, etc.
2 stucco, and mysteriously my name just got
3 pulled out the records altogether because
4 I was no longer with the company.

5 COUNCILMAN KENNEY: All right.
6 Thank you.

7 Anyone else?
8 (No response.)

9 COUNCILMAN KENNEY: Thank you
10 very much for your testimony.

11 That will conclude -- actually,
12 we're going to wait for a quorum. We
13 don't have to take any action on the
14 resolution. It's an informational
15 resolution. We need a quorum to move the
16 first bill that was discussed. So
17 anybody that was here on behalf of the
18 resolution, you're free to go. We're
19 just waiting for a quorum to be
20 established to move the first bill out of
21 Committee. So those in attendance who
22 testified on the resolution, thank you
23 for your attendance.

24 Just one more piece of business
25 for the record. Resolution No. 130360 is

1 6/4/13 - LABOR - BILL 130307, etc.
2 now recessed to the call of the Chair.
3 Thank you.

4 (Pause.)

5 COUNCILMAN KENNEY: That
6 concludes the business of the
7 Committee -- the hearing on Labor and
8 Civil Service. We will now convene a
9 public meeting.

10 The Chair recognizes
11 Councilmember Bass for a motion on Bill
12 No. 130307.

13 COUNCILWOMAN BASS: I make a
14 motion -- thank you, Mr. Chairman. I
15 make a motion for Bill No. 130307 be
16 moved out of Committee with a favorable
17 recommendation and that the rules of
18 Council be suspended as to permit first
19 reading at the next session of City
20 Council.

21 (Duly seconded.)

22 COUNCILMAN KENNEY: It's been
23 seconded. All in favor?

24 (Aye.)

25 COUNCILMAN KENNEY: There are

1 6/4/13 - LABOR - BILL 130307, etc.
2 none opposed. Bill No. 130307 is
3 reported favorably out of this Committee
4 and a request will be made for a rules
5 suspension to allow first reading at our
6 next Council session.

7 Thank you.

8 (Committee on Labor and Civil
9 Service concluded at 11:55 a.m.)

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CERTIFICATE

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

MICHELE L. MURPHY
RPR-Notary Public

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