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COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING COMMITTEE ON LAW AND GOVERNMENT

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- - -
Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, 6/14/01
1:15 p.m.
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11 RESOLUTION 000476 - Authorizing the Committee on Law
12 and Government to investigate whether the
13 City-administered health plan currently and in the
14 past has provided the most comprehensive and
15 cost-efficient coverage to City employees for the
premiums paid, and whether the City Could provide
more comprehensive and less costly coverage to the
approximately 8,000 employees and retirees currently
covered by this plan if other options were pursued.

16

17 PRESENT: COUNCILMAN DAVID COHEN, Chair
COUNCILMAN ANGEL L. ORTIZ, Vice Chair
18 COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN MICHAEL A. NUTTER
19 COUNCILMAN FRANK RIZZO

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6/14/01 LAW AND GOVERNMENT COMMITTEE

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

3 COUNCILMAN COHEN: The Committee on Law
4 and Government is resuming the recessed hearing from
5 two days ago, and there is a continuing quorum since
6 this is a recessed hearing.

7 Now, before I call Miss Berkowitz, there
8 has been handed to me a document saying 7,082 -- I
9 assume that means people injured-on-duty occurrences
10 between July 1993 and February 2000. I assume
11 that's a report on the FOP, and I would like to ask
12 the representative who presented this to the
13 committee to come forward and just explain briefly
14 to us what this is.

15 (Witness comes forward.)

16 COUNCILMAN COHEN: And Miss Berkowitz --
17 and thank all of you for your patience. The
18 Committee also votes -- thinks that Councilman
19 DiCicco is entitled to a vote of thanks because if
20 he had not withdrawn consideration of two bills
21 before the City Council today --

22 COUNCILMAN ORTIZ: We'd still be here.

23 COUNCILMAN COHEN: -- I think we would
24 be in session till about 4, 5 o'clock, maybe
25 midnight tonight. So we're very glad we're able to

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2 keep within general time limits.

3 Sir, identify yourself for purposes of
4 the record and then proceed.

5 MR. LAMB: Yes, sir, Mr. Chairman. My
6 name is Thomas Lamb, L-A-M-B. I administer law
7 enforcement health benefits, which is the
8 Philadelphia FOP Lodge 5 Blue Cross Health and
9 Welfare Fund.

10 I testified on Monday of a great concern
11 to our members about the City not assuming the
12 financial responsibility for officers injured on
13 duty and/or killed in the line of duty. As you
14 know, in July of 1993 -- and that's why this goes
15 back to that date. In July of 1993, the City of
16 Philadelphia was successful in financially capping
17 our medical contribution for the FOP members, but
18 the at the same time, they did not assume the
19 financial responsibility of officers that incurred
20 medical claims for an on-the-job occurrence. So at
21 the same time while the City was financially capping
22 our contribution, they were in essence dumping
23 medical claims into our usage, which equates to a
24 higher Blue Cross premium, which is now having a
25 serious, a financial effect on the FOP Blue Cross

2 medical plan.

3 This is an exhibit and I wanted to bring
4 this to the committee because we have heard the same
5 thing over the last seven contracts that you have
6 been hearing for the last year. We're reviewing it,
7 we're working on it. I was not aware of it.

8 This exhibit was presented by the FOP in
9 the 2000 contract negotiation, so no one from the
10 City can say they were not aware of it or they're
11 working on it. At that time, the City, under the
12 discovery, produced injured-on-duty reports complete
13 up to November of 1999, partial reports for
14 December, January, and February. At that time,
15 there were a little over 7,000 injured-on-duty
16 occurrences. Currently, there's over 8,000
17 injured-on-duty occurrences.

18 What I did to even make it even more
19 dramatic, if you will, the next page is from our
20 Website, the FOP Website, and we call it the FOP
21 Honor Roll. Regretfully, these are officers that
22 were killed in the line of duty. And you can see I
23 put a little dot next to three names. Regretfully,
24 the third name I have to leave the office and could
25 not bring the claims that we paid.

2 But if you look, the first officer that
3 was recently killed in the line of duty, the top
4 line of that is our Blue Cross paid claims tape, so
5 every claim that we pay for police officers through
6 the FOP, we receive a monthly paid claim statement.
7 And for this officer, who was severely injured,
8 critically injured, and was -- basically, the plug
9 was pulled about three days after the injury was
10 occurred, we were charged by Blue Cross to charge
11 them out with \$1700, and our fund with the Blue
12 Cross discount was charged \$400.

13 The next example of the other officer --
14 he was killed on January 19, 1996. It was ruled
15 injured on duty, and the City did contest this as an
16 injured-on-duty occurrence. It eventually was ruled
17 injured on duty, and you can see our fund paid over
18 \$5,000 for this officer killed in the line of duty.
19 This is all part of the over 8,000 injured-on-duty
20 claims that the City refuses to accept the financial
21 responsibility for.

22 If you carry that one step further,
23 injured on duty we define as officer falls down the
24 steps or gets involved in a fight and returns to
25 duty within a reasonable amount of time. We define

2 Worker's Compensation as an officer that cannot
3 return to duty and perform the functions of a police
4 officer. It usually goes to Worker's Comp. Board,
5 it drags on for a couple of years.

6 The officers have a choice to use the
7 attorney of their choice, so if they choose to use
8 an FOP attorney, that's fine, we would be aware of
9 any favorable ruling. But if the officer chooses to
10 use an independent attorney, we would have no
11 knowledge of that.

12 So the only central point that we can
13 identify Worker's Compensation awards in favor of
14 the officer is the City of Philadelphia. They
15 blatantly refused to give us any information on
16 officers that have received favorable Worker's
17 Compensation. And just on this one officer -- of
18 course, we picked one of the more extreme. Just on
19 this one officer, there were \$662,000 in claims that
20 is City responsibility that our members paid for on
21 a financially capped contribution from the City.
22 It's just blatantly unfair.

23 To even take it a step further, with the
24 ones that I highlighted, when we eventually do
25 resolve this with the City, and the only thing

3 attorney is the City signing the agreement to allow
4 Blue Cross and Comp. services to sit in front of a
5 computer, look at when the officer was injured, the
6 type injury, and then look at the claims the officer
7 incurred, and properly apply the responsibility
8 where it lies.

9 Well, one of the problems we have, if
10 you look at this, and this was taken -- this is
11 again an exhibit from our FOP contract presentation
12 in the year 2000. If you are a Blue Cross reviewer
13 and you look at number 2, the officer, the second on
14 the list, the City listed his injury as a fracture.
15 Well, if the Blue Cross reviewer goes into their
16 computer and sees the injured-on-duty occurrence was
17 a fracture and in reality it was death by auto
18 accident. And I did just a few more.

19 Laceration and puncture: It was a
20 gunshot.

21 Concussion: Fell down the steps, struck
22 their head and died.

23 Contusion: It was nine knee operations
24 by non-board certified City doctors.

25 Laceration and puncture: It was a

3 involved dental implants.

4 The problem with this terminology is
5 when you go in and evaluate the injury and the
6 claims incurred, it becomes awful difficult to tie
7 in a laceration to an auto accident and a death.
8 The Blue Cross person may say, Oh, maybe they went
9 to the doctor in the morning and went to work on the
10 3-to-12 shift and was involved in an accident and
11 died. So it's very, very confusing, to be fair.

12 The last thing -- well, two things, if
13 the Chairman doesn't mind. Our members regretfully
14 are involved in circumstances -- depending on the
15 circumstances and depending on the individual
16 officer, we do experience posttraumatic stress or
17 some emotional problems caused by what human beings
18 do to other human beings out there. The City of
19 Philadelphia blatantly refuses to recognize any
20 emotional problems caused by an on-the-job
21 occurrence.

22 I have documentation in here where we
23 had requested from the City of Philadelphia if an
24 officer has an emotional problem from a job
25 occurrence and goes to our employee assistance unit,

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2 the EAP Unit, which is staffed by police officers, I
3 asked for documentation. If the police officer

4 working the EAP Unit feels the officer that has the
5 emotional problem needs a more professional level of
6 care, what are their instructions? Their
7 instructions are in here and what it basically says
8 is send 'em to the FOP Personal Choice Program
9 because we have nothing.

10 COUNCILMAN COHEN: Well, Mr. Lamb, I
11 don't want to interrupt that, but this committee is
12 not going to be able at this hearing level to deal
13 specifically with those items that you're referring
14 to, but I would hope that during the summer, you
15 will be in touch with our staff so they can get all
16 of the information and see to what extent it's
17 related and to what extent we in Council can give
18 you and your organization assistance in resolving
19 these matters with the City.

20 We're very concerned about it and we
21 think the documentation you presented to us is very
22 important. As a matter of fact, it played a role in
23 a matter that was before City Council, and I think
24 City Council is growing increasingly sensitive as a
25 result of the unfair way in which many members of

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2 Council feel that firefighters have been treated on
3 hepatitis C. There had been a motion to table on

4 one bill today certain parking revenue aspects for
5 the stadium, and the reason the motion to table was
6 taken was to attempt to put pressure on the City.
7 It came within one vote of passing City Council, so
8 that the efforts of the --

9 COUNCILMAN ORTIZ: At first, it actually
10 passed.

11 COUNCILMAN COHEN: Well, Councilman
12 Ortiz would want to claim that at one moment, it had
13 passed, but then one Councilmember changed his
14 vote. And by 9 to 8, the motion failed.

15 What's important is merely that
16 Councilmembers are exceedingly aware, whichever way
17 they voted on the item, they are getting very
18 conscious of the importance of finding a way to make
19 the City deal fairly with the employee
20 representatives on all the health and medical
21 matters.

22 So you're all making progress, but
23 you've got to help us during the summertime by
24 making information available.

25 I want to note the presence of the

12

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2 committee. To my far right is Councilman Nutter.

3 COUNCILMAN NUTTER: Just today on the
4 far right.

5 COUNCILMAN COHEN: We're not talking
6 politically, right?

7 And to sort of my immediate right is
8 Councilwoman Blackwell, the Majority Leader, and two
9 staff members, Stanley Shapiro, and Shoshana
10 Bricklin and myself, David Cohen, as Chairman of the
11 committee. And to my left -- not really, but to my
12 left are Councilman Angel Ortiz and Councilman
13 Rizzo.

14 COUNCILMAN RIZZO: Well, he's to your
15 left.

16 COUNCILMAN COHEN: Councilman Ortiz's to
17 my left, okay. It's comfortable to not be all the
18 way on the left by myself.

19 But we are very conscious of the
20 problems you face and very conscious of our needs,
21 but I wanted the record to disclose the reference to
22 this because this will be an exhibit, and we will
23 note that by now, the number would be over 8,000.

24 And the other questions that you raised
25 are very important, but I think they first have to

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2 go through our staff members so we can group them,
3 analyze them, and see where they fit into our
4 hearing schedule.

5 We thank you for your testimony.
6 Does anybody have any questions of
7 Mr. Lamb?
8 COUNCILMAN RIZZO: Yes.
9 COUNCILMAN COHEN: Go ahead, Councilman
10 Rizzo.
11 COUNCILMAN RIZZO: Could you please
12 clarify for the record that this number is sworn
13 officers and does not include any civilian personnel
14 from the Police Department. Could you just be clear
15 on exactly what these numbers represent, please?
16 MR. LAMB: Yes, sir. Yes, sir,
17 Councilman Rizzo.
18 That is from the active -- every
19 occurrence was an active police officer during the
20 performance of their job. It has nothing to do with
21 other union members; it's only police officers.
22 COUNCILMAN COHEN: Thank you very much.
23 MR. LAMB: Councilman Cohen and the rest
24 of the committee, it's a great relief to me and the
25 FOP that there is someone in the City that cares and

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2 is very concerned about fairness. And we greatly
3 appreciate it.
4 Thank you very much.
5 COUNCILMAN COHEN: Thank you, Mr. Lamb.

6 (Applause.)

7 COUNCILMAN COHEN: Miss Berkowitz, we're

8 going to ask you to come forward so that we may find

9 the status of -- on a number of items that were

10 requested by the committee.

11 (Witness comes forward.)

12 COUNCILMAN COHEN: Is there any

13 additional documentation that you are prepared to

14 present to the committee today?

15 MS. BERKOWITZ: Good afternoon,

16 Councilman Cohen and members of the committee. I'm

17 Linda Berkowitz, Deputy Secretary of Financial

18 Oversight.

19 I have been asked to come back and

20 report on two items. Specifically one is the status

21 of the IOD issue just discussed by Mr. Lamb, and the

22 second was a request for a list of retirees and

23 addresses.

24 COUNCILMAN COHEN: And really a third on

25 which it's going to be continuing until we get a

15

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2 definitive answer, and that is on any plan which

3 would establish the City's contention that unifying

4 all of the health plans would be economical and more

5 efficient -- more economical and more efficient than

6 as they are being run today particularly by the four
7 employee groups and the City, which is the fifth
8 group.

9 MS. BERKOWITZ: Councilman Cohen, I
10 cannot --

11 COUNCILMAN COHEN: That's a continuing
12 question.

13 MS. BERKOWITZ: I understand, and I
14 cannot add anything more today than I said Tuesday
15 or last week.

16 COUNCILMAN COHEN: On. . . ?

17 MS. BERKOWITZ: On the issue of a
18 consolidation plan.

19 COUNCILMAN COHEN: Mm-hmm.

20 MS. BERKOWITZ: With respect to the two
21 issues that you specifically requested, I come back
22 and talk about them today. One, let me start with
23 the IOD.

24 COUNCILMAN COHEN: Well, let me tell you
25 why it's so important for you to try to determine

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2 whether there ever was a plan because you may put
3 the committee in a position where we will have no
4 alternative ever to conclude anything other than
5 that there never was a plan and that, therefore,
6 there was great impropriety in the bargaining

7 process if there was a contention by the City that
8 it had a plan when, in fact, there was no plan.

9 And that's the reason I'm persistent.
10 I'm hoping that you're going to be able to give us
11 evidence that there was a plan and show us what it
12 was. Otherwise, we're going to have to conclude
13 that there was a fraud and a deception practice
14 during the bargaining by the City. And that's a
15 conclusion, I'm loath to reach, but if you don't
16 offer us any opportunity for any other conclusion,
17 that's the one we're going to have to reach.

18 So that's the reason for my
19 persistence. It's in my interest to try to
20 establish that the City acted in good faith, and
21 that's the reason we raise these questions. So I
22 leave it to you. That's why we're persistent.

23 Now, as to the two matters -- oh,
24 Councilman Nutter.

25 COUNCILMAN NUTTER: Thank you,

17

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2 Mr. Chairman.

3 First, I believe in the series of
4 hearings there have been about this particular
5 issue, I believe that I missed the last hearing,
6 which may have taken place in the past couple days,

7 and I was somewhere here in the building attending
8 to other Council business. I apologize for missing
9 that particular hearing, although I will be reading
10 the notes of testimony.

11 I was slightly confused, and
12 Mr. Chairman, with your indulgence, I would like to
13 go back to this issue. I thought I remembered back
14 at contract time, there was discussion or at least a
15 news at least a news account, if not a
16 pronouncement, somewhere in mid-June of 2000 -- the
17 contract expired June 30, I believe.

18 MS. BERKOWITZ: (Nods head.)

19 COUNCILMAN NUTTER: And discussions went
20 beyond the contract time, but I thought the City did
21 announce at that time that one of the items that was
22 being pursued in this particular contract
23 negotiation -- I think it was for a nonunion formed
24 workers, initially DC 47, DC 33 -- the idea of
25 everyone being in the same health care plan and that

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2 there would potentially be certain savings as a
3 result of, quote/unquote, a consolidation of
4 health-care services.

5 Now, is that correct? Do you have any
6 recollection of a report back at that time?

7 MS. BERKOWITZ: I have a recollection

8 that that is what occurred.

9 COUNCILMAN NUTTER: That that is what?

10 MS. BERKOWITZ: That that's what

11 occurred.

12 COUNCILMAN NUTTER: That that's what

13 heard?

14 MS. BERKOWITZ: What you have just said

15 is what occurred.

16 COUNCILMAN NUTTER: Okay. And can you

17 share with me how that came about? Or what was the

18 proposal at that time?

19 MS. BERKOWITZ: I really can't. I came

20 into the labor negotiations very late, I did not

21 enter into them until June. And what I have stated

22 on the record --

23 COUNCILMAN NUTTER: And that's about the

24 time that the proposal was made, right?

25 MS. BERKOWITZ: Well, what I stated on

19

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2 the record last week and this week is that I have

3 never seen a comprehensive plan for consolidation.

4 There was the issue of consolidation was discussed.

5 COUNCILMAN NUTTER: Well, tell me what

6 those discussions were.

7 MS. BERKOWITZ: I was actually not in

8 the rooms when the plan was discussed. I do not
9 have information on consolidation, Councilman
10 Nutter.

11 COUNCILMAN NUTTER: Who would?

12 MS. BERKOWITZ: I can't -- as I said, I
13 can't --

14 COUNCILMAN NUTTER: I understand, I
15 understand.

16 MS. BERKOWITZ: I really can't add
17 anymore to that --

18 COUNCILMAN NUTTER: I understand.

19 MS. BERKOWITZ: -- than what I have
20 already said.

21 COUNCILMAN NUTTER: Well, who was in the
22 room?

23 MS. BERKOWITZ: I can't tell you; I
24 don't know who was in the room. I'm assuming that
25 the City's official labor negotiation teams, the

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2 corps of the team, was in the room.

3 COUNCILMAN NUTTER: Did anyone ever
4 explain to you what the idea was?

5 MS. BERKOWITZ: I believe that -- from
6 what I understand, the idea was that through
7 consolidation, there would be potential savings in
8 terms of the overall cost of health coverage.

9 COUNCILMAN NUTTER: And what were those
10 potential savings?
11 MS. BERKOWITZ: That I cannot tell you.
12 COUNCILMAN NUTTER: Yes, well --
13 COUNCILMAN COHEN: Councilman Nutter,
14 would you yield for a moment on that last question?
15 COUNCILMAN NUTTER: Yes, Mr. Chairman.
16 COUNCILMAN COHEN: Wasn't there in fact
17 discussion about a study that had been made by the
18 City which revealed there would be at least
19 \$18 million in savings?
20 MS. BERKOWITZ: Councilman --
21 COUNCILMAN COHEN: I yield back to
22 Councilman Nutter.
23 COUNCILMAN NUTTER: Thank you.
24 COUNCILMAN COHEN: Wasn't there that
25 specific discussion?

21

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2 MS. BERKOWITZ: I --
3 COUNCILMAN ORTIZ: She was not in that.
4 COUNCILMAN NUTTER: Well, we don't know
5 that. Go ahead.
6 MS. BERKOWITZ: I can only repeat what I
7 have already said. I am not prevaricating. I am
8 telling you that I have never seen a comprehensive

9 plan for consolidation.

10 COUNCILMAN NUTTER: Well, let's not talk
11 about a comprehensive plan.

12 MS. BERKOWITZ: There may have been --
13 were number of times, it's my understanding,
14 discussed. I do not -- if I knew what those numbers
15 were then, I do not recall what they are now. It
16 has been a year.

17 COUNCILMAN NUTTER: Who was discussing
18 all of this?

19 MS. BERKOWITZ: Again, I assume it
20 was --

21 COUNCILMAN NUTTER: Well, someone must
22 have told you these things at some point in time.

23 MS. BERKOWITZ: I was aware that it was
24 being discussed.

25 COUNCILMAN NUTTER: By whom?

22

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2 MS. BERKOWITZ: I was told -- I was
3 aware of it from discussions from the corps of the
4 City's labor negotiation team.

5 COUNCILMAN NUTTER: And who would that
6 be?

7 MS. BERKOWITZ: Those were the City's
8 outside counsel, the City's Office of Labor
9 Relations.

10 COUNCILMAN NUTTER: I'm sorry. As you
11 well know, I've never been a party to a contract
12 negotiation, so I actually don't know -- who are
13 these --

14 COUNCILMAN ORTIZ: Ken Jarin is one.

15 MS. BERKOWITZ: Ken Jarin was one, Mark
16 Foley was another.

17 COUNCILMAN NUTTER: Right. Bill.

18 MS. BERKOWITZ: Bill Graub is the
19 Director of the Office of Labor Relations.

20 COUNCILMAN NUTTER: Mm-hmm. And which
21 one of them discussed this with you?

22 MS. BERKOWITZ: There were general
23 discussions.

24 COUNCILMAN NUTTER: General or
25 specific? I didn't ask which one, just --

23

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2 MS. BERKOWITZ: All of them. And it was
3 discussions --

4 COUNCILMAN NUTTER: So all three of
5 those people discussed this with you?

6 MS. BERKOWITZ: Yes. There were not
7 general discussions with me personally; there were
8 general discussions among the City's labor
9 negotiating team.

10 COUNCILMAN NUTTER: Okay. Now --
11 MS. BERKOWITZ: What was actually
12 discussed with union leadership I cannot describe
13 that.
14 COUNCILMAN NUTTER: Well, I'm not asking
15 you to discuss what was discussed with union
16 leadership. You're -- now, you've held a number of
17 positions in the government; is that correct?
18 MS. BERKOWITZ: Yes, I have.
19 COUNCILMAN NUTTER: Okay. And your
20 present position is. . . ?
21 MS. BERKOWITZ: Deputy Secretary of
22 Financial Oversight.
23 COUNCILMAN NUTTER: Okay. And in the
24 past, you were, I think, in the Office of Management
25 and Productivity?

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2 MS. BERKOWITZ: I still head the office
3 of management and productivity.
4 COUNCILMAN NUTTER: Okay. When you have
5 an initiative in that particular office or in your
6 new office that will have far-reaching or long-term
7 effects, is it something that usually comes as a
8 result of a series of discussions of a wide variety
9 of people? is it something that requires a fair
10 amount of study and data-gathering? How would you

11 go about implementing a new policy in the City?
12 MS. BERKOWITZ: In terms of how I
13 operate?
14 COUNCILMAN NUTTER: Mm-hmm.
15 MS. BERKOWITZ: I prefer to do thorough
16 analysis.
17 COUNCILMAN NUTTER: Okay. So --
18 MS. BERKOWITZ: So that I understand
19 what the numbers mean.
20 COUNCILMAN NUTTER: Mm-hmm.
21 MS. BERKOWITZ: And I understand what
22 all of the assumptions underlying the numbers are.
23 COUNCILMAN NUTTER: So based on that, if
24 you were in a discussion with someone about this
25 kind of concept, you would then naturally ask them

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2 what is the concept based on, right?
3 MS. BERKOWITZ: Probably.
4 COUNCILMAN NUTTER: Okay. Did you as
5 anyone what the source of these numbers or
6 discussions were?
7 MS. BERKOWITZ: I don't recall,
8 Councilman.
9 COUNCILMAN NUTTER: Okay.
10 MS. BERKOWITZ: I just can only tell you

11 that I have never seen anything that would meet my
12 test of comprehensiveness, and that is what I have
13 testified to here.

14 COUNCILMAN NUTTER: Well, I understand
15 that. And, again, thank you, Mr. Chairman.

16 My experience is, in this kind of
17 discussion, if a person utilizes a particular term
18 on a number of occasions, it must have significance
19 and meaning, and so you have said to us now on at
20 least three different occasions that you have not
21 seen a comprehensive plan, which then would generate
22 the question, if you had seen a comprehensive plan,
23 where is the plan?

24 Therefore, what did you see that was
25 less than your test of a comprehensive plan? Did

26

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2 you ever see a document?

3 MS. BERKOWITZ: Yes, I saw a document.

4 COUNCILMAN NUTTER: And what did the
5 document say?

6 MS. BERKOWITZ: The document was
7 estimated savings; I do not recall what those
8 estimated savings were. The document was estimated
9 savings. And at the time, I did request additional
10 information in terms of assumptions.

11 COUNCILMAN NUTTER: Who produced the

12 document?

13 MS. BERKOWITZ: I believe it was an
14 outside consultant, and I do not recall their name.

15 COUNCILMAN NUTTER: And what happened to
16 the document?

17 MS. BERKOWITZ: I don't know.

18 COUNCILMAN NUTTER: Did you actually
19 have the document in your hands?

20 MS. BERKOWITZ: I do not have that
21 document.

22 COUNCILMAN NUTTER: I didn't ask you
23 that question. Did you have --

24 MS. BERKOWITZ: Did I ever have that
25 document?

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2 COUNCILMAN NUTTER: Did you have the
3 document at the time?

4 MS. BERKOWITZ: I did not have that
5 document.

6 COUNCILMAN NUTTER: How did you ask for
7 more information?

8 MS. BERKOWITZ: I saw that document.

9 COUNCILMAN NUTTER: So someone showed it
10 to you?

11 MS. BERKOWITZ: Yes.

12 COUNCILMAN NUTTER: But they would not
13 give you a copy?
14 MS. BERKOWITZ: I don't know that they
15 would not give me a copy. I did not have a copy.
16 COUNCILMAN NUTTER: Okay. You made a
17 request for additional information; what happened to
18 that request?
19 MS. BERKOWITZ: I never saw it.
20 COUNCILMAN ORTIZ: You never got it?
21 COUNCILMAN NUTTER: Someone -- now, wait
22 a minute. At the time, what was your position?
23 MS. BERKOWITZ: I was -- at the time?
24 COUNCILMAN NUTTER: Yes.
25 MS. BERKOWITZ: Well, at the time, I was

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2 the City's Budget Director.
3 COUNCILMAN NUTTER: Okay. So let me try
4 to understand this. The City's Budget Director, in
5 the midst of contract negotiations, asks a person,
6 or persons, for additional information that is
7 directly related to the contract negotiation, and
8 your testimony here today is that that information
9 was not forthcoming at the request of the Budget
10 Director?
11 MS. BERKOWITZ: That is correct.
12 COUNCILMAN NUTTER: And why would some

13 refuse to give the Budget Director Information?

14 MS. BERKOWITZ: I don't believe it was
15 that they refused to give it, and I do not wish to
16 convey that perception. They did not refuse to give
17 it.

18 As I think the union membership would
19 attest to, contract -- and it was my first time in
20 contract negotiations as well. It seemed that you
21 were going all of the time, and proposals were being
22 put on the table and proposals were being taken off
23 the table.

24 COUNCILMAN NUTTER: Well, from what I've
25 heard, that seems to be the nature of the contract

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2 negotiation.

3 MS. BERKOWITZ: Yes. That was my very
4 first time.

5 COUNCILMAN NUTTER: My last question,
6 Mr. Chairman, is, of whom, Miss Berkowitz, did you
7 make this request?

8 MS. BERKOWITZ: I believe I may have
9 made that request of one of our outside labor
10 counsel.

11 COUNCILMAN NUTTER: Who was that?

12 COUNCILMAN ORTIZ: Ken or Mark?

13 MS. BERKOWITZ: Mark Foley.
14 COUNCILMAN NUTTER: Are you sure?
15 MS. BERKOWITZ: Yeah, I'm pretty sure of
16 that.
17 COUNCILMAN NUTTER: Okay. The document
18 that you saw, you're saying that you never had a
19 copy for yourself?
20 MS. BERKOWITZ: I never had a copy.
21 COUNCILMAN NUTTER: Have you seen a copy
22 since the negotiations concluded?
23 MS. BERKOWITZ: I have not.
24 COUNCILMAN NUTTER: So the document has
25 disappeared?

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2 MS. BERKOWITZ: The document has -- I --
3 the fact that I don't have it does not mean that the
4 document has disappeared, Councilman.
5 COUNCILMAN NUTTER: Who do you think
6 would have it?
7 MS. BERKOWITZ: I would assume that Mark
8 Foley still has a copy of the document.
9 COUNCILMAN NUTTER: Okay. Thank you,
10 Mr. Chairman.
11 COUNCILMAN ORTIZ: Could I follow up on
12 that?
13 And I assume that when you made the

14 proposal, you had the union numbers; is that
15 correct?

16 MS. BERKOWITZ: I'm sorry, Councilman,
17 could you repeat that?

18 COUNCILMAN ORTIZ: When there was
19 proposal for consolidation and you were gathering
20 this theoretical aspect, you had numbers from 43 and
21 the FOP and the firefighters and District 33 in
22 terms of how their health plan operated and the
23 finances of it and how much they spent per
24 individual and so on for administration. You had
25 those number, didn't you?

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2 MS. BERKOWITZ: I can't say that we had
3 those numbers. In fact, it is my understanding that
4 the City has had a great deal of difficulty in
5 obtaining numbers on specific union health plans.
6 We know what we give them in the way of
7 contributions.

8 And in fact -- in fact, I did see a
9 letter yesterday, a copy of a letter that went from
10 Independence Blue Cross to Mr. Cronin, President of
11 DC Council 47 --

12 MR. CRONIN: (Inaudible.)

13 MS. BERKOWITZ: I remember.

14 -- pursuant to a request made by the
15 City's personnel director for information from IBC
16 about their rates, and the letter states that he was
17 -- the individual from IBC was awaiting instruction
18 from Mr. Cronin, because in the past, IBC had
19 specifically been prohibited from sharing that
20 information outside of DC 47.

21 And I would be very happy to get members
22 of the committee a copy of that letter if they would
23 like that.

24 COUNCILMAN ORTIZ: I would appreciate
25 having that copy of that letter.

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2 In one of the previous negotiations,
3 didn't the City get a concession from the unions to
4 have a City representative on the boards?

5 MS. BERKOWITZ: Councilman, I really am
6 not here to discuss -- I mean, this is really beyond
7 my bailiwick is discussing the terms and conditions
8 of the City's labor contracts.

9 COUNCILMAN ORTIZ: I'm just saying --
10 I'm just saying we're trying to find out how these
11 numbers come about and -- because actually, we're
12 involved. We come under a health plan and we come
13 under the health plan that you have negotiated, and
14 we have some problems in terms of what occurs and

15 doesn't occur.

16 What I just want to know is how it came
17 about. Michael Nutter was asking some questions,
18 and I just want to know how you created the numbers
19 that you were then proposing, because you must have
20 had numbers from the unions because you have members
21 of the City who sit on the union boards, so you know
22 how much they spend. They don't have members on the
23 City side.

24 So I'm just trying to gather how the
25 process worked. That's all.

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2 MS. BERKOWITZ: Councilman, again, I can
3 only say that it's my understanding that an outside
4 consultant put those numbers together. I do not
5 know the source of those numbers, I do not know the
6 numbers that were used.

7 COUNCILMAN ORTIZ: And you don't know
8 the name of the consultant?

9 MS. BERKOWITZ: I do not know -- I knew
10 the name of the consultant; I do not recall the name
11 of the consultant.

12 COUNCILMAN COHEN: Miss Berkowitz,
13 procedurally, I'm a little mystified. You know, you
14 are not limited by this committee to find out

15 information. You say in reply to an earlier
16 question from Councilman Nutter that Mark Foley had
17 a document -- and you believe he still has it --
18 that pertains to the plan or savings under a plan or
19 something. Have you asked him for it?
20 MS. BERKOWITZ: Councilman Cohen, I
21 think Joyce Wilkerson and I both testified last week
22 that I have been asked to do a complete review of
23 all of the issues raised by this committee last
24 year, in March, and again at this time. That review
25 is not done. I do not --

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2 COUNCILMAN COHEN: Well, we don't intend
3 to wait until you decide that you have finished that
4 review.
5 MS. BERKOWITZ: I am in the process of
6 collecting information and --
7 COUNCILMAN COHEN: Well, did you collect
8 -- we've raised questions about a plan or a
9 document or something.
10 MS. BERKOWITZ: I do not.
11 COUNCILMAN COHEN: Have you made efforts
12 to locate if you yourself don't have it?
13 MS. BERKOWITZ: Yes, I have.
14 COUNCILMAN COHEN: What did you do?
15 MS. BERKOWITZ: I have made efforts to

16 collect all information that pertains to the issues
17 raised by this committee last June, in March, and
18 now. As we -- as we testified last week, the
19 documentation regarding the City's -- the
20 City-administered plan is poor.

21 COUNCILMAN COHEN: Is what?

22 MS. BERKOWITZ: Is poor, P-O-O-R. It is
23 poor.

24 COUNCILMAN COHEN: How does that relate,
25 say, to the question I asked you, did you ask

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2 Mr. Foley if he still has a copy and would he give
3 it to you because the committee has asked for it?

4 MS. BERKOWITZ: I have not yet asked
5 Mr. Foley for that document.

6 COUNCILMAN COHEN: Why?

7 MS. BERKOWITZ: I have not had a chance
8 to.

9 COUNCILMAN COHEN: Well, you're not here
10 all the time.

11 MS. BERKOWITZ: Well, I --

12 COUNCILMAN COHEN: You're in your office
13 somewhere.

14 MS. BERKOWITZ: I actually do have a
15 job, Councilman Cohen. I'm sure you can understand

16 that.

17 COUNCILMAN COHEN: And you don't believe
18 this is part of your job?

19 MS. BERKOWITZ: I think -- yes, it is
20 part of --

21 COUNCILMAN COHEN: I would like to
22 suggest it might be the most important part of your
23 job.

24 MS. BERKOWITZ: Councilman Cohen, I
25 think all of the issues raised by Council I take --

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2 are serious and I take them seriously.

3 I cannot provide instant gratification.
4 I do not have a lot of the documents, I don't know
5 what is in a lot of documents, I don't even know the
6 universe of documents. I am attempting to find out
7 everything I can about all of the documentation
8 pertaining to every issue raised by this committee
9 last June, in March, and now. I cannot tell you
10 anything else. If --

11 COUNCILMAN COHEN: Well, you're not
12 telling us really anything.

13 MS. BERKOWITZ: I cannot tell you
14 anything other than what I have already said because
15 that --

16 COUNCILMAN COHEN: Why?

17 MS. BERKOWITZ: I don't --
18 COUNCILMAN COHEN: Have you been
19 forbidden?
20 MS. BERKOWITZ: I don't have the
21 documents.
22 COUNCILMAN COHEN: Has the Mayor
23 forbidden you to speak fully?
24 MS. BERKOWITZ: The Mayor has never
25 forbidden me to speak fully and honestly, and if a

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2 mayor forbade me to speak honestly and fully, I
3 would not be able to work for that individual.
4 COUNCILMAN COHEN: Well, then why are
5 you not answering our questions --
6 MS. BERKOWITZ: I am answering --
7 COUNCILMAN COHEN: -- or taking steps to
8 answer them? Because what you are telling us, as I
9 understand it, is that until you complete your full
10 study and get all of the documentation, which may
11 take us into the year 2200, that until then, you
12 can't speak about anything. And that makes
13 absolutely no sense to me.
14 I learned in my first job that the first
15 thing you did was when the employer asked you for
16 something, your immediate supervisor, you got that

17 and you didn't wait until you could come in and
18 answer every question in the universe, but if he
19 asked for specific information, you went out quickly
20 and got that.

21 We've been asking about the savings plan
22 that was allegedly presented during the union
23 negotiations, and I can't understand -- it's now
24 several weeks since we first raised that with you.
25 Why haven't you made real efforts to see whether you

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2 can give us a complete answer, that maybe there was
3 no full-fledged plan, but there was a document which
4 talked about savings.

5 You didn't have all of the information
6 then, you can't remember it all now, but you went
7 out and tried to locate it physically so that you'd
8 be in a position to present it to us. I can't
9 understand why you're not doing that, why you keep
10 answering -- you explained to us previously that
11 you've been assigned this great job of producing
12 documentation to all of the questions we have. We'd
13 like answers to the questions we've now asked.
14 We're not asking for the millennium and for you to
15 present all of the documentation because that may
16 take us a long time. Why don't you deal with what
17 we asked you?

18 Councilman Nutter's questions were very
19 specific and direct.

20 MS. BERKOWITZ: Councilman Cohen, I have
21 nothing to add. I have nothing to add other than
22 what I have already said. You can ask me the
23 question, you can share your frustration, you can
24 share your anger. I have nothing to add to that
25 today.

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2 COUNCILMAN COHEN: Why is that? Are you
3 defying this committee?

4 MS. BERKOWITZ: Absolutely not, sir.
5 Absolutely, I am not defying -- I respect the work
6 of this committee, I respect the role that you have,
7 I respect your need for due diligence, and I respect
8 you personally. I am not defying this committee.

9 I am attempting to gather all of the
10 information and I have --

11 COUNCILMAN COHEN: And you're not going
12 to be able to discuss any of the information until
13 you gather it all?

14 MS. BERKOWITZ: I cannot discuss
15 anything I do not have in my possession. I am
16 prepared to try and discuss the reams of material
17 that we sent over to your office last week and this

18 week. And I have sent much that over without having
19 taken the opportunity to read it before it came,
20 because when I received it, I had it duplicated and
21 sent over to you because I am attempting to be
22 responsive.

23 COUNCILMAN COHEN: Councilman Rizzo.

24 COUNCILMAN RIZZO: One of your responses
25 was that you have a job. Could you please tell me

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2 if it would be helpful if this committee would write
3 a letter to the Mayor getting you some help? It
4 sounds like you need some help to get the
5 information that we need. Are you just not able
6 physically to gather the information?

7 And I would ask the Chairman that if
8 that is the case, that if you need some assistance
9 since this, according to you, is a very serious
10 issue, if your staff won't permit -- your staffing
11 level won't permit you to respond as quickly as this
12 committee needs the information, do you need some
13 help?

14 MS. BERKOWITZ: I don't believe so.

15 COUNCILMAN RIZZO: Then what's the
16 problem? If you say you have other things to do,
17 then --

18 MS. BERKOWITZ: Councilman Rizzo, I have

19 asked -- as I said, I have just recently gotten into
20 the entire issue of the City-administered health
21 plan. I have had no documentation of my own. I
22 have requested documentation from sources in the
23 government such as the Personnel Department and the
24 Law Department to provide me whatever documents they
25 have. And as I have been able to receive those

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2 documents, you have also received copies of them
3 when you first became involved in this process as a
4 seasoned executive.
5 COUNCILMAN RIZZO: When you realized
6 that you didn't have the information that you needed
7 to understand this new role that you were
8 undertaking, did you ask anybody to -- did you need
9 this committee to ask you for information that you
10 -- it sounds to me that you need to do your job.
11 You indicated that you wouldn't work for
12 someone that asked you to do something that was
13 wrong or not truthful.
14 MS. BERKOWITZ: Correct.
15 COUNCILMAN RIZZO: But it sounds like
16 you're working for someone that's keeps you in the
17 dark.
18 MS. BERKOWITZ: No one is keeping me in

19 the dark, I do not work for anyone who keeps me in
20 the dark.

21 COUNCILMAN RIZZO: Well, it's -- you're
22 telling us that --

23 MS. BERKOWITZ: We have said that the
24 documentation on the City-administered health plan
25 has been poor. That documentation has not been kept

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2 by the people to whom I am directly accountable. It
3 has been kept by others in the government.

4 I am not here to criticize them either.
5 But the documentation, the record-keeping has been
6 exceptionally poor. It may be among the poorest I
7 have ever experienced.

8 COUNCILMAN RIZZO: Do you believe that
9 it exists?

10 MS. BERKOWITZ: I don't know whether it
11 exists. Do I believe that some of it exists?
12 Probably. But without going personally through
13 every file cabinet in every office that may have
14 ever touched the City-administered health plan, I
15 can't tell you what the universe of documentation
16 is.

17 And that is as -- if you can accept
18 this, it is as frustrating to me at this point as it
19 is to you. And perhaps more so to me because I have

20 to come here and be the recipient of your
21 frustration and your dismay at not being able to
22 produce the documents.

23 COUNCILMAN RIZZO: Thank you,
24 Mr. Chairman.

25 COUNCILMAN COHEN: Did you -- what

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2 happened when you -- with respect to the list of
3 retirees with their names and addresses that we
4 asked you to produce?

5 MS. BERKOWITZ: I have --

6 COUNCILMAN COHEN: You stated you would
7 be in touch with --.

8 MS. BERKOWITZ: I have spoken with the
9 Executive Director of the Board of Retirement and
10 Pensions, who has advised me that that information
11 is not public information, but that the Board would
12 be happy to try and help Council in any way it could
13 if it understood what it wanted with that list, and
14 perhaps it could be the conduit -- if Council wanted
15 to get information to retirees, it could be the
16 conduit for doing that, but that that information is
17 not public information. Those retirees are not
18 public employees and their addresses are not public
19 information.

20 COUNCILMAN COHEN: Are they getting
21 public funding?
22 MS. BERKOWITZ: I believe they are
23 getting their pensions.
24 COUNCILMAN COHEN: How could that not be
25 public information?

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2 MS. BERKOWITZ: It is my understanding
3 that that is not public information and that
4 retirees believe that where they reside is private.
5 MS. SIMPSON: Not true.
6 COUNCILMAN COHEN: You mean that the
7 Pension Board is saying to City Council that it has
8 the right to censor the material made available to
9 City Council?
10 MS. BERKOWITZ: I have been advised by
11 the Executive Director of the Pension Board that
12 that information is not public information.
13 COUNCILMAN COHEN: And what has that got
14 to do at all with the question of furnishing that
15 information to City Council committees?
16 MS. BERKOWITZ: I was advised by the
17 Executive Director of the Pension Board that the
18 list of retirees with addresses is not available,
19 but that if the City Council -- if this committee
20 wishes to make a request to the Pension Board, the

21 Pension Board will consider it.

22 COUNCILMAN COHEN: Well, that's really a
23 very interesting statement you're making. You're
24 saying the Pension Board says it is free to decide
25 whether or not it wants to comply with a request

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2 from City Council, but it will honor us by saying if
3 we make the request directly to them, they will
4 consider it?

5 MS. BERKOWITZ: Councilman, I am not an
6 attorney, I cannot validate the Pension Board's
7 policy of privacy.

8 And you might want, number one, to make
9 a request to the Pension Board; and number two, to
10 talk with the City Solicitor, who is also available
11 to City Council, because I believe that the
12 determinations of what is public information and
13 what is available and to whom it is available is
14 determined by the City's Law Department.

15 COUNCILMAN COHEN: You know, I just get
16 a sense, Miss Berkowitz, that despite the statements
17 you've made to the contrary attempting to indicate
18 that you are a self-assured, independent person who
19 demands integrity from your employers so that you
20 can do your work properly and honestly and fully, I

21 just have a feeling that all that's happening that
22 walls are being built up to prevent us from getting
23 the material we need to perform our work. I'm
24 getting a very uncomfortable feeling about that,
25 Miss Berkowitz.

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2 And it may be that we're going to have
3 to deal on the basis of legal subpoenas that are
4 enforceable in courts because I just have a sense
5 that you are determined not to make available to us
6 any information. You keep telling us you haven't
7 made your study. We're not now on the first day of
8 questioning, we're not now on the first day of your
9 assignment. It seems to me that everything we've
10 asked for could have been obtained if there were
11 really an effort to get it on your part. I think
12 that somehow or another, you are not making a
13 good-faith effort to provide us with the material.
14 I want you to know that I'm getting very concerned
15 about every obstacle being placed in our way to get
16 information that we need to do our work.

17 So you're telling us that you accepted
18 -- did you notify me that you were rejected by the
19 Pension Board?

20 MS. BERKOWITZ: I had a discussion with
21 Mr. Herkness yesterday, and no, I did not. And I

22 apologize for that.

23 COUNCILMAN COHEN: You know there was
24 another contention that was made by the City to the
25 effect that the employment of a broker had produced

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2 millions of dollars in savings to the City. Have
3 you been able to determine any documentation which
4 either supports or refutes or does either in part of
5 that contention?

6 MS. BERKOWITZ: Other than what the
7 Rendell administration published in its five-year
8 financial plans beginning in 1993, no, I have not
9 had the opportunity to do that.

10 COUNCILMAN COHEN: And what facts did
11 the Rendell administration state in that five-year
12 plan?

13 MS. BERKOWITZ: Councilman, if you will
14 recall, I cannot give you the numbers, but if you
15 will recall, one of the first initiatives in the
16 Rendell administration was to reduce the health and
17 welfare benefit costs to the City.

18 COUNCILMAN COHEN: Well, they did that
19 by increasing co-pays and making the employees pay a
20 greater percentage of costs. They did it by
21 introducing all kinds of deductibles.

22 MS. BERKOWITZ: Councilman Cohen --
23 COUNCILMAN COHEN: Now, if that is the
24 definition of efficiency, that would be very
25 interesting.

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2 MS. BERKOWITZ: That was laid out for
3 Council over the course of a number of years. I
4 think the members of Council were -- including
5 members of this committee, were fully aware of all
6 of that information at that time, as were the
7 unions. They were all public documents.
8 COUNCILMAN COHEN: Well, what are you
9 referring to as -- what was the public documents?
10 MS. BERKOWITZ: The reforms in the
11 City's health and welfare benefits.
12 COUNCILMAN COHEN: I don't know what you
13 mean that they were all laid out. You mean the
14 thinking of City was laid out or the policy when the
15 City was --
16 MS. BERKOWITZ: The savings to the
17 general fund of the health and welfare benefit
18 reforms.
19 COUNCILMAN COHEN: I have no
20 understanding of what that means in any sense at
21 all. I've never known the City to openly discuss
22 with anybody anything other than the terms of the

23 current health plan, whatever year they were talking
24 about.

25 MS. BERKOWITZ: Councilman --

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2 COUNCILMAN COHEN: I never heard them
3 explain in advance that they had various proposals
4 that they were going to make and, therefore, they
5 were interested in the reactions.

6 MS. BERKOWITZ: Councilman Cohen, we
7 were talking about savings. I believe that the
8 issue that I was asked to address was savings, and
9 what I have said to you is, I have not gone back and
10 calculated them, but those savings were discussed
11 and reflected both in the City's five-year financial
12 plans beginning in 1993 as well as in the operating
13 budgets passed by this Council.

14 COUNCILMAN COHEN: Well, this committee
15 has the right to ask an Administration
16 representative to answer a question and not to refer
17 the committee to other documentation --

18 MS. BERKOWITZ: Absolutely.

19 COUNCILMAN COHEN: -- which you state
20 answers the question.

21 MS. BERKOWITZ: Absolutely. And what I
22 have said --

23 COUNCILMAN COHEN: So I'm asking you for
24 the answers to the questions on savings.

25 MS. BERKOWITZ: Councilman Cohen, there

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2 were a number of requests for information made by
3 Council in a letter dated June 4th to Joyce
4 Wilkerson. I have attempted to put together
5 responses to each of those information requests. We
6 have made it very clear that we are not through in
7 doing that. We said that last week.

8 We -- I don't know what else -- I don't
9 know at this point what I can tell you that I have
10 not already told you. You've raised a number of
11 issues --

12 COUNCILMAN COHEN: Well, tell us one
13 thing: Are you going to try to get information or
14 are you going to continue to avoid trying to get
15 information?

16 MS. BERKOWITZ: I am not avoiding trying
17 to get information.

18 COUNCILMAN COHEN: Well, then why
19 haven't you been in touch with Mr. Foley to find out
20 whether he has this document or not?

21 MS. BERKOWITZ: I have not had the
22 opportunity to do so. I --

23 COUNCILMAN COHEN: What is required to

24 have an opportunity to do that? You mean you don't
25 have a telephone or you don't know his phone

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2 number? What's so difficult about putting in a call
3 to somebody who receives payments from the City of
4 Philadelphia to say you are requesting certain
5 information from him? Or do you lack authority to
6 deal with him; do you have to go to someone else?

7 MS. BERKOWITZ: Councilman Cohen, this
8 committee asked for a great deal of information.
9 And as I have had the opportunity to obtain that
10 information, Council has received it.

11 COUNCILMAN COHEN: What defines your
12 ability to obtain information? What do you mean, as
13 you have the opportunity? I would think that's your
14 number-one job.

15 MS. BERKOWITZ: Well, actually, it's not
16 my number-one job.

17 COUNCILMAN COHEN: I believe it to be.

18 MS. BERKOWITZ: Councilman Cohen, I
19 don't know what it is you want to hear from me. If
20 you-- I don't know what I --

21 COUNCILMAN COHEN: What we're asking you
22 -- I can't understand why you haven't called Mark
23 Foley and asked for information.

24 MS. BERKOWITZ: I have not --

25 COUNCILMAN COHEN: I have a vague

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2 recollection that at one time you had a document

3 and --

4 MS. BERKOWITZ: I have not finished

5 gathering the information. And that is all I can

6 say on the subject.

7 COUNCILMAN COHEN: I really have no idea

8 what that means.

9 MS. BERKOWITZ: That means I have not

10 finished gathering all of the information.

11 COUNCILMAN COHEN: We're not asking you

12 to wait until you gather all of the information.

13 We're asking you sometimes for pieces of

14 information, and one is documentation of some kind

15 or a clear unequivocal statement that there is no

16 documentation.

17 (Ms. Simpson approaches witness,

18 offering cell phone.)

19 MS. SIMPSON: Here, call him now, right

20 now.

21 Why can't she call him right now.

22 MS. BERKOWITZ: Councilman Cohen --

23 COUNCILMAN COHEN: Miss Simpson,

24 please.

25 MS. SIMPSON: Here's the phone.

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2 COUNCILMAN COHEN: Miss Simpson,
3 please.

4 (Ms. Simpson leaves cell phone on
5 witness table.)

6 MS. BERKOWITZ: Councilman Cohen, I'm
7 going to say this with all due respect to the
8 committee. I have sat here last week and this week
9 and been verbally assaulted at this table. If that
10 continues, I will respectfully stand away from the
11 witness stand until it is over.

12 COUNCILMAN COHEN: I don't know what
13 that means.

14 MS. BERKOWITZ: I would like that
15 individual to come and get her telephone, and I
16 would like -- I would respectfully request that we
17 proceed with some decorum and civility.

18 COUNCILMAN COHEN: Miss Simpson, I want
19 you to stay away.

20 MS. SIMPSON: Yes, sir, absolutely.

21 COUNCILMAN COHEN: Have you tried to get
22 Mr. Foley at all?

23 MS. BERKOWITZ: I have not tried to get
24 Mr. Foley.

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2 this hearing at this point until this -- well, I
3 will hold the recess till later, but I will recess
4 that portion involving the witness.

5 I'm going to ask that this Tuesday, at
6 noon, in this chambers, that you appear and give us
7 a specific response with respect to what you have
8 been able to find out about any studies,
9 documentation, any plans, or anything relating to
10 studies of savings that would be made by unification
11 and consolidation of plans, whether there was -- and
12 to produce whatever basis at all of the existence of
13 any kind of a sketch of a framework of a plan or a
14 thought or an idea, and to pursue every necessary
15 means to contact people whom you believe might have
16 information if you don't have it or if there's no
17 other documentation that you can locate in the
18 files.

19 I just have a feeling that this
20 committee is not being dealt with properly by the
21 witness. And, therefore, maybe to clarify issues in
22 my own mind, I would like to give you the
23 opportunity to produce whatever you can, showing
24 that you've made a genuine effort to obtain
25 information for the committee, anything related to

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2 savings, anything showing how it was arrived at --
3 the conclusion was arrived at that consolidation
4 would be in the interest, whatever support exists
5 anywhere.

6 And I'm asking you to do it 'cause
7 you're presented by the Administration, and that
8 doesn't mean that you personally have to have the
9 information, but I believe if the Administration
10 presents you as its premier witness, it is saying
11 that you have the authority to do whatever is
12 necessary to get that information.

13 So, Miss Berkowitz, I'm going to ask
14 that you -- I'm going to tell you you're free to
15 leave the witness stand but to be here this coming
16 Tuesday at the noon hour here in the main chambers.
17 We're going to be recessing after one or two other
18 witnesses testify.

19 MS. BERKOWITZ: Is this --

20 COUNCILMAN COHEN: But there's no sense
21 just engaging in a fencing match in which it's clear
22 to me at this point -- at least it seems clear to me
23 -- that you are doing everything in an effort to
24 see that we don't get information that we are
25 entitled to have.

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2 MS. BERKOWITZ: Councilman Cohen, is
3 Tuesday a public hearing?

4 COUNCILMAN COHEN: What's that? We're
5 going to recess this hearing.

6 MS. BERKOWITZ: Will Tuesday be a public
7 hearing?

8 COUNCILMAN COHEN: Yes. There will be a
9 public hearing here at noon this coming Tuesday,
10 June the 18th, 19th? June the 19th. Is that
11 Tuesday? Could somebody check the calendar?

12 MR. SHAPIRO: Yes, it is. It's Tuesday,
13 the 19th.

14 COUNCILMAN COHEN: Tuesday, the 19th, at
15 12 o'clock, here.

16 MS. BERKOWITZ: If there is a public
17 hearing on Tuesday, the 19th, I will be here.

18 COUNCILMAN COHEN: You're now excused,
19 Miss Berkowitz.

20 MS. BERKOWITZ: Thank you very much.

21 COUNCILMAN COHEN: Thank you.

22 Now, who was indicating they wished to
23 testify?

24 (Witnesses come forward.)

25 COUNCILMAN COHEN: And at that time,

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2 Miss Berkowitz, we're going to be asking you also on
3 the question we have not asked you about today and
4 that is your response to Mr. Lamb's --

5 MS. BERKOWITZ: If you would like, I can
6 respond to that now.

7 COUNCILMAN COHEN: All right, would you
8 do that.

9 MS. BERKOWITZ: As I indicated to you on
10 Tuesday, Mr. -- it was -- this was the first I was
11 made aware of the issue. I do not have benefit of
12 any of the information that Mr. Lamb has given the
13 committee today, but --

14 COUNCILMAN COHEN: Mr. Lamb, would you
15 have a copy for Miss Berkowitz?

16 MR. LAMB: Yes, I do.

17 COUNCILMAN COHEN: Would you give it to
18 the Sergeant-at-Arms.

19 MS. BERKOWITZ: I expressed --

20 COUNCILMAN COHEN: Is the
21 Sergeant-at-Arms here?

22 MS. BERKOWITZ: I expressed the concern
23 that --

24 COUNCILMAN COHEN: Would the
25 Sergeant-at-Arms take it from Mr. Lamb and then

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2 present it to Miss Berkowitz.

3 MS. BERKOWITZ: I expressed the concern
4 that if, in fact --

5 COUNCILMAN COHEN: No, please give the
6 information to the Sergeant-at-Arms, and will the
7 Sergeant-at-Arms present it to Miss Berkowitz.

8 MS. BERKOWITZ: Thank you.

9 -- that if, in fact, Mr. Lamb was
10 correct and a suit had been filed against the City
11 concerning this issue, that I would not be able to
12 discuss it because it is in litigation. It is my
13 understanding that this issue is in litigation,
14 although I firmly believe that the City would like
15 to settle it amicably, but I am not permitted to
16 discuss something under litigation.

17 COUNCILMAN COHEN: All right, we'll
18 accept that answer for the time being. And you do
19 confirm the fact that there is the litigation --

20 MS. BERKOWITZ: Yes.

21 COUNCILMAN COHEN: -- referred to by
22 Mr. Lamb.

23 MS. BERKOWITZ: That is correct.

24 COUNCILMAN COHEN: And that it basically
25 contains -- it deals with the kind of allegations

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2 that Mr. Lamb stated it does.

3 MS. BERKOWITZ: It deals with the issue
4 -- I would not use the term "allegation," but it
5 deals with the issue that Mr. Lamb raised on Tuesday
6 and discussed here again today.

7 COUNCILMAN COHEN: All right. I know
8 the City has a policy -- the Law Department has a
9 policy generally of not wishing to discuss publicly
10 matters under litigation. We'll take that up if we
11 think it appropriate with the Law Department.

12 MS. BERKOWITZ: I would appreciate
13 that. Thank you very much, Councilman.

14 COUNCILMAN COHEN: Very good. Thank
15 you, Miss Berkowitz.

16 MS. BERKOWITZ: You're welcome.

17 COUNCILMAN COHEN: Please identify
18 yourself for the record..

19 MR. MCALISTER: Bob McAlister, the
20 Benefits Administrator for AFSCME District Council
21 47.

22 COUNCILMAN COHEN: I'm sorry, I'm unable
23 to hear you. Please speak right into the
24 microphone.

25 MR. MCALISTER: I'm Bob McAlister, the

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2 Benefits Administrator for AFSME District Council

3 47. Is it on?

4 COUNCILMAN COHEN: Yeah. Go ahead.

5 MR. MCALISTER: I think it's important
6 here that I respond to some of the City's testimony
7 presented here today.

8 Miss Berkowitz testified that the City
9 of Philadelphia did not know what our medical rates
10 were. Since 1992, the City of Philadelphia has had
11 a trustee on our board. That trustee knows all of
12 the rates that we pay. They know the rate that we
13 pay for our Personal Choice product, our Keystone
14 product, our dental, our prescription and vision.
15 So the City of Philadelphia has known, since they
16 have a trustee sitting on our board, everything that
17 we pay for our medical benefits.

18 In addition to that, each and every
19 year, a certified audit is given to the City
20 representative on that board that shows how all of
21 our health care dollars have been spent.

22 So for the City Administration to sit
23 here today at this meeting and say that they did not
24 know what our medical rates were is completely
25 false.

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2 COUNCILMAN COHEN: Thank you for your
3 statement.

4 Yes, go ahead.

5 MR. CRONIN: Councilman Cohen, Tom
6 Cronin, District Council 47.

7 COUNCILMAN COHEN: Right.

8 MR. CRONIN: One is -- I just have a
9 very -- just a couple of brief comments to make and
10 then a question for you and the committee.

11 The -- I've been listening -- I've been
12 here every day to listen to the testimony that has
13 been given by the City representatives, whether it
14 be Joyce Wilkerson or Linda Berkowitz. And to me --
15 and this is my opinion and I think the opinion of my
16 union, that it is just been a big game, a stall
17 game.

18 We have -- we were told well before the
19 negotiation process actually began that the City's
20 main demand, main demand that they made to the
21 media, whether it was the print media, the
22 electronic media, was to have a unified health care
23 system in the City of Philadelphia, that they had a
24 study that would show that it would save money, that
25 they wanted the FOP, the firefighters 33 and 47

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2 health plans dissolved and brought into one.

3 In fact, in the negotiations, this was
4 stated time and time again, particularly in the
5 early negotiations, that they would not even discuss
6 issues such as health and safety or wages or many
7 other issues until the issue of a City-administered
8 plan was dealt with. And we began to get into that
9 and we acceded to that demand. That was there
10 position.

11 We asked them, so help me God, over and
12 over and over again for facts and figures about
13 their plan. Give us information, how would it work,
14 where did you get these savings, and on and on and
15 on, every single day. They refused, absolutely
16 refused, to provide us -- and I'll say this in front
17 of her or in front of Joyce Wilkerson or the Mayor
18 or anyone else. They refused to give us that
19 information, they refused to give it to the City
20 Controller, they refused to give it to the
21 committee. What's going on here?

22 But yet they put it out to the people of
23 Philadelphia as propaganda that they had this study,
24 that they had all these savings in order to really
25 beat our brains in in terms of health care. And yet

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2 when they've been asked over and over and over
3 again, for not just a period of a couple days or a
4 couple of week, but over a year, they don't have the
5 information.

6 My question is really simple now, and
7 that is: Does this committee have the power, when
8 it calls witnesses, whether they're union witnesses,
9 whether they're City Administration witnesses or
10 anyone else, to swear people under oath? And if
11 they do, I would strongly feel, whether it's me,
12 whether it's Linda Berkowitz, or whether it's
13 Wilkerson or the Mayor, that people be sworn and be
14 reminded of penalties of perjury. Because if they
15 do that, this is what should happen here.

16 I'm sick and tired of hearing the
17 absolute lies and distortions. Didn't know what was
18 going on. She was a part of the negotiating team,
19 she sat there for these negotiations. This is just
20 so absurd. It's like saying the three of you really
21 aren't there, you're some metaphysical aberration.
22 This is just nonsense.

23 People should be sworn and reminded that
24 if you lie or fail to give the information of
25 perjury. It's just ridiculous.

2 This issue isn't going to go away. In
3 six months or less, the negotiations with police and
4 fire are going to start again. And we haven't
5 gotten one ounce of cooperation. And yet, we give
6 them everything. And they're a trustee, sits on our
7 board, has the right to it, and gets it. And yet,
8 we hear over and over again, they don't have this,
9 they don't have that, they're telling the Controller
10 they don't have this or they don't have that.

11 When are people saying enough's enough
12 here?

13 (Applause.)

14 MR. CRONIN: Doesn't the committee have
15 that right to swear witnesses?

16 COUNCILMAN COHEN: The committee will
17 take your request under advisement. We generally,
18 over the years, have never taken, except in one
19 instance, one committee for a short time put all
20 witnesses under oath. We hoped that we could
21 achieve truthful responses without that formality,
22 but we will consider your motion. This might be an
23 appropriate circumstance where we have to reconsider
24 the procedure and adopt very formal procedures which
25 could hold accountable witnesses for the true of

2 their statements.

3 MR. CRONIN: Chairman Cohen, let me just
4 again repeat that I'm not asking for something -- a
5 different standard for the City Administration than
6 I would ask for the union. If they have to be
7 sworn, we'll be sworn. Let's have equal justice for
8 all here. I think it's about time for that.

9 COUNCILMAN COHEN: All right, thank you.
10 Is this any other witness who wishes to
11 be heard today?

12 Miss Simpson.

13 (Witness comes forward.)

14 COUNCILMAN COHEN: Identify yourself for
15 the record.

16 MS. SIMPSON: Louise Simpson, chief cook
17 and bottle washer and troublemaker.

18 I have a question. I don't know whether
19 it's appropriate, but I want to place it before you
20 as president of this committee. The Freedom of
21 Information Act relates to those areas that impact
22 with federal monies. The City of Philadelphia gets
23 federal monies for all kinds of things, and I do not
24 know whether or not it is applicable under the
25 Freedom of Information Act to get the information

2 that we want.

3 COUNCILMAN COHEN: This committee is in
4 no position whatever to make any sort of reply.

5 MS. SIMPSON: I'm just raising the issue
6 to put before the committee to see whether or not
7 this is in fact one way of doing it. Because the
8 Board of Pensions has also said that the information
9 is confidential, they cannot put it out to
10 individuals. However, I don't know if that is
11 applicable to members of City Council and especially
12 this committee. I don't see that it has any
13 relevance.

14 COUNCILMAN COHEN: All right. Is that
15 the conclusion of your testimony?

16 MS. SIMPSON: Yes, that is.

17 COUNCILMAN COHEN: Thank you very much.

18 MS. SIMPSON: Thank you for the
19 opportunity.

20 COUNCILMAN COHEN: Is there another
21 gentleman who wishes to be heard?

22 If not, the committee will stand in
23 recess until Tuesday, June 19th, at noon, in the
24 chambers, in the room we're meeting in now.

25 Thank you.

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I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Thursday, June 14, 2001, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COUNCIL COMMITTEE ON LAW AND GOVERNMENT
RES. NO. 000476

_____,
JOSEPHINE CARDILLO,
Registered Professional Reporter