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COUNCIL OF THE CITY OF PHILADELPHIA

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COMMITTEE ON PUBLIC PROPERTY

4

AND PUBLIC WORKS

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Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, January 22, 2009
10:10 a.m.

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PRESENT:

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COUNCILMAN DARRELL L. CLARKE, CHAIR

12

COUNCILWOMAN JANNIE BLACKWELL

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COUNCILMAN FRANK DiCICCO

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COUNCILMAN W. WILSON GOODE, JR.

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COUNCILMAN BILL GREEN

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COUNCILMAN WILLIAM GREENLEE

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COUNCILMAN CURTIS JONES, JR.

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COUNCILMAN JAMES F. KENNEY

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COUNCILWOMAN JOAN L. KRAJEWSKI

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COUNCILWOMAN DONNA REED MILLER

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COUNCILWOMAN BLONDELL REYNOLDS BROWN

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COUNCILMAN FRANK RIZZO

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BILL 080879 - An ordinance authorizing the
Department of Public Property to enter into a
franchise agreement with Verizon
Pennsylvania...

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V A R A L L O Incorporated
Litigation Support Services
Eleven Penn Center

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Philadelphia, Pennsylvania 19103

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COUNCILMAN CLARKE: Good

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morning. This is the recessed meeting on

4

the Committee of Public Property and

5

Public Works to discuss the Verizon

6

franchise.

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Would members of the

8

Administration please come forward.

9

(Witnesses approached witness

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table.)

11

COUNCILMAN CLARKE: Good

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morning, Mr. James.

13

First, I'd like to apologize to

14

the members and the individuals who are

15

here for the public hearing that was

16

supposed to start at 9 o'clock, but as

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you know, in City Council we rarely start

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on time, and today we had some very

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productive business that we had to take

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care of prior to this hearing.

21

For the record, this is a

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public meeting. I'm sorry. I misspoke.

23

This is a public meeting. We will not be

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taking testimony today. We did that in

25

the two prior hearings and we then

1 1/22/09 - PUBLIC PROPERTY - BILL 080879
2 recessed the -- closed the public hearing
3 and went into the public meeting and
4 recessed the public meeting. The purpose
5 of today's meeting, I understand that
6 there will be one amendment offered by
7 the Administration related to the EOP
8 plan.

9 MR. JAMES: That's correct.

10 COUNCILMAN CLARKE: To the
11 members of the Committee, we have
12 circulated information relating to the
13 earlier testimony in the two public
14 hearings and the responses from both the
15 Administration and Verizon relating to
16 the questions that were raised of those
17 particular issues.

18 Mr. James, you want to offer
19 the amendment informally, and I
20 understand Mr. Bell is going to kind of
21 go through the process of what this
22 amendment will be as it relates to the
23 EOP.

24 MR. JAMES: That's correct.

25 Good morning, Councilman. My name is

1 1/22/09 - PUBLIC PROPERTY - BILL 080879
2 Joseph James. I'm First Deputy Chief
3 Information Officer with the Division of
4 Technology. On behalf of the
5 Administration, I would like to introduce
6 an amendment to Bill No. 080879. The
7 amendment adds a new Section 3 and reads
8 as follows: "Section 3. The Economic
9 Opportunity Plan as required by Chapter
10 17-1600 of The Philadelphia Code is
11 attached hereto as Exhibit 'B,' and shall
12 be subject to such changes as the City
13 Solicitor deems necessary or appropriate
14 to protect the interests of the City."

15 COUNCILMAN CLARKE: Thank you.

16 Mr. Bell, can you kind of walk
17 us through the process. I know we've had
18 significant conversations between the
19 Administration, members of Council and
20 Verizon about the process. Can you kind
21 of talk us through.

22 MR. BELL: I'm Michael Bell.
23 I'm the Executive Director of the Office
24 of Economic Opportunity.

25 I've been -- I reviewed the

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2 Economic Opportunity Plan for Verizon
3 approximately five to six weeks ago. We
4 strengthened some of the language with
5 regards to reporting and also the ranges
6 for participation. We strengthened some
7 of the language with regards to training
8 and hiring during the execution of the
9 contract. And then over the last couple
10 of weeks, we've been in contact with Tabb
11 Bishop, who has been a representative for
12 Verizon.

13 One of the aspects of the
14 Economic Opportunity Plan that we
15 actually implemented was the first phase
16 of the outreach, which was for the
17 various ethnic chambers, the African
18 American Chamber, Hispanic Chamber, Asian
19 Chamber, the Minority Supplier
20 Development Corporation and the Greater
21 Philadelphia Minority Strategic Business
22 Alliance. We set a meeting up initially
23 for February 18th, but then we moved that
24 meeting up, because one of the first
25 things that we wanted to do was make sure

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2 that the stakeholders that represent
3 businesses and suppliers that would
4 eventually want to be part of this
5 contract would be notified. So we moved
6 that meeting up until next week.

7 And then also, too, because of
8 the fact that we're going to be reporting
9 every three months, we shared the same
10 concern that you share, that there needs
11 to be some kind of enforcement mechanism
12 if we report back to Council that Verizon
13 is not living up to the terms of the
14 Economic Opportunity Plan. So we have a
15 reporting form, and we will notify
16 Council if we feel that, according to the
17 intent of the Economic Opportunity Plan,
18 that Verizon is not doing what it's
19 supposed to do.

20 So as of right now, we're going
21 to sit down with Verizon, if the
22 ordinance passes Council, and actually go
23 over the scope of the project and make
24 sure that we have MBE, WBE and DSBE firms
25 that are actively engaged.

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2 We've already started the
3 process of having firms complete
4 Verizon's Supplier Diversity Profile, so
5 once this project does start, we have
6 people that are in their system. So
7 we've already actually started, according
8 to the intent of the Plan, the outreach
9 effort.

10 COUNCILMAN CLARKE: Okay. So
11 it's my understanding that the process
12 will start, and hopefully and I'm
13 assuming it's your intention to have, at
14 a minimum, a process that will clearly
15 establish an opportunity for any company,
16 individual who wants to participate
17 before the final passage of the bill?

18 MR. BELL: Before the final
19 passage. We've already identified
20 approximately 20 companies that could
21 provide service, either fiberoptic
22 cabling, electrical contractors or also
23 cable providers. So we've identified a
24 minimum of 20 that we've outreached. And
25 then once we meet with the various

1 1/22/09 - PUBLIC PROPERTY - BILL 080879
2 chambers, I'm quite sure there's people
3 that are part of their teams that we
4 don't know about that we can also refer
5 to Verizon.

6 So, like I said, I think the
7 best way for us to reach the goals is to
8 extend the net as wide as possible before
9 the project begins.

10 COUNCILMAN CLARKE: And what
11 process will be utilized to alert
12 companies, individuals or professional
13 services that this opportunity is
14 available?

15 MR. BELL: We can do e-mail
16 blasts and, like I said, the fact that
17 we're meeting with the chambers. All the
18 chambers represent various businesses.
19 If we need to engage the support of
20 Council, we're willing to do that,
21 because I think all of you have a network
22 of people that you're connected with.
23 But with the Office of Economic
24 Opportunity, we start with our list of
25 certified firms. We could start with

1 1/22/09 - PUBLIC PROPERTY - BILL 080879
2 firms that are in the process of becoming
3 certified and then create an outreach
4 effort. Because, like I said, the best
5 way to reach the goals are to leave no
6 stones unturned with regards to notifying
7 people about the opportunities. And I
8 think there are a number of people that
9 are already talking about, Okay, how can
10 we get in? And, like I said, we're open
11 to meeting with anyone, but the biggest
12 thing is, you need to register with
13 Verizon's Supplier Diversity Profile.
14 This is a very big project. Your
15 finances need to be in order. Like I
16 said, we already have a team of people
17 that we've been working with from PIDC
18 and PCDC. So if you're coming in and
19 you're not ready, we're also going to
20 refer you for technical assistance to get
21 ready for this opportunity.

22 COUNCILMAN CLARKE: One
23 recommendation, because Verizon is not
24 testifying, because we're not taking
25 testimony today, but can you recommend to

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2 them that similar to the commercials that
3 they are running on TV and the radio and
4 in the newspapers asking people to talk
5 to their Councilmembers to vote for FiOS,
6 we suggest that they run similar ads to
7 alert people to opportunities to
8 participate in the build-out of this
9 project.

10 MR. BELL: I sure will,
11 Councilman Clarke.

12 COUNCILMAN CLARKE: Thank you.

13 Any questions by members of the
14 Committee?

15 (No response.)

16 COUNCILMAN CLARKE: One point
17 of clarity with respect to the build-out,
18 because that was an earlier issue in the
19 last hearing. We wanted to make sure --
20 well, one of the concerns was that the
21 build-out across the first phase was done
22 in a simultaneous way, and, Mr. James,
23 it's my understanding that that issue has
24 been resolved.

25 MR. JAMES: Councilman, that

1 1/22/09 - PUBLIC PROPERTY - BILL 080879
2 issue has been resolved, and that was in
3 the testimony at the previous hearing
4 that Verizon will be building out
5 simultaneous in all the areas in the
6 first phase.

7 COUNCILMAN CLARKE: So there's
8 just some clarity.

9 MR. JAMES: Yes.

10 COUNCILMAN CLARKE: So a
11 designated area in Phase 1 will not be in
12 a position where they don't see any
13 activity until Year Four of the first
14 phase; it will be across the board.

15 MR. JAMES: That's my
16 understanding, Councilman. Again, in
17 response to the competitive nature of it,
18 for them to move in a linear fashion
19 would just be counterproductive to their
20 efforts to be as competitive as possible.

21 COUNCILMAN CLARKE: Okay.
22 Thank you. Thank you for your testimony.

23 COUNCILWOMAN BROWN:

24 Mr. Chairman?

25 COUNCILMAN CLARKE: Councilman

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2 Green, I know you had a question.

3 COUNCILMAN GREEN: Thank you
4 very much for the opportunity to ask just
5 a couple of quick questions.

6 At the first hearing in
7 November and then again on December 11th,
8 I asked for a chart that summarized the
9 material terms of the contracts that
10 Verizon has entered into with other
11 cities, and I just received this chart.
12 I think it contains material information
13 of import to this Committee and would
14 suggest that the Committee take the time
15 to review this information prior to
16 agreeing to a contract. There are terms
17 that are very different in Philadelphia's
18 contract versus other contracts, and I
19 just note one of them, which is that, it
20 seems to me, in every other circumstance,
21 there is equal annual revenue to the
22 Public Access support, and our Public
23 Access support does not start until Year
24 Six, with most of the money coming in
25 seven, nine and eleven. I'd like an

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2 explanation from the City why it believes
3 Public Access should not be similar to
4 funding in other cities that Verizon has
5 done business with and also spread evenly
6 across the entire terms of the franchise
7 agreement.

8 I don't think we should be
9 approving a contract that doesn't provide
10 support for Public Access. And I'd like
11 you to answer the question of why we
12 don't want equal spread of revenue.

13 MR. JAMES: Councilman, to
14 answer the question about Public Access
15 support, in the franchise agreement for
16 Verizon, there is financial support for
17 Public Access. It is --

18 COUNCILMAN GREEN: Mr. James,
19 the question is why it's not spread
20 evenly across 15 years, why it doesn't
21 start until Year Six, when in every other
22 city it's spread evenly across all the
23 years.

24 MR. JAMES: In answer to your
25 question, Councilman, in each of the

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2 other cities, the difference between
3 Philadelphia and the other cities is that
4 those cities have had Public Access in
5 place for some time and had existing
6 obligations already built into the
7 franchise agreements of wherever the
8 incumbent operator was. So when Verizon
9 entered into those agreements, they met
10 the terms of whatever the incumbent was
11 offering. So if the other cities already
12 had financial commitments in their
13 15-year agreements and the incumbent was
14 paying those financial commitments, then
15 Verizon met those.

16 In Philadelphia, the difference
17 and the distinction in our agreement is
18 that Comcast has a 15-year agreement,
19 started 2000, expires in 2015. In the
20 first seven years of that agreement, we
21 did not have Public Access, which means
22 they never paid any money to the Public
23 Access Corporation.

24 COUNCILMAN GREEN: Mr. James,
25 that makes absolutely no sense. Verizon

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2 is paying money this year and through the
3 end of their term, and if we renew their
4 franchise in 2015, they'll pay it through
5 ever. I don't understand why we would
6 not require the same obligation from each
7 franchise provider. It doesn't matter
8 what happened in the past. There is
9 Public Access in Philadelphia this year
10 that Comcast is paying for. Verizon
11 should have the same equal obligation to
12 Public Access.

13 MR. JAMES: Councilman, to
14 answer your question, that is what's in
15 the Verizon franchise agreement. Verizon
16 is paying eight years of the 500,000.
17 Comcast is paying eight years of the
18 500,000. They're the same.

19 COUNCILMAN GREEN: This year
20 how much is Comcast paying?

21 MR. JAMES: They'll be paying a
22 \$500,000 obligation.

23 COUNCILMAN GREEN: This year
24 how much is Verizon paying?

25 MR. JAMES: Verizon is

1 1/22/09 - PUBLIC PROPERTY - BILL 080879
2 committed to paying eight payments, the
3 same eight payments --

4 COUNCILMAN GREEN: I asked you
5 a question. Answer the question asked.

6 MR. JAMES: Well, this is 2009,
7 so this is the start of the franchise.
8 So they have an eight-year obligation
9 that starts in the seventh year.

10 COUNCILMAN GREEN: And how much
11 is Comcast paying this year for Public
12 Access?

13 MR. JAMES: They will be paying
14 500.

15 COUNCILMAN GREEN: How much is
16 Verizon paying this year for Public
17 Access?

18 MR. JAMES: Until they get a
19 franchise agreement, Councilman, they're
20 not paying anything.

21 COUNCILMAN GREEN: Assuming
22 they get a franchise agreement, how much
23 will they pay --

24 MR. JAMES: They will not be
25 paying anything, but at the same time --

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2 COUNCILMAN GREEN: Excuse me,
3 Mr. James. Next question: 2010, how
4 much will Comcast pay in Public Access?

5 MR. JAMES: Comcast will be
6 paying \$500,000.

7 COUNCILMAN GREEN: And 2010,
8 assuming this franchise agreement is
9 approved, how much will Verizon pay?

10 MR. JAMES: They will not be
11 paying \$500,000.

12 COUNCILMAN GREEN: I don't
13 understand any rationale for that
14 inequity in franchise agreements going
15 forward through 2015. It's a mistake,
16 and if this bill gets out of Committee, I
17 will be offering an amendment to require
18 Public Access once it hits the floor.

19 MR. JAMES: The other thing
20 that --

21 COUNCILMAN GREEN: Public
22 Access payments are equal.

23 COUNCILMAN KENNEY: Point of
24 order, Mr. Chairman, if I may.

25 COUNCILMAN CLARKE: Councilman

1 1/22/09 - PUBLIC PROPERTY - BILL 080879

2 Kenney.

3 COUNCILMAN KENNEY: I would
4 just like the opportunity, from a
5 housekeeping standpoint, to offer the
6 amendment that was described by Mr. James
7 and the Administration, if you would
8 permit that.

9 COUNCILMAN CLARKE: Sure.

10 COUNCILMAN KENNEY:
11 Mr. Chairman, I'd like to offer an
12 amendment adding the Economic Opportunity
13 Plan to Bill No. 080879.

14 (Duly seconded.)

15 COUNCILMAN CLARKE: I'm sorry.
16 It has been moved and seconded. Those in
17 favor?

18 (Aye.)

19 COUNCILMAN CLARKE: Those
20 approved -- those opposed? I'm sorry.

21 (No response.)

22 COUNCILMAN CLARKE: The
23 amendment to Bill No. 080879 has been
24 approved.

25 COUNCILMAN KENNEY: Thank you,

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2 Mr. Chairman.

3 COUNCILMAN CLARKE: You're
4 welcome.

5 Councilman?

6 COUNCILMAN GREEN: Thank you.
7 I have lots of other questions based on
8 the chart that I have here. I would
9 recommend that the Committee understand
10 fully the deal that Verizon got in other
11 cities prior to passing this out so that
12 we can avoid potential amendments, but I
13 don't really have any further questions
14 today.

15 Thank you.

16 COUNCILMAN CLARKE: Thank you.
17 Councilman, I know that you had some
18 issues relating to some of the
19 information that was requested. We're
20 going to be asking for a written response
21 before the final passage of those bills.
22 This franchise agreement, if you have any
23 other questions at that time, we'll make
24 sure that you get a response.

25 COUNCILMAN GREEN: Thank you.

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2 COUNCILMAN CLARKE: You're

3 welcome.

4 Councilwoman Brown.

5 COUNCILWOMAN BROWN: Thank you

6 very much.

7 My follow-up question was
8 actually related to the amendment around
9 the EOP plan, because you used the word
10 "strengthened," that the language has
11 been strengthened to reflect X. So my
12 question was going to be, one, has that
13 been circulated to the Committee and the
14 Committee is okay with the strengthened
15 language, whatever that is?

16 MR. BELL: Councilwoman, the
17 strengthened language was, when Verizon
18 first submitted the Plan, they wanted to
19 report 60 days after the close of a
20 calendar year, and we feel that that's
21 unacceptable from the Office of Economic
22 Opportunity. So they are now going to
23 submit on a quarterly basis. That will
24 give us time to react and then to
25 recommend any deficiencies, that they be

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2 addressed, because we cannot wait until
3 the end of 12 months for Verizon to
4 report and then give an update on their
5 MBE/WBE participation. So we're going to
6 monitor -- we're going to create an
7 oversight committee, and at the end of
8 three months, we'll do an assessment in
9 terms of their outreach efforts and what
10 contracts they've actually signed. And
11 then that's the only way we can be
12 effective in monitoring and oversight, is
13 if we get timely reports.

14 And, like I said, one of the
15 parts in their training language was
16 saying they "may" offer training
17 opportunities. We took the "may" out and
18 said you will offer training
19 opportunities to the local individuals,
20 local people that will benefit from this
21 EOP.

22 So it was a few tweaks that we
23 had to make, but the most important part
24 is, after three months -- and Councilman
25 Clarke was adamant about this -- if

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2 they're not reaching out, we need to have
3 a hammer to let Verizon know that the
4 City of Philadelphia is very serious
5 about actually implementing the Economic
6 Opportunity Plan.

7 COUNCILWOMAN BROWN: That's
8 very, very helpful. Is there language
9 which speaks to should Verizon run into
10 difficulty or hurdles with regards to
11 recruitment and orientation, that the
12 City can be helpful with that particular
13 challenge? Because that has been
14 customary in past agreements like this.

15 MR. BELL: Right. Well, the
16 language calls for them to reach out to
17 the various chambers, and we actually
18 were going to set up a meeting on
19 February 18th, but we pushed that up.
20 So, like I said, we have the African
21 American Chamber, the Hispanic Chamber,
22 Asian Chamber, Pan Asian Chamber and a
23 number of other entities that represent
24 businesses that we're going to meet with
25 next Wednesday, and we're going to allow

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2 them to then disseminate information to
3 their members, because our biggest issue
4 is to make sure that we have qualified
5 people that are filling out Verizon's
6 Supplier Diversity Profile. And then
7 we're not going to give Verizon too much
8 of a choice about not contracting,
9 because, like I said, we have a reporting
10 form that we're going to use to monitor
11 their progress, and at any given point in
12 time, we're going to need the support of
13 Council. If we see that they're not
14 living up to the terms of the Economic
15 Opportunity Plan, we're going to notify
16 the members here.

17 COUNCILWOMAN BROWN: We thank
18 you for that, because there are too many
19 instances we can look to where but for
20 provisions like that, a year later we get
21 surprise that the contractor is having
22 unfair, undue challenges. So thank you
23 for that. Let me also thank you for this
24 chart, which is useful.

25 My last and final question,

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2 speak to this educational access support.

3 What is that? What does that mean?

4 MR. JAMES: The grant that's in
5 the agreement provides for a certain
6 amount of dollars for an undefined
7 program at this point in time, but to be
8 used for educational and technical
9 training, relates to the technology. But
10 it has not got a structure yet, but it's
11 similar to where in the Comcast agreement
12 there was money for PCDC to have the
13 commercial development. So in this time,
14 instead of putting money there, we put it
15 in educational, where we think is very
16 important right now, is to educate
17 people, as Mr. Bell talked about. To get
18 them into that program, they're going to
19 need the basic strong educational
20 foundation around technology, and that's
21 where we hope that this money is going to
22 be used to support.

23 COUNCILWOMAN BROWN: I see.

24 Okay, then.

25 Thank you, Mr. Chairman.

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2 COUNCILMAN CLARKE: Thank you,
3 Councilwoman.

4 Councilman Jones.

5 COUNCILMAN JONES: Thank you,
6 Mr. Chairman, for the opportunity to
7 speak to this, and providing it as a
8 chairperson is gracious.

9 COUNCILMAN CLARKE: I've been
10 told I had a little flexibility in the
11 public meeting, so I wanted to take the
12 opportunity.

13 COUNCILMAN JONES: Thank you.

14 Could you give me a little
15 better definition of the hammer that you
16 talk about that in case we find that
17 there is not a good-faith effort? What
18 is that hammer that you speak of?

19 MR. BELL: We were discussing
20 that this morning and we were talking
21 about the public bond and there were some
22 other issues, but in terms of the
23 Economic Opportunity Plan being part of
24 the ordinance, then it's a material part
25 of the contract. And, like I said, we're

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2 going to need the support of Council,
3 because the Office of Economic
4 Opportunity, we're going to monitor the
5 progress, but if they're not meeting it,
6 then we need to come back to Council. We
7 look at it as a breach of contract if
8 they're not doing what they're supposed
9 to do. So the hammer needs to be
10 defined, but I know we had some
11 discussions early this morning that if
12 Verizon is not living up to the Economic
13 Opportunity Plan, it's not going to be a
14 year from now that we're going to come
15 back to Council and notify you. We're
16 going to put you on notice after 30 days
17 or after 60 days or after 90 days. And
18 then Verizon needs to understand that if
19 the Economic Opportunity Plan is part of
20 what you're doing, part of this agreement
21 to get the franchise, then if you're not
22 abiding by that, there needs to be some
23 consequences.

24 Now, I can't inflict all the
25 consequences, but in terms of us

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2 monitoring, we can let the powers that be
3 know that if they're not doing what
4 they're supposed to do, then we're going
5 to point that out. We're going to
6 document all of our meetings. We're
7 going to document our outreach efforts,
8 and then at the end of three months, if
9 there are no commitments made to MBE/WBE
10 firms, we need to bring that back to
11 Council's attention.

12 COUNCILMAN JONES: Thank you,
13 Mr. Chairman.

14 COUNCILMAN CLARKE: You're
15 welcome, Councilman.

16 Any other questions?

17 (No response.)

18 COUNCILMAN CLARKE: Thank you,
19 gentlemen, very much.

20 MR. BELL: Thank you,
21 Councilman.

22 COUNCILMAN CLARKE: Councilman
23 Kenney, can I ask for a motion on Bill
24 No. 080879, as amended.

25 COUNCILMAN KENNEY: Thank you,

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2 Mr. Chairman. I move that Bill No.

3 080879, as amended, be reported out of

4 this committee with a favorable

5 recommendation.

6 (Duly seconded.)

7 COUNCILMAN CLARKE: It's been

8 moved and seconded.

9 Those in support?

10 (Aye.)

11 COUNCILMAN CLARKE: Those

12 opposed?

13 (No response.)

14 COUNCILMAN CLARKE: The ayes

15 have it. Bill 080879 will be reported

16 out of Committee with a favorable

17 recommendation.

18 Thank you all very much.

19 (Committee on Public Property

20 and Public Works adjourned at 10:35 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 on January 22, 2009, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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