

1
2 COUNCIL OF THE CITY OF PHILADELPHIA
3 COMMITTEE ON PUBLIC PROPERTY AND
4 PUBLIC WORKS
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7 Room 400, City Hall
Philadelphia, Pennsylvania
8 Thursday, November 3, 2011
9:20 a.m.
9
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PRESENT:

11 COUNCILMAN DARRELL CLARKE, CHAIR
COUNCILMAN FRANK DiCICCO
12 COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN JAMES KENNEY
13 COUNCILMAN FRANK RIZZO, JR.
14

15 BILL 110517 - An ordinance authorizing the
Commissioner of Public Property, on behalf of
16 the City of Philadelphia, to enter into a
lease agreement with the Philadelphia
17 Municipal Authority for a certain parcel of
ground located at the Northeast Water
18 Pollution Control Plant...
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2 COUNCILMAN CLARKE: Good
3 morning. This is the public hearing on
4 Public Property and Public Works. This
5 is a bill that was recessed from a prior
6 hearing.

7 Mr. Carter, will you please
8 read the title of the bill.

9 THE CLERK: Bill No. 110517, an
10 ordinance authorizing the Commissioner of
11 Public Property, on behalf of the City of
12 Philadelphia, to enter into a lease
13 agreement with the Philadelphia Municipal
14 Authority for a certain portion of a
15 parcel of ground located at the Northeast
16 Water Pollution Control Plant, 3899
17 Richmond Street, Philadelphia,
18 Pennsylvania; all under certain terms and
19 conditions.

20 COUNCILMAN CLARKE: Thank you.
21 The first witness. Maybe the
22 first and only witness.

23 (Witness approached witness
24 table.)

25 COMMISSIONER NEUKRUG: Good

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2 morning. My name is Howard Neukrug. I'm
3 the Water Commissioner of the City of
4 Philadelphia, and I'm pleased to be here
5 in support of this bill and request that
6 it be moved forward with suspension of
7 the rules.

8 COUNCILMAN CLARKE: Let the
9 record reflect that Councilman Rizzo,
10 Councilman Greenlee and Councilman
11 DiCicco are present to clearly establish
12 a quorum.

13 In the earlier hearing, there
14 were a couple of issues with respect to
15 overage as it relates to construction
16 costs and some issue about the credits as
17 hopefully materializing from the federal
18 government. Can you just briefly talk
19 about that? And I understand that there
20 will be an amendment in the Finance
21 Committee, just for the record.

22 COMMISSIONER NEUKRUG: Yes.
23 And that's correct. I would like to
24 commend Council and Council's staff for
25 really understanding this very, very

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2 complex deal and taking a look at it and
3 making sure that the deal is in the best
4 interest of the City of Philadelphia.

5 We've come to an amendment that
6 I understand will be put forth today in
7 City Council that will look at the cost
8 overruns and put a cap on that, otherwise
9 it will have to go back before City
10 Council.

11 COUNCILMAN CLARKE: Thank you.

12 (Witness approached witness
13 table.)

14 COUNCILMAN CLARKE: Mr. Davis.

15 MR. DAVIS: Yes. I'm Barry
16 Davis with the City's Law Department.

17 We have worked very closely
18 with Council offices with regard to
19 amending the bill that was before the
20 Finance Committee and it's now before
21 Council, and as the Commissioner said, we
22 expect that they will offer -- that
23 Councilman Green and/or Councilman Kenney
24 will offer an amendment to that bill
25 today.

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2 COUNCILMAN CLARKE: Okay. I'll
3 wait until the amendment is offered to
4 ask for an explanation.

5 MR. DAVIS: Would you like a
6 further explanation?

7 COUNCILMAN CLARKE: That's kind
8 of what I was asking.

9 MR. DAVIS: So basically what
10 the amendment will do is to identify a
11 total cost for the project construction.
12 It will then put a 10 percent cap on any
13 cost overruns. It will limit those cost
14 overruns specifically to change orders
15 and a very limited category of change
16 orders that would be allowable. So the
17 way the cap works, it limits what could
18 possibly be requested as a change order
19 and then it puts a 10 percent cap on all
20 of that, which would require that the
21 Water Department return to Council to get
22 further authorization for that additional
23 amendment.

24 COUNCILMAN CLARKE: Anything
25 above 10, okay. And the credit?

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2 MR. DAVIS: With regard to the
3 tax credit, we worked through that quite
4 a bit and I think that we came to an
5 understanding about what the risk
6 associated with that tax credit
7 application is and which parties had
8 assumed that risk, starting with the
9 original request for proposals. It was
10 in fact the City that had assumed that
11 risk, and I think we reached agreement
12 that to place that risk on the contractor
13 was not appropriate in that they probably
14 would have priced that risk into the
15 overall project cost had they been asked
16 to assume it.

17 COUNCILMAN CLARKE: Okay.

18 MR. DAVIS: I do want to add
19 that there is a requirement related to
20 the tax grant that requires Ameresco to
21 use its best efforts to assist both the
22 bank and, by helping the bank, the City
23 to maintain and achieve that eligibility
24 for the tax grant.

25 COUNCILMAN CLARKE: Okay.

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2 Thank you.

3 Any questions of these
4 witnesses by members of the Committee?

5 (No response.)

6 COUNCILMAN CLARKE: Let the
7 record reflect that Councilman James
8 Kenney is also at the Committee hearing.

9 Anybody else to testify on this
10 particular bill?

11 MR. ALI: Yes.

12 COUNCILMAN CLARKE: Mr. Jihad.

13 (Witness approached witness
14 table.)

15 MR. ALI: Good morning,
16 Chairman Clarke and other distinguished
17 members of this Committee. My name is
18 Jihad Ali. I'm here on behalf of the
19 Contractors Roundtable, which is a group
20 of African American subcontractors.

21 In this bill, my concern at the
22 last hearing was that did they submit an
23 economic opportunity plan. During the
24 last hearing, they submitted some
25 paperwork, which really was a template

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2 for the economic opportunity plan. Mr.
3 Chairman, have you received the economic
4 opportunity plan?

5 COUNCILMAN CLARKE: I have not.

6 MR. ALI: This Council, as you
7 are well aware, Mr. Chairman, has gone
8 through great lengths about transparency
9 and inclusion. As Councilman Goode has
10 pointed out on numerous occasions,
11 there's a burden to be beared by anybody
12 doing business with the City, and that
13 means transparency and accountability and
14 inclusion of economic benefits of that
15 project.

16 This company, Ameresco, and the
17 contractor that they've selected, A&P,
18 A&P I'm sure is a good AAA-rated company
19 in terms of their ability to perform.
20 The problem that we have as African
21 Americans, if you look at the economic --
22 the detailed reporting that has
23 accompanied all the projects that A&P has
24 participated in this year and the closing
25 of this fiscal year, last year and the

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year before that, on every project when you look at the detailed report, the only beneficiary to the dollars that goes through their hands are Hispanic firms and white women. As an African American male, I have a problem with that, because our community is being impacted by the lack of inclusion on all these projects.

Councilman Clarke and other members of this Committee, I know where you're all coming from. I support your leadership on this. So today I'm here to speak to the record, to speak in the record and to speak to the citizens that's looking at this on Channel 64 and Verizon and Comcast and the Internet. Because it's companies like A&P -- maybe they're not even aware that they're practicing financial discrimination, because if you're not inclusive of African American males in this city and you're saying, Well, I comply with the law, I have minorities, and their definition of minority is Hispanic firms

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2 or white women, there's a problem in
3 that.

4 So, Mr. Chairman, we need to at
5 least correct that. We support your
6 leadership. We know that you'll do the
7 right thing. I'd like to see the
8 economic opportunity plan whenever they
9 submit it. The law required that they
10 submit it at this time.

11 Thank you.

12 COUNCILMAN CLARKE: Thank you.

13 I agree with you with respect
14 to the plan. What we cannot do or I
15 don't think we should, speaking from my
16 perspective, is get into detailing the
17 specific minorities. The equal
18 opportunity plan that we ask for is
19 traditionally dealing with minorities and
20 WBEs, MBEs, and I don't know if we want
21 to drill down to the level where we're
22 going to outline what specific minority
23 participant is in the or required in the
24 equal opportunity plan, because as you
25 know, we have a very diverse country and

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2 city.

3 But I agree that the equal
4 opportunity plan should be attached to
5 either the Finance bill or the Public
6 Property bill.

7 I saw someone getting up to
8 respond to that.

9 (Witness approached witness
10 table.)

11 MR. DAVIS: This is Barry Davis
12 with the Law Department.

13 Yes. The equal opportunity
14 plan was attached to the Finance bill.
15 It was approved by the Office of Economic
16 Opportunity, as is required. It does
17 have the solicitation and commitment
18 forms that identify who the firms were
19 who were solicited for subcontractor
20 roles in this project, and that is a
21 public record and is available.

22 COUNCILMAN CLARKE: That was
23 submitted in the public hearing in
24 Finance?

25 MR. DAVIS: Yes, it was.

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2 COUNCILMAN CLARKE: Because
3 what was given to me last week was not an
4 equal opportunity plan. It was just a
5 template. It was from the Office of --
6 Equal Opportunity's office. It basically
7 laid out how you crafted --

8 MR. DAVIS: That is the current
9 form that is being used by the Office of
10 Economic Opportunity for the entire plan,
11 and the appendices to that plan include
12 the solicitation and commitment forms.
13 So essentially that template lays out the
14 obligations of the contractor. They
15 wanted to make sure they had something
16 that was very standard so that every
17 project would be getting exactly the same
18 kind of review and that what was required
19 under the plan would be the same. So
20 then what happens is, the solicitation
21 commitment forms actually then form the
22 rest of that document.

23 COUNCILMAN CLARKE: Okay. It
24 was in Finance, okay.

25 MR. ALI: Mr. Chairman,

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2 Counselor, are you saying that the
3 solicitation commitment form, that A&P
4 submitted one where they identified
5 contractors that they've solicited?

6 MR. DAVIS: That's correct.

7 And that is the -- I think it's Exhibit B
8 to Bill 110518, as amended.

9 MR. ALI: Mr. Chairman, I would
10 like to see a copy of that. Because,
11 see, the fact of the matter, we can't say
12 that we have transparency when things are
13 not where the regulations call for them
14 to be for the people to examine at the
15 time at this hearing. So I would like,
16 Mr. Chairman, if he can, to make
17 available a copy of that solicitation and
18 commitment form, because that is the
19 smoking gun for the issues that I'm
20 concerned about. And I understand where
21 the position of this Council is on
22 diversity, but as an African American
23 male and I've made -- I said before, I'm
24 not making any excuses for that. If I
25 were -- when we had Mayor Rizzo, Mayor

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Rizzo was concerned about Italian Americans. When we had Mayor Green, he was concerned about Irish Americans. We have Mayor Rendell, he was concerned about Jewish Americans. Well, I don't know where this Mayor stands, but these are members of his Administration and it just doesn't appear that he stands on that issue. Now, it could be that people underneath of his Administration are not taking that as serious.

I do have confidence in the Water Commissioner, Howard Neukrug. I do believe that he's a professional and that he will do the best of his ability, but where we have a lapse in leadership is OEO, and that's really what we need to see. We need to see those documents that prove the point that we're trying to outlay here today.

COUNCILMAN CLARKE: Okay.

MR. DAVIS: Excuse me.

COUNCILMAN CLARKE: I mean, this shouldn't be that difficult. If

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2 there was an attachment to the bill,
3 we're next door to the Chief Clerk's
4 Office. I'm assuming that it's --

5 MR. DAVIS: I also want to
6 point out that it is available on
7 Council's website. The amended bill is
8 up and on the website and you can
9 download that.

10 MR. ALI: With the attachments?

11 MR. DAVIS: With the
12 attachments, yes.

13 MR. ALI: I'll check it out.

14 COUNCILMAN CLARKE: Okay?

15 MR. ALI: Thank you, sir.

16 COUNCILMAN CLARKE: Thank you
17 so much for your testimony.

18 Anyone else to testify on this
19 bill?

20 (No response.)

21 COUNCILMAN CLARKE: There being
22 none, this concludes the public hearing.
23 We will now go into the public meeting.

24 Councilman Kenney, can I please
25 call for a motion on Bill No. 110517.

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2 COUNCILMAN KENNEY: Thank you,
3 Mr. Chairman. I move that Bill No.
4 110517 be reported out of the Committee
5 with a favorable recommendation and a
6 request made for rules suspension to
7 allow for first reading at this day's
8 Council session.

9 (Duly seconded.)

10 COUNCILMAN CLARKE: It's been
11 moved and seconded.

12 Those in favor?

13 (Aye.)

14 COUNCILMAN CLARKE: Those
15 opposed?

16 (No response.)

17 COUNCILMAN CLARKE: The ayes
18 have it. Bill No. 110517 is reported out
19 of this Committee with a favorable
20 recommendation with rules suspension to
21 allow reading at the next session of
22 Council.

23 Thank you very much. This
24 concludes the public meeting.

25 (Committee on Public Property

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and Public Works concluded at 9:30 a.m.)

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1
2 CERTIFICATE

3 I HEREBY CERTIFY that the
4 proceedings, evidence and objections are
5 contained fully and accurately in the
6 stenographic notes taken by me upon the
7 foregoing matter on November 3, 2011, and that
8 this is a true and correct transcript of same.

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13 -----
14 MICHELE L. MURPHY
15 RPR-Notary Public
16
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