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COUNCIL OF THE CITY OF PHILADELPHIA

3

PUBLIC HEARING - COMMITTEE ON LAW and GOVERNMENT

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Room 400, City Hall

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Philadelphia, Pennsylvania

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Monday, March 1, 2005, 2:08 p.m.

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9 041043 - An Ordinance providing for the submission
10 to the qualified electors of the City of
11 Philadelphia of the proposal set forth in
12 a Resolution approved by Council
13 proposing an amendment to the
14 Philadelphia Home Rule Charter relating
15 to rights over or in real estate by
16 providing that Council may direct the
17 City to replace any City-owned building
closed because of condemnation by a
government entity; fixing the date of a
special election for such purpose;
prescribing the form of ballot question
to be voted on; and authorizing the
appropriate officers to publish notice
and to make arrangements for the special
election.

18 041052 - Resolution proposing an amendment to the
19 Philadelphia Home Rule Charter relating
20 to rights over or in real estate by
21 providing that Council may direct the
City to replace any City-owned building
closed because of condemnation by a
government entity.

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V A R A L L O Incorporated

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Litigation Support Services

1835 Market Street, Suite 600
Philadelphia, Pennsylvania 19103

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215.561.2220 215.567.2670

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P R O C E E D I N G S

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THE CLERK: The Committee on Law and
Government will reconvene at 2:30 this
afternoon.

Thank you.

(Hearing concluded at 2:08 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the public hearing of The Philadelphia City Council, taken on March 1, 2005, and that this is a true and correct transcript of same.

DAVID A. DEIK, RPR and
Commissioner of Deeds

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2 PRESENT:

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COUNCILMAN DAVID COHEN, Chair
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN JACK KELLY
COUNCILMAN JAMES F. KENNEY
COUNCILMAN RICHARD T. MARIANO
COUNCILMAN MICHAEL A. NUTTER
COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN DARRELL L. CLARKE
COUNCILMAN JUAN F. RAMOS

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1 Law & Government - 3/1/05

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

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5 COUNCILMAN COHEN: The Committee on
6 Law and Government is now in session, and
7 that was the bill introduced by Councilwoman
8 Krajewski.

9 THE CLERK: Bill 041043, an
10 Ordinance providing for the submission to the
11 qualified electors of the City of
12 Philadelphia of the proposal set forth in a
13 Resolution approved by Council proposing an
14 amendment to the Philadelphia Home Rule
15 Charter relating to rights over or in real
16 estate by providing that Council may direct
17 the City to replace any City-owned building
18 closed because of condemnation by a
19 government entity; fixing the date of a
20 special election for such purpose;
21 prescribing the form of ballot question to be
22 voted on; and authorizing the appropriate
23 officers to publish notice and to make
24 arrangements for the special election.

25 COUNCILMAN COHEN: Is there an

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2 announcement you wish to make for me with
3 respect to that bill?

4 Is there an announcement the clerk
5 is going to make, with respect to that bill?

6 THE CLERK: That bill will be held
7 to the call of the Chair.

8 COUNCILMAN COHEN: We're hopeful
9 that that's going to be satisfactorily
10 resolved by agreement between the
11 Councilwoman and the Mayor.

12 It deals with the replacement of a
13 firehouse that apparently has to be removed
14 in order to permit certain traffic work.

15 Thank you.

16 The next item on the matter before
17 the committee will be consideration of the
18 bill that was before this committee
19 yesterday. And that is bill number?

20 THE CLERK: 040771, an Ordinance
21 providing for the submission to the qualified
22 electors of the City of Philadelphia of the
23 proposal set forth in a Resolution approved
24 by Council proposing amendment of the
25 Philadelphia Home Rule Charter relating to

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2 City leases, contracts, concessions and the
3 provision of financial assistance; fixing the
4 date of a special election for such purpose;
5 prescribing the form of ballot question to be
6 voted on; and authorizing the appropriate
7 officers to publish notice and to make
8 arrangements for the special election.

9 Ordinance Number 040772, an
10 Ordinance amending Title 17 of The
11 Philadelphia Code, entitled "Contracts and
12 Procurement," by adding provisions regulating
13 the process by which the City awards
14 professional services contracts and other
15 non-competitively bid contracts, and
16 prohibiting persons from entering into such
17 contracts or from receiving City financial
18 assistance if they or certain related parties
19 have made certain contributions to elected
20 City officers or candidates for City offices,
21 all under certain terms and conditions.

22 And Resolution 040818, a Resolution
23 proposing an amendment to the Philadelphia
24 Home Rule Charter relating to City leases,
25 contracts, concessions and the provision of

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2 financial assistance, and providing for the
3 submission of the amendment of the electors
4 of Philadelphia

5 COUNCILMAN COHEN: Let the Chair
6 note the presence of a quorum, although a
7 standing quorum rule permits the Council
8 committee to proceed on the basis of a
9 standing quorum.

10 However, a full quorum is here,
11 consisting of Councilman Mariano, Councilman
12 Nutter, myself as Chairman, Councilman
13 Kenney. We expect to be joined shortly by
14 Councilman Kelly. And there's Councilman
15 Goode.

16 Councilman Nutter, may I ask, are
17 you prepared to state your assessment of the
18 material received from the Mayor's Office
19 this morning? Have you had time to check it
20 out and to reach some decisions, as to the
21 amendments offered by the...

22 Now, these are not technically
23 amendments because only a member can, during
24 a meeting process -- and this is still at the
25 hearing process -- can introduce the

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2 amendment. But have you read the material
3 given to us by the Mayor?

4 COUNCILMAN NUTTER: Thank you, Mr.
5 Chairman.

6 Yes, I have had a chance to read
7 through the two sets of amendments. One is
8 to the Resolution 040818, and the other more
9 extensive amendments are to the Bill 040772.

10 Just a couple observations. I do
11 appreciate the administration quickly working
12 to get these materials to us, given
13 yesterday's hearing.

14 With regard to Resolution Number
15 040818, it has been difficult, Mr. Chairman,
16 to completely understand or ascertain what
17 exactly the proposed amendment which is a
18 series of items.

19 One is striking a sentence that
20 would be added by the measure that I
21 introduced, as well as some additional
22 language, the primary purpose of which it
23 would seem to be to rather restrict the
24 Council's work in this particular area
25 regarding concessions.

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2 And there has not been any kind of
3 explanation that is clear as to the meaning
4 or purpose or impact of this particular
5 proposed amendment.

6 I could not... I could not support
7 it, one, because I think it is counter to the
8 purpose of the original proposal put forward;
9 and second, I cannot... I cannot really
10 understand its purpose, and no one's been
11 able to explain it thus far.

12 COUNCILMAN COHEN: Well, let me say
13 this: Following up what I said before, only
14 a member of the committee will be able to
15 offer an amendment.

16 I don't know whether anyone who is a
17 member of this committee is going to be
18 introducing anything on behalf of the Mayor.

19 I've been informed that it is the
20 Mayor's belief that the amendments offered by
21 him will improve the efficiency of the bill,
22 but I have not been informed as to the
23 Mayor's position on the bill, even if we
24 adopt all the amendments.

25 COUNCILMAN NUTTER: Right.

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2 COUNCILMAN COHEN: I was told that
3 the Mayor is still unresolved as to what his
4 approach will be on the bill. So, we don't
5 have any position from the Mayor with respect
6 to his support of the bill, even were we to
7 adopt all of his amendments.

8 But he does believe, we're told,
9 that the amendments suggested will improve
10 the bill's effectiveness but that he has not
11 yet made any decision as to whether he will
12 sign the bill, permit it to become law
13 without a signature, or veto the bill.

14 So, this is just a question of the
15 amendments.

16 COUNCILMAN KENNEY: Mr. Chairman, if
17 I may ask Councilman Nutter, if he has any
18 idea as to an example of what a concession or
19 other lease or license or other contract of
20 the sale of products, whether in addition of
21 services for consideration on City property.

22 Did you ask them or did you have a
23 conversation with them or did they give you
24 an idea what that -- what an example of that
25 would be?

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2 COUNCILMAN NUTTER: Councilman, I
3 did -- I asked what the purpose of the
4 amendment, both the deletion of the proposed
5 new sentence, as well as in the bold, the new
6 language.

7 At the time I asked the question,
8 the individual was not in a position to give
9 a specific example of what this would
10 accomplish.

11 What I know is... I mean, a
12 concession is a contract for some service or
13 goods where the lowest responsible bidder
14 requirements are not the case. It's actually
15 the highest responsible bidder.

16 It's not money that the City is
17 expending. It's money that the City is
18 receiving from a party. Presently we have no
19 jurisdiction over those concession
20 agreements.

21 And this amendment -- The purpose of
22 the amendment, as I put it in would be if
23 there were a concession which had a term of a
24 year or more, it would be required to be
25 approved by this Council.

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2 COUNCILMAN KENNEY: I mean, there's
3 nothing in planning now; but what jumps to my
4 mind is in the event the City does something
5 with the lower level of City Hall which would
6 open it up for restaurant or retail, would
7 that be an example of the award of a
8 concession that would be generally sought
9 after as a result of the highest responsible
10 bidder, getting the most money for the City?

11 COUNCILMAN NUTTER: I would think,
12 yes.

13 COUNCILMAN KENNEY: And what you
14 understand this amendment to be is that that
15 would not fall under the auspices of this
16 legislation.

17 COUNCILMAN NUTTER: I would take
18 that to be the case, by the striking of the
19 first sentence -- of the new sentence, it
20 would seem that that -- the Council would not
21 have jurisdiction.

22 COUNCILMAN KENNEY: And you as the
23 sponsor of the resolution are not supportive
24 of that amendment.

25 COUNCILMAN NUTTER: I would not be

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2 supportive of that, no.
3 COUNCILMAN KENNEY: Mr. Chairman, if
4 I may, I have one other question about an
5 amendment.
6 COUNCILMAN COHEN: Yes. Go ahead.
7 COUNCILMAN KENNEY: To 772.
8 On page... Pages, I don't think,
9 are numbered.
10 COUNCILMAN NUTTER: I think they're
11 not numbered.
12 COUNCILMAN KENNEY: The pages aren't
13 numbered.
14 COUNCILMAN NUTTER: If you give me a
15 section.
16 COUNCILMAN KENNEY: 17-1206.
17 COUNCILMAN NUTTER: 1206?
18 COUNCILMAN KENNEY: Right.
19 Triple i.
20 COUNCILMAN NUTTER: Right.
21 COUNCILMAN KENNEY: Contracts for
22 legal service work applied to the City with
23 this chapter would either breach a legally
24 recognized privilege or otherwise material
25 damage to legal or financial interest to the

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2 City.

3 Could you give, I guess, their
4 example of what that would be?

5 COUNCILMAN NUTTER: The example --

6 COUNCILMAN KENNEY: I mean, is there
7 any -- Mr. Grace, could you -- could you --
8 I'm sorry. Mr. Chairman, may I request that
9 Mr. Grace approach the table?

10 Rather than ask Councilman Nutter
11 what the administration means, I'd rather ask
12 somebody from the administration.

13 COUNCILMAN COHEN: Mr. Grace, if
14 you're in a position to do so, please
15 approach, take the witness stand, and
16 introduce yourself to the committee for
17 record purposes.

18 MR. GRACE: Joe Grace from the
19 Mayor's Office, Deputy Secretary for External
20 Affairs.

21 COUNCILMAN COHEN: Let the record
22 note the presence of Councilman Kelly.

23 COUNCILMAN KENNEY: Let me repeat
24 the question, Mr. Chairman.

25 Mr. Grace, on Section 17-1206,

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2 triple i, contracts for legal services in
3 compliance with this chapter would either
4 breach a legally recognized privilege or
5 otherwise materially damage the legal or
6 financial interests of the City.

7 Could you give me an explanation
8 and/or an example of what that is?

9 MR. GRACE: Councilman, I don't have
10 a specific example as to triple i.

11 I think I could speak generally as
12 to this proposed part of the amendment. So,
13 in some ways, Councilman, both double i and
14 triple i, four and five --

15 COUNCILMAN KENNEY: Well, let me
16 save you some time. Double i I understand.
17 I mean, to me that's pretty clear.

18 MR. GRACE: Right.

19 COUNCILMAN KENNEY: I think four is
20 pretty clear. Disclosure, you know,
21 information that would jeopardize the
22 interests of the City.

23 MR. GRACE: Right.

24 COUNCILMAN KENNEY: Yeah. And six,
25 with respect to the potential loss of

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2 federal, state or similar grant funds.

3 MR. GRACE: Yes.

4 COUNCILMAN KENNEY: I understand the
5 need or at least the principle behind them.

6 I don't understand what triple i is.
7 So, if you could just confine your comments
8 to that.

9 MR. GRACE: The best I can do is,
10 rather than tell you something that I can't
11 give you a very long explanation of triple i,
12 I can certainly consult with the Law
13 Department, and give you an answer by the end
14 of the day, if not even sooner. Perhaps
15 during this hearing if I step out of the
16 room.

17 COUNCILMAN KENNEY: Even sooner
18 would be nice.

19 MR. GRACE: Thank you.

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

22 COUNCILMAN COHEN: Councilman
23 Nutter, I understand the procedure you and I
24 worked out was that I suggested that where
25 you agreed with a proposed amendment you

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2 incorporated with the amendments that you're
3 otherwise going to present to us.

4 COUNCILMAN COHEN: Yes.

5 COUNCILMAN COHEN: And that if you
6 disagreed, that you just state your
7 disagreement. So that at some point in the
8 proceedings this afternoon, you will be
9 introducing the amendments you had spoken of
10 yesterday.

11 COUNCILMAN NUTTER: Right.

12 COUNCILMAN COHEN: And incorporate
13 within them notifying wherever that's
14 happened that you're including the Mayor's
15 amendment, but also stating wherever you
16 object to the Mayor's amendment.

17 COUNCILMAN NUTTER: And I'd be
18 prepared to do that, Mr. Chairman. I believe
19 the copies of the documents are available.

20 Based on our conversation, what I
21 sought to do, as you indicated, there were
22 already some amendments that were going to be
23 proposed for Bill 772 yesterday. We just
24 never got to that part of the hearing.

25 Now, seeing the amendments having

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2 come up from the administration, what I've
3 tried to do is encapsulate in one proposed
4 set of amendments both the amendments that I
5 had already planned to put forward, as well
6 as, at least from my perspective, those
7 amendments sent up by the administration that
8 do in some instances provide clarity or
9 enhance parts of the bill, possibly reduce
10 confusion.

11 And then there are some other
12 components which, again, personally speaking,
13 I would not find acceptable. And I can point
14 out what those -- what those items are as we
15 go through the documents.

16 So maybe the best thing at this
17 point is to continue talking because the
18 copies are not -- are not ready, but there --

19 COUNCILMAN COHEN: Well, I just want
20 to note for the committee --

21 COUNCILMAN NUTTER: So they'll be
22 coming in shortly.

23 COUNCILMAN COHEN: -- through your
24 excellent services this morning, when the
25 administration amendments came in, you went

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2 to work immediately to examine them.

3 COUNCILMAN NUTTER: Yes.

4 COUNCILMAN COHEN: Because I think
5 we all have to recognize that although maybe
6 legally or from a lawyer's point of view the
7 jury, you were not representing Council --

8 COUNCILMAN NUTTER: No.

9 COUNCILMAN COHEN: -- in your
10 negotiations with the Mayor. Since you were
11 the only one really engaged in such
12 discussions --

13 COUNCILMAN NUTTER: Right.

14 COUNCILMAN COHEN: -- you were what
15 lawyers would call a de facto representative,
16 acting in fact for all Council members. So
17 that I think it's quite fitting that you make
18 this analysis.

19 COUNCILMAN NUTTER: You are
20 tremendously generous with your
21 characterization.

22 But I think, as is the normal
23 process, Mr. Chairman, if a member has a
24 bill, they try to talk to as many people or
25 entities as possible.

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2 And I've tried to do that in this
3 particular matter, but have never represented
4 that the work was speaking on behalf of the
5 members, although I've talked to the members
6 about these matters, and as well talked to
7 the administration as much as possible,
8 trying to seek consensus or compromise.

9 There are some differences of
10 opinion on a couple of these matters which,
11 you know, sometimes reasonable people can
12 disagree.

13 I think they may be walking in now.

14 COUNCILMAN COHEN: Yes. Councilman
15 Mariano, did you have a specific question?

16 COUNCILMAN MARIANO: Yes.

17 Thank you, Mr. Chairman.

18 Mr. Chairman, from what we've been
19 speaking about here for the last couple
20 minutes, the amendments that we're calling
21 the administration's amendments...

22 COUNCILMAN COHEN: We're calling
23 them proposed suggestions.

24 COUNCILMAN MARIANO: The proposed
25 administration amendments. I'd be willing to

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2 introduce them, if that makes this a stronger
3 bill.

4 And I want to answer a question
5 possibly that Mr. Grace wasn't willing to
6 answer or couldn't answer. And I don't
7 pretend to be a legal expert on anything.

8 But what I read out of the question
9 that Councilman Kenney asked about 17.1206
10 triple a, and I think Councilman Clarke,
11 who's not a committee member but was here
12 yesterday, and I who am a committee member
13 was here yesterday, we made it pretty clear
14 that we didn't -- just our two personal
15 opinions, we didn't want to be involved in
16 contracts, with giving contracts, bids, no
17 bids. It's not what we came to City Council
18 for.

19 And I think this amendment that
20 triple a... 1712-06 triple a that Councilman
21 Kenney questioned Mr. Grace on, that would
22 take us out of the process of bidding on --
23 being involved with contracts.

24 And again, I want to take the point,
25 I'd be happy to submit these amendments as my

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2 amendments, if it keeps us out of the
3 contract process.

4 Mr. Chairman, when we started this
5 whole process -- And, you know, Councilman
6 Nutter has surely worked and put many hours
7 on this -- this was supposed to be about
8 ethics reform.

9 And ethics reform is why we have all
10 the well learned people from the editorial
11 boards sitting here, figuring out that this
12 is something that they think the City needs
13 to go on into the next... whatever we're
14 supposed to go onto, because of obviously
15 what's happened with the federal corruption
16 trial.

17 And I for one don't see this as
18 ethics reform. And I... You know, this is a
19 shot. What happens, there comes a time in
20 your life, a time in your political life and
21 in your legislative life, when you have to go
22 against people that you think are doing a
23 decent job in other things.

24 I think Councilman Nutter started
25 out well with ethics reforms. I think we had

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2 Councilman -- former Councilman McElhatten
3 here talking about what him and Judge Chen
4 did about an ethics board.

5 I don't know how we can have ethics
6 reform and not have an ethics board. I mean,
7 we talked about things that we didn't like as
8 Council people, nepotism, that some Council
9 people obviously have a problem with giving
10 out contracts. Some people want to do it;
11 some people don't want to do it.

12 I mean, this is not ethics reform.
13 I mean, how can we have ethics reform and not
14 have an ethics bill?

15 I've been a Councilman for two terms
16 and half of a third term. A new freshman
17 Council person doesn't know where to turn.

18 As a Councilman for two terms and
19 half of a third term, I don't know where to
20 turn. Do you talk to the Inspector General?
21 Do you talk to the District Attorney? Who do
22 you talk to? The City Solicitor?

23 You may get three different pretty
24 learned opinions on those three for the same
25 subject.

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2 Again, if we're here for ethics
3 reform -- and I know the Councilman is trying
4 to get to a place where he can get something
5 passed here -- well, let's not just pass
6 something that a lot of us don't want.

7 It may get out of this committee,
8 but it may not get out of Council as a whole,
9 and it may not be ethics reform when we're
10 done doing it.

11 If these amendments that the
12 administration brought up, it's obvious to me
13 they're to keep us out of the contract
14 process. That's what that sounds like to me.

15 COUNCILMAN KENNEY: Mr. Chairman,
16 I'm curious. I just would like to know if
17 Councilman Mariano could explain how we're in
18 the contract process.

19 COUNCILMAN MARIANO: We're not.
20 We're trying to get in that, aren't we?

21 COUNCILMAN KENNEY: No.

22 COUNCILMAN MARIANO: Isn't that what
23 this is about?

24 COUNCILMAN KENNEY: No. I don't
25 think this bill does that at all.

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2 COUNCILMAN MARIANO: That's not what
3 it does?

4 COUNCILMAN KENNEY: This bill, as I
5 understand it -- and Councilman Nutter can
6 speak for himself -- is to create a
7 transparent process that the public can
8 understand, as when it comes to the awarding
9 of no bid professional service contracts.

10 We are not in the process of
11 awarding professional service contracts now,
12 nor the passage of this legislation will we
13 be.

14 It will be a transparent process
15 that people can view, understand who
16 represents who, who's in the mix, who the
17 consultants they are hiring, how much money
18 they have given to campaign candidates or to
19 elected officials.

20 It really has nothing to do with us
21 getting involved in the awarding of any
22 contracts.

23 COUNCILMAN MARIANO: Well,
24 Councilman --

25 COUNCILMAN KENNEY: I don't read it

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2 anywhere like that.

3 COUNCILMAN MARIANO: -- the way I
4 read it is... We yesterday sat here and said
5 we didn't want to be involved in contracts,
6 period.

7 Maybe I misspoke and said we're
8 going to award -- I don't think we're going
9 to award contracts. I don't want to be
10 involved at all.

11 COUNCILMAN KENNEY: Councilman --

12 COUNCILMAN KENNEY: I don't want to
13 have nothing to do with it, and I don't want
14 to be able to have a transparent process.

15 That process is there right now.
16 There may be a couple no bid contracts that
17 commissioners came up here and said that they
18 need -- For instance, L & I needs some kind
19 of leeway.

20 And I think I heard Councilman
21 Nutter saying he understands no bid
22 contracts.

23 I mean, If I'm wrong here, I'd be
24 willing to admit it. Maybe you could explain
25 it to me. I just don't see this.

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2 COUNCILMAN KENNEY: I just don't
3 understand how you think the process is
4 transparent.

5 COUNCILMAN MARIANO: I don't see it
6 as transparent.

7 COUNCILMAN KENNEY: No, no. How
8 this process --

9 COUNCILMAN MARIANO: This --

10 COUNCILMAN KENNEY: -- is
11 transparent.

12 COUNCILMAN COHEN: One at a time,
13 please.

14 COUNCILMAN MARIANO: How this
15 process is transparent?

16 COUNCILMAN KENNEY: Existing... The
17 way we award no bid contracts, now how is it
18 transparent?

19 COUNCILMAN MARIANO: The way we
20 award no bid processes is on the
21 administration sitting on the second floor.
22 I don't have anything to do with that.

23 COUNCILMAN KENNEY: That's not --
24 That's not --

25 COUNCILMAN MARIANO: And neither do

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2 you, right?
3 COUNCILMAN KENNEY: That's not --
4 COUNCILMAN MARIANO: Do you want to
5 have anything to do with that?
6 COUNCILMAN KENNEY: No. If we pass
7 this bill with Councilman Nutter's amendments
8 we won't --
9 COUNCILMAN MARIANO: Will we have
10 something to do with that then?
11 COUNCILMAN KENNEY: Nothing at all.
12 COUNCILMAN MARIANO: Well, then
13 explain to me what the difference will be
14 between now and then.
15 COUNCILMAN KENNEY: Transparency.
16 Transparency.
17 COUNCILMAN MARIANO: Explain
18 transparency.
19 COUNCILMAN KENNEY: Disclosure.
20 Campaign --
21 COUNCILMAN MARIANO: Maybe
22 Councilman Nutter will explain it.
23 COUNCILMAN NUTTER: I'll be glad to.
24 COUNCILMAN MARIANO: Thank you,
25 Councilman.

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2 COUNCILMAN COHEN: Councilman
3 Nutter, would you give your answer?

4 COUNCILMAN NUTTER: Sure. Let me go
5 back to the first issue that Councilman
6 Mariano raised.

7 In Section 17-1206, it does not put
8 the City Council into the contracting
9 process. This is a specific provision
10 regarding a type of contract called sole
11 source.

12 COUNCILMAN MARIANO: Sole source.

13 COUNCILMAN NUTTER: Sole source
14 contracts. That's a contract from which you
15 can pretty much find only one person or
16 entity to --

17 COUNCILMAN MARIANO: For instance,
18 that could be someone who, like, washes the
19 trucks of the City, a Fleet service guy that
20 had won a contract, and probably does it.

21 And then next year no one applies
22 for that contract, and they award that to him
23 or her anyhow? Would that be a sole source
24 contract?

25 COUNCILMAN NUTTER: Councilman --

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2 Well, you're looking at 17-1206. No --

3 COUNCILMAN MARIANO: Would my
4 example be a sole source contract?

5 COUNCILMAN NUTTER: No.

6 COUNCILMAN COHEN: One at a time,
7 please.

8 COUNCILMAN NUTTER: No. It's a
9 contract for purchase of unique article or
10 articles which for any other reason cannot be
11 obtained in the open market.

12 COUNCILMAN MARIANO: Okay.

13 COUNCILMAN NUTTER: You're usually
14 talking about something like a malarial serum
15 or some other product that is so unique
16 there's virtually nowhere else to find it.

17 There are probably a fair number of
18 people who might want to wash trucks. So,
19 that more than likely wouldn't qualify as a
20 sole source contract.

21 This issue with regard to
22 transparency, again, the Council, in most
23 instances, is not involved directly. And
24 Councilman, you and I had some conversation
25 yesterday on the record about this.

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2 But the issue of transparency is
3 really more about that there would be an
4 actual process of how the no bid contracts
5 are awarded.

6 And so, under this proposal, you
7 would be able to either go in the City's web
8 site or go to the offices of either the
9 Procurement Commissioner, the Finance
10 Director, or the Commerce Department, and see
11 what professional services contracts are
12 available for bid or go on the City's web
13 site.

14 You would then have to fill out an
15 application that you wanted to apply for
16 such. You would know what all of the
17 criteria are for the award of that contract.

18 And list who your subcontractors are
19 gets into the whole area of disclosure of
20 certain information regarding campaign
21 contributions, as well as consultants, if
22 you've hired someone to help you... assist
23 you in the process of securing the contract.

24 You know what the criteria are for
25 the award of the contract. It anticipates

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2 that the City would still be able to award
3 the contract to whoever they thought was the
4 best. And so, it doesn't restrict you to the
5 lowest responsible bidder.

6 After the award is made, that
7 information would be shared publicly, again,
8 on the same web site and in those same
9 offices, as to who won, who the other bidders
10 were, and if we did not take the lowest
11 responsible bidder, why.

12 And then there are a series of
13 additional disclosure requirements, as well
14 as reporting requirements on no bid
15 contracts, how many we've let, what the
16 amounts are, how much has been paid, and that
17 kind of information. That's the process that
18 would be established --

19 COUNCILMAN MARIANO: Could you
20 explain that, that part --

21 COUNCILMAN NUTTER: -- which
22 basically doesn't exist today.

23 COUNCILMAN MARIANO: -- that part to
24 me a little more.

25 COUNCILMAN NUTTER: Which part?

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2 COUNCILMAN MARIANO: The disclosure
3 processes a little deeper, as far as campaign
4 contributions go?

5 COUNCILMAN NUTTER: Sure.

6 COUNCILMAN MARIANO: And that's your
7 amendment, but their amendment here that
8 Councilman spoke about, what would that do if
9 this happened, that we couldn't get any
10 answer from Joe Grace.

11 COUNCILMAN KENNEY: No. He hasn't
12 answered yet.

13 COUNCILMAN NUTTER: Hold it. What
14 are you talking about?

15 COUNCILMAN KENNEY: This is triple
16 i.

17 COUNCILMAN MARIANO: Triple i.

18 COUNCILMAN NUTTER: Triple i is a
19 very narrow issue about legal services, I
20 believe.

21 COUNCILMAN KENNEY: Yes. Mr.
22 Grace --

23 COUNCILMAN NUTTER: This is under a
24 sole source contract. And what you're
25 talking about here is...

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2 COUNCILMAN MARIANO: That's what
3 we're talking about, sole source contracts,
4 right?

5 COUNCILMAN NUTTER: I was explaining
6 the overall process --

7 COUNCILMAN MARIANO: Okay.

8 COUNCILMAN NUTTER: -- of what this
9 transparency is all about.

10 COUNCILMAN MARIANO: Well, can we
11 get into this sole source contract here just
12 a little bit?

13 COUNCILMAN COHEN: Can I ask you to
14 pause for a moment?

15 Mr. Grace, would you sit again in
16 the witness chair. And do you have -- Since
17 this is your amendment, do you have any
18 explanation for it? I mean, it's the
19 administration amendment.

20 MR. GRACE: I do, Mr. Chairman.
21 Thank you.

22 COUNCILMAN COHEN: Triple i.

23 MR. GRACE: Triple i is meant to
24 cover situations in which the Law Department
25 might feel it needs to hire outside counsel,

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2 whether it would be to investigate or review
3 a civil matter, a potential lawsuit, perhaps,
4 against someone with whom the City does
5 business.

6 COUNCILMAN MARIANO: So, Mr. Grace,
7 we're not buying malaria serum from these
8 people? I'm getting a little confused. The
9 Councilman was talking about malaria serum.

10 MR. GRACE: What triple i,
11 Councilman, is --

12 COUNCILMAN NUTTER: Talking about i.

13 COUNCILMAN MARIANO: That's I?

14 MR. GRACE: But to each of the
15 Councilmen who had this inquiry. What it's
16 meant to protect is the Law Department not
17 exposing a privilege if they hire or actually
18 to disclose that the Law Department is
19 looking into something, be it... Again, a
20 civil dispute is the best example.

21 Perhaps a contractor is doing work
22 with the City and has done unqualified or
23 shoddy work. And the Law Department retains
24 outside counsel to look into that matter to
25 prepare for a potential lawsuit.

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2 They -- The Law Department's
3 position is they, wouldn't want to expose
4 that information before the lawsuit was
5 prepared and filed, in the best interests of
6 the City.

7 So that really -- That goes to the
8 heart of what triple i --

9 COUNCILMAN MARIANO: Would this --

10 MR. GRACE: -- why triple i was
11 drafted.

12 COUNCILMAN MARIANO: Would this
13 triple i would cause that?

14 MR. GRACE: No. It would protect
15 the Law --

16 COUNCILMAN MARIANO: For someone
17 who --

18 MR. GRACE: It would protect --

19 COUNCILMAN MARIANO: Their interest?

20 MR. GRACE: -- the Law Department.

21 COUNCILMAN MARIANO: So I guess we
22 don't agree with that.

23 COUNCILMAN KENNEY: No.

24 Mr. Chairman, I just want to make
25 sure that it's clear. Would the

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2 administration be favorably -- would look
3 favorably upon the disclosure of all the
4 information after the issue at hand was over?

5 For example, if you were hiring a
6 law firm to conduct an investigation about a
7 possible fraud, once that contract was
8 awarded, once the information in the report
9 was completed, would they be opposed to
10 releasing the same disclosure information for
11 that hired firm after the secrecy is -- need
12 for secrecy is left?

13 MR. GRACE: Councilman, I'll
14 certainly check with the Law Department. I
15 understand your question completely. It does
16 seem to be after the time which we would be
17 most concerned about disclosing that
18 information. I'll check with the Law
19 Department, and I'll get back to you.

20 COUNCILMAN KENNEY: Thank you.

21 MR. GRACE: I understand your
22 question.

23 COUNCILMAN KENNEY: Okay. Thank
24 you.

25 COUNCILMAN COHEN: Does that resolve

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2 the issue?

3 COUNCILMAN MARIANO: No. I mean,
4 the Councilman was explaining to me -- And I
5 think we had a process here.

6 COUNCILMAN NUTTER: Yeah.
7 Councilman, so, tell me exactly -- Your
8 question is around sole source contracts?
9 What's the question?

10 COUNCILMAN MARIANO: My first
11 question -- Besides its not really being
12 ethics reform, but I'll give you the benefit
13 of the doubt that it's a start towards ethics
14 reform.

15 Now, Councilman Kenney just asked
16 Mr. Grace a question which he didn't have an
17 answer for, but I suppose we'll have an
18 answer. So, are we going to wait until he
19 comes back with an answer or are we going to
20 push this stuff through? What's going to
21 happen? We still have to go to a public
22 hearing.

23 COUNCILMAN NUTTER: What's the
24 question about sole source contracts?

25 COUNCILMAN MARIANO: My question

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2 about sole source contracts is, why is that
3 transparency necessary?
4 And better question than that is, he
5 explained to me why he thought it wasn't.
6 The way Councilman Kenney framed it, it makes
7 sense. Why would transparency --
8 COUNCILMAN KENNEY: Point of
9 information.
10 COUNCILMAN MARIANO: I'm not against
11 that, Councilman.
12 COUNCILMAN KENNEY: Point of
13 information.
14 COUNCILMAN MARIANO: This makes
15 sense, what he said.
16 COUNCILMAN KENNEY: Point of
17 information.
18 I asked Mr. Grace a specific
19 question, which he's given me an 85 percent
20 answer to which has nothing to do with the
21 question that you're asking --
22 COUNCILMAN MARIANO: Okay.
23 COUNCILMAN KENNEY: -- Councilman
24 Nutter. The two of them are just totally
25 different.

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2 COUNCILMAN MARIANO: The
3 transparency thing, then, doesn't --

4 COUNCILMAN KENNEY: No.

5 COUNCILMAN MARIANO: -- remain
6 through our conversation?

7 COUNCILMAN KENNEY: The reason that
8 I asked Mr. Grace about triple i was because
9 I wanted to know the reason for the lack of
10 transparency in that particular contracting
11 hire.

12 He explained to me that you don't
13 want to show your cards when you're
14 investigating something quietly.

15 I asked him then, would they be
16 willing to disclose the necessary information
17 post the issue being over.

18 And he said he would get me an
19 answer.

20 But the question -- The colloquy
21 you've had with Councilman Nutter has nothing
22 to do --

23 COUNCILMAN MARIANO: To do with
24 that?

25 COUNCILMAN KENNEY: -- with triple

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2 i.

3 COUNCILMAN MARIANO: Well, triple i
4 was the thing that brought my attention to
5 it.

6 I figured, if they're sending
7 something up here... If the City solicitor
8 or the Chief of Staff is sending something
9 up, we should look at it. Even if it doesn't
10 make it out of this committee, I needed to
11 know what that was.

12 And I may have been a little
13 confused. And I think you just straightened
14 it out by what you said.

15 COUNCILMAN KENNEY: I don't --
16 Personally, speaking for myself, I don't --
17 After Mr. Grace's explanation, I don't
18 necessarily disagree with their proposal.

19 I just wanted a little clarification
20 on whether or not the disclosure would be
21 okay after the secrecy -- the need for
22 secrecy was over.

23 COUNCILMAN MARIANO: So, when I
24 started out my comments, I said I would be
25 willing to introduce these amendments, if the

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2 Chairman didn't deem for himself to do it,
3 just to make this ethics reform thing last --
4 I mean, actually be better.

5 If the amendment doesn't help it be
6 better, then we won't do it.

7 But I think necessarily just because
8 it was sent up -- And I'm not saying anybody
9 here is doing that or would do that, but just
10 because it comes up via Joe Grace and the
11 second floor, it's automatically bad.

12 COUNCILMAN NUTTER: Well --

13 COUNCILMAN MARIANO: Just because
14 I'm speaking on it, and I'm supposed to be in
15 the Street column, it's automatically bad.

16 COUNCILMAN NUTTER: Councilman, let
17 me try to --

18 COUNCILMAN MARIANO: Councilman, if
19 I could finish the sentence, please.

20 COUNCILMAN NUTTER: Sure. Go ahead.

21 COUNCILMAN MARIANO: I mean, we are
22 elected independently, and we are elected to
23 service our constituency in the City as a
24 whole, and we all seen different ways to do
25 that.

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2 But I mean, if we're going to have
3 real, true ethics reform, we should be
4 talking about this and many other things.

5 COUNCILMAN NUTTER: Right.

6 COUNCILMAN MARIANO: This is our one
7 big chance to do it.

8 I won't do anything here -- And I'm
9 not saying anybody else does; I'm being
10 guarded in what I say -- to make any
11 editorial boards happy because I frankly
12 don't care what they think.

13 If you read my letter to the
14 Inquirer board Monday, you'll understand
15 that. They don't vote for me. They don't
16 live in my District. And I'll bet you half
17 of them don't live in the City. And I said
18 that time and time again. I care more what
19 the people in my District speak.

20 I just want to say, if we're going
21 to do ethics reform -- And we may not be all
22 thinking about this 24 hours a day, 7 days a
23 week.

24 You know, we have meetings. We have
25 hearings. We speak to Councilman Nutter in

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2 his office. He's always there when you call
3 him; I'll give him that. He'll take all the
4 time.

5 But you go away. You do things with
6 your family. You come back. And things have
7 automatically changed. I was out a week with
8 a sore back. Things have changed. All of a
9 sudden, the ethics board's off the table.

10 Now we're talking about transparency
11 in contracts, and that makes sense. That
12 makes sense. But I want to make sure if we
13 do this, let's do it right and let's listen
14 to everybody.

15 And I understand there's a time
16 thing here to try to get it so it can get on
17 the ballot in the May primary for the things
18 that are important.

19 I for one am not trying to stop
20 anything. I just want to make sure, when I
21 talk to the people in my District that are
22 concerned about this... When I talk to --
23 Well, I don't talk to the editorial board,
24 but when I talk to one of the reporters or
25 columnists I know what I'm talking about.

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2 Now, we all have different skills
3 and different levels of intelligence, but I
4 would surely say the average person reading
5 one of these papers or listening to this news
6 station tonight, they don't know what ethics
7 reform means. They just want to see somebody
8 on the second floor go to jail or not go to
9 jail. That's what it's about.

10 We're playing a dangerous game here.
11 Are we going to do something that handicaps
12 future mayors? Are we going to do something
13 that handicaps -- I don't know those answers,
14 but those are the questions that I think have
15 to be answered.

16 Thank you, Mr. Chairman.

17 COUNCILMAN COHEN: Mr. Grace.

18 COUNCILMAN MARIANO: Mr. Nutter.

19 MR. GRACE: I wanted to comment
20 that --

21 COUNCILMAN NUTTER: May I just
22 respond to one item that the Councilman
23 raised?

24 Councilman Mariano, I want to assure
25 you that I took very seriously the materials

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2 that were sent up earlier today.

3 There's been no opinion made with
4 regard to where the work product came from.
5 The opinion has been solely in the realm of,
6 at least, again, from my perspective, what
7 works and what seeks to accomplish the goal.

8 You will find, when we get to the
9 amendments, there are any number of
10 recommendations in the amendments that were
11 sent up by the administration that I will
12 seek to incorporate in the larger set of
13 amendments.

14 Those, for whatever reason that I
15 might not agree with, have nothing to do with
16 where they came from and are solely to do
17 with what they're about. And so, I just want
18 to assure you of that.

19 Thank you, Mr. Chairman.

20 COUNCILMAN MARIANO: I firmly
21 believe that.

22 And I'd just like to respond to
23 that. I do believe that. And I do think we
24 have a working relationship. And I think we
25 need to have a working relationship.

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2 I just want to make sure -- and I'm
3 not saying you're doing it -- You're up
4 there, and please don't take it personal, but
5 I have to be able to live with myself. And
6 in the vernacular that I'm used to, I just
7 want to make sure we're not giving anything
8 the bum rush.

9 Call me paranoid. I'm not saying
10 you're doing it. I'm not saying Councilman
11 Kenney is doing it. We're just under the gun
12 here now. We were under the gun for the last
13 couple times we were in this committee to get
14 to a point that the Chairman who has the
15 authority to let this committee be where it
16 is, gets to.

17 Now, this is where we're at now.
18 Now we're sort of under the gun. And I don't
19 believe that we have total ethics reform.

20 We're looking at something. We're
21 talking about contracts, and that's something
22 that has to be done because I understand the
23 angst that a lot of us have with that. I
24 think that's the right word. There's a
25 certain amount of discomfort with what's

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2 going on all over the press day to day here.

3 But if we are going to do something
4 here, let me be the voice of reason. Not
5 that you're not. Let's do it totally and
6 completely. That's all.

7 I mean, we can go back and forward
8 all day with this. Believe me, I love you
9 all. But let's do this right. And not that
10 we're not doing it right. But let's take our
11 time and listen to the Committee Chairman,
12 and get to a point where we're comfortable
13 with amendments or not. That's all.

14 COUNCILMAN COHEN: Mr. Grace, you
15 were...

16 MR. GRACE: I wanted to clarify and
17 perhaps have a hundred percent answer for
18 Councilman Kenney on this question on triple
19 i of section 1206.

20 We would be... The Law Department
21 would be okay with disclosure after the fact,
22 as long as it would not detail any
23 disclosure, Councilman, of any privileged
24 information, illegally privileged
25 information.

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2 COUNCILMAN KENNEY: Just
3 anecdotally, one of the good example -- well,
4 a bad example, I guess, of a sole source
5 contract in recent memory was the turf at the
6 Vet. That was a sole source contract that
7 didn't work out too well. And maybe a little
8 bit of transparency and competition in that
9 selection process may have paved -- may have
10 been better off for the taxpayer than it
11 seemed to be today. So... I mean, even
12 though the Vet's demolished.

13 COUNCILMAN MARIANO: Mr. Chairman,
14 can I ask Mr. Grace a question, please?

15 COUNCILMAN COHEN: What's that?

16 COUNCILMAN MARIANO: Can I ask Mr.
17 Grace a question?

18 COUNCILMAN COHEN: Yes.

19 COUNCILMAN MARIANO: Mr. Grace, this
20 17-1206, the amendments that you brought up
21 from the administration, do you believe that
22 that would good give us -- would give us as a
23 Council in this City, if this all happens,
24 more flexibility? And if you do, why? And
25 if you don't, why? I am intrigued by this.

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2 I really am.

3 MR. GRACE: The purpose of that
4 section in the amendment, Councilman, is to
5 do exactly that, to create some flexibility
6 for the administration, whatever
7 administration is operating the City, to be
8 able to... whether it's for a contract
9 concerning the health and welfare of the
10 citizenry or a legal investigation or a
11 legally proprietary matter, such as under
12 triple i which Councilman Kenney inquired
13 about.

14 It's simply to create some
15 flexibility so that professional service
16 contracts in those type of settings could be
17 moved forward with expeditiously, as opposed
18 to following all of the process contained in
19 this new bill 040772. Flexibility is exactly
20 the reason for that section of the amendment.

21 COUNCILMAN MARIANO: Thank you. I'm
22 done with him.

23 Thank you, Mr. Chairman.

24 COUNCILMAN COHEN: Councilman
25 Mariano, let me try an explanation. As I

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2 understand it, this charter bill that we're
3 presenting in resolution deals with putting
4 constraints basically on the City
5 administration, not the City Council, since
6 it's the City administration that awards the
7 contract.

8 There is a general feeling that
9 Council members, although they may not have
10 direct influence in the award of contract,
11 are in a position to influence the award.

12 Now, I've heard people refer to
13 situations such as Council members,
14 particularly District Council members, work
15 with developers. They're supposed to know
16 the needs of their District. And that
17 because they work with developers or urge
18 certain developers to show them interest in
19 their District, that they will have some
20 influence with respect to the award of the
21 contract.

22 At the same time, all the District
23 Council members I talked to tell me they have
24 nothing whatever to do with the awarding of
25 contracts.

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2 And I know when I was a District
3 Councilman in the 8th District for three
4 years, no one in the then administration ever
5 consulted me about any contract.

6 They were interested maybe in my
7 views maybe as to the desirability of a
8 development. But as soon as I said yes, that
9 was the last I heard. Then the
10 administration, if it were also interested,
11 would take over.

12 Now... But since the City
13 administration goes through the process with
14 the developer, and works out and makes the
15 final decision, and since the federal charges
16 that are going on seem to have caused a lot
17 of concern of people as to how that process
18 works, we're trying in this bill to establish
19 a process that governs that award of
20 contracts.

21 In the award of contracts, there are
22 two kinds of contracts, those that can be bid
23 where the lowest responsible bidder under
24 current law gets the contract. And that's
25 easy to deal with because it's easy to check.

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2 You check the amount of money that they're
3 going to ask for doing certain amount of
4 work, and you check it as against other bids.
5 And that's it.

6 But then there's this other area of
7 work where there is no such -- where there's
8 these special needs businesses where there
9 are other criteria other than the cost of the
10 project. And it's that area that most of the
11 problems result in.

12 What is that process? This bill
13 will attempt to make clear what Council
14 believes is the best road that we now know,
15 to guarantee as much knowledge on the part --
16 much knowledge and openness on the part of
17 both City administration and knowledge
18 available to the people as to the process.

19 And the sole source contracts are
20 even a subdivision of that area, where the
21 claim is that there's only one bidder -- only
22 one person offering the service. What's the
23 process to be used then? Because that's
24 the --

25 COUNCILMAN MARIANO: Mm-hmm.

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2 COUNCILMAN COHEN: -- particular
3 niche where most of the problems can develop.

4 Since the administration would have
5 the clear answer, well, we gave it to so and
6 so because he was the only bidder or she was
7 the only bidder, the only one offering that
8 service. Now, that's all we're dealing with.

9 But we're trying in this bill -- And
10 Councilman Nutter, I'd like you to correct me
11 if you read it differently -- we're trying --
12 We in City Council here are acting on this
13 resolution and bill because we agree that the
14 public is entitled to know more about how
15 contracts are awarded, and to make it clear
16 that in Philadelphia, to the extent this
17 legislative body can control it, the process
18 is going to be open to the public.

19 And we are no longer content with
20 letting strange things occur or permitting
21 suspicion among our residents as to how this
22 contract was awarded.

23 We want as much openness as
24 possible. And what we're struggling to do is
25 to find a way to that openness of process.

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2 COUNCILMAN MARIANO: I understand
3 that, Councilman. And on that point, I just
4 want to make it clear, I agree with you. And
5 I think I agree with Councilman Nutter and
6 Councilman Kenney, and everyone else here.

7 I just want to make sure... I don't
8 want to be involved in giving any contracts.
9 I want to make sure there's nothing here
10 that's going to have me or anybody else here
11 involved with that.

12 And I don't think that's the point,
13 from what you're saying, and from what I'm
14 getting from Councilman Nutter and Kenney.

15 COUNCILMAN NUTTER: That's correct.

16 COUNCILMAN MARIANO: This one
17 here -- But on that point, what the
18 administration sends up here, I'm going to
19 ask both of you, would that weaken what
20 we're trying to do, at first glance at this?

21 I mean, you had a little more time
22 at this, Councilman Nutter, to see this,
23 about an hour more than we did. Would those
24 amendments that Mr. Grace brought up weaken
25 us from doing what Councilman Cohen just

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2 explained to us, explained that we're trying
3 to do?

4 COUNCILMAN NUTTER: Councilman, I
5 hate to give you this kind of answer --

6 COUNCILMAN MARIANO: No; that's
7 fine.

8 COUNCILMAN NUTTER: It really
9 depends on which section of the proposed
10 amendments you're talking about.

11 Clearly, some of the amendments the
12 administration have sent up make material
13 improvements, provide clarity, take out words
14 that should not be in certain places, and
15 have done a couple other things that are, you
16 know, more than fine or they are logical.

17 COUNCILMAN MARIANO: And Councilman,
18 on that point --

19 COUNCILMAN NUTTER: In some places
20 there is --

21 COUNCILMAN MARIANO: -- on that
22 thought, are we going to use that stuff?

23 COUNCILMAN NUTTER: Yes.

24 COUNCILMAN MARIANO: Okay.

25 COUNCILMAN NUTTER: But in some

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2 places I would suggest that there is a direct
3 weakening or broadening of loopholes, that
4 allow for either less transparency or more
5 activity that, quite frankly, the original
6 purpose of which was to restrict.

7 So, you know, as I said, I'd be
8 prepared to go through the items that I think
9 are, you know, good or acceptable or, you
10 know, create additional problems or weaken
11 the original purpose.

12 COUNCILMAN MARIANO: Okay. Thank
13 you.

14 COUNCILMAN NUTTER: There are some
15 good things that came up.

16 COUNCILMAN COHEN: Councilwoman
17 Blackwell.

18 COUNCILWOMAN BLACKWELL: Thank you.
19 Thank you, Mr. Chairman.

20 COUNCILMAN COHEN: The Committee's
21 very pleased by the attendance of non-members
22 of the committee of this hearing because this
23 subject affects everybody. And we hope every
24 Council member is busily studying this issue
25 and participating.

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2 Councilwoman Blackwell.

3 COUNCILWOMAN BLACKWELL: Thank you,
4 Mr. Chairman.

5 We are really concerned that the...
6 about legislation that is supposed to provide
7 for disclosure and to make life simpler, only
8 to make it more complicated.

9 For example, we know that the Mayor
10 at the Chamber of Commerce this past week
11 talked about increasing minority and women
12 business participation to percent before he
13 leaves office.

14 And all of us who are very busy,
15 especially doing housing in our
16 neighborhoods, have minority contractors
17 knocking at our door all the time about any
18 project.

19 Any time they see a shovel put in
20 the ground, they call us or come and visit
21 our offices about trying to get work.

22 So, you know, this section four that
23 says a contractor has to disclose the name
24 and title of each office --

25 COUNCILMAN NUTTER: Councilwoman --

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2 COUNCILWOMAN BLACKWELL: -- City

3 officer or employee...

4 COUNCILMAN NUTTER: I'm sorry.

5 COUNCILWOMAN BLACKWELL: Yes.

6 COUNCILMAN NUTTER: Can you just

7 tell me what section you're in?

8 COUNCILWOMAN BLACKWELL: Section 4

9 of 1722. Is that 17? It's on Page 8.

10 COUNCILMAN NUTTER: You're on Page

11 8?

12 COUNCILWOMAN BLACKWELL: Yeah.

13 COUNCILMAN NUTTER: Okay.

14 COUNCILWOMAN BLACKWELL: Now, you

15 know, this legislation says, in dealing with

16 participation of disadvantaged business

17 enterprises, that a City officer or employee

18 who directly or indirectly advises a

19 contractor, dealing with any of the goals,

20 has to disclose the date, the advice was

21 provided, the name of the person, et cetera,

22 et cetera, et cetera.

23 I have three people in my office who

24 deal with minority participation. I have two

25 people who go to a Penn meeting every month

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2 who talk about minority participation. You
3 know, I don't -- you know, and who can be
4 viewed as employees. They're employees of
5 the City.

6 So, it seems to me that this
7 legislation could further complicate the
8 process, not make it simpler, and not even
9 end up with anybody getting any work to boot.

10 Any time we were down to two
11 percent, it means that we have some issues in
12 this City. But I frankly don't see how this
13 disclosure information... doesn't do anything
14 but further complicate and exacerbate the
15 process.

16 COUNCILMAN NUTTER: Is that a
17 question for me?

18 COUNCILWOMAN BLACKWELL: Yes.

19 COUNCILMAN NUTTER: Okay. I guess I
20 would say two things. One, first, it would
21 seem to me that the advertising or the
22 keeping of, essentially, a list or a log in
23 the three agencies mentioned, as well as a
24 listing on the City's web site of these
25 opportunities for no bid contracts might, if

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2 not should, increase participation
3 opportunities for all types of business
4 people, but certainly and specifically
5 disadvantaged business enterprises which is
6 what's being referenced in the section,
7 because more people will know about the
8 opportunities that are available by accessing
9 the City's web site.

10 Second, if the case should arise
11 that a firm is recommended, all the section
12 is requesting is that as a part of your
13 application process, as you seek to do this
14 work, that if a firm has been recommended by
15 someone from the City, that you would just
16 disclose it on your form.

17 I don't see how that complicates
18 anything. You're just providing an
19 additional piece of information.

20 COUNCILWOMAN BLACKWELL: At this
21 point, if I have ten people waiting outside
22 my office, if I have three contractors who --
23 let's say three minority contractors, who are
24 interested in work, you know, you talk to
25 them. They talk about a project going on in

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2 your District. They say they want
3 information about it.

4 And you can refer them to a
5 developer or to the City Procurement
6 Department or MBEC or somebody.

7 But now you're saying that... And
8 those who are interested in projects already
9 know how to access -- those contractors who
10 are involved already, know where to go and
11 where to apply. And the others you refer to
12 the people doing the work in your District.
13 How does this make life simpler?

14 COUNCILMAN NUTTER: What's the
15 issue?

16 COUNCILWOMAN BLACKWELL: The issue
17 is, this calls for disclosure by my employee.
18 It says the City employee. This says the
19 City officer because somebody comes in and
20 ask about a contract.

21 COUNCILMAN NUTTER: Councilwoman,
22 the only person that has to provide any
23 disclosure is the applicant, the person is
24 actually seeking the contract. They're the
25 only ones who have to provide any

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2 information.

3 COUNCILWOMAN BLACKWELL: So they
4 have to -- Say they came to my office on "X"
5 date at "X" time. So if there's ever any
6 legal question... I have no intention on
7 trying to remember -- I don't even require
8 that my staff keep a list indefinitely of my
9 appointments. There are too many people we
10 see and meet with. I think this exacerbates
11 the process.

12 COUNCILMAN NUTTER: Councilwoman,
13 you're not being asked for any information.
14 The applicant on their form, all they have to
15 do is list, did anyone give you a recommended
16 firm to meet a disadvantaged business goal or
17 requirement for a particular contract that
18 that applicant is seeking.

19 The applicant has the responsibility
20 to provide the disclosed information, only
21 the applicant.

22 COUNCILWOMAN BLACKWELL: What, for
23 example --

24 COUNCILMAN NUTTER: You're not being
25 asked for anything, your staff doesn't have

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2 to do anything. The applicant has to provide
3 the information.

4 COUNCILWOMAN BLACKWELL: What, for
5 example -- Because we've already had
6 hearings, it's an easy question. We had
7 these gentlemen who have come who haven't
8 gotten paid at the airport. We had those
9 hearings.

10 COUNCILMAN NUTTER: You mean at the
11 stadium?

12 COUNCILWOMAN BLACKWELL: At the
13 stadium, I mean, right. So we have had -- We
14 had hearings on that.

15 What about those gentlemen coming to
16 see us who want to visit us, and it ends up
17 in some court litigation.

18 So then they say, well, I came to
19 Councilman Nutter's office on December 3rd at
20 10:00 a.m.

21 COUNCILMAN NUTTER: Yeah.

22 COUNCILWOMAN BLACKWELL: I mean, you
23 don't have to have records --

24 COUNCILMAN NUTTER: So what? That
25 has nothing to do with this.

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2 If you're applying for a no bid
3 contract, all this provision says is, as a
4 part of your application, if a firm was
5 recommended to you by someone from the City,
6 you just need to disclose it on your form.

7 COUNCILWOMAN BLACKWELL: So we're
8 not considered someone from the City then.

9 COUNCILMAN NUTTER: You are someone
10 from the City. You don't have to provide the
11 information.

12 COUNCILWOMAN BLACKWELL: So I don't
13 understand how you say we're not involved
14 then.

15 COUNCILMAN NUTTER: Because you're
16 not the one required to provide the
17 information. The applicant is required to
18 provide the information. You're not applying
19 for the contract.

20 COUNCILWOMAN BLACKWELL: But if it
21 ends up in a legal matter and someone says, I
22 visited Councilman Darrell Clarke's office on
23 November 2nd, 1990...

24 COUNCILMAN NUTTER: Yeah.

25 COUNCILWOMAN BLACKWELL: ...then he

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2 can get pulled into court about an issue over
3 which he had no real input. He can only
4 advise. He can only say, try this or go here
5 or talk to that person.

6 COUNCILMAN NUTTER: Right.

7 COUNCILWOMAN BLACKWELL: So it seems
8 to me that we're adding other bureaucratic
9 levels.

10 COUNCILMAN NUTTER: Well, if the
11 person is going to do that --

12 COUNCILWOMAN BLACKWELL: I think it
13 makes the system more complicated than less,
14 and gives us more bureaucracy than that which
15 we already have.

16 COUNCILMAN NUTTER: Well, if the
17 person's going to try to draw you into
18 something, whether they had to put it into a
19 form or not, that's what they're going to do.

20 This is a disclosure requirement for
21 the applicant. It has nothing to do with the
22 City person. You don't have to provide any
23 information to anybody about anything. It's
24 on the applicant. They're trying to get the
25 work.

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2 COUNCILMAN COHEN: But I think
3 Councilwoman Blackwell raises a question that
4 I've been raising in a different form for a
5 long time.

6 The City has stated policies that
7 seem to favor award of contracts to minority
8 vendors, whether they're women or minority,
9 on the basis of color or race or whatever,
10 but the City does absolutely zero in helping
11 these minority firms to deal with problems.

12 And the minority vendor maybe a
13 first-time new one and may have just started
14 a year or two ago; doesn't know where to go
15 or doesn't -- has trouble even sometimes
16 reading or understanding the nature of a
17 question.

18 If the City were serious about
19 seeking increases in the award of contracts
20 to minority vendors, the City would have some
21 kind of office operating that would be fully
22 available to every minority contractor to go
23 to for advice: What does this question mean
24 did I talk to anybody? Because the minority
25 vendor may have had no experience in dealing

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2 with those kinds of questions or in how to
3 answer them.

4 So, if there is -- But I'm not sure
5 that this -- this resolution or amendment to
6 the Home Rule Charter that we're discussing,
7 whether the question should be dealt with now
8 or at a later time.

9 But it seems to me if the City is
10 serious then with the minority mayor, it's
11 very hard to understand how it is that there
12 are fewer minority contracts being awarded
13 now than before there was a minority mayor in
14 the City.

15 And I attribute that solely to the
16 fact that the City seems to take the position
17 that if you seek to be a minority vendor,
18 you're on your own. You've got to find out
19 the rules. And that, to me, is not a helpful
20 gesture.

21 Councilman Mariano.

22 COUNCILMAN MARIANO: Councilman, on
23 that point, your point -- and to Councilwoman
24 Blackwell's point, I have a constituent who
25 will remain nameless, who's a minority, an

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2 African American gentleman who's a
3 construction contractor.

4 He comes to me about six months ago,
5 and he's having problems with the MBEC team.
6 And he's to a point where he can't understand
7 what's going on.

8 Now, if I'm a little sheepish on
9 this issue, I say, pal, I can't help you.
10 Because I don't want to get involved in this
11 crap.

12 Now, there's ways to do things. I
13 talk to him. I call Michael Williams. I
14 call his people. It takes two or three
15 months, but we eventually straighten it out,
16 and we get this to the point where this guy
17 gets to be a minority contractor.

18 Besides being African American --
19 He's obviously a minority; but, you know, he
20 had some partners that may or may not have
21 been, and there was some things he didn't
22 understand. We got him to the point.

23 Now, I don't think Councilman Nutter
24 or anybody in this Council wants to stop
25 that. Very many times if Councilwoman

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2 Blackwell is thinking of this or Councilman
3 Clarke or you or I, is my friend... We'll
4 call him Paul.

5 If he becomes sheepish and he's
6 afraid to talk to me or I'm the one that's
7 being sheepish, and I don't want to try to
8 help him, for all the wrong reasons -- That
9 may not be the intent of this legislation.
10 And I'm sure it's not.

11 But if that is being perceived by
12 the Majority Leader of Council and by other
13 people, where do we go? Do we just do this
14 thing or do we step back and try to figure
15 out... I mean, I'm reading through this
16 paper here, and there's a... This is just...

17 COUNCILMAN COHEN: I think we do
18 both, Councilman. I think we pass
19 legislation aimed at rooting out those things
20 which cause people outside the government to
21 lose confidence in government and at the same
22 time adopt steps to avoid the bad effects of
23 helping people.

24 COUNCILMAN MARIANO: Councilman, in
25 here, in section... This is 8-200, Page 3.

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2 It's bill...

3 COUNCILMAN NUTTER: You're in the
4 Resolution, Councilman. 818?

5 COUNCILMAN MARIANO: It's the
6 Resolution 040818.

7 COUNCILMAN NUTTER: Right.

8 COUNCILMAN MARIANO: Under Section
9 8-200... Can you read that or I can read
10 that? And you can see where my spider sense
11 goes up, to use that word. And I like to use
12 that word, so everybody knows that I still
13 read comic books.

14 COUNCILMAN NUTTER: Hold on for a
15 second.

16 COUNCILMAN MARIANO: But... Okay?

17 COUNCILMAN NUTTER: Go ahead.

18 COUNCILMAN MARIANO: Except in
19 persons of [sic] unique articles or articles
20 which for any other reason cannot be obtained
21 in the open market, competitive bids shall be
22 secured before any purchase by contract or
23 otherwise. If made is made or before [sic]
24 any contract is awarded for construction,
25 alteration, repairs or maintenance, as per

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2 renting any service in the City, other than
3 professional service, and the person shall be
4 made from or the contract shall be awarded to
5 the lowest responsible bidder [sic].

6 Now, that's what Councilman Cohen
7 was saying.

8 Provided, however, that City
9 Council -- Now my spider senses are
10 tingling -- City Council, may be awarded to
11 the lowest responsible bidder. We're
12 involved in bidding. My spider senses are
13 really... I don't want to be involved in
14 that.

15 COUNCILMAN NUTTER: Councilman.

16 COUNCILMAN MARIANO: Is that what
17 that says or do I just read something
18 wrong --

19 COUNCILMAN NUTTER: No. It says,
20 provided, however, that City Council may, by
21 ordinance, prescribe bid preferences for
22 businesses located in or doing business in
23 Philadelphia. That's presently in the Home
24 Rule Charter today.

25 COUNCILMAN MARIANO: But --

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2 COUNCILMAN NUTTER: That's not new
3 language.

4 COUNCILMAN MARIANO: But we can't do
5 that, Councilman?

6 COUNCILMAN NUTTER: We can. We've
7 already done it.

8 COUNCILMAN MARIANO: So if someone
9 from my District makes widgets, and the
10 City's buying the widgets from Camden, a
11 company in Camden, I can do something to get
12 them to at least put that guy in my District
13 or Councilman Clarke's District or your
14 district on the table? Is that what this is
15 about?

16 COUNCILMAN NUTTER: What that is
17 about --

18 COUNCILMAN MARIANO: Or am I reading
19 that wrong?

20 COUNCILMAN NUTTER: Yeah. That's a
21 previous matter that we dealt with two years
22 ago.

23 There is a bid preference program in
24 Philadelphia presently. It was designed to
25 help companies located in Philadelphia to

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2 give them a five percent bid preference on
3 bidding on contracts with the City, on the
4 theory that many outside the City companies
5 don't have the same operating costs as
6 companies in Philadelphia.

7 COUNCILMAN MARIANO: Okay.

8 COUNCILMAN NUTTER: All of the
9 language in the standard type is already in
10 there.

11 COUNCILMAN MARIANO: I know it. But
12 then now I got to keep reading --

13 COUNCILMAN NUTTER: In italics.

14 COUNCILMAN MARIANO: The italics is
15 what we're reading.

16 COUNCILMAN NUTTER: Yes.

17 COUNCILMAN MARIANO: Now, if I can
18 read the italics, by which purchases or
19 contracts not subject to the lowest
20 responsible bidder requirement this paragraph
21 [sic], are awarded, except that such
22 regulations may not require Council approval
23 by ordinance of a contract, unless Council
24 approval is required by some of the other
25 provisions of this Charter.

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2 COUNCILMAN NUTTER: Right.

3 COUNCILMAN MARIANO: Should I not
4 trust my spider sense or what is this, if you
5 could help me.

6 COUNCILMAN NUTTER: Well, I don't
7 know what your spider sense is telling you,
8 but --

9 COUNCILMAN MARIANO: It's something
10 to be aware of. You're talking about City
11 Council on bills.

12 COUNCILMAN NUTTER: Right. What
13 it's saying is that Council, under the
14 Charter, presently has no authority to
15 regulate or create a process for how no bid
16 contracts are awarded.

17 COUNCILMAN MARIANO: Okay.

18 COUNCILMAN NUTTER: This new
19 language is giving Council the authority by
20 ordinance to determine a process, which is
21 what we're discussing in the Bill 772.

22 COUNCILMAN MARIANO: Right. But I
23 thought we weren't going to get into the
24 process of doing contracts.

25 COUNCILMAN NUTTER: We will not be

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2 involved in the contracting process.

3 We're establishing by ordinance a
4 process, a series of procedures by which
5 contracts will be awarded, of which we are
6 not directly involved.

7 COUNCILMAN MARIANO: I don't want to
8 be involved in contracts as a Councilman.

9 COUNCILMAN NUTTER: You won't be
10 involved in contracts.

11 COUNCILMAN MARIANO: Or a process of
12 awarding contracts.

13 COUNCILMAN NUTTER: Well, that's a
14 different story.

15 COUNCILMAN MARIANO: It's the same
16 thing.

17 COUNCILMAN NUTTER: No. It's
18 totally different.

19 COUNCILMAN KENNEY: Point of
20 information.

21 How will we be involved in the
22 process of awarding contracts?

23 COUNCILMAN MARIANO: That's what I'm
24 asking him, Councilman.

25 COUNCILMAN KENNEY: We're not. I

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2 don't think we are, by reading this
3 legislation.

4 COUNCILMAN MARIANO: I'm asking. I
5 don't know. I mean, if --

6 COUNCILMAN KENNEY: The only thing
7 we do is approve more than one year
8 contracts. We approve multi year contracts.

9 What this legislation as it exists
10 will give us and give the public is a lot
11 more information and a lot more disclosure
12 about who the applicants are, who their
13 consultants and law firms are, how much money
14 they've given to all of us, and limit the
15 ability for them to give money in the future
16 if they're awarded the contract.

17 It does not put us in the process of
18 the contract. It doesn't make us make a
19 decision on the contract.

20 The people who still make the
21 decision on the contract by Charter will
22 still make the decision. It will be the
23 Procurement Commissioner, the Mayor, the
24 combination of a bunch of people, whoever it
25 is.

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2 We won't be part of that. The
3 only -- What will be the benefit of this
4 legislation is that all information that is
5 now unknown about the activities of these
6 contractors, vendors that are trying to get
7 work with the City, all that will be public
8 record. It will be on the web site. It will
9 be in a bid package.

10 COUNCILMAN MARIANO: But Councilman,
11 that will happen because we will do this
12 legislation.

13 COUNCILMAN KENNEY: Correct.

14 COUNCILMAN MARIANO: Now, let me
15 jump forward, if I can run for one minute
16 because I want to have this debate here.

17 COUNCILMAN KENNEY: Councilman
18 Nutter, if I'm saying anything wrong, just
19 jump in.

20 COUNCILMAN NUTTER: No. You're
21 fine.

22 COUNCILMAN MARIANO: No; that's
23 fine.

24 Now, we do this. Are we opening a
25 Pandora's box here? Now, in five years, he's

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2 on another floor. You and I are somewhere
3 else. There's a whole new Council, and they
4 want to start dealing. There's another
5 mayor, and everybody wants to start dealing
6 with contracts.

7 COUNCILMAN NUTTER: Councilman, why
8 don't we --

9 COUNCILMAN KENNEY: What this really
10 does -- What this really does is just give
11 people information. It gives the public and
12 us information which is not a bad thing.

13 COUNCILMAN MARIANO: I'm not saying
14 that's a bad thing.

15 COUNCILMAN NUTTER: Councilman, why
16 don't we do this --

17 COUNCILMAN MARIANO: I just want to
18 make sure --

19 COUNCILMAN NUTTER: I understand.

20 COUNCILMAN MARIANO: I just want to
21 make sure we know what we're doing.

22 COUNCILMAN NUTTER: I understand
23 that.

24 COUNCILMAN MARIANO: Because I have
25 concerns.

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2 COUNCILMAN COHEN: Councilman Clarke
3 has a point of order.

4 COUNCILMAN NUTTER: Let me do it
5 this way.

6 COUNCILWOMAN BLACKWELL: We've got a
7 point of information.

8 COUNCILMAN NUTTER: Okay.

9 COUNCILMAN CLARKE: I'm not on the
10 committee.

11 COUNCILMAN KENNEY: I make a motion
12 we suspend the rules to allow Councilman
13 Clarke his point of information.

14 COUNCILMAN MARIANO: Second.

15 COUNCILMAN KENNEY: All in favor?
16 Aye.

17 COUNCILMAN CLARKE: The process of
18 establishing a system of -- Question is, I
19 thought that in this bill was also a function
20 that would now be taking by Council members,
21 that we authorize contacts on the -- on the
22 subsequent year, whereas now the
23 administration has the ability or committee
24 or whatever -- or whatever --

25 COUNCILMAN NUTTER: Councilman, are

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2 you talking about multi year contracts?

3 COUNCILMAN CLARKE: Yeah. Yeah.

4 Right now it's my understanding that
5 the administration on the award of a contract
6 has the ability to extend that contract.

7 Right. It's my understanding -- maybe I'm
8 wrong -- that now Council will have to
9 approve the additional years. Is that my
10 understanding? Or am I incorrect?

11 COUNCILMAN NUTTER: Councilman,
12 you're concerned about the multi year
13 contracts?

14 COUNCILMAN CLARKE: I'm not
15 necessarily concerned. I just want -- The
16 statement was made about -- Councilman
17 Mariano is asking information on Council's
18 contracts -- projects.

19 My question is, it was my
20 understanding -- if I'm wrong, please correct
21 me -- that the current -- the current
22 situation is, whereas the administration has
23 the jurisdiction to add additional years to
24 the contract --

25 COUNCILMAN NUTTER: You're talking

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2 about a one-year contract with three one-year
3 renewals.

4 COUNCILMAN CLARKE: Exactly.

5 COUNCILMAN NUTTER: Right.

6 COUNCILMAN CLARKE: And under this
7 particular proposal, Council would now be
8 required to authorize the additional years.

9 COUNCILMAN NUTTER: Councilman, let
10 me answer your question this way: For the
11 moment you are correct.

12 By the end of this hearing, that
13 will not be the case, because there's a
14 proposed amendment to remove that
15 requirement.

16 The only multi year contracts that
17 Council would, under this proposal have to
18 approve, are true multi year contracts. And
19 there are some contracts that come to us that
20 are multi year, but not the contracts that
21 have historically been characterized
22 essentially as the one-year contract with
23 three one-year renewals.

24 That's been the subject of a lot of
25 conversation between myself and the City

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2 administration. And at least on that point
3 we've reached agreement about what would come
4 and what would not come to -- to the City
5 Council.

6 As a matter of fact, all that would
7 be required, essentially, for the additional
8 years is that the department head, rather
9 than just automatically allowing the renewal,
10 without taking any action, which is presently
11 what's allowed, the department head would
12 have to affirmatively certify that renewing
13 the contract is in the best interests of the
14 City. So, under that circumstance that
15 contract would not come over to City Council.

16 COUNCILMAN CLARKE: All right. I'm
17 not saying that I'm pro or con...

18 COUNCILMAN NUTTER: I understand
19 that.

20 COUNCILMAN CLARKE: ...the current
21 proposal.

22 COUNCILMAN NUTTER: I understand
23 that.

24 COUNCILMAN CLARKE: I just wanted to
25 clarify that --

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2 COUNCILMAN NUTTER: Yes.

3 COUNCILMAN CLARKE: -- I'm hearing
4 that Council is not involved. And I know
5 under the proposal --

6 COUNCILMAN NUTTER: Right.

7 COUNCILMAN CLARKE: -- we were
8 supposed to be involved.

9 COUNCILMAN NUTTER: Exactly. Well,
10 you know, it's had many iterations along the
11 way.

12 COUNCILMAN CLARKE: All right.

13 COUNCILMAN NUTTER: Let me go back
14 to --

15 COUNCILMAN CLARKE: Thank you.

16 COUNCILMAN NUTTER: -- the main
17 issue raised by Councilman Mariano, the
18 concern about what we would do, what we would
19 not do.

20 I think if we go to Section 12-...
21 I'm sorry. 17-1202, which under the proposed
22 amendment that was handed out, it would be
23 Page 3. If you go to 17-1202, number one,
24 this is the process, Councilman, that we
25 talked about...

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2 COUNCILMAN MARIANO: Mm-hmm.

3 COUNCILMAN NUTTER: ...that, while
4 we would establish it by ordinance, I think
5 as you read through it, you will find that we
6 are nowhere near involved.

7 A non-competitively bid contract
8 shall be awarded in compliance with the
9 following: First, a City agency that seeks
10 to enter into a non-competitively bid
11 contract shall so notify the Procurement
12 Department and shall coordinate with the
13 Procurement Department in carrying out the
14 requirements of this chapter.

15 The Procurement Commissioner shall
16 develop procedures, to ensure that such
17 contracts are advertised and approved in a
18 timely, efficient and coordinated manner in
19 the best interests of the City.

20 The City agency that seeks to enter
21 into a non-competitively bid contract shall
22 publish on the City's official web site and
23 file with the Procurement Commissioner, the
24 Finance Director and the Commerce Director a
25 notice of availability of such contracting

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2 opportunity. And then it goes on and on.

3 The proposal, for instance, from the
4 administration, they didn't like 30 days.
5 I'm agreeing that 14 days should be enough
6 time.

7 You go further. Procurement
8 Commissioner, Finance Director, Commerce
9 Director have to keep copies of the printed
10 notices in a registry organized in their
11 offices. There may be some people who don't
12 have access, for whatever reason, to the web.

13 You go through all that. You've got
14 notices. It tells you what has to be in the
15 notice. You go through all that.

16 Mandatory disclosures. You read
17 through all that. And more disclosure
18 information.

19 If you go to Page 6, no
20 non-competitively bid contract shall be
21 awarded unless all required disclosure forms
22 are completed, signed and attached to the
23 application for such contract and on file
24 with the Finance Director, Procurement
25 Department, and the Department of Records.

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2 After the City agency has selected
3 the applicant with which it intends to
4 contract, the City agency shall publish a
5 notice on the City's official web site,
6 setting forth the names of all applicants.

7 And then you go into all of the
8 those further requirements.

9 In all of that process, City Council
10 has no involvement whatsoever. As you well
11 know, under the Home Rule Charter, in Section
12 2-309, or other provisions of the Charter,
13 there are some contracts that come to this
14 Council for our approval by ordinance.

15 Other than those, we have no
16 involvement in this process, and this bill
17 doesn't do anything to change the dynamics
18 there.

19 All it does -- we go back to that
20 word -- of creating the openness and the
21 transparency and a process which can only be
22 created by ordinance, but does not then
23 insert us in the process of awarding
24 contracts. That's, I mean, the sum and
25 substance.

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2 COUNCILMAN MARIANO: The amendments
3 that you have on the referendum gives us the
4 power to do that, is what you're saying.

5 COUNCILMAN NUTTER: Yes. Yes. But
6 does not insert us.

7 COUNCILMAN MARIANO: What Councilman
8 Kenney and I just spoke about, basically, in
9 the little back thing there is --

10 COUNCILMAN NUTTER: I heard the back
11 thing.

12 COUNCILMAN MARIANO: -- those
13 one-year contracts that they give out for
14 three years that were one year no bids, then
15 they give out for three years, that would be
16 eliminated. They could still give out
17 one-year contracts, but without coming to
18 Council, they wouldn't be able to give them a
19 three-year thing.

20 COUNCILMAN NUTTER: You would still
21 be able to --

22 COUNCILMAN MARIANO: Is that
23 correct?

24 COUNCILMAN NUTTER: You would still
25 be able to award the one-year contract with

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2 multiple renewals, but it can -- the renewal
3 can only be at the City's option.

4 If it is not at the City's option,
5 that would be considered a multi year
6 contract and would have to come to this
7 Council.

8 In the case of where it is the
9 City's option, rather than allowing that
10 contract to automatically renew, sometimes
11 you have to -- Say you want it to renew or by
12 your inaction it would automatically renew,
13 rather than allow that, the department head
14 would have to take a look at the contract,
15 and they might want to rebid it. They might
16 want to negotiate, but has to take an action,
17 an affirmative step to say, yes, we want to
18 renew this contract, sign a form saying we
19 want to renew it. And we're renewing it
20 because it's in the best interests of the
21 City, as opposed to, you know, well, it just
22 renewed and that's the way it goes.

23 COUNCILMAN MARIANO: Okay. Thank
24 you.

25 COUNCILMAN NUTTER: Sure.

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2 COUNCILMAN COHEN: Councilman Kelly.

3 COUNCILMAN KELLY: Yes. Thank you.

4 Thank you, Mr. Chairman.

5 I just want to make a few comments,
6 if I may. Number one, we can be sitting here
7 debating, and we can be proposing amendment
8 after amendment. This can go on for days,
9 weeks, months or possibly even years.

10 I would like to see us do something
11 out of this committee. I would like to see
12 us do something out of this session to get
13 something -- Has to do and we should do it,
14 in my opinion, to cut down on the amount of
15 no bid contracts.

16 This is where pay to play is just
17 prevalent, and this is one of the things that
18 we have to do, is to cut down, number one, on
19 the amount of no bid contracts.

20 The other issue is going -- Even
21 when contracts are awarded, I think having
22 them transparent is the way to go. I think
23 there's -- I agree with Councilman Kenney and
24 a lot of other Council people on here, that
25 the more information is given out, I think

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2 the better.

3 I think when people look at these
4 contracts to see how they are awarded, I
5 think that's what they're going to look at.

6 And there's -- In my opinion, I
7 don't have any problem with seeing all the
8 information put out there. It -- It will
9 probably address a lot of problems that we
10 currently have.

11 And I would like to see -- And I
12 agree with Councilman Mariano that we
13 should -- the Council should never be in the
14 process of directly getting involved with any
15 of these contracts. I certainly wouldn't
16 want to see that.

17 And I don't think this legislation
18 here has anything to do with it, really. But
19 again, I want to know from Councilman Nutter,
20 if I may, the differences between the
21 administration amendments and his
22 amendment -- his amendments.

23 Because I think that's all we have
24 to discuss in this thing, is how these
25 amendments differ, and where we -- where

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2 we -- where we agree on either or the
3 amendments. That's what I would like to see.

4 COUNCILMAN NUTTER: I would be glad
5 to do that, Councilman. Thank you.

6 COUNCILMAN KELLY: Thank you.

7 COUNCILMAN NUTTER: Possibly the
8 best way to do this is, or maybe the more
9 painful, if you have the amendment, the
10 proposed amendments that I handed out which
11 will say proposed amendments to Bill Number
12 040772, as amended 12/14/04, which is all on
13 one line across the top.

14 And then if you sought to compare
15 that to the administration's proposed
16 amendments, which have a date and a time
17 stamp up in the top right-hand -- top
18 left-hand corner, what you will find is I
19 propose to strike, out of yesterday's
20 conversation, City-related agency which is a
21 section in the back of this, but the
22 definition is being stricken, and all
23 references to those are being stricken.

24 If you go to Page 2, definition
25 Number 12, the word City is being stricken

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2 from the term non-competitively bid contract.

3 The administration proposed that we
4 make it clear that these contracts are
5 subject -- are not subject either to the
6 lowest responsible bidder requirements of
7 Section 8-200 or the highest responsible
8 bidder requirements of Section 8-201. That
9 is a good recommendation from the
10 administration, and it's been incorporated.

11 The City administration did not like
12 the 30-day web site notice; felt that that
13 was too long. Presently competitive bid
14 contracts are only required to be advertised
15 for two weeks. And so, I've agreed that we
16 could have that at 14 days.

17 There is a provision in the
18 administration proposal that even with the
19 14-day notice, that upon a certification from
20 the Finance Director, they might be able to
21 have a shorter period of time.

22 I did not incorporate that in the
23 provisions because the administration already
24 has the power to award emergency contracts,
25 and there would be, at least from my part, a

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2 concern as to what criteria the Finance
3 Director would use to certify that a shorter
4 period of time is necessary.

5 If it's an emergency, it's an
6 emergency.

7 COUNCILMAN KELLY: Yeah. They have
8 that right.

9 COUNCILMAN NUTTER: Right. They
10 have the right already.

11 COUNCILMAN KELLY: And they will
12 continue to have that right, in other words.

13 COUNCILMAN NUTTER: Yeah. Yeah.
14 this doesn't change that at all.

15 COUNCILMAN KELLY: Okay.

16 COUNCILMAN NUTTER: Okay. I think
17 you have to go to... The administration
18 package is not numbered, but if you go to...
19 There's a letter g.

20 There's been a lot of back and forth
21 about the issue of who has to approve the
22 contracts. The administration proposed to
23 basically utilize the system that currently
24 exists which is just the head of the
25 contracting department or agency, as well as

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2 the Solicitor's Office only as to form and
3 legality.

4 I've just had a difference of
5 opinion about that, and I think we need the
6 higher level officers, Procurement, Finance,
7 the Solicitor and the Mayor for these
8 approvals.

9 COUNCILMAN KELLY: Well, in other
10 words, you're going -- Okay. You're not only
11 going to a higher office, but you're going
12 into more departments.

13 COUNCILMAN NUTTER: Yes.

14 COUNCILMAN KELLY: To get approval.

15 COUNCILMAN NUTTER: A higher level
16 of approval on the no bid contracts.

17 There was a concern about the number
18 of reports. You'll see in 17-1203 presently
19 there is a monthly reporting requirement. I
20 would propose to change that to quarterly.

21 COUNCILMAN KELLY: Yeah.

22 COUNCILMAN NUTTER: Instead of
23 monthly, to cut down on the number of
24 reports.

25 COUNCILMAN COHEN: Is that a

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2 recommendation of the City?

3 COUNCILMAN NUTTER: No.

4 COUNCILMAN COHEN: It's your own
5 amendment.

6 COUNCILMAN NUTTER: Yeah, that's my
7 own.

8 They changed the date from the first
9 of the month to the 15th of the month,
10 although they did not want to have cumulative
11 information. They only wanted to look back a
12 month, solely for the contracts that had been
13 awarded in that month.

14 Cumulative information is helpful,
15 but I changed the monthly or would propose to
16 change the monthly to quarterly.

17 COUNCILMAN KELLY: Quarterly.

18 COUNCILMAN NUTTER: There's still an
19 annual report required. And I think we
20 changed the date from August 1st to two
21 months -- three months after the start of the
22 fiscal year.

23 The administration recommended,
24 similar to having... Well, even though they
25 disagree that the mayor should sign the

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2 reports, they suggested that the Council
3 President would file reports with regard to
4 non-competitively bid contracts awarded by
5 the Council.

6 I think that's a fairness issue.
7 And if we're asking the administration to
8 file certain reports, we should hold
9 ourselves to the same standard.

10 And probably the last big area is
11 back where we were earlier which is Section
12 12-... I'm sorry. 17-1206. The start of
13 this hearing generated a lot of concern in
14 this area.

15 The administration has six... or
16 five new items which have been the subject of
17 some conversation between the members and Mr.
18 Grace.

19 My recommendation is that we
20 maintain what would be their small letter i
21 which is contracts; the Finance Director
22 certifies in writing or for the purchase of
23 unique articles or articles which for any
24 other reason cannot be on the -- in the open
25 market, provided that this exception shall

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2 not apply to professional services contracts.

3 Second, contracts with respect to
4 which delay an award would cause a material
5 threat to public health or safety, if so
6 certified by the Finance Director.

7 City contracts for legal services
8 that the City Solicitor certifies in writing
9 must be awarded immediately to avoid material
10 damage to legal interests of the City, which
11 I would agree is a very serious issue.

12 Contracts with respect to which
13 application of this chapter may lead to the
14 loss of federal, state or similar grant
15 funds, if so certified by the Finance
16 Director in writing.

17 That's an issue that we dealt with
18 in a couple other areas, and there are some
19 funding sources that require us to adhere to
20 their process and no other process or you can
21 lose funding.

22 With regard to the disclosure
23 requirements which I think was the topic of
24 conversation between Councilman Kenney and
25 Mr. Grace, for some of these contracts which

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2 we're concerned about, prior advertising may
3 adversely affect the City's interests or
4 legal position, the disclosure requirement
5 would need to be met no later than 14 days
6 after the contract is executed.

7 So you don't have the disclosure
8 information up front in those contracts, but
9 it's subsequent, to protect the City's
10 interests.

11 The administration recommended that
12 with regard to prohibited conduct, rather
13 than any automatic penalty or debarment, the
14 City administration recommended that the new
15 standard would be -- that the contractor is
16 subject to prohibition for a period of up to
17 three years.

18 The problem with that is that you
19 could virtually have no prohibition if it's
20 only subject to. My recommendation is that
21 it's shall be prohibited for a period of from
22 one to three years.

23 The fine section has been updated or
24 proposed to be updated to comply with the
25 most recent change in state law so the fines

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2 would be in compliance with what we're
3 allowed to do under the new statute approved
4 by the General Assembly.

5 There needs to be some period of
6 time between approval and effective date, and
7 so it's also proposed that the effective date
8 would be September 1, 2005.

9 If the Home Rule Charter Resolution
10 is approved, as well as the reporting period
11 for future contributions would be September
12 1, 2005.

13 Those are, Councilman, the basic, I
14 guess, either differences or comparison. As
15 I indicated, I think it's fair to say most of
16 the proposals submitted by the City
17 administration have been incorporated into
18 Bill 040772. There are some differences, and
19 some things were not -- were not included at
20 all.

21 There is... And there's also an
22 amendment to clear up.

23 I'm sorry. What I didn't also
24 mention is, under this proposal, Section
25 17-1208, City-related agencies would be

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2 deleted completely, based on discussions
3 yesterday.

4 COUNCILMAN COHEN: Could you explain
5 that a little further?

6 COUNCILMAN NUTTER: Yeah. Section
7 17-1208 was a section that essentially said
8 that the provisions of this Bill 040772 would
9 also pertain to any City-related agency if
10 they had a contract with the City.

11 This issue came up yesterday. There
12 was a fair amount offer discussion about it.
13 It's a very complicated area, and also raises
14 some legal issues as to whether or not what
15 our ability is to legislatively direct quasi
16 public agencies in this particular area.

17 My recommendation is to strike it
18 from this particular provision and stay
19 focused on the direct City contracts.

20 COUNCILMAN COHEN: What will that...

21 COUNCILMAN NUTTER: That would be a
22 deletion.

23 COUNCILMAN COHEN: Does that leave
24 open wide area, whereby if there were a City
25 administration that wished to avoid the

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2 effects of this action. Would it enable them
3 to contract with an authority to do work and
4 thereby exclude the requirements of the
5 ordinance of the Home Rule Charter change?

6 COUNCILMAN NUTTER: Well,
7 Councilman, as they say, you know, just about
8 anything is possible.

9 But I think the reality is is that
10 for the proper operation of the government,
11 it certainly would not be efficient or
12 productive to try to ship a fair amount of
13 regular activity and business of the City
14 over to authorities.

15 But I think, as you have well
16 pointed out, should we find that to be the
17 case, then maybe this is an area that will
18 need to be revisited.

19 I'm not under the impression at the
20 moment that it leaves tremendous
21 vulnerability.

22 COUNCILMAN COHEN: Well, I would
23 worry a great deal about that last point
24 because City administrations, at least during
25 the last 38 years that I've been involved in,

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2 are expert at using the authorities whenever
3 it's to their advantage.

4 A lot of patronage is done through
5 authorities that might not be able to be done
6 through the City rules.

7 If we could find some language
8 between now and final passage of the bill to
9 make it less likely to call it to everybody's
10 attention. To use the principles of
11 transparency, it would be very helpful. Now,

12 Councilman Clarke, I think, has some
13 questions.

14 COUNCILMAN CLARKE: Thank you, Mr.
15 Chairman.

16 COUNCILMAN COHEN: Is that the right
17 name?

18 COUNCILMAN CLARKE: Mr. Chairman,
19 I'll see if I can recall. It's been a while.
20 I kind of lost my place.

21 COUNCILMAN COHEN: Are there any
22 questions, then?

23 COUNCILMAN CLARKE: Yeah, I actually
24 have a couple questions, Councilman.

25 COUNCILMAN COHEN: Go ahead,

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2 Councilman.

3 COUNCILMAN CLARKE: Probably have
4 questions over this next week or so.

5 Briefly, during the course of the
6 discussion -- I'm not sure who referenced
7 it -- I think I heard... Did City Council,
8 in terms of its ability to issue no bid
9 contracts on professional services, will not
10 be covered by this bill? I don't know who
11 I'm asking that question. I guess...
12 Councilman Nutter. City Council... We're
13 not covered under this particular bill?

14 COUNCILMAN NUTTER: I'm sorry,
15 Councilman.

16 COUNCILMAN CLARKE: No bid
17 contracts. I thought I heard somebody say
18 that this has nothing to do with City
19 Council. It's only the administration.

20 COUNCILMAN NUTTER: No, that's not
21 the case, Councilman. City Council would be
22 subject to the same provisions. We just
23 don't have to get the administration's
24 approval.

25 COUNCILMAN CLARKE: Well, maybe I

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2 shouldn't be airing our business in public.
3 I would like to ask that because I know we've
4 done a number of professional services over
5 the last year. Recently one was referenced,
6 in terms of the amount of money that
7 contractor's costing us. And I'm not sure
8 how that...

9 COUNCILMAN NUTTER: Which one?

10 COUNCILMAN CLARKE: I think it was
11 the condo trash. I think it was upwards of
12 close to quarter million dollars. And it's
13 not clear to me...

14 COUNCILMAN NUTTER: How much.

15 COUNCILMAN CLARKE: Quarter million
16 dollars.

17 COUNCILMAN NUTTER: Oh.

18 COUNCILMAN CLARKE: ...what process
19 we have internally, but we'll talk about that
20 at a later date.

21 COUNCILMAN NUTTER: Right.

22 I think we passed a resolution.

23 COUNCILMAN CLARKE: I'm sorry?

24 COUNCILMAN NUTTER: I think we
25 passed a resolution authorizing us to sue. I

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2 don't know how --
3 COUNCILMAN CLARKE: We hired -- I
4 understand that, but we hired a person.
5 COUNCILMAN NUTTER: I have no idea.
6 COUNCILMAN CLARKE: A company. It
7 was not clear... I mean --
8 COUNCILMAN NUTTER: I have no idea.
9 COUNCILMAN CLARKE: We're
10 referencing a process. It's not clear to me
11 what our process is.
12 COUNCILMAN NUTTER: I understand.
13 COUNCILMAN CLARKE: Frankly
14 speaking.
15 COUNCILMAN NUTTER: Right. I wasn't
16 involved in that one.
17 COUNCILMAN CLARKE: All right.
18 One of the issues with respects to
19 disclosure by applicants on contributions...
20 And I'm asking these questions more for
21 clarity's sake. My understanding is that
22 applicant has to disclose his contributions
23 to current elected officials, i.e.,
24 incumbents but has to make no disclosure
25 about contributions to any other potential

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2 candidate or PAC or state or Congressional
3 elected official, just solely to members of
4 Council and the Mayor or any other City
5 officers.

6 COUNCILMAN NUTTER: Councilman, if I
7 could... If I could take you to... probably
8 take you to Page 7.

9 I'm sorry. Probably best to go to
10 Page 4 first, under mandatory disclosures?
11 They have to disclose, both the applicant and
12 the consultant, contributions they've made in
13 the previous four years, to the date of the
14 application to any candidate for election to
15 any public office in Pennsylvania, anyone who
16 holds such an office, to any political
17 committee or state party in the Commonwealth
18 of Pennsylvania. That's on the initial
19 application.

20 COUNCILMAN CLARKE: Okay.

21 COUNCILMAN NUTTER: During the term
22 of the contract and for a year thereafter,
23 they have to provide the same information on
24 a disclosure form within five business days
25 of when they make the contribution.

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2 If you go, then, to the... I think
3 probably 17-1205...

4 COUNCILMAN CLARKE: Okay.

5 COUNCILMAN NUTTER: Deals with all
6 the political committees. And a political
7 committee is as defined under the
8 Pennsylvania Election Code, which basically
9 covers anyone who has raised more than \$250
10 has to create a political committee.

11 So whoever you give it to, whoever
12 they may be, under this provision you've got
13 to disclose it.

14 COUNCILMAN COHEN: All right. Is
15 the interchange finished?

16 COUNCILMAN NUTTER: No. I don't
17 think so. Go ahead.

18 COUNCILMAN CLARKE: Thank you. I
19 have more, but I'll -- Not today. Some
20 other...

21 COUNCILMAN COHEN: Any other
22 questions?

23 COUNCILMAN NUTTER: Did you say --

24 COUNCILMAN CLARKE: I'm saying I
25 have more questions and concerns about it,

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2 but I don't want to hold up the committee's
3 work, you flow.

4 COUNCILMAN COHEN: Okay.

5 COUNCILMAN CLARKE: We'll have time
6 to interact on those.

7 COUNCILMAN COHEN: Well, I'm
8 wondering, Councilman Nutter, if you could
9 briefly tell us whether or not if the
10 proposals of this bill were in existence,
11 say, in the last five years, would the City
12 be involved in this grand jury investigation
13 currently, if its provision were complied
14 with? Or what are the chances? Nothing is
15 perfect and nothing works automatically. And
16 if anything can go wrong, it probably will.

17 But within that general framework
18 that we learned about in the City and during
19 our lives on this earth, would this bill have
20 prevented at least some of the contemptive
21 [sic] and corrupt image that Philadelphia has
22 seemed to develop?

23 COUNCILMAN NUTTER: Well,
24 Councilman, let me first say -- and you know
25 my... you know I have at times a somewhat

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2 peculiar sense of humor.

3 But there are many provisions at
4 least in my -- in my faith in the Bible, and
5 it has not completely prevented people from
6 doing any number of things.

7 Having said that, I think these
8 types of provisions, if implemented, or if
9 they have been implemented, I cannot predict
10 what some of the individuals who are alleged
11 to have done whatever they are alleged to
12 have done, whether they would do them or not.

13 But I think we would know and would
14 have known at a much earlier stage what was
15 going on in the government and any one of us
16 or all of us probably would have been more
17 compelled to take some kind of action, based
18 on the information that would have been
19 available.

20 You would know, for instance, unless
21 someone just was determined not to fill out
22 the forms correctly or ignore the disclosure
23 requirements, you would know what
24 contributions were being made.

25 You would know who was applying for

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2 what. You would know who the various
3 consultants were. You would have a wealth of
4 information and data available to the public,
5 and the elected leaders and appointed leaders
6 of this government, to then make evaluations
7 as to whether or not we believe the system is
8 working the way any of us believe it should.

9 People will ultimately do whatever
10 they're going to do, but I think our
11 responsibility is to try to create a system
12 that has transparency, that has openness, and
13 that has a level of information that is
14 available for all of us with our eyes open,
15 to see and evaluate. That, I think, is the
16 essence of this.

17 So, I can not sit here and tell you
18 that if this had been passed five years ago,
19 that someone would not try to do something.
20 But I think you would have significantly cut
21 down on the chances and the possibilities of
22 many of the things that are subject of
23 newspaper stories and hearings today. Many
24 of them possibly would not be going on.

25 COUNCILMAN COHEN: Well, with

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2 respect to a question raised by Councilwoman
3 Blackwell before, supported by Councilman
4 Mariano's question, and I think I had a
5 question, too, on it, would it be possible in
6 any of these areas to add a requirement that
7 the City be compelled to establish an Office
8 for Minority Development, whose duty is to
9 constantly be available to minority vendors
10 for dealing with their special problems?

11 Just that general because until the
12 City does it, I'm very much concerned that
13 Councilwoman Blackwell's question that
14 anything opposing further requirements of
15 minority vendors is going to be interpreted
16 by the City in a way which is going to be
17 harmful to the advancement --

18 COUNCILWOMAN BLACKWELL: And might I
19 have a point of information on that issue,
20 Councilman? Mr. Chairman? And that is, also
21 you have a lot of minorities who are just
22 beginning in business.

23 They are not here today. They did
24 not know, obviously that this whole ethics
25 bill would be a discussion and a large part

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2 about their involvement in the system.

3 But certainly they are not --
4 especially those just starting out, many are
5 not sophisticated enough to know what they're
6 supposed to do.

7 And all of this disclosure stuff
8 about what office you go to, what time of day
9 and all of that, I really think this could
10 create problems.

11 I regret that we didn't have --
12 Because they thought it was an overall ethics
13 discussion -- an opportunity to have minority
14 vendors and minority companies at this
15 hearing today.

16 And I absolutely feel that -- We
17 have a law that now requires if one gives or
18 receives \$250, you disclose it. I think we
19 have laws, notwithstanding this federal
20 probe.

21 Obviously, there's some law
22 somewhere that one considers are violated.
23 And so, obviously this legislation didn't
24 create it and won't prevent it.

25 I just believe that we in government

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2 have to be mindful of who's affected by
3 everything we do, and that we have to -- In
4 America people want the freedom to operate at
5 work freely and not have continued more
6 legislation, more bills, more laws of
7 infringement, so that it makes it very, very
8 difficult to know when they're, certainly,
9 breaking the law.

10 I hope that this committee will
11 consider these things because I really,
12 really feel that... that we have laws that
13 give people what they need.

14 I think this will hurt minorities
15 and other businesses. I think it will create
16 additional bureaucracy. And I only ask the
17 committee to consider that as they vote.

18 COUNCILMAN COHEN: Thank you.
19 Councilman Kenney.

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

22 You know, I tend to agree with
23 Councilwoman Blackwell's concerns, relative
24 to the bureaucracy, relative to people not
25 being informed.

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2 But where I disagree is, I think
3 this legislation will do exactly that. It
4 will give minority firms, other firms in the
5 City, in the region, information that they
6 don't have now about no bid contracts.

7 I mean, in order to get a no bid
8 contract now, this administration, the last
9 administration, the administration before it,
10 you had to be an insider, an insider majority
11 firm or an insider minority firm.

12 And I think in many ways this
13 legislation has been carefully crafted to
14 expose the information of what's available in
15 the public on the web site, through MBEC --
16 And I think one of the things that
17 Councilwoman Blackwell is concerned about is
18 the sophistication of some firms not being
19 able to fill out the forms or know what to
20 fill out.

21 I think that exactly what MBEC's
22 role should be in advising and promoting
23 minority business in the City, to allow MBEC
24 to guide minority firms through the process.

25 This, if nothing else, gives more

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2 information to small and medium-sized firms
3 in our City, both majority and minority, so
4 that they know that there's City business out
5 there they can go and pursue.

6 As we exist now, unless you're on
7 the inside track, or you're in the know, you
8 don't even know that these contracts are
9 available to bid on or to respond to.

10 And I honestly believe that if we
11 impose -- if we employ these -- this effort,
12 that we're going to allow minority firms in
13 the City and the region to have more
14 information, so that they have more access to
15 compete for jobs and contracts than they do
16 now.

17 So I agree with Councilwoman
18 Blackwell's concern about shutting people
19 out, but I think they've been shut out
20 already. And I think that this legislation
21 opens up the door for people to know what's
22 going on in City government and to go and
23 compete fairly for work, without having to be
24 concerned about how much money they
25 contribute to me or anybody or the mayor or

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2 anybody else.

3 COUNCILWOMAN BLACKWELL: Did we ask
4 them about this legislation? I dare say we
5 probably did not. Okay.

6 COUNCILMAN NUTTER: Are we talking
7 about the MBEC aspects of this?

8 COUNCILWOMAN BLACKWELL: All
9 minority aspects of this. Did we confer with
10 people who are involved in this issue when we
11 wrote this legislation?

12 COUNCILMAN NUTTER: Well,
13 Councilwoman, I did not talk to any specific
14 minority group or majority group or any set
15 of business people.

16 This is not targeted at any group of
17 people. It's about our contracting process.
18 I do believe -- And I would only echo some of
19 the comments made by Councilman Kenney. I
20 mean, I thought it was the job of the MBEC to
21 help minority, female or disadvantaged --

22 COUNCILMAN COHEN: That's not the
23 way the City interprets the current laws.
24 The same argument that Councilman Kenney
25 made.

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2 COUNCILMAN NUTTER: I understand.

3 But at a minimum, I would have to believe
4 that the Procurement Commissioner -- and
5 certainly we've incorporated Procurement,
6 Finance and Commerce in this process -- that
7 between -- among those three entities, that
8 just doing their jobs, that they would work
9 with those firms, whether minority, female
10 disadvantaged or other firms, that will need
11 information.

12 And I certainly agree that the need
13 for information will be important so that
14 people can be in compliance.

15 But again, the openness and the
16 opportunity is right there for people. And I
17 think, you know, certainly I'd be glad to
18 work on efforts targeted in that direction.

19 I don't necessarily believe that it
20 would be incorporated in this particular
21 piece of legislation, given what its purpose
22 is and what its title is.

23 COUNCILMAN COHEN: Well --

24 COUNCILMAN NUTTER: But I agree that
25 it's something that needs to be looked at.

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2 COUNCILMAN KENNEY: Mr. Chairman, if
3 I may add, I mean if you look at the list
4 over the past 16 years or 20 years of
5 professional no bid contracts, both majority
6 and minority, it's a pretty small and pretty
7 well-heeled list.

8 And I would suspect that there are
9 minority law firms, minority accounting
10 firms, other firms within the City, both
11 majority and minority, that have never even
12 thought about wanting to go after a no bid
13 professional service contract because they
14 didn't understand the process because there
15 really wasn't any, other than being on
16 somebody's team or being in the know.

17 I think that the ability through
18 this legislation to partner a medium-sized
19 minority law firm with a Wolf Block or with a
20 Dilworth or, you know, one of those large
21 firms, and allow them to learn the process of
22 doing a bond deal, I think, is a double
23 benefit, in addition to the transparency and
24 tax savings to the citizen.

25 I think it's even a double benefit

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2 to have a firm get in the loop and to learn
3 that business and to learn the opportunities
4 and how to compete for that business.

5 I can't -- I know they can't do it
6 when the shop is closed, and there's no
7 information to even know when the bond deal
8 is coming or when the accounting contract is
9 coming.

10 So, I think it's a real benefit to
11 all business and professional services in the
12 City.

13 COUNCILMAN COHEN: Well, I have to
14 state my total disagreement because the
15 City -- because that's one area the City's
16 taken a firm position.

17 They said in discussions with me
18 concerning minority business ventures that
19 have not succeeded, that nobody ought to go
20 in expecting any other help.

21 If they're ready to seek to be
22 declared a minority vendor, it's their
23 responsibility to find out what's available.

24 We've made a lot of information
25 available. And it is true what you said.

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2 Much more information has been made
3 available.

4 But what's needed is understanding
5 that life is very rough if you haven't done
6 it before, if you have limited resources, and
7 unless the City takes a strong position to
8 help people climb their way through the
9 intricate developments that the City
10 requires, and to find their way through, very
11 little is going to happen.

12 And I think the statistics speak for
13 themselves that I referred to earlier, that
14 actually minority businesses have gotten less
15 share of City contracts than they used to
16 get.

17 COUNCILMAN KENNEY: Well, at least
18 with this legislation, they will at least
19 know what's available. And they will also
20 know that they won't have to contribute a
21 certain amount of money to get the job
22 because they'll be limited in their
23 ability --

24 COUNCILMAN COHEN: -- helping them.

25 COUNCILMAN KENNEY: What?

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2 COUNCILMAN COHEN: What is the
3 objection to setting --

4 COUNCILMAN KENNEY: I have no
5 objection.

6 I'm saying this legislation doesn't
7 do that. I don't disagree with you. I'm
8 just saying this legislation doesn't
9 accomplish that.

10 Perhaps, you know, the recontinued
11 revamping of MBEC will. But I do believe
12 that if you can limit the amount of
13 contributions that a potential contractor,
14 potential --

15 COUNCILMAN COHEN: I think that --

16 COUNCILMAN KENNEY: -- firm, it will
17 be helpful. And also giving them more
18 information to the web site and other
19 disclosures, that I think they'll have a
20 better chance to compete.

21 COUNCILMAN COHEN: Have better
22 chances, but in my judgment to no avail
23 unless the City adopts a strong affirmative
24 position of feeling it's in the City's
25 interests to see that the minority businesses

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2 thrive and develop.

3 COUNCILMAN KENNEY: I don't
4 disagree.

5 COUNCILMAN MARIANO: Mr. Chairman, a
6 point of information that can probably be
7 answered by Councilman Nutter, if Councilman
8 Clarke will let me and you.

9 We're doing a lot of talking here
10 about the City computer system and being
11 online. And I'm not saying good things or
12 bad things about it.

13 I mean, it certainly has gotten a
14 lot better. And I just want to add a
15 personal -- I feel like Councilman Rizzo
16 doing this, but I want to add a personal
17 touch to it.

18 I paid my property taxes Friday.
19 And you can see Friday -- yesterday was the
20 last day to pay it to get the discount.

21 I did it online. Well, at the end
22 of the process -- And I did it because I
23 wanted to see how it worked.

24 And my question is to, you have we
25 talked to these people? Because what I want

1 Law & Government - 3/1/05

2 to tell you is, it cost me \$18 to do that.

3 Now... And I'm okay to pay that
4 \$18. And I wasn't aware when I started that
5 process, when I added the stuff and it says,
6 now to do this is \$18.

7 And I'm sure, if they have to charge
8 a contractor, but is the City's computer
9 system up to doing all these things? We're
10 going to give it -- I know we're doing a lot
11 of things on there.

12 Have we checked with MO -- you know,
13 with Neff and those people over there about
14 that?

15 COUNCILMAN NUTTER: Haven't had a
16 conversation with Director Neff.

17 I have had ongoing conversations
18 with the Procurement Commissioner. And there
19 are some contract opportunities already on
20 the City's web site. For many of those
21 conversations I was not left with the
22 impression that this was not any significant
23 burden on the system.

24 COUNCILMAN MARIANO: Okay.

25 COUNCILMAN NUTTER: This also... I

1 Law & Government - 3/1/05

2 mean, this... That proposal came as a result
3 of previous testimony, actually by the
4 administration because the original idea was
5 to advertise these contracts similar to the
6 way competitive bid contracts are advertised
7 in the newspaper.

8 COUNCILMAN MARIANO: That's because
9 that says that.

10 COUNCILMAN NUTTER: Right. Well,
11 that's required.

12 The concern about doing this was
13 that it was a cost factor involved in putting
14 it in the newspaper. And that's why it went
15 to the web site situation, but --

16 COUNCILMAN MARIANO: Using the web
17 site is probably capable of handling this new
18 work.

19 COUNCILMAN NUTTER: Yeah.

20 COUNCILMAN MARIANO: And again, to
21 the part that Councilman Clarke and
22 Councilman Blackwell --

23 COUNCILMAN NUTTER: They have great
24 web services.

25 COUNCILMAN MARIANO: -- and I'm sure

1 Law & Government - 3/1/05
2 that everyone's interested in, especially in
3 the minority business community which we're
4 trying to help get a foot here, is it going
5 to be some -- Like, the whole thing started
6 with this mini City Hall. And I don't
7 believe that's totally out of the question.

8 And what I'm getting, there's too
9 many City Halls, and they want to close both
10 of them. And it's a nominal thing, maybe
11 \$60,000 each, West Philly, Northeast.

12 The people in the Northeast feel
13 like they're being shut out. I'm sure the
14 people in West Philly think the Northeast
15 gets everything and vice versa, but we'll try
16 to work that out in the budget process. And
17 I feel good about that.

18 But a lot of the people that use the
19 mini City Hall, and maybe some of these
20 contractors, especially people starting out,
21 there's something to be said with people
22 don't want to come downtown, and they want to
23 go somewhere. And it's not good enough to do
24 it online. They want to see somebody,
25 especially a lot of senior citizens.

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2 And that doesn't go for the
3 contractors, but they want to give you
4 something, and they want a receipt in hand.

5 A cancelled check's not good enough.
6 They want a stamped receipt by somebody.
7 They can say, you know that nice man up
8 there, Mr. Kelly? He gave me that receipt.

9 And that's my whole thing. I mean,
10 I'm all in favor of using the internet and
11 web sites and all. And if you say you talked
12 to Neff, that's good enough for me.

13 A City of this size, we should be up
14 and running. I'm just curious that maybe in
15 the minority business community -- And I'm
16 going to be calling the people that I know in
17 that community and see is there some
18 reluctance to -- when you're starting out, to
19 do that kind of thing.

20 But if they can't use a computer and
21 if they can't find that stuff, if what you
22 read to me, and what I read, that's go to be
23 somewhere where they can go still and visibly
24 touch something and look at it.

25 COUNCILMAN NUTTER: Yes.

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2 COUNCILMAN MARIANO: Correct?

3 Thanks, Councilman.

4 COUNCILMAN NUTTER: Councilman Cohen
5 had raised that issue before.

6 COUNCILMAN MARIANO: Thank you.
7 Thank you.

8 COUNCILMAN COHEN: Councilman Kelly.

9 COUNCILMAN KELLY: Yeah. I would
10 just like to follow up on Councilman Mariano,
11 if I may. That was an issue which I was
12 going to bring up later. It's an entirely
13 different issue, and that's the closing of
14 mini City Hall.

15 The problem that I see is the
16 alternative that the City administration was
17 using was, they were going to put computers
18 into libraries and whatnot. Now, this is the
19 same time they're cutting the hours of
20 libraries.

21 But they were going to have people
22 into these libraries to instruct the elderly
23 or the people that use the services of the
24 mini City Halls to be computer savvy, and to
25 be able to pay their bills online.

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2 However, most of the people in the
3 Northeast, and I'm sure in North
4 Philadelphia, they go in, as Councilman
5 Mariano did, to pay his -- to pay his real
6 estate taxes, to be able to get the one
7 percent discount.

8 Now, the problem was that if you go
9 online, you're paying them 1.9 percent for
10 that -- for that service. So, you get
11 nothing out of it. In fact, it costs you
12 more money by using that service.

13 And that's one of the things I was
14 going to bring out in a different setting,
15 when we were addressing the mini City Hall in
16 budget hearings.

17 But that's very, very true. That's
18 a point where the poor person not only has to
19 go to another location and get no service or
20 if they get service, there's another thing
21 the administration is going to have to
22 provide, people to be able to at least
23 educate them enough so that they can use that
24 service. And that's... Well, I find it very
25 questionable, to say the least. But I just

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2 wanted to touch up on, since Councilman
3 Mariano --

4 COUNCILMAN COHEN: Well, I think the
5 point was to add to your suggestion, that
6 every agency be required to have at least one
7 or two numbers available, with live answers
8 to questions, so the people don't get this
9 constant run-around when they call up or have
10 to follow a long list of options that they
11 can't understand.

12 COUNCILMAN KELLY: Absolutely. Oh,
13 that's true.

14 COUNCILMAN COHEN: Even with college
15 degrees and law degrees.

16 All right. Councilman Clarke.

17 COUNCILMAN CLARKE: Thank you.
18 Thank you, Mr. Chairman.

19 Sounds like we're starting the
20 budget process a little early this week. Get
21 a couple of more Council people in here and
22 we'll have a quorum.

23 I wanted to just clarify a statement
24 earlier. Actually, Councilman Nutter, I
25 think you made it, that when Councilman

1 Law & Government - 3/1/05

2 Mariano raised concerns about us being

3 involved in the contracts process, that under

4 this provision, under this particular

5 proposal...

6 COUNCILMAN NUTTER: Yes.

7 COUNCILMAN CLARKE: ...the City

8 Council will not be involved in contracts.

9 COUNCILMAN NUTTER: Yes.

10 COUNCILMAN CLARKE: Award of no bid

11 contracts.

12 COUNCILMAN NUTTER: Yes. I'm sorry.

13 Yes, councilman.

14 COUNCILMAN CLARKE: Just for the

15 record.

16 COUNCILMAN NUTTER: Yes.

17 COUNCILMAN CLARKE: I'll need that

18 for my follow-up during the course of the

19 week.

20 That's pretty much it for me.

21 COUNCILMAN NUTTER: Is that it?

22 COUNCILMAN CLARKE: That's it.

23 COUNCILMAN COHEN: Any other

24 questions by any member of the committee?

25 COUNCILMAN NUTTER: And Councilman,

1 Law & Government - 3/1/05

2 I would only mention to you one of the
3 reasons for that.

4 And I think one of the protections
5 that we've tried to create is the last
6 sentence in the proposed amendment to Section
7 8-200 in a Resolution Number 040818, which I
8 think specifically addresses that particular
9 issue. Anyway... Yes, councilman.

10 COUNCILMAN COHEN: Are there any
11 other amendments that you want to put in at
12 this time?

13 COUNCILMAN NUTTER: Yes, Councilman.
14 There is an amendment to the Resolution --

15 COUNCILMAN COHEN: We're still in
16 the hearing, for purpose of having the
17 discussion, if any.

18 COUNCILMAN NUTTER: There's a
19 proposed amendment to Resolution 040818 which
20 addresses the issue that was raised by
21 Councilman Clarke earlier with regard to the
22 multi- -- what's been considered the multi
23 year contracts, the one-year contract with
24 multiple one-year renewals.

25 COUNCILMAN COHEN: Yes.

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2 COUNCILMAN NUTTER: The concern...

3 As the legislation came in, Council would
4 have pretty much been required to approve all
5 of the extensions or renewals.

6 What I'm proposing is an amendment,
7 such that Council would not have to approve
8 all of the extensions or renewals in the case
9 where the City is the only party that has the
10 option to renew.

11 And in that particular situation,
12 rather than automatic renewal, the
13 contracting department or agency would have
14 to file a written certification that the
15 renewal or the extension is in the best
16 interests of the City.

17 And then there would be the renewal.
18 It would not have to come back to Council.

19 Other than that, any true multi-year
20 contract would still be required to come to
21 City Council. That's the amendment in the
22 Resolution of 040818, which I would put
23 forward.

24 COUNCILMAN COHEN: Does that
25 complete the matters?

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2 COUNCILMAN NUTTER: Yes.

3 COUNCILMAN COHEN: Any question by
4 any other members?

5 (No response.)

6 COUNCILMAN COHEN: If not, the
7 hearing on the bills suggested, the two bills
8 and a resolution, is terminated.

9 (Hearing concluded at 4:35 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the public hearing of The Philadelphia City Council, taken on March 1, 2005, and that this is a true and correct transcript of same.

DAVID A. DEIK, RPR and
Commissioner of Deeds

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

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COUNCIL OF THE CITY OF PHILADELPHIA

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PUBLIC MEETING - COMMITTEE ON LAW and GOVERNMENT

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Room 400, City Hall

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Philadelphia, Pennsylvania

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Monday, March 1, 2005, 4:35 p.m.

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9 041043 - An Ordinance providing for the submission
10 to the qualified electors of the City of
11 Philadelphia of the proposal set forth in
12 a Resolution approved by Council
13 proposing an amendment to the
14 Philadelphia Home Rule Charter relating
15 to rights over or in real estate by
16 providing that Council may direct the
17 City to replace any City-owned building
closed because of condemnation by a
government entity; fixing the date of a
special election for such purpose;
prescribing the form of ballot question
to be voted on; and authorizing the
appropriate officers to publish notice
and to make arrangements for the special
election.

18 041052 - Resolution proposing an amendment to the
19 Philadelphia Home Rule Charter relating
20 to rights over or in real estate by
21 providing that Council may direct the
City to replace any City-owned building
closed because of condemnation by a
government entity.

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V A R A L L O Incorporated

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2 PRESENT:

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4 COUNCILMAN DAVID COHEN, Chair
5 COUNCILMAN W. WILSON GOODE, JR.
6 COUNCILMAN JACK KELLY
7 COUNCILMAN JAMES F. KENNEY
8 COUNCILMAN RICHARD T. MARIANO
9 COUNCILMAN MICHAEL A. NUTTER
10 COUNCILWOMAN JANNIE L. BLACKWELL
11 COUNCILMAN DARRELL L. CLARKE
12 COUNCILMAN JUAN F. RAMOS

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1 Law & Government - 3/1/05

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

4 - - -

5 COUNCILMAN COHEN: The public
6 meeting is now called. The Law and
7 Government public meeting is now in order.

8 And the Chair recognizes Councilman
9 Nutter for purposes of introducing before the
10 committee the amendments he's been referring
11 to during the hearing.

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

14 Mr. Chairman, there was handed out a
15 little while ago a document. It reads across
16 the top on one line, proposed amendments to
17 Bill Number 040772, as amended 12/14/04.
18 That's the document that I'm working from,
19 Mr. Chairman.

20 I would put forward all of the
21 amendments in that document, but I need to
22 draw your attention to two places where there
23 is a slight technical error.

24 And then based on the conversation
25 that we just had, with regard to whether it's

1 Law & Government - 3/1/05
2 minority firms or applicants, I've written
3 something on the back here that might seek to
4 address that particular issue as well.

5 Mr. Chairman, if you go to Page 11,
6 at the bottom, number four presently reads,
7 by August 1st of each year. That August 1st
8 should say September 30.

9 And if you go to the top of Page 12,
10 it reads on the third line, such reports
11 shall be signed by the Procurement
12 Commissioner, the Finance Director and the
13 Mayor.

14 In accordance with a proposal by the
15 City administration, I would strike the
16 Procurement Commissioner, comma, the Finance
17 Director and the word "and" and just leave
18 the Mayor.

19 With regard to the issues that were
20 raised earlier, involving assisting companies
21 to be in compliance, whether they're minority
22 firms or other applicants or contractors, I
23 would direct your attention and propose
24 additional language.

25 On Page 3, 17-1202, 1, a. At the

1 Law & Government - 3/1/05
2 end of the sentence that reads the
3 Procurement Commissioner shall develop
4 procedures to ensure that such contracts are
5 advertised and approved in a timely,
6 efficient and coordinated manner, in the best
7 interests of the City, I would propose to add
8 the following sentence:

9 The Procurement Commissioner shall
10 develop procedures and guidelines to assist
11 applicants, comma, contractors and
12 disadvantaged business... I believe it's
13 enterprises. I'm sorry. Yes, enterprises,
14 in complying with the provisions of this
15 chapter, period.

16 And then the sentence -- the
17 paragraph would continue with the City agency
18 that seeks to enter into.

19 Those are the proposed amendments,
20 Mr. Chairman, to Bill Number 040772, as
21 they're either in print or as I read them
22 into the record.

23 And with your approval, I would move
24 the adoption of those amendments.

25 COUNCILMAN KENNEY: Second.

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2 COUNCILMAN COHEN: Any discussion on
3 the amendments?

4 (No response.0

5 COUNCILMAN COHEN: If not, those in
6 favor will say aye.

7 (Chorus of "ayes.")

8 COUNCILMAN COHEN: Those opposed?

9 COUNCILMAN MARIANO: Opposed.

10 COUNCILMAN COHEN: The ayes have it.
11 The amendments are adopted.

12 COUNCILMAN COHEN: Let the record
13 show Councilman Mariano opposed the passage
14 of the amendments.

15 COUNCILMAN COHEN: Now, the motion
16 on the...

17 COUNCILMAN COHEN: With the
18 Resolution?

19 COUNCILMAN COHEN: Don't we have to
20 have another motion. Adopted the amendments.

21 COUNCILMAN NUTTER: We adopted the
22 amendments. Do you want me to amend the
23 other Resolution? And then we'll vote them
24 all at the same time.

25 COUNCILMAN COHEN: Yes. Okay.

1 Law & Government - 3/1/05

2 COUNCILMAN NUTTER: Mr. Chairman,
3 there are -- I don't think you got one of
4 these. There are -- There's the proposed
5 amendment to Resolution 040818.

6 If I direct your attention to what
7 would be Page 2 -- And these amendments...
8 This particular amendment did come as a
9 result of coordination and conversation with
10 the City administration. And I appreciate
11 their work in this area.

12 There's an amendment to small letter
13 b, inserting the phrase, other than the City;
14 small letter c, the same phrase, other than
15 the City; small letter d, inserting the
16 language, including the City; and then, what
17 I've talked about earlier which is item
18 number two, which reads as it reads; and then
19 there's a technical amendment to number
20 three. Those are the only amendments.

21 COUNCILMAN COHEN: Would you explain
22 briefly the amendment, other than the City?

23 COUNCILMAN NUTTER: Sure. The
24 primary purpose of the amendments that I've
25 mentioned is to first remove the requirement

1 Law & Government - 3/1/05
2 for Council approval of all contracts that
3 may have an extended term or renewal period
4 if the option is solely at the City's
5 discretion.

6 With that in mind, in that
7 particular situation we would still seek to
8 have, even under that set of circumstances,
9 the contract would not automatically renew
10 but would only renew if affirmatively
11 exercised by the City, upon the certification
12 of the department head of the contracting
13 agency, that the renewal or the extension of
14 that contract is in the best interests of the
15 City.

16 Subsequently, that certification
17 will be available for public inspection, with
18 copies sent to the Mayor, the President of
19 City Council, the Chief Clerk, and the
20 Department of Records, and available for
21 public inspection.

22 A renewal or extension of a contract
23 or lease, without compliance with this
24 section, is not binding on the City.

25 Lastly, a technical amendment

1 Law & Government - 3/1/05
2 involving the issue of campaign contributions
3 regarding people who have solicited or
4 otherwise been involved in raising certain
5 campaign contributions, in accordance with
6 the other provisions in Bill 772. Those are
7 all the amendments to the Resolution.

8 COUNCILMAN COHEN: Would you make
9 the motion again?

10 COUNCILMAN NUTTER: Mr. Chairman, I
11 make a motion that the amendments to
12 Resolution Number 040818 be approved by this
13 committee.

14 COUNCILMAN KENNEY: Second.

15 COUNCILMAN COHEN: Any discussion?
16 If not all, in favor, please say
17 aye.

18 (Chorus of "ayes.")

19 COUNCILMAN COHEN: Opposed?

20 (No response.)

21 COUNCILMAN COHEN: The ayes have it.
22 So carried.

23 COUNCILMAN NUTTER: Okay.

24 Mr. Chairman, there are no other --
25 I have no other amendments. And at this time

1 Law & Government - 3/1/05

2 I would ask if we could take the necessary
3 action to move the two bills and the
4 Resolution out of committee.

5 COUNCILMAN COHEN: All right. Do
6 you have a motion to submit?

7 COUNCILMAN NUTTER: Yes. Mr.
8 Chairman, first I'd move Bill 040771, which
9 is the ordinance that actually places the
10 question on the ballot, for which there are
11 no amendments.

12 COUNCILMAN COHEN: Ballot question.

13 COUNCILMAN NUTTER: Yes.

14 I move that Bill 040771 be reported
15 out of this committee with a favorable
16 recommendation, and a further recommendation
17 that the rules of Council be suspended so as
18 to permit first reading at our next session.

19 COUNCILMAN KENNEY: Second.

20 COUNCILMAN COHEN: Any discussion?

21 (No response.0

22 COUNCILMAN COHEN: If not, all in
23 favor please see aye.

24 (Chorus of "ayes.")

25 COUNCILMAN MARIANO: Can I do

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2 discussion? I didn't speak quick enough.

3 I'm going to vote no for this. And
4 let me just explain. The reason that I want
5 to vote no is I really don't think this is
6 true ethics reform. I think it's almost a
7 start, but there's no ethics board, and I'll
8 leave it at that. Okay.

9 COUNCILMAN COHEN: All right. The
10 motion is carried. Let the record show
11 Councilman Mariano's vote of no, and all
12 other ayes.

13 Next motion.

14 COUNCILMAN NUTTER: Thank you, Mr.
15 Chairman.

16 I move that Bill Number 040772 as
17 amended be reported out of this committee
18 with a favorable recommendation, and a
19 further recommendation that the rules of
20 Council be suspended so as to permit first
21 reading at our next session.

22 COUNCILMAN KENNEY: Second.

23 COUNCILMAN MARIANO: Same argument,
24 Councilman.

25 COUNCILMAN COHEN: What's that?

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2 COUNCILMAN MARIANO: I'll be voting

3 no. Same argument as last one.

4 Thank you.

5 COUNCILMAN COHEN: All right.

6 All those in favor, please say aye.

7 (Chorus of "ayes.")

8 COUNCILMAN COHEN: Those opposed?

9 COUNCILMAN MARIANO: No.

10 COUNCILMAN COHEN: Councilman

11 Mariano votes no.

12 The motion is carried.

13 COUNCILMAN NUTTER: Mr. Chairman, I

14 move that Resolution Number 040818 as amended

15 be reported out of this committee with a

16 favorable recommendation.

17 COUNCILMAN KELLY: Second.

18 COUNCILMAN COHEN: Any discussion?

19 (No response.)

20 COUNCILMAN COHEN: Hearing none, all

21 those in favor please say aye.

22 (Chorus of "ayes.")

23 COUNCILMAN COHEN: Those opposed?

24 Councilman Mariano?

25 COUNCILMAN MARIANO: I'm in favor.

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2 COUNCILMAN COHEN: He voted in
3 favor.

4 The motion is carried unanimously by
5 the committee.

6 COUNCILMAN COHEN: Okay. Yes.

7 COUNCILMAN KENNEY: I just want to
8 make take a moment, if I can, a very quick
9 moment, to thank Councilman Nutter for all
10 his hard work in this area.

11 I know that he struggled with these
12 bills for a long period of time. He's been
13 very open minded and understanding to
14 people's issues and needs; has been very
15 forthright in his opinions and positions; and
16 has done all the hard, diligent work to get
17 this thing where it is today.

18 I think he deserves the lion's share
19 of the credit for having us at the point we
20 are here in our history.

21 And I would make one caveat, though,
22 that I don't think this fight is over yet.
23 And I would suspect that the media and the
24 public need to continue to be vigilant as to
25 what's going to go on in the next couple of

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2 weeks, to make sure that we get this bill in
3 its form right now passed by this Council and
4 signed by the Mayor.

5 But I'd like to thank the Councilman
6 for all his continued due diligence and
7 effort. He's always thorough and always to
8 the point. So I want to thank him
9 personally.

10 COUNCILMAN NUTTER: Thank you,
11 Councilman.

12 COUNCILMAN COHEN: I think those
13 words are fully merited to Council Nutter.

14 As I stated earlier today, although
15 he may not have been the de jure
16 representative of City Council in
17 negotiations, he was clearly the de facto
18 representative of City Council because he,
19 more than anyone else in the Council, but
20 more than all other members of the Council
21 combined, spent time doing the hard work of
22 working the details and carrying the vision
23 of a City that's no longer corrupt nor
24 contented.

25 COUNCILMAN NUTTER: Thank you.

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2 COUNCILMAN COHEN: Is there any
3 further business to come before the committee
4 today?

5 If not, the committee will stand in
6 recess until Monday, March 7, when the
7 committee will be meeting again on other
8 matters.

9 COUNCILMAN NUTTER: With regard to
10 the other bills, Mr. Chairman, while they
11 were advertised, they are on hold in this
12 committee.

13 There are any number of
14 conversations that are still taking place.
15 And to be honest with you, my focus at the
16 moment is on the three bills or the two bills
17 and the Resolution that came out of committee
18 today. And I'm going to leave it at that
19 for the moment.

20 Thank you.

21 Thank you, Mr. Chairman, for your
22 leadership.

23 COUNCILMAN COHEN: Thank you.

24 (Meeting concluded at 4:45 p.m.)

25

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2 CERTIFICATE

3
4 I HEREBY CERTIFY that the proceedings and
5 evidence are contained fully and accurately in the
6 stenographic notes taken by me upon the public
7 meeting of The Philadelphia City Council, taken on
8 March 1, 2005, and that this is a true and correct
9 transcript of same.

10
11
12
13
14 _____
15 DAVID A. DEIK, RPR and
16 Commissioner of Deeds
17

18
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20 this transcript does not apply to any
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