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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE OF THE WHOLE

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, March 9, 2010
10:30 a.m.

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PRESENT:

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COUNCIL PRESIDENT ANNA C. VERNA

COUNCILWOMAN JANNIE BLACKWELL

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COUNCILMAN DARRELL L. CLARKE

COUNCILMAN W. WILSON GOODE, JR.

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COUNCILMAN BILL GREEN

COUNCILMAN WILLIAM GREENLEE

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COUNCILMAN CURTIS JONES, JR.

COUNCILMAN JAMES F. KENNEY

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COUNCILWOMAN JOAN L. KRAJEWSKI

COUNCILWOMAN MARIA QUINONES-SANCHEZ

14

COUNCILWOMAN DONNA REED MILLER

COUNCILWOMAN BLONDELL REYNOLDS BROWN

15

COUNCILWOMAN MARIAN B. TASCO

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RESOLUTION 100021 - Resolution confirming the
appointment of Sister Mary Scullion as a
member of the Board of Ethics...

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RESOLUTION 100022 - Resolution confirming the
appointment of Kenya Mann, Esq., as a member
of the Board of Ethics...

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RESOLUTION 100023 - Resolution confirming the
appointment of Nolan Atkinson as a member of
the Board of Ethics...

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COUNCIL PRESIDENT VERNA: Good morning. This is a public hearing of the Committee of the Whole.

I would ask Mr. McPherson to please read the title of Resolution No. 100021.

MR. MCPHERSON: Resolution confirming the appointment of Sister Mary Scullion as a member of the Board of Ethics, to serve in the term ending November 16, 2010.

COUNCIL PRESIDENT VERNA: Sister Mary Scullion, would you please approach the witness table, identify yourself and proceed with your testimony.

(Witness approached witness table.)

SISTER SCULLION: Thanks, Council President Verna.

COUNCIL PRESIDENT VERNA: Nice having you.

SISTER SCULLION: Nice to be here.

Good morning, members of City

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 Council. My name is Sister Mary
3 Scullion. I currently serve as Executive
4 Director of Project H.O.M.E., which was
5 co-founded by Joe McConnon and myself in
6 1989, along with men and women who were
7 homeless in the City of Philadelphia, and
8 I thank you for this opportunity to
9 testify as I'm being considered as a
10 nominee for the Ethics Committee.

11 I am very grateful for this
12 nomination and I believe I can serve the
13 people of Philadelphia effectively as a
14 member of the Philadelphia Board of
15 Ethics, and I would like to share with
16 you some background information.

17 I'm a native Philadelphian.
18 I'm the daughter of two Irish immigrants,
19 and, in fact, my father worked for City
20 Council for many, many years. I'm a
21 proud member of the 5th Councilmanic
22 District. I graduated from Little Flower
23 High School, St. Joe's University and
24 received my Master's degree from Temple
25 University. I entered the Sisters of

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 Mercy in 1972. My basic values have been
3 formed by my family, neighborhood,
4 education, church and civic life in the
5 great City of Philadelphia. Over the
6 past 30 years, I've worked with people
7 who are homeless, and I've been
8 privileged to partner with countless
9 remarkable people and organizations to
10 develop real and lasting solutions to
11 homelessness, from my earliest days at
12 the establishment of Women of Hope in
13 1985 through Project H.O.M.E., which we
14 started in 1989.

15 In all these years, I've
16 continually followed the conviction that
17 real and lasting solutions are possible
18 only when we build a community of
19 partners, friends and allies working
20 together with a common vision. This has
21 included many of Philadelphia's
22 remarkable leaders, including many
23 members of this City Council -- in fact,
24 probably all members of this City Council
25 in one way or the other -- workers in the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 non-profit field, the philanthropic
3 organizations, committed local business
4 leaders, educators, people from religious
5 communities, medical, media, sports and
6 entertainment, people from all walks of
7 life, including those who themselves have
8 been homeless. Philadelphia is widely
9 seen as a leader in dealing with the
10 problem of homelessness, and it's because
11 of a really broad-based community of
12 committed and talented people, especially
13 the people that's members of the City
14 Council, in the public and private
15 sector.

16 I also know as an Executive
17 Director of a \$12 million non-profit how
18 utterly essential it is that we are
19 honorable, professional, effective and
20 strategic in the use of our resources
21 entrusted to us, either from the private
22 or the public sector. To do our work
23 well, we want to act truthfully as an
24 organization and be consistently
25 transparent. Over the years, there have

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 been obstacles that we've had to overcome
3 for our work, and towards that end, I've
4 had a fair amount of experience with the
5 legal, political and justice systems in
6 Philadelphia.

7 I believe I bring these same
8 values, experience and convictions as my
9 role as a member of the Philadelphia
10 Board of Ethics. As a Philadelphian, I
11 want to be part of this great city, and I
12 truly believe that moral integrity of
13 government and of all public servants is
14 a critical component to the greatness
15 that we're capable of. I know that this
16 city must navigate through this period of
17 economic uncertainty and with precious
18 scarce resources, which is further cause
19 for us to maintain high standards of
20 accountability and integrity by those who
21 manage those public resources. Ethical
22 behavior and accountability by those in
23 municipal government is both a moral and
24 a practical necessity.

25 Finally, I would say that the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 critical role of the Ethics Board is to
3 foster the common good and the integrity
4 of good government. In part, this can
5 happen when the Board ensures consistent
6 integrity in City Hall's performance,
7 which in turn can foster greater
8 political and civic participation by more
9 citizens in working for the development
10 and the health of the City. When
11 government works well, citizens work for
12 the common good.

13 In closing, I'd like to thank
14 Mayor Nutter and the City Council for
15 considering me to serve on the Ethics
16 Board, and I look forward to the chance
17 to serve the people of Philadelphia and
18 you to foster the public good and -- the
19 public trust and common good.

20 Thank you for your time, and
21 I'm happy to respond to any questions
22 that any member has.

23 COUNCIL PRESIDENT VERNA: Thank
24 you, Sister.

25 Are there any questions from

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 members of the Committee?

3 Councilwoman Tasco.

4 COUNCILWOMAN TASC0: Thank you.

5 Good morning, Sister.

6 SISTER SCULLION: Good morning,
7 Councilwoman Tasco.

8 COUNCILWOMAN TASC0: Thank you
9 so much for coming before us and thank
10 you for all the wonderful work that you
11 do in the City of Philadelphia. I don't
12 have a lot of questions, but I do want to
13 just ask a couple.

14 Are you clear on the role of
15 the Ethics Board and what your function
16 is as a member, your responsibilities as
17 a member?

18 SISTER SCULLION: To the best
19 of my ability, over the past month I've
20 read various information about the Ethics
21 Committee, the work, the Charter. So I
22 understand that this body legislates the
23 laws and our job is to interpret some of
24 the regulations that come down.

25 COUNCILWOMAN TASC0: Do you

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 believe that those regulations that you
3 interpret should be made clear to the
4 public at large?

5 SISTER SCULLION: Yes. I think
6 it should be -- they should be
7 transparent, and I think that we should
8 work -- one of the things that I've heard
9 is, I've listened and gone around this
10 past week or so, is that I would say I
11 would want to work harder for prevention
12 so that people really do understand, so
13 that we don't really have to deal with
14 violations, because everybody really
15 clearly understands what the guidelines
16 are, what the interpretations are, so
17 people are empowered to do what they need
18 to do.

19 COUNCILWOMAN TASC0: The other
20 question I have is, what is the Board's
21 oversight or the authority over the staff
22 of the Ethics Board and how do you
23 interact with them in terms of how they
24 perform their duties?

25 SISTER SCULLION: I think that

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 the staff -- let me be honest for a
3 minute. I don't know every exact
4 distinction, but I would assume -- I'm
5 assuming that the staff and the Board
6 work closely together to foster the
7 spirit and the common good for which --
8 and the mission for which the Ethics
9 Board was formed.

10 I know that there were problems
11 in the past where people felt that the
12 staff -- that people couldn't get to the
13 Board, that they were being stopped by
14 the staff, and I think things have been
15 put in place to ensure that it's a more
16 seamless and open process and that we
17 work more seamlessly together with
18 members of City Council and others.

19 COUNCILWOMAN TASC0: Thank you,
20 Madam President. Thank you.

21 COUNCIL PRESIDENT Verna: The
22 Chair recognizes Councilman Jones.

23 COUNCILMAN JONES: Thank you,
24 Madam Chair.

25 Sister Scullion, a lot of times

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 people and their history and their
3 resumes speak for them. In your case, it
4 does. Your process and participation
5 with Project H.O.M.E. I've known about,
6 worked with in my former capacity at
7 PCDC. I understand the good works you
8 do.

9 I'm going to say this about
10 Mr. Atkinson, so this way, I won't repeat
11 myself. His works speak for him. I
12 remember him as a partner in a law firm
13 when I was at MBEC. So we understand
14 that you are good people.

15 What we struggle with in
16 government often -- and this is both
17 sides of the coin -- is four legs of a
18 table. In order to have good government
19 and good public policy, you have to have,
20 A, good people; B, good laws, and that's
21 in our bailiwick to deal with, because
22 you can only rule on the things that are
23 on the books and the laws and codes that
24 we put there, and the final thing is good
25 process, fair, equitable process. And

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 what we're hoping for and what my
3 colleagues have struggled with is coming
4 to that balance of good policy, common
5 sense and then a clear understanding of
6 the law and the process. And what I'm
7 encouraged by your appointment and the
8 appointments here today, all of them, is
9 that we're beginning to evolve to that.
10 Through some of the confrontation that
11 we've had with members often brings
12 compromise and understanding. So if out
13 of that we actually come up with a good
14 process that for generations we can be
15 governed by, this is a good thing, and
16 I'm glad to have you as an addition to
17 that body.

18 I'm looking forward to working
19 with you guys, and that we hope going
20 forward we'll be a lot better and less
21 confrontational than we have. You got to
22 do your job. Your job is not to be our
23 friend, buddy and pal, but to follow the
24 law. But those four essential components
25 we have to get right.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 And I appreciate allowing the
3 comment, Madam Chair.

4 COUNCIL PRESIDENT Verna: Thank
5 you.

6 The Chair recognizes Councilman
7 Kenney.

8 COUNCILMAN KENNEY: Thank you,
9 Madam President.

10 And thank you, Mary, for
11 agreeing to serve in this capacity. I
12 want to probe a little bit your opinion
13 relative to the confidentiality of
14 investigations as it relates to prior to
15 the decision of the Board. When a formal
16 decision of the Board is made, of course,
17 through an open and transparent process,
18 the press is notified and what is
19 reported is reported, but some of the
20 concerns that I think members have is
21 that during the course of staff work,
22 staff investigation, that sometimes this
23 information winds up in the public media
24 prior to a final decision being made,
25 which creates a lot of difficulties,

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 because people then start to begin --
3 they think they know what the end result
4 is going to be or they think they know
5 actually what happened.

6 Reporters, columnists,
7 editorial writers have their own
8 viewpoints, and certainly they're allowed
9 to have them and express their opinions,
10 but often the things that the staff and
11 you guys are going to make decisions on
12 affect the careers of people and the
13 livelihoods of people.

14 What is your overall view of
15 the confidentiality of ongoing work by
16 staff and investigations?

17 SISTER SCULLION: Well, I think
18 confidentiality is a very key component
19 of anything that we do. I'm not aware of
20 the specifics of when things are public
21 information, so I can't comment like
22 specifically, but as a way that I would
23 operate personally, I think
24 confidentiality -- and I'm very -- I do
25 keep confidences until all the facts are

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 known and when things are public
3 information. I would probably err on the
4 side of confidentiality other than, you
5 know -- and I think that the mission of
6 the Ethics Commission is that we learn,
7 as Councilman Curtis Jones pointed out,
8 about process. And I think that none of
9 us are perfect, and I know for myself,
10 I've made -- if I had a nickel for every
11 mistake I made, I'd be a rich woman
12 today. I think that the integrity and
13 the process and people being able to
14 consider the information is very, very
15 important without having to deal with it
16 in a public way.

17 COUNCILMAN KENNEY: I think
18 part of the frustration in this body is
19 that the overwhelming number of the
20 members of this Council, when this
21 legislation was passed, voted for it. We
22 seemed to get very little credit for
23 doing it. There were massive changes
24 that were made based on what we're used
25 to -- how we were used to conducting

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 business and campaigns that were changed
3 by this body through leadership of now
4 Mayor Nutter. Just about all of us voted
5 for it and supported it and, in concept,
6 did support it. Relative to issues of
7 campaign finance and who can serve in
8 what capacity, a lot of these things that
9 the Board was either opining on or taking
10 a position on was something that we were
11 never even intent on in the legislation.

12 So I think where Council
13 Majority Leader was going was that the
14 law was passed by us, certainly
15 interpretation by the Board, but there
16 are also times when we feel that the
17 staff or the Board goes beyond their
18 scope of responsibility, and I think
19 that's where the conflict comes in. And
20 I know the first year that I ran for
21 reelection under the new campaign finance
22 laws was a difficult year. There was
23 lots of information that was requested.
24 It was requested immediately. We have
25 staff that were trying to scramble to get

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 information to comply with the requests,
3 but there was kind of a, I don't know,
4 like a haughty kind of attitude about the
5 requests and how they were made and how
6 often and quickly we needed to respond
7 while we're doing other work throughout
8 the course of our duties.

9 We got through that election,
10 and, you know, it was a learning process.
11 I think both sides learned, and it's
12 easier now to deal with it going forward.
13 And I'm not suggesting we go backwards,
14 but I think sometimes there's -- and
15 maybe it's necessary because of the
16 function of the Commission and the
17 staff -- is that there seems to be this
18 arm's length approach to us, which I
19 don't think is really always necessary.
20 And I think you guys can do your job and
21 we can do our job and we can follow the
22 rules as we're supposed to, but I do
23 think that sometimes there's this -- I
24 find it even -- for example, in the
25 ongoing yearly ethics training, I mean,

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 it seems that sometimes we're being
3 spoken to like we're in school. And I
4 know that that was the first year. The
5 second year, I think it was better, but
6 it's those things I think that are more
7 subjective than they are substantive that
8 cause these conflicts.

9 I just would have you take that
10 into consideration as you serve. I know
11 you for a long time. I know you're a
12 fair-minded person, not afraid to speak
13 their mind when they think they're right,
14 and I expect you to continue to do that,
15 but I would just like you to keep that in
16 consideration as you go forward.

17 SISTER SCULLION: Thank you. I
18 hear you and I respect that, and I know
19 that it's been rough getting started, and
20 I think we all, especially the City
21 Council who initiated this legislation,
22 wants a more level of --

23 COUNCILMAN KENNEY: That's one
24 of the big frustrations, is that those of
25 us who supported it and passed it seem --

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 and it's not your fault or the Board's
3 fault, but in the media seem to get very
4 little credit for massively changing
5 campaign finance regulations and ethics
6 regulations or ethics legislation in our
7 tenure. I mean, it wasn't done by
8 another group of people. It was done by
9 us.

10 SISTER SCULLION: Right. Well,
11 thank you very much, and I would hope
12 that I would uphold and honor that and
13 respect it and implement it more.

14 COUNCILMAN KENNEY: Again, I
15 always echo my confidence in you because
16 I know you're a fair person. Thanks.

17 COUNCIL PRESIDENT VERNA: Thank
18 you.

19 Are there any further questions
20 from members of the Committee of Sister
21 Scullion?

22 (No response.)

23 COUNCIL PRESIDENT VERNA:
24 Seeing none, thank you, Sister.

25 SISTER SCULLION: Thank you,

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 Council President. Thank you.

3 COUNCIL PRESIDENT VERNA:

4 Mr. McPherson, I would ask you to please

5 read the title of Resolution No. 100022.

6 MR. MCPHERSON: Resolution

7 confirming the appointment of Kenya Mann,

8 Esquire, as a member of the Board of

9 Ethics, to serve in the term ending

10 November 16, 2013.

11 (Witness approached witness

12 table.)

13 COUNCIL PRESIDENT VERNA: Good

14 morning.

15 MS. MANN: Good morning.

16 COUNCIL PRESIDENT VERNA: Good

17 morning. Kindly identify yourself for

18 the record and proceed with your

19 testimony.

20 MS. MANN: Thank you. My name

21 is Kenya Mann Faulkner.

22 Good morning, Council President

23 Verna and members of City Council. My

24 name is Kenya Mann Faulkner. I would

25 like to begin today by thanking all of

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 you for giving me this opportunity to
3 speak in connection with my
4 reconfirmation to the Philadelphia Board
5 of Ethics, on which I am truly honored to
6 serve as a current Board member.

7 Currently, I am a partner in
8 the Litigation Department and a member of
9 the Investigations and White-Collar
10 Litigation Group at Ballard Spahr. Prior
11 to joining the law firm in 2007, I spent
12 the vast majority of my career in public
13 service. I served as a Philadelphia
14 public defender and then as a senior
15 deputy attorney general for the
16 Pennsylvania Office of Attorney General.
17 In 2002, I moved to the U.S. Attorney's
18 Office in the Eastern District of
19 Pennsylvania to become a federal
20 prosecutor, working on corruption cases.
21 In that position, I saw firsthand how
22 important the City of Philadelphia's
23 ethics rules truly were setting forth the
24 boundaries of acceptable conduct in local
25 government. I have proudly served on the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 Philadelphia Board of Ethics since
3 January 2008, and I look forward to the
4 opportunity to continue working on the
5 Board in the future.

6 I would like to take this
7 opportunity at my reconfirmation to talk
8 a little about the outstanding
9 accomplishments I have witnessed the
10 Ethics Board achieve in the short period
11 of time I've been on the Board.

12 Since 2008, the Board has taken
13 significant steps to increase honesty,
14 integrity and transparency in City
15 government and ensure that all City
16 officials and workers are held
17 accountable to the same high standards.

18 I am proud that a major focus
19 of Board activity has been to increase
20 and improve training for City officials,
21 employees and candidates for office in
22 order to prevent mistakes. We
23 conducted -- the Board conducted campaign
24 finance training in 2009 before the 2010
25 election and will soon start regular

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 voluntary campaign finance training
3 sessions, well in advance of the 2011
4 elections, so that all candidates and
5 committees will be knowledgeable of and
6 understand the applicable rules.

7 One key to achieving honesty
8 and integrity in City government is the
9 Board's emphasis on providing advice and
10 guidance. Regulation 4, which became
11 effective on August 4th of 2008,
12 established firm and clear procedures for
13 seeking advice from the Board. It did so
14 by clarifying permissible subjects of
15 requests, who may request advice and the
16 manner in which communication with the
17 Board and staff should be made. Through
18 Regulation 4, the Board encouraged and
19 continues to encourage all City officers,
20 employees, candidates, candidate
21 political action committees and political
22 committees to seek advice from the Board
23 in a manner ensuring complete
24 transparency.

25 I am pleased to note that many

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 people have sought the Board's advice.
3 Since 2008, the Board has issued a number
4 of significant formal advisory opinions
5 relating to very relevant issues.

6 The most recent amendments
7 adopted within the last few weeks to the
8 Board, Regulation 2, are intended to
9 clarify the steps in investigations and
10 enforcement proceedings. Furthermore,
11 Regulation 2 defines the rights of
12 parties before the Board and will help
13 promote confidence in the Board's work.
14 I would also like to add that the Board
15 worked with City Council on this
16 amendment and included the suggested
17 changes made by City Council in this
18 particular amendment.

19 The Board of Ethics has also
20 adopted regulations in the areas of
21 confidentiality of investigations and
22 annual ethics training requirements.

23 Each of these recent
24 regulations is a step toward making the
25 City's public integrity laws clear and

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 accessible to all. It is most rewarding
3 and exciting to be a part of this growth
4 by the Ethics Board.

5 The last thing I would like to
6 say about regulations is that the process
7 for publicizing new regulations or
8 amendments to existing regulations under
9 the Charter includes the opportunity to
10 request a public hearing, and in most
11 cases, the Ethics Board has taken the
12 initiative and scheduled the hearings
13 without anyone requesting them at all.

14 I have been a part of the
15 Philadelphia community for almost 20
16 years. I have a vested interest in the
17 City and I want it to be a model of
18 ethics for all other cities. Since I
19 have become a part of the Board, I've had
20 the chance to further this effort and
21 play a role in furthering lucidity and
22 integrity in City government. The Ethics
23 Board and I encourage all employees, as
24 well as elected officials and candidates,
25 to participate in Board meetings and

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 voice their concerns, comments or
3 questions. Such participation will help
4 further promote these principles.

5 In closing, I would like to
6 thank Mayor Nutter and City Council for
7 giving me the opportunity to serve as an
8 Ethics Board member for the past two
9 years. If reconfirmed, I pledge to work
10 hard to fulfill the Board of Ethics'
11 mandates in educating, rendering advice
12 and enforcing the City's public integrity
13 laws.

14 Thank you.

15 COUNCIL PRESIDENT VERNA: Thank
16 you.

17 The Chair recognizes Councilman
18 Goode.

19 COUNCILMAN GOODE: Thank you,
20 Madam President.

21 Good morning.

22 MS. MANN: Good morning.

23 COUNCILMAN GOODE: As the only
24 person before us this morning that's
25 actually being reconfirmed or up for

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 reconfirmation, I have a couple questions
3 about the process. The first is, how
4 many matters have actually been brought
5 to the Board?

6 MS. MANN: When you say
7 "matters" --

8 COUNCILMAN GOODE: Not
9 investigative, but matters that have
10 actually been brought to the Board for
11 decisions.

12 MS. MANN: Are you talking
13 about advisory opinions?

14 COUNCILMAN GOODE: Cases.

15 MS. MANN: Well, there are
16 different things. There can be
17 investigations that are brought to the
18 Board. There could be advisory opinions
19 that are requested of the Board.

20 COUNCILMAN GOODE: I'm talking
21 about all of them combined.

22 MS. MANN: I don't have the
23 exact numbers. There's been a lot of
24 advisory opinions. There have been
25 investigations that we've done. Some of

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 them have never been made public, but I
3 can't give you a number.

4 COUNCILMAN GOODE: I guess the
5 question is, how many have been brought
6 to the Board for decisions by the Board
7 that you've actually made decisions
8 about? How many matters have you made
9 decisions about during your tenure?

10 MS. MANN: You're talking about
11 investigations?

12 COUNCILMAN GOODE: However they
13 originated, but the investigations.

14 MS. MANN: Some investigations
15 are started by someone making a
16 complaint. Some investigations are --

17 COUNCILMAN GOODE: I'm actually
18 looking for a number, whether it's a
19 broad number or not.

20 MS. MANN: I don't have a
21 number, Councilman.

22 COUNCILMAN GOODE: You don't
23 have a range or a rough number?

24 MS. MANN: I would truly be
25 guessing. I don't have a number. I know

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 that matters are brought to the Board and
3 we discuss them in executive session, but
4 I don't know the number of that, but I
5 can certainly get you a number.

6 COUNCILMAN GOODE: Well, that
7 was just leading up to my second question
8 anyway. The second question is, what
9 percentage of those matters were related
10 to campaign finance? For that I think it
11 would be appropriate some guess or some
12 range. Would you say the majority?

13 MS. MANN: No, I wouldn't say
14 the majority, but I don't have a number.
15 If I don't have the large number of the
16 investigations, it's hard for me to tell
17 you what ratio of those are campaign
18 finance.

19 COUNCILMAN GOODE: I guess
20 where we're not clear on the first
21 question or second question is, I'm not
22 asking how many issues have been raised
23 with the Board. I'm asking how many
24 decisions have been made by the Board in
25 any context you want to put it, whether

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 you want to say investigations, advisory
3 opinions. In terms of your work, because
4 you're here asking for reconfirmation, so
5 you can create the universe however you
6 want in terms of matters you dealt with.
7 I'm asking, can you define that in any
8 way and what portion of that dealt with
9 campaign finance?

10 MS. MANN: We get many requests
11 for advisory opinions on conflict of
12 interest. We get questions on --
13 advisory opinions on campaign finance.
14 It would be hard for me to tell you the
15 number. I can tell you there is a good
16 number of advisory opinions included with
17 investigations on campaign finance. Are
18 they the majority of them? I don't want
19 to say that here this morning because I
20 don't actually know. I know we've had
21 discussions about them where there's
22 advisory opinions as well as
23 investigations and the Board has rendered
24 decisions on them, but I can't tell -- I
25 apologize, because I can't tell you a

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 number.

3 COUNCILMAN GOODE: Okay. In
4 general, what portion of time do you
5 believe is allocated to the issue of
6 campaign finance by the staff, not
7 necessarily by the Board? My original
8 questions were about the Board, decisions
9 made by the Board.

10 MS. MANN: The staff deals with
11 not just campaign finance. They deal
12 with conflict of interest and ethics
13 violations. You would again be asking me
14 to guess how much time someone else
15 spends on a particular subject, which is
16 even harder for me to do. I know they
17 work. I know they work hard, but I don't
18 know how much of their time they spend
19 solely to campaign finance.

20 COUNCILMAN GOODE: How many
21 campaign finance matters have come to
22 your attention?

23 MS. MANN: And this is a guess.
24 I'm going to guess for you. Probably
25 since I've been on the Board, maybe 12,

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 15, and that's a guess.

3 COUNCILMAN GOODE: Okay.
4 That's a fair guess. I'm not going to
5 hold you to the number.

6 Of the 12 or 15 matters of
7 campaign finance that have come to your
8 attention as a Board member, how many
9 were clear-cut decisions for you?

10 MS. MANN: They're never
11 clear-cut decisions, at least for me. I
12 can't speak to anyone else, but what I
13 can tell you with respect to me is that I
14 take my job as an Ethics Board member
15 very, very seriously. I understand the
16 ramifications that even mere allegations
17 could have on not just City officials, on
18 anyone.

19 COUNCILMAN GOODE: So they were
20 not clear-cut decisions. Without getting
21 into the particular issues, what made
22 them not clear cut?

23 MS. MANN: Because I think when
24 you're, not even just a lawyer, when you
25 have a rule and you have a set of facts,

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 you have to put those things together and
3 decide whether they fit within those
4 rules. So for me, it's never just -- I
5 think what you have with the Board
6 members, you have people coming from very
7 different perspectives, and I think
8 that's a good thing. And so we have
9 discussions from --

10 COUNCILMAN GOODE: So do you
11 believe it has been a matter of the facts
12 not being clear or the rules not being
13 clear?

14 MS. MANN: I don't think it's
15 either. I don't want to say the law or
16 the rule is unclear or the facts are
17 unclear. We have a set of facts. The
18 Board always asks --

19 COUNCILMAN GOODE: Well, I
20 guess the question I'm asking is, in your
21 examination of those roughly 12 to 15
22 different cases brought to your
23 attention, were you looking through the
24 facts to see whether they applied to the
25 rule or were you looking at the facts and

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 then having to interpret the rule?

3 MS. MANN: I can only speak for
4 myself. I look at the -- I examine first
5 what the rule is and then I get the facts
6 and see if that fits within the set
7 there. And I'll tell you, we come
8 before -- what I wanted to say is we come
9 from very different perspectives, and
10 that doesn't mean that when we -- because
11 there are now three of us. We come in
12 and we discuss. I don't walk in thinking
13 I know what this is about and how I'm
14 going to decide. We have a very spirited
15 discussion on what happened here, what
16 does the rule say and then we come up
17 with a decision.

18 COUNCILMAN GOODE: So have you
19 changed your mind about the rule during
20 your tenure, the rules?

21 MS. MANN: Are you talking
22 about a particular rule or are you
23 talking about just --

24 COUNCILMAN GOODE: A particular
25 rule or any of the rules. Have you

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 changed your mind of any of it? In other
3 words, is the discussion you have among
4 the Board members again about the
5 particular cases and actions that were
6 taken or are those discussions about the
7 actual rules?

8 MS. MANN: I'm sorry. I don't
9 understand your question.

10 COUNCILMAN GOODE: Do you
11 interpret the rules?

12 MS. MANN: I don't know if I'd
13 use the word "interpret." I look at the
14 rules and look at the facts, and those
15 things come together at some point. I
16 don't --

17 COUNCILMAN GOODE: And have you
18 changed your mind about the rules during
19 your tenure? I can understand how the
20 facts may apply differently, but have you
21 ever changed your impression of what the
22 rules actually are?

23 MS. MANN: I don't know if I
24 could say I changed my mind. I look at
25 rules depending on the factual

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 circumstance. I think that's the
3 best way -- I wouldn't say I changed the
4 rules or changed my mind on the rules. I
5 look at the rules in terms of the facts
6 that I have.

7 COUNCILMAN GOODE: At any point
8 do you consider what the legislative
9 intent of those rules were?

10 MS. MANN: I look at the rule
11 and if there is some intent in there --

12 COUNCILMAN GOODE: There's
13 always legislative intent. If the ethics
14 ordinance were created by City Council
15 and passed by City Council, there is
16 definitely legislative intent.

17 MS. MANN: Well, there
18 certainly is legislative intent. Do I
19 look at the rule and think, Well, City
20 Council didn't mean to cover this portion
21 or that portion?

22 COUNCILMAN GOODE: Do you ever
23 consider legislative intent of the rules?

24 MS. MANN: Yes, I do. I do.

25 COUNCILMAN GOODE: And how do

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 you consider them?

3 MS. MANN: Depending on the
4 rule, I look at them and say, Well, this
5 is the set of facts, do -- you know,
6 but -- let me just say this: I don't
7 stray far down the road sort of trying to
8 change the rule. That I don't do.

9 COUNCILMAN GOODE: I'm not
10 suggesting that. I'm asking to what
11 extent you consider the legislative
12 intent, how you consider the legislative
13 intent and if you or any other Board
14 members are --

15 MS. MANN: I can't speak for
16 any other Board members.

17 COUNCILMAN GOODE: Well, if you
18 have ever had a conversation with any
19 member of Council about what the
20 legislative intent was.

21 MS. MANN: My only
22 conversations with Council was going
23 around and meeting them informally last
24 week. I can't say that anyone's told
25 me -- I've got a sense from those

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 meetings what their thoughts were, but
3 have I ever picked up the phone and
4 called City Council to find out their
5 intent? Absolutely not.

6 COUNCILMAN GOODE: So could any
7 Board member, including yourself, be
8 wrong about the legislative intent of any
9 of the rules?

10 MS. MANN: Anyone can be wrong
11 about anything, and yes, we could be
12 wrong. I should speak for myself. I
13 could be wrong.

14 COUNCILMAN GOODE: So if a
15 member of Council is before the Board on
16 a particular matter and they say they
17 don't believe it's the legislative
18 intent, I'm not suggesting you should
19 take their word for it, because there's
20 the legislative intent of the primary
21 sponsor, there's the legislative intent
22 of the body as a whole. Legislative
23 intent could be interpreted different
24 ways. But have there not been enough
25 matters that have come before the Board

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 to suggest that the Board should have had
3 a conversation with City Council about
4 what the legislative intent was on
5 several different matters?

6 MS. MANN: Well, I don't feel
7 like it's my job to call City Council to
8 ask them their legislative intent as an
9 Ethics Board member. If you're asking
10 me --

11 COUNCILMAN GOODE: Only if
12 you're interpreting the legislative
13 intent. If you're not interpreting the
14 legislative intent, I agree with you.

15 MS. MANN: I also feel that the
16 Ethics Board has what's called an
17 opportunity for people to come and ask
18 advisory opinions, and that gives not
19 just City Council but the person that has
20 a question or an issue to raise that
21 issue with the Board.

22 COUNCILMAN GOODE: When the
23 Board of Ethics was created, did it have
24 oversight of campaign finance laws?

25 MS. MANN: I'm sorry. I

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 wasn't -- I'm not sure. I was on the
3 Board -- when I came on the Board, it
4 already had jurisdiction over campaign
5 finance. I can't tell you what happened
6 before I got on the Board.

7 COUNCILMAN GOODE: So if the
8 Board of Ethics was created and did not
9 have oversight of campaign finance laws
10 and then was given oversight of campaign
11 finance laws by this Council, then the
12 purpose for the creation of the Board of
13 Ethics was not related to campaign
14 finance, and so it might follow that, but
15 to enforce those provisions within the
16 Code and within the Charter that already
17 exists, it would suggest that the purpose
18 of the Board of Ethics was not originally
19 to oversee campaign finance, that the
20 intent of those campaign finance laws as
21 they were created by Council are
22 therefore not necessarily up to
23 interpretation by the Board of Ethics.

24 MS. MANN: I'm sorry. I don't
25 understand your question. I don't -- are

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 you asking me whether the Board should

3 have oversight of campaign finance?

4 COUNCILMAN GOODE: When the

5 Board of Ethics was -- in fact, it may be

6 a more appropriate question for someone

7 who was around at the creation of the

8 Board, but the first question was simply

9 whether the Board of Ethics had oversight

10 of campaign finance when it was created,

11 and the answer to that question is no.

12 MS. MANN: I wasn't on the

13 Board during its creation, so I can't

14 speak to that. When I got on the Board,

15 they had oversight of campaign finance.

16 COUNCILMAN GOODE: Thank you.

17 Thank you, Madam President.

18 COUNCIL PRESIDENT VERNA:

19 You're welcome.

20 The Chair recognizes

21 Councilwoman Sanchez.

22 COUNCILWOMAN SANCHEZ: Thank

23 you, Madam President.

24 For the purposes of the record,

25 I'm going to ask you some questions and

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 put on the record we did have quite an
3 extensive conversation, and I think it's
4 important that my colleagues get the
5 benefit of hearing what your responses
6 were to some of the concerns in our
7 discussion. But I want to start out by
8 clarifying that I think in at least our
9 discussion, there was a clear discussion
10 around Council's legislative intent on
11 the Board of Ethics, because you said
12 that in none of your conversations with
13 Board members there was a discussion
14 around the intent, and we did have a
15 discussion around the intent. I think
16 both Councilman Clarke and Councilwoman
17 Reed Miller were very articulate in
18 talking about the intent, which was --

19 MS. MANN: May I respond to
20 that?

21 COUNCILWOMAN SANCHEZ: Yes.

22 MS. MANN: There were
23 conversations of a --

24 COUNCILWOMAN SANCHEZ: You have
25 to speak into the microphone for the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 record.

3 MS. MANN: We had conversations
4 about a specific code, and we talked
5 about that. I don't know whether it was
6 your staff or someone had questions about
7 whether it had an intent in the statute.
8 I didn't express any -- I said to
9 Councilman Goode that I got the
10 impression there were concerns about
11 legislative intent. That's what I said
12 to him.

13 COUNCILWOMAN SANCHEZ: No, but
14 he asked you -- you said you never had a
15 conversation with Council around the
16 legislative intent, and what I'm saying
17 to you, in our discussion there was a lot
18 of discussion around legislative intent.
19 So you're saying you didn't have a
20 discussion, and we were talking
21 legislative intent, which was good
22 government --

23 MS. MANN: I said I got, after
24 going around and meeting with Council, I
25 got the impression or idea that there was

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 concerns about legislative intent.

3 That's what I said.

4 COUNCILWOMAN SANCHEZ: Okay.

5 Let's talk a little bit about some of
6 those concerns and your interpretation.

7 One of the issues -- and my colleague,
8 Councilman Kenney, brought it up to
9 Sister Scullion -- around the publicizing
10 of investigations, and one of the
11 discussions that we had in light of the
12 fact that all of the Board meetings are
13 open to the public, what was the intent
14 of issuing a press release when there was
15 a dispute prior to a judicial decision,
16 and what is your opinion on that?

17 MS. MANN: Press releases are
18 issued in almost every instance by the
19 Board. The basis for that, my
20 understanding, is for transparency. The
21 press releases do not say the person
22 committed the violation. The press
23 release mirrors the petition that has
24 been filed and says X is alleged in the
25 petition to have violated this, that and

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 the other. It's done in almost all
3 circumstances. We believe the public has
4 a right to know what the Board is doing
5 and what's going on.

6 COUNCILWOMAN SANCHEZ: So the
7 practice is one of what you believe to be
8 educating the public further around an
9 allegation that is up for dispute?

10 MS. MANN: It's educating the
11 public, one, on what the Board is doing
12 and promoting transparency in
13 relationship to the Ethics Board, so the
14 City knows what's going on, the people of
15 the City know what's going on.

16 COUNCILWOMAN SANCHEZ: So in
17 these particular cases, there's a
18 dispute. It goes in front of the judge.
19 You don't believe that allegations,
20 because you're saying in the press
21 release is allegations, is not giving
22 someone a trial in the court of public
23 opinion?

24 MS. MANN: No, I do not. I do
25 not.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILWOMAN SANCHEZ: When a
3 case is then therefore settled or a
4 judicial decision is made, does the press
5 release acknowledge that you guys were
6 wrong on any of the issues or the
7 allegations and then the end result were
8 different?

9 MS. MANN: If there is a press
10 release when a petition is filed, is
11 done, if there's later a settlement and
12 there's negotiations done and fines are
13 reduced or violations are wiped out,
14 absolutely the press release will
15 indicate that they admitted to one
16 violation as opposed to four. The press
17 release lays out what the agreement was,
18 what the settlement was.

19 COUNCILWOMAN SANCHEZ: Does it
20 stipulate which allegations the Board
21 made that the judge deemed wrong?

22 MS. MANN: I don't know of any
23 specific circumstance you're talking
24 about, so I can't --

25 COUNCILWOMAN SANCHEZ: I'm just

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 saying as a practice. We're talking
3 about your practices, which has caused
4 some of the concerns that you heard
5 expressed, was the issue of the intent of
6 the law and then how we operationalize
7 that when you're making public statements
8 as a practice. The Board is okay with
9 certain practices, so I'm asking you your
10 personal opinion as to why those
11 practices are held and do you understand
12 the implications of those. Because you
13 take people to court. And we can talk
14 about some of that later. There's an
15 allegation that's made. There's a
16 dispute. It goes before the judge. And
17 my question is, when the judge makes a
18 different opinion than the Board of
19 Ethics, does the Board of Ethics in its
20 effort for transparency acknowledge in
21 that final press release that they were
22 wrong?

23 MS. MANN: I don't know of
24 any --

25 COUNCILWOMAN SANCHEZ: Or that

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 the judge determined something different
3 than the initial allegation?

4 MS. MANN: What I can tell you
5 is that if a petition goes before a judge
6 and the -- however the judge rules,
7 that's also made public, whether the
8 judge rules with the Board or against the
9 Board. In settlement agreements, as I
10 stated earlier, if we -- if the Board
11 decides that there's going to be an
12 admission only to one violation as
13 opposed to four or the fines are going to
14 be reduced, we do that. We don't --
15 whatever the court rules, we make that
16 public, too. We don't hide the ball with
17 respect to that as well.

18 COUNCILWOMAN SANCHEZ: Do you
19 acknowledge that the judge ruled against
20 you in your press statement? Because
21 we're talking about open transparency and
22 putting stuff on the record. Do you
23 acknowledge that?

24 MS. MANN: Are you saying that
25 we acknowledge that the court rules

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 against us? If the judge has made a
3 ruling, that too is included in whatever
4 settlement or press release that's issued
5 as well.

6 COUNCILWOMAN SANCHEZ: Going
7 back to legislative intent, do you
8 believe that the Board of Ethics is a
9 preventive, an education, or is it
10 punitive?

11 MS. MANN: First of all, the
12 Board of Ethics is an administrative
13 agency. I think the perception that some
14 people have is that all the Board does is
15 enforcement, and that's not all we do.

16 COUNCILWOMAN SANCHEZ: Well,
17 because you're very clear in your
18 statement. I'm going back to your
19 statement, is that this is to ensure the
20 City officials and workers are held
21 accountable. Nowhere in here do you talk
22 about educating the public around good
23 behaviors. You in your statement, the
24 terminology that you use is punitive.
25 That's why I'm asking you, do you think

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 you're an agency to establish standards
3 around good behavior or is it an
4 enforcement agency?

5 MS. MANN: And, Councilwoman
6 Quinones, what I'd like to direct your
7 attention to is that the last statement,
8 the last sentence of my statement -- and
9 I'll repeat it again -- it says, If
10 reconfirmed, I pledge to work hard to
11 fulfill the Board of Ethics' mandate in
12 educating, rendering advice and enforcing
13 the City's integrity laws.

14 I acknowledge that part of the
15 Ethics Board's duties is to enforce, but
16 it's not all we do. We render advice, we
17 do training. And I think training is
18 part of preventive, so that if people are
19 trained, they know what the rules are
20 that they're working under. It's not --
21 enforcement is not all we do. It's not
22 all we want to do.

23 COUNCILWOMAN SANCHEZ: Part of
24 what you and I had a conversation about,
25 when you read the Board of Ethics' annual

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 report, one of the accomplishments that
3 it lists is the high number of fines that
4 it has issued. Do you think this again
5 goes with the legislative intent and the
6 goal to set standards when your
7 accomplishments is around the high number
8 of fines that you're collecting? Does
9 that send the same message?

10 MS. MANN: I think part of the
11 annual report is that we list all we do.
12 It's not -- we didn't just list the fines
13 that we imposed upon people in our work.
14 There are many other things that are in
15 our annual report. Should we list the
16 fines? Absolutely. Should we list the
17 training of the number of people we do?
18 Absolutely.

19 COUNCILWOMAN SANCHEZ: Should
20 that be an accomplishment, that you're
21 talking about a high level of fines?

22 MS. MANN: I don't know if you
23 would term it an accomplishment. I think
24 it's a right for people to know if there
25 are --

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILWOMAN SANCHEZ: You list
3 it as an accomplishment. Do you think
4 that that is an accomplishment?

5 MS. MANN: I think the citizens
6 of Philadelphia have a right to know what
7 the Board does, and if part of it is
8 imposing fines and judges finding that
9 people should be fined, I think we should
10 list that, because it's part of the work
11 we do. It's not all we do.

12 COUNCILWOMAN SANCHEZ: So now
13 that you've in Regulation 4 -- and I'm
14 glad that there is a clarification in
15 Regulation 4 around people's due process.
16 In light of the fact that the Board of
17 Ethics was approved by this Council and
18 the first elections that it applied to
19 were the 2007, in retrospect, would you
20 say the actions around how that
21 enforcement was carried out in 2008 and
22 2009 -- what are your lessons learned and
23 what would you do differently?

24 MS. MANN: I didn't get on the
25 Board until 2008.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILWOMAN SANCHEZ: 2008,
3 okay.

4 MS. MANN: What I'd like to see
5 happen, I don't know that I'm --

6 COUNCILWOMAN SANCHEZ: No. I'd
7 like the specifics around lessons learned
8 and what you would do differently.

9 MS. MANN: What I'd like to see
10 is more people come -- the campaign
11 finance training is not --

12 COUNCIL PRESIDENT VERNA:
13 Excuse me. Do you mind pulling the
14 microphone closer.

15 MS. MANN: I'm sorry.

16 COUNCIL PRESIDENT VERNA: Thank
17 you.

18 MS. MANN: I'd like to see more
19 people attend more of the training.
20 Right now the ethics training is the part
21 that's mandatory. People don't have to
22 come to the other trainings, the campaign
23 finance training. I certainly am not
24 saying it has to be mandatory, but I'd
25 like to encourage people more -- and this

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 is the lesson that I've learned being on
3 the Board. I can't speak for anyone
4 else -- to come to the Board. If you
5 have a problem with the Board, make it
6 known. We have a Chair. We have public
7 meetings every Wednesday, the third
8 Wednesday of each month, at 1 o'clock.

9 The lesson I would ask
10 people -- I don't know that the Board
11 has -- I wouldn't say the Board has hid
12 that fact, but what I've learned is that
13 people don't know they can come to the
14 Board. They can come to the Board and
15 say, I take issue with this, I don't take
16 issue with this.

17 I think with respect to
18 Regulation 2, I can speak for the Board
19 in this. We appreciated Council's input
20 in Regulation 2.

21 So that's the lesson that I've
22 learned. When Councilman Kenney talks
23 about they feel like the Board is sort of
24 put off, that's not the impression that
25 we would like to have. This is --

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILWOMAN SANCHEZ: But you
3 recognize that that has been because of
4 the actions that have played out in the
5 press around the Board's accessibility?

6 MS. MANN: I don't know whether
7 it's because of the press. I think it's
8 probably a number of reasons, not just
9 the press. I would not like to blame it
10 on the press, but I think there's some
11 ownership that everyone could have, and
12 I'm here to say on behalf of the Board,
13 come to us, tell us if you think we got
14 it wrong. Tell us if you think we got it
15 right. We like to hear that, too.

16 I sensed -- and this is me
17 speaking personally -- maybe a year, a
18 year and a half, that people didn't
19 realize they could --

20 COUNCILWOMAN SANCHEZ: We were
21 told by staff we couldn't.

22 MS. MANN: I don't want to get
23 into any personal situation.

24 COUNCILWOMAN SANCHEZ: But it
25 needs to go on the record, because I

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 think that there is some confusion,
3 because you're saying on the one hand
4 now -- and I'm glad these steps have been
5 taken in the last Board meetings, but in
6 the past people were told by staff that
7 they did not have to either correspond
8 with the Board or have a forum with the
9 Board, which is what led to that
10 perception.

11 So my question to you is,
12 because you were well aware of that,
13 because we've told you, what is it that
14 you're going to do different now to
15 encourage --

16 MS. MANN: I certainly am not
17 going to sit here and say that I call
18 City Council up. That's not what -- if
19 you're asking me to sort of --

20 COUNCILWOMAN SANCHEZ: That's
21 not what I'm asking you.

22 MS. MANN: Let me finish saying
23 what I have to say.

24 I recognize that there's been
25 an impression that people can't approach

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 the Board.

3 COUNCILWOMAN SANCHEZ: No.
4 We've been told by staff. It's real
5 important that that go on the record.
6 It's not an impression. We've been told
7 by staff.

8 MS. MANN: That's something --
9 like I said, I do not want to rehash it,
10 and I'm not allowed to rehash any
11 personal or specific instances. I heard
12 your statement on that. The Board
13 meetings have always been public.

14 COUNCILMAN GREEN: Point of
15 information.

16 MS. MANN: There is not --

17 COUNCIL PRESIDENT VERNA: The
18 Chair recognizes Councilman Green for a
19 point of information.

20 COUNCILMAN GREEN: Thank you.

21 Would you please clarify the
22 statement, I'm not allowed to rehash or
23 discuss the issue that the Councilwoman
24 raised? Why are you not allowed?

25 Thank you.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MS. MANN: Because I sensed
3 that we were going down sort of a
4 specific matter that's already been
5 handled and because of the
6 confidentiality, I'm not -- I don't think
7 this is a place to --

8 COUNCILWOMAN SANCHEZ: We're
9 talking about process and procedures.
10 We're not talking about a specific case.
11 I'm trying to get your -- you have now
12 served on the Board for a year and a
13 half. We're trying to get some
14 clarifications in light of all of the
15 scrutiny that's been done and all the
16 perceived tension that exists between
17 Council and the Board of Ethics. I'm
18 trying to get your sense about what you
19 believe are some of the lessons learned
20 and how we are going to improve the
21 relationship in light of the fact that it
22 has been very clear from my colleagues
23 that everybody here supported the
24 creation of the Board of Ethics and there
25 was a legislative intent, and so now we

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 get to how do you operationalize that.
3 There's been so much glitches in the
4 road. So I am asking you about process.
5 I'm not asking you about individual
6 cases.

7 MS. MANN: Well, when you said
8 we've been told that, that's a specific
9 instance. That's what -- I didn't want
10 to go down the road of that, but let me
11 answer your question in how I expect to
12 deal with it, and I'll give you an
13 example.

14 On every Board meeting since I
15 started, Councilman Green has sent
16 someone from his staff there. That
17 person has been active. That person has
18 made suggestions. That person has given
19 us their perspective on how they can get
20 information better from the Board.

21 I'm not suggesting that every
22 Councilmember should do that, because
23 that may not be logistically available to
24 them. What I will say is that if you
25 have an issue, whether it's with a staff

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 member or an issue you think the Board is
3 not dealing with correctly, you can come
4 and complain to the Board. We have
5 regulations. We always, without anyone
6 asking, because we're suggesting some
7 change, we offer a public hearing without
8 waiting to hear from anyone.

9 The only thing I can say
10 sitting here today that I would do
11 differently is what I've done today, is
12 say come to the Board. We can't meet
13 with anyone privately. I don't suggest
14 you contact an individual Board member
15 privately. What I suggest is that people
16 come and make their complaints made.

17 COUNCILWOMAN SANCHEZ: I'm
18 trying to get your perspective, because
19 you're serving. You're the one up for
20 confirmation. So you keep referring me
21 back to the Board and the public Board
22 meetings. I'm trying to get an
23 understanding of what you believe is the
24 legislative intent, what you believe your
25 role is and if you think there are any

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 further clarifications and process, any
3 improvements. What is your added value,
4 given your experience having served on
5 this Board, moving forward in light of
6 all the issues that have been discussed?
7 That's what I want to get, what your
8 perspective is. We're here to talk about
9 Kenya.

10 MS. MANN: My perspective is,
11 I'd like to see people ask for more
12 advice so that there aren't mistakes
13 made. I'd like to see people come to
14 more training and ask questions about
15 training.

16 My job -- I don't see my job as
17 a Board member to just enforce the codes
18 or the campaign finance. I'd like to see
19 people have more of an open, approachable
20 relationship with the Board. It's hard
21 for us to go reaching out to people, but
22 if they have concerns or they have
23 issues, come to the Board. Those are the
24 things I think would, looking back, I'd
25 like to see the Board further growing. I

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 think helping the citizens of
3 Philadelphia understand what the rules
4 are and I think the advisory opinions
5 help them a long way, because one
6 advisory opinion can help a lot of
7 people, whether it's related to campaign
8 finance or just conflict of interest. It
9 can help the rest of the people.

10 So that would be my suggestion,
11 that people come to the Board. I can't
12 speak to any specific instances, but I'd
13 like people to know that the Board has
14 public meetings every Wednesday, and
15 coming to them and voicing your concerns
16 will help not just City Council, but it
17 will help the citizens of Philadelphia
18 and City employees.

19 COUNCILWOMAN SANCHEZ: What is
20 your opinion around the Evan Meyer
21 situation and the DROP?

22 MS. MANN: When that issue was
23 proposed to the Board, we discussed it
24 more than once in executive session. We
25 came -- people had -- we talked about the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 issue. We talked about whether it was
3 legal, and once we got beyond the
4 legality point -- and I'm not going to
5 speak for the Board here.

6 COUNCILWOMAN SANCHEZ: I'm
7 asking you. I'm not asking the Board.

8 MS. MANN: My position on Evan
9 Meyers in DROP, Evan Meyers has over 20
10 years of experience, not just being a
11 lawyer but with the City Law Department,
12 and the quality of his advice to the
13 Board, in my opinion, is unmatchedable.

14 When I got on that Board, I
15 tried to get a quick study on the ethics,
16 the campaign finance, whatever was out
17 there, and I can tell you, after having
18 been a lawyer for over 20 years, the
19 experience and the advice that Evan
20 Meyers gives to that Board, having the
21 depth of interpretation and the
22 understanding of the City Solicitor's
23 opinions that come well before I was
24 born, I felt that his experience the
25 Board could not afford to lose.

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2 COUNCILWOMAN SANCHEZ: What is
3 your understanding --

4 MS. MANN: So let me -- I'm not
5 finished, please, because I think -- I
6 want people to understand, because I
7 understand DROP is an issue for everyone.

8 The quality of advice would
9 have gone down for the Board. The Board
10 had -- two and a half years ago, before
11 then, the Board is a different Board.
12 The Board is growing, it's learning and
13 it's working really hard, and I think the
14 Board would have been in a deficit to not
15 have Evan Meyers.

16 And the last thing I want to
17 say about Evan Meyers is that the first
18 time I ever met him, he testified
19 defending the City in state ethics. The
20 depth of his knowledge is unmatched,
21 and the Board would have suffered
22 tremendously if we had let him go and not
23 allowed him to come back to the Board.

24 COUNCILWOMAN SANCHEZ: I'm sure
25 that he has all that valuable experience,

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 but the intent of DROP was for people to
3 plan transitions. So what you're saying
4 to me, that in this city, with all these
5 law firms, there's no other attorney and
6 there was no forethought in planning for
7 his transition? Because when you hired
8 him, you knew he was in DROP.

9 MS. MANN: No, I did not. No.
10 I didn't hire him.

11 COUNCILWOMAN SANCHEZ: Well,
12 when the Board hired him, they knew he
13 was in DROP.

14 MS. MANN: I can't speak for
15 anyone else. When I got on the Board, I
16 was unaware he was in DROP. When they
17 proposed that he was requesting to go
18 into DROP, retire and get rehired, I
19 dealt with it with the facts that I had
20 there.

21 And to answer your question
22 whether anyone in the City could do what
23 Evan Meyers has done, I haven't met
24 anyone. When we talk about the opinions
25 that have come out of the City

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 Solicitor's Office, it's not sometimes
3 just the opinions, it's the things that
4 are going on around the opinions I
5 believe that Evan Meyers has a depth of
6 knowledge and experience that I have not
7 met, that is unmatched in dealing with
8 the ethics and the other issues that the
9 Board deals with.

10 COUNCILWOMAN SANCHEZ: And I'll
11 end with this, because I want to put this
12 on the record. When the Board made a
13 decision to cite its Executive Director
14 for his behavior, why the fine of \$500?
15 Give to me what your opinion was of the
16 situation and in light of the fact we've
17 been talking about these fines and the
18 fines being all over the place, why just
19 \$500, and do you not think that that has
20 impacted the credibility of the Board?

21 MS. MANN: I don't think it has
22 impacted the credibility of the Board.
23 What I will say to you, it was certainly
24 not one of the proudest moments of the
25 Board. We were not proud of what Shane

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 Creamer did, but what I will say about
3 that, and I will get to the fine issue,
4 is that what I don't think most people
5 realize is that Mr. Creamer came to the
6 Board and disclosed that he had breached
7 the confidentiality, which is something
8 that we certainly took into
9 consideration. He self-disclosed.

10 The Board went into executive
11 session. We had been in discussions
12 about it. I can tell you that I was more
13 than furious about it. We talked about
14 the fine. We also issued a press release
15 on Mr. Creamer, because we don't just
16 think that people -- that we should do it
17 to other people. The citizens of
18 Philadelphia have a right to know what
19 the Board is doing, and if its staff
20 members are doing something, the Board
21 had to, I think to use this word, for
22 lack of no other word, publicly censure.

23 We looked at what he had done,
24 the fashion in which he had done it, and
25 we came up with \$500, which I will say

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 Mr. Creamer paid out of his pocket.

3 I don't think the Board lost
4 credibility for it. I think the way we
5 handled it was above board and
6 transparent. I think it was above board
7 and transparent. We issued -- once we
8 determined that he should be fined for
9 it, we issued a statement. We asked him
10 to pay the fine, and we had discussions
11 about the fine in terms of what we
12 thought was appropriate, and that's where
13 we came. I don't remember the specifics
14 of those, but I remember being, I
15 personally, being okay with the \$500.

16 COUNCILWOMAN SANCHEZ: How did
17 you compare the establishment of that 500
18 fine with the review of the campaign
19 finance violations that came in front of
20 you in comparison?

21 MS. MANN: I didn't --

22 COUNCILWOMAN SANCHEZ: You say
23 he self-disclosed. When folks are in
24 your enforcement process, they disclose.
25 Do you think there was malice intended by

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 Shane?

3 MS. MANN: No, I don't. I
4 don't know what -- I can tell you that
5 when he disclosed it to the Board -- and
6 I didn't -- I understand your basis for
7 asking this. I don't want to rehash it,
8 but what I will say is when he disclosed
9 it -- and I think this was also in the
10 press release -- he indicated why the
11 disclosure was made, so the Board had
12 some, for lack of a better word,
13 understanding.

14 I didn't -- if you're asking me
15 whether I sat and compared it to the
16 campaign finance laws, no, I did not. I
17 don't do that -- I didn't do that for
18 that particular incident, but that's
19 where I stand on what happened with Shane
20 Creamer.

21 COUNCILWOMAN SANCHEZ: Okay.
22 My colleagues are looking at me bad.
23 I'll rest.

24 Thank you, Madam President.

25 COUNCIL PRESIDENT VERNA:

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 You're welcome.

3 The Chair recognizes Councilman
4 Green.

5 COUNCILMAN GREEN: Thank you,
6 Madam Chair.

7 Just to stay on that,
8 Councilwoman Sanchez has raised a bunch
9 of issues that I think deserve maybe a
10 little more thought.

11 With respect to the campaign
12 finance laws or other ethics laws,
13 there's strict liability, and I think you
14 would agree that most of the things that
15 the Board of Ethics has brought
16 enforcement actions about didn't have
17 mens rea, people didn't mean to do it,
18 right? They just did it. I mean,
19 mistakes happen.

20 MS. MANN: I can't look into
21 the intent of what the person did. If
22 you're asking me whether there's rules
23 out there and codes that don't indicate
24 an intent to either intentionally do this
25 or that, there certainly is that out

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 there.

3 COUNCILMAN GREEN: Okay. So
4 with respect to what Mr. Creamer did, did
5 he have mens rea?

6 MS. MANN: I don't -- I can't
7 answer that, just like I said I couldn't
8 answer whether --

9 COUNCILMAN GREEN: Well, I'm
10 sorry, but that is part of what the Board
11 of Ethics is going to have to determine
12 with respect to different matters,
13 whether or not someone had the intent
14 with respect to different ethics laws or
15 other things that don't require strict
16 liability.

17 MS. MANN: Actually, I can tell
18 you we never looked -- I shouldn't say
19 "we." I didn't look at his intent. The
20 fact that he had made the disclosure for
21 me, just for me in that instance -- I'm
22 not talking about any other body's
23 case -- the fact that he made the
24 disclosure and it should have been
25 confidential for me was enough. For me

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 was enough. It shouldn't have been
3 disclosed.

4 COUNCILMAN GREEN: Right. So I
5 guess what Councilman Quinones-Sanchez
6 was suggesting and I was suggesting, that
7 we would hope you would hold yourselves
8 to as high a standard as you hold other
9 people in the City whom you have fined
10 far greater amounts where even the Board
11 in its final press release said, We know
12 they didn't mean it, and you have said
13 that in press releases.

14 MS. MANN: We have said that in
15 press releases.

16 COUNCILMAN GREEN: Right. So
17 this clearly involved mens rea, and it
18 was a slap on the wrist, and I agree with
19 Councilwoman Sanchez that that did not
20 send the right message to the people who
21 you have oversight over. You are
22 supposed to be the ethical watchdogs and
23 have oversight, and then to just slap
24 your own people on the wrist when you're
25 fining other people 10 and 20 thousand

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 dollars, to our view, that did not send
3 the right message.

4 MS. MANN: Well --

5 COUNCILMAN GREEN: I don't know
6 if you want to respond to that before I
7 ask my next question.

8 MS. MANN: You're certainly
9 entitled to your opinion. We looked at
10 the fine. We determined that was the
11 fine. And what I'd like to also say that
12 I don't think is brought out in this
13 context is that as a result of that
14 disclosure made by Shane Creamer, the
15 Board swiftly put in some regulations for
16 confidentiality, not just for the staff
17 members but for the Board members.

18 COUNCILMAN GREEN: Well, like
19 you said, you don't know his mens rea
20 when he made the statement. You don't
21 know his mens rea when he made the
22 disclosure, like, for example, he knew
23 that it was out that he told the press
24 and he went to the Board first before
25 someone else did, right? I mean, you're

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 saying you know his mens rea when he
3 comes in, discloses it to you, but you
4 don't know his intent when he first made
5 the statement?

6 MS. MANN: I never said I knew
7 his mens rea at all.

8 COUNCILMAN GREEN: Well, you're
9 saying that he should get credit for
10 that, implying that he intentionally did
11 a good act.

12 MS. MANN: I didn't say the
13 word "credit." I said I took that into
14 consideration. But I also said that my
15 opinion was that I looked at it, he made
16 a disclosure, he shouldn't have made it,
17 and for me, that was the end of the
18 story.

19 COUNCILMAN GREEN: I
20 understand.

21 Now, with respect to Evan
22 Meyer, have you ever heard of Gregory
23 Harvey?

24 MS. MANN: No.

25 COUNCILMAN GREEN: He's been

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 practicing campaign finance laws in this
3 city since the '60s. He's a partner at
4 Montgomery McCracken. He has people who
5 work for him who have worked for him for
6 a number of years practicing campaign
7 finance laws.

8 How does the Board know that
9 there is no one else who was qualified to
10 do Evan Meyer's job?

11 MS. MANN: I've never heard of
12 Mr. Harvey.

13 COUNCILMAN GREEN: Well, that's
14 not really the point.

15 MS. MANN: Well, you asked me
16 if I ever heard of him, and I never heard
17 of him. I looked at -- my opinion of
18 retaining Mr. Meyers is based on not just
19 his knowledge of campaign finance law,
20 ethics, conflicts, his career at the City
21 Solicitor's Office is what factored in my
22 decision.

23 COUNCILMAN GREEN: That's
24 right. And he signed something saying he
25 wouldn't come back, but sort of that's

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 beside the point.

3 Did the Board engage a search
4 firm or put out a job description on
5 their website or do any kind of outreach
6 to see whether or not there was anybody
7 qualified enough to replace Evan Meyer?

8 MS. MANN: I wasn't on the
9 Board when he was hired.

10 COUNCILMAN GREEN: I'm not
11 talking about when he was hired.

12 MS. MANN: I know. I'm getting
13 to your question.

14 Did we in fact do that when we
15 found out he was retiring and asking him?
16 No, we did not.

17 COUNCILMAN GREEN: Why not?

18 MS. MANN: I can only speak for
19 me. I thought his credentials and his
20 background, I thought it would be -- he
21 was irreplaceable.

22 COUNCILMAN GREEN: But you
23 haven't heard of Gregory Harvey?

24 MS. MANN: No, I haven't heard
25 of Gregory Harvey.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILMAN GREEN: Well, I
3 would say he knows as much or more about
4 campaign finance laws in the City and
5 State and federal than Mr. Meyer does,
6 with respect to Mr. Meyer.

7 MS. MANN: And that's certainly
8 your opinion.

9 COUNCILMAN GREEN: Well, that's
10 right, but unless you do a search for
11 somebody, how can you say that you have
12 the most qualified person?

13 MS. MANN: What I can tell you
14 is that there was a search done when
15 Mr. Meyer was hired, and that was before
16 I got on.

17 COUNCILMAN GREEN: There was an
18 active search where --

19 COUNCILMAN GOODE: Point of
20 information.

21 COUNCIL PRESIDENT VERNA: The
22 Chair recognizes Councilman Goode for a
23 point of information.

24 COUNCILMAN GOODE: Thank you,
25 Madam President.

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2 I'm sorry, Councilman Green.

3 Were you aware that the City's
4 campaign finance reform law was
5 challenged?

6 MS. MANN: Was I aware of it
7 that it had been challenged?

8 COUNCILMAN GOODE: Yes.

9 MS. MANN: I know there's City
10 Solicitor opinions regarding that --

11 COUNCILMAN GOODE: Were you
12 aware that it was challenged and went up
13 to the Supreme Court?

14 MS. MANN: I mean, I know that
15 there's some case law. I wouldn't
16 pretend to know the name and the year or
17 anything like that.

18 COUNCILMAN GOODE: Greg Harvey
19 was the one who challenged the campaign
20 finance law.

21 MS. MANN: That's --

22 COUNCILMAN GOODE: Thank you,
23 Madam President.

24 MS. MANN: That's fine. Thank
25 you.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILMAN GREEN: Okay. So

3 with respect to Councilwoman

4 Quinones-Sanchez where she sort of asked

5 you to use your experience on the Board

6 to say three things or to say anything

7 that you think either was a mistake you

8 made or the Board made or even, to put it

9 in softer terms, things the Board should

10 improve on in the future based on your

11 experience, your answer to the question

12 always was how other people should

13 improve. In other words, more people

14 need to come to the Board, more people

15 need to seek our advice and advisory

16 opinions. You didn't actually answer the

17 question, so I'd like you to be specific

18 and take as much time as you need. What

19 three things would you improve about the

20 Board, given your experience on the Board

21 over the last year and a half, and what

22 do you think its biggest mistake was last

23 year, if any?

24 MS. MANN: One of the things

25 that I would like to do again as being a

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 Board member is, when I got on the Board,
3 the Chair, Richard Glazer, suggested that
4 we send a letter out to City Council and
5 that we ask them if they wanted to meet
6 with the Board and the staff. We
7 couldn't all meet together because of the
8 Sunshine Law. We sent out those letters,
9 and some Councilpeople responded. We had
10 discussions with them about that. I
11 think that's one of the things we can do
12 again to maybe foster a better
13 relationship.

14 I can't think of -- when you
15 say what our biggest mistake was --

16 COUNCILMAN GREEN: No. I asked
17 for the top three things you would
18 improve. So what you're suggesting is to
19 do something you did last year?

20 MS. MANN: I think maybe we
21 need to reach out more, if that will make
22 the relationships better. I think we can
23 also request that people ask advice more.
24 I think --

25 COUNCILMAN GREEN: That's not

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 something the Board improves. That's --

3 MS. MANN: Because I think you
4 can't make people ask for advice.

5 COUNCILMAN GREEN: I understand
6 that.

7 MS. MANN: You're suggesting
8 that my saying that is putting the onus
9 on the other person, but it's sort of a
10 gesture that I think will help not just
11 the Board but other people, because if
12 people --

13 COUNCILMAN GREEN: Okay. So
14 I'll give you that one, engage in a more
15 effective communication strategy to make
16 sure people avail themselves of the
17 opportunity to ask advice of the Board.
18 That's what you're saying?

19 MS. MANN: That's not exactly
20 what I said, but that's close to it,
21 Councilman.

22 COUNCILMAN GREEN: So the Board
23 could communicate better. Just really
24 sort of one and two were the same thing,
25 but I'll let it count as two. What's

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 your third?

3 MS. MANN: Express more that --
4 give the appearance more -- and I am not
5 sure how we do this, because appearances
6 are hard to dispel when they're out
7 there, and I don't know what the Board
8 needs to do --

9 COUNCILMAN GREEN: So really
10 it's the same answer.

11 MS. MANN: Let me finish. I
12 don't know what the Board needs to do to
13 say to this city that if you have a
14 problem with the way boards are doing
15 this -- doing things; for example, and
16 I'll go to Regulation 2. We had made
17 some amendments to them. We had
18 publicized them. We were working hard to
19 try to be open, and we had a court
20 reporter there to take down any public
21 questions they had. When we heard from
22 City Council that they had concerns,
23 suggestions, it was very helpful. It was
24 very refreshing. And you know what?
25 When City Council came to the meeting and

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 left, I personally felt like, you know
3 what? This is a way for us to start
4 working together, because your
5 suggestions were well taken. We looked
6 at them and said, We can live with this.
7 This is something we all can live with,
8 and it makes better for everyone.

9 So I don't know -- I guess I'm
10 putting back the question on you. I
11 don't know how else we -- short of going
12 out again and talking to people, I don't
13 know how else to do that.

14 COUNCILMAN GREEN: So really in
15 all three things you can do better are
16 communications, communications,
17 communications.

18 I think it is telling,
19 honestly, that you can't come up with
20 sort of one real substantive thing in
21 your own mind that the Board should
22 improve on other than communications.

23 MS. MANN: I think they are
24 substantive.

25 COUNCILMAN GREEN: It's all the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 same.

3 MS. MANN: I beg to differ with
4 you. Because I think most of the
5 problems that I'm hearing from
6 Councilpeople --

7 COUNCILMAN GREEN: What I hear
8 you're saying is you don't think the
9 Board has much to improve on other than
10 communications.

11 MS. MANN: I'm not saying the
12 Board is perfect. I certainly don't sit
13 here and say that. What I'm saying is in
14 terms of the concerns that I've heard
15 from this Council --

16 COUNCILMAN GREEN: Well, this
17 is not a city -- we represent all of the
18 City workers. We're not here concerned
19 about ourselves or our own interest.

20 COUNCILMAN JONES: Point of
21 information.

22 COUNCIL PRESIDENT VERNA: Yes.
23 The Chair recognizes Councilman Jones.

24 COUNCILMAN JONES: Thank you.
25 Colleague, thank you for

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 allowing the point of information.

3 Would not continuing education
4 on ethics laws to staff people that have
5 to deal with them every day be a
6 suggestion that might be instead of
7 having "gotcha" moments, we could "get
8 it" moments and do those kind of things?
9 Wouldn't that be an improvement upon
10 waiting until someone -- we self-disclose
11 every time we file. I mean,
12 self-disclosure is what we do based on
13 the law.

14 So it just seems to me that if
15 we were really earnestly trying to find
16 common ground, there are so many things
17 that we could do. My staff would know
18 what they're doing. Your staff would
19 know how it impacts what they do. It's
20 just some things that are just common
21 sense that we could do so that the public
22 gets a fair product and we get a better
23 understanding of how to comply.

24 MS. MANN: But let me, in
25 response to that, the training --

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILWOMAN TASCO: Point of
3 information.

4 COUNCIL PRESIDENT VERNA: The
5 Chair recognizes Councilwoman Tasco.

6 COUNCILWOMAN TASCO: I have to
7 weigh in on this. It's becoming a
8 debate.

9 You keep talking about the
10 training. The training, we are all
11 required to go to training. It's
12 mandatory.

13 MS. MANN: The ethics training,
14 yes, it is.

15 COUNCILWOMAN TASCO: It isn't
16 adequate, and we said this to you
17 privately. So what we get we don't get,
18 and after talking to you the other day, I
19 think we see this thing differently. You
20 see the Board as making a decision after
21 an inquiry or charge is brought before
22 you. Those of us who are in the public
23 want to know -- and I said this to you
24 before -- what are the rules so that we
25 can comply to the rules. And what you're

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 hearing here is the frustration of many
3 who had to participate in the "gotcha"
4 moment because they were ditty-bopping
5 along doing things that have been
6 institutionalized and following the state
7 law, and your staff -- because I told you
8 we weren't mad at the Board. It's
9 basically the staff. I'm just going to
10 put it where it is -- interpreted the
11 rule the way they wanted it and when it
12 was challenged, we were told we couldn't
13 get to the Board, and what you ought to
14 be saying -- and you're saying better
15 communication. And I have some other
16 questions. I think that's what you're
17 hearing.

18 MS. MANN: Let me say this. If
19 you believe that the training is
20 inadequate --

21 COUNCILWOMAN TASCO: Terribly
22 inadequate.

23 MS. MANN: -- then certainly
24 that's something that should be made
25 known to the Board. Until I sat in your

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 Council, I was unaware that you were
3 unhappy with the training. So that's --
4 I'm not putting the onus on other people
5 to do something. I don't know if
6 something is wrong until -- I sensed that
7 people felt like the Board was somewhere
8 off somewhere else. That I did sense. I
9 did not know you were unhappy with the
10 training until you told me.

11 So that's what I mean. If
12 there's something wrong, tell us.

13 COUNCILWOMAN TASC0: Our
14 impression was that we could not talk to
15 the Board, that it would be ex parte,
16 that you all were off on another island
17 and the only people we could deal with
18 were the staff people on your staff, and
19 then they determined what the law would
20 be and said this is it and you comply or
21 we're going to haul you off to court.

22 MS. MANN: And I've explained
23 to you that that's -- you are not
24 supposed to contact an individual Board
25 member. What I have said is that you can

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 come to the Board meeting, just like you
3 did with Regulation 2, and either
4 compliment us or tell us we got it wrong.

5 But with respect to the ethics
6 training, I welcome your suggestions on
7 how you think it can be made better.
8 Really Councilman Green disagrees with
9 me, but most of this is a communication
10 issue, the fact that people feel like
11 they can't communicate with the Board.
12 And, two, you tell me that the ethics
13 training is inadequate or unacceptable or
14 not helpful, those are things that need
15 to be communicated. If you don't get
16 satisfaction from the staff, they need to
17 be communicated to the Board.

18 COUNCILMAN GREEN: Point of
19 information.

20 COUNCILWOMAN MILLER: Point of
21 information.

22 COUNCILMAN GREEN: I got a
23 point of information on the point of
24 information.

25 COUNCILWOMAN TASC0: Soon we'll

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 get back to your questioning.

3 COUNCILWOMAN MILLER: I just
4 want to --

5 COUNCILMAN GREEN: I defer to
6 Councilwoman Reed Miller.

7 COUNCILWOMAN MILLER: Thank
8 you.

9 Hi. Good afternoon.

10 MS. MANN: Good afternoon.

11 COUNCILWOMAN MILLER: Since
12 you've heard so much about the training
13 and there are problems with the training,
14 as a Board member, what can you do to
15 correct that, improve that? Have any of
16 the Board members ever been to the
17 training sessions?

18 And as I told you last week, I
19 take issue to come to a training and you
20 have a PowerPoint -- and we rely on you
21 guys to train us, okay -- and you have a
22 PowerPoint and we can't even get a copy
23 of it. And then I further questioned my
24 staff as to why we couldn't, and they
25 said because you didn't own the cartoons.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 We're not worried about the
3 cartoons. We want -- we don't need the
4 cartoons. We want a copy of that
5 PowerPoint on campaign finance training.

6 MS. MANN: Let me address the
7 first issue of what I will do about the
8 ethics training.

9 Absolutely, I have sat through
10 the training. I'm required to sit
11 through it, and I do. I mean, I have to
12 sign in just like everyone else. So I
13 have sat through it. You see the
14 training as different from us.

15 COUNCILWOMAN MILLER: Both
16 trainings or just -- because there's two
17 trainings.

18 MS. MANN: I've sat through, I
19 believe, both of them. I believe both of
20 them. I don't know if I've done my re-up
21 for this year, but I did --

22 COUNCILWOMAN MILLER: I'm
23 talking about there's two different types
24 of training. One is the ethics training
25 and one is the campaign finance training.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MS. MANN: I'm almost sure I've
3 been through both of them, yes.

4 And with respect to getting a
5 PowerPoint copy, I looked into that. The
6 understanding I have is that the
7 PowerPoint was not in the level of detail
8 of -- when people do PowerPoints, the
9 PowerPoints are just hitting some points.
10 But what I will say to you and what I've
11 said to the staff members is that if
12 people want to leave with a PowerPoint,
13 maybe we should think about putting
14 something together so that they can take
15 with them. The cautioned response that I
16 got is that that PowerPoint is not going
17 to answer all your questions. Because I
18 did look into that when you raised that
19 issue to me. I said, Why can't people
20 get that? I didn't take your concern and
21 just walk away with it. I asked. People
22 wanted to know why they couldn't get a
23 copy of the PowerPoint. They said it's
24 not all inclusive of everything that's on
25 there and that we don't want them to walk

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 away and think this is all I need to
3 answer all my questions.

4 COUNCILWOMAN MILLER: Well --

5 MS. MANN: But you have my
6 commitment, Councilwoman Miller, that I
7 will work to try to find a way to get
8 something for people to walk out with if
9 that's what they want.

10 COUNCILWOMAN MILLER: Well,
11 that's absolutely what we need, because
12 right now we walk away with nothing but
13 our memory, and even a PowerPoint that
14 doesn't have every absolute detail, we do
15 have the ability to look at it when it's
16 being presented and take notes, and we
17 just aren't given that kind of an
18 opportunity.

19 MS. MANN: What I will say to
20 you is, I will make a commitment to make
21 that recommendation to the Board. I'm
22 only one Board member, so I'm not sure I
23 can deliver on it, but I already have
24 relayed to members of staff and one Board
25 member and I will continue to make that

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 and try to accommodate Council on those
3 issue.

4 COUNCILWOMAN MILLER: Okay. I
5 have a few more questions, but I'll go
6 back to Councilman Green.

7 COUNCILMAN GREEN: Thank you,
8 Madam Chair.

9 I actually raised the issue
10 about PowerPoints last year during budget
11 testimony when Shane Creamer came before,
12 and he said during that budget testimony
13 that they would make PowerPoints
14 available in the future. So I'm very
15 surprised to learn that that's happening,
16 and it seems sort of silly since, of
17 course, anybody, if they wanted to, could
18 file a Freedom of Information Act request
19 and get the PowerPoint. If somebody
20 wants to take it at their own risk,
21 that's really not something the Board
22 should be spending time on at Board
23 meetings or anything else. It seems a
24 little bit silly to have this discussion.

25 MS. MANN: You were sort of

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 critical of me in saying communication,
3 but there's --

4 COUNCILMAN GREEN: I was not
5 critical of you.

6 MS. MANN: Well, let me say
7 this. Well, you raised some concerns
8 about it. Up until I sat with
9 Councilwoman Miller last week, I was
10 unaware that she had the concern about
11 the PowerPoint.

12 COUNCILMAN GREEN: I believe
13 you were sitting in Council Chambers when
14 Shane Creamer and I had the discussion on
15 that point last year.

16 MS. MANN: No. I've never been
17 in your Chambers with Shane Creamer.

18 COUNCILMAN GREEN: Not during
19 the budget testimony?

20 MS. MANN: No. I've never come
21 to the budget testimony.

22 COUNCILMAN GREEN: Mr. Glazer
23 was here, okay. Well, Board members are
24 aware of it, because it's been --

25 MS. MANN: Other Board members

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 may be aware of it. I was unaware.

3 COUNCILMAN GREEN: That's fine.

4 And I want to say that I do not -- you

5 characterized me disagreeing with you

6 with respect to communications. I

7 absolutely agree that that is one area

8 for improvement of the Board. I was just

9 looking for a few more substantive areas

10 where you thought there might be room for

11 improvement.

12 You also in response to, I

13 think, Councilwoman Tasco's or Miller's

14 questioning said that it's great for

15 people to come to the Board, and my staff

16 members come to the Board and if we have

17 an issue, we can come to the Board, but

18 we shouldn't come to an individual Board

19 member. The problem with that, of

20 course, is if the issue is still

21 confidential and a City employee has a

22 problem with the way the staff is

23 handling it, they can't come to an open

24 public Board meeting and discuss it. So

25 perhaps there ought to be a regulation

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 that addresses the way somebody should
3 address that when they think there's an
4 abuse of discretion or power at the staff
5 level that makes it clear that contacting
6 the Chairman or another person for
7 purposes of addressing that one issue is
8 appropriate.

9 MS. MANN: And if the issue
10 is -- and that's why I want some
11 clarification. If the issue is your
12 problem with a staff member, not an issue
13 with --

14 COUNCILMAN GREEN: Well, no
15 matter what the issue is, there should be
16 no reason why somebody can't be contacted
17 if we have a problem, other than in a
18 public forum.

19 MS. MANN: Here's something
20 else that has happened, Councilman Green,
21 that people have sent Board members, all
22 of the Board members, the same letter.
23 That's another way that I proposed --

24 COUNCILMAN GREEN: I've done
25 that.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MS. MANN: Yeah. And that's a
3 very helpful way. All the Board members
4 are getting the same information. If you
5 have a complaint about a staff member or
6 a process, just like when Regulation 2,
7 that went to all the Board members.

8 COUNCILMAN GREEN: Okay. So
9 before --

10 COUNCILWOMAN TASC0: Could I
11 just ask a question about that?

12 Would that be considered ex
13 parte communication?

14 MS. MANN: I don't believe it
15 would, because you're sending it to all
16 the Board members.

17 COUNCILWOMAN TASC0: Okay.
18 Thank you.

19 COUNCILMAN GREEN: Thank you.

20 With respect to Mr. Meyer, to
21 get back on that point briefly, as a
22 Board member, will you commit to
23 undertake a search for another qualified
24 person prior to the date he would leave
25 to determine whether or not there's

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 anybody interested with relevant
3 qualifications? I'm not asking what the
4 rest of the Board will do. I'm asking
5 what you will do.

6 MS. MANN: What I will commit
7 to do? I have my -- you heard I feel
8 very strongly about Mr. Meyers and his
9 background.

10 COUNCILMAN GREEN: I understand
11 your --

12 MS. MANN: If you're asking me
13 that I will reverse my vote on
14 Mr. Meyers, I won't do that. I'm not
15 going to tell you I'm going to do that.

16 COUNCILMAN GREEN: That's not
17 what I asked you. If you'd like me to
18 repeat again what I asked you, I will.
19 Will you as a Board member commit to
20 urging the Board to conduct a search for
21 someone to replace Mr. Meyer to determine
22 whether or not there actually is someone
23 as qualified or nearly as qualified as
24 Mr. Meyer such that you're not engaging
25 in hiring Mr. Meyer?

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MS. MANN: I have to think
3 about that. I'm not going to -- I don't
4 want to tell you something that I cannot
5 commit to doing, and I think it's
6 important that I keep my word. So I will
7 not -- my inclination is no, but I have
8 to think about that, because --

9 COUNCILMAN GREEN: So this
10 really concerns me, because -- and I'm
11 going to tie it back to a statement you
12 made earlier in response to a question
13 from Councilman Goode, which is what you
14 do in terms of making a determination of
15 whether or not someone has violated a
16 rule or a law or a charter, et cetera, is
17 you apply the facts to the law or rule or
18 charter, and what you're saying is that
19 facts be damned, you're going to hire
20 Mr. Meyer.

21 MS. MANN: No, that's not what
22 I'm saying. That's not what I'm saying.

23 COUNCILMAN GREEN: Well --

24 MS. MANN: Actually, I said to
25 you I can't commit to what I'll do. I

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 have not been posed with that. I know
3 when we looked at it, we had determined
4 that he had not -- for him for DROP would
5 not be illegal.

6 COUNCILMAN GREEN: Well, it's
7 not illegal.

8 MS. MANN: No, it's not
9 illegal.

10 COUNCILMAN GREEN: Is that the
11 standard we should all hold ourselves to?

12 MS. MANN: No, that's not the
13 standard. I mean, that's not how I live
14 my life, but in asking me whether I will
15 commit to a search and open that up, I
16 don't want to sit here and tell you that
17 if that's not something I will do. I
18 don't think it's fair for me to say that
19 just because I'm sitting here.

20 COUNCILMAN GREEN: You don't
21 think it's appropriate to get all of the
22 facts about whether or not he is the only
23 person qualified to do the job before
24 making the decision? You've already said
25 you don't have all the facts. You didn't

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 know Mr. Harvey. I don't know if he's
3 interested in the job or not. Probably
4 not. But there are other people like him
5 around, but you're not interested in
6 exploring what all the facts may be
7 before you -- how did that hiring
8 decision get made without that fact,
9 without getting the facts --

10 MS. MANN: I told you how I --

11 COUNCILMAN GREEN: -- the
12 investigation of the facts?

13 MS. MANN: -- how I viewed my
14 perspective of Mr. Meyers staying on.

15 COUNCILMAN GREEN: Sure.

16 MS. MANN: And I think I was
17 very clear on where I thought his
18 credentials stood.

19 COUNCILMAN GREEN: Sure. He's
20 very qualified.

21 MS. MANN: I told you sitting
22 here today I cannot say that I will do
23 that. I may, but I don't know -- I have
24 to think about it.

25 COUNCILMAN GREEN: Well, at

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 this point, I can't say that I can
3 support you.

4 MS. MANN: Okay.

5 COUNCILMAN GREEN: Because you
6 don't seem very interested in getting the
7 facts. And with respect to applying the
8 facts to the law, where do you get those
9 facts?

10 MS. MANN: Like I said, when I
11 first met Mr. Meyers --

12 COUNCILMAN GREEN: No, no, no,
13 not that law. In general, back to the
14 question Councilman Goode was asking,
15 when you apply the facts to the law,
16 where do you get those facts?

17 MS. MANN: We look at
18 investigative matters. Sometimes we look
19 at documents.

20 COUNCILMAN GREEN: Where do you
21 get them, though?

22 MS. MANN: Sometimes we get
23 them from staff members. We ask
24 questions for them to get us more
25 documents to look at. They can come from

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 any number of places, from transcripts of
3 depositions that are taken by people.
4 It's a plethora of information, but let
5 me say this to you: I do believe that my
6 reconfirmation or votes should not be
7 determined based solely on DROP, and if
8 that's --

9 COUNCILMAN GREEN: No, no.
10 It's an interest in the facts.

11 MS. MANN: Okay. That's fair.
12 But --

13 COUNCILMAN GREEN: And I'm not
14 saying -- I just am undecided at this
15 point.

16 Thank you, Madam Chair.

17 MS. MANN: That's fine.

18 COUNCIL PRESIDENT VERNA:
19 You're welcome.

20 Councilwoman Miller, do you
21 have any further questions?

22 COUNCILWOMAN MILLER: Yes, just
23 a couple. Thank you.

24 What is your method of
25 notification for your hearings?

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MS. MANN: We actually post
3 them on the website and -- I don't want
4 to say we publish them, but I do think we
5 might. They're posted on the website
6 definitely, because we used to just -- I
7 think we do publicize them, because I
8 remember Councilman Green's staff member
9 asking us to post them on the website.
10 So they may have already been published
11 and now we put them on the website as
12 well. And we meet every month.
13 Depending on what happens in August, we
14 may not meet in August, but we are open
15 to meetings every month, and we've had
16 them, with the exceptions of last August,
17 we did not have a Board meeting.

18 COUNCILWOMAN MILLER: How many
19 people from the public come or attend
20 generally?

21 MS. MANN: You know, sometimes
22 there's people there I don't know who
23 they are. I mean, it's not just --

24 COUNCILWOMAN MILLER: Board
25 members.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MS. MANN: -- Board members.

3 There's sometimes people sitting in the
4 back room and I never learn who they are.
5 So I can't tell you how many outside City
6 people that come. I know there are often
7 people sitting in the Board meetings, but
8 I don't know who they are.

9 COUNCILWOMAN MILLER: When you
10 and Councilman Green were having a
11 discussion, it sounds like too in some of
12 the ways that you're answering the
13 questions that you really -- you as an
14 individual feel that communications need
15 to be improved. Generally, Council
16 thinks -- and this is just a general
17 feeling of many Councilmembers -- that
18 the Board operates from an "I got you"
19 attitude, and you've heard that from
20 several people here today, and that you
21 serve as the judge and the jury.

22 That has to change if you think
23 that we're going to be comfortable enough
24 to pick up the phone or send you a letter
25 and come over. I mean, it's almost like

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 it's a secret society over there, it's
3 untouchable.

4 So a whole lot has to change
5 for people to feel comfortable enough to
6 give you a call or -- well, we can always
7 send you letters, but there is something
8 that needs to change. It is a really,
9 really, really serious problem between --
10 and that's how Council feels. I don't
11 know how other City departments feel, but
12 that's how we feel here.

13 MS. MANN: Can I respond to
14 that?

15 COUNCILWOMAN MILLER: Yes.

16 MS. MANN: And I've said this
17 to you. I don't sit in a Board meeting,
18 executive session or otherwise and look
19 to "I got you." After many years of
20 being in public service, I more than -- I
21 think more than many people understand
22 the public perception when allegations
23 are made. So I am very careful and
24 methodical about my votes and what I do
25 as a Board member. So I probably pay

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 particular attention to not subscribe to
3 that "got you" moment.

4 And with respect to your saying
5 that you can speak for yourself, you're
6 not comfortable calling the Board or
7 contacting the Board, I think that was
8 one of the things the Board was trying to
9 do last year when we sent letters out to
10 City Council and say, Sit down with us
11 informally, tell us what you think, what
12 are your thoughts, do you have any
13 questions. I met with Councilwoman
14 Krajewski, I met with Councilman Rizzo,
15 and we sat down for half an hour, 45
16 minutes and they told us, Here's my
17 concern, I'm not sure whether this or I'm
18 not sure whether that, or I like what the
19 Board is doing here, I don't like -- and
20 I'd like to do that and see, again,
21 Councilpersons take advantage of that,
22 because maybe that will take away the
23 stilt that's there in the communication.
24 It's a start.

25 COUNCILWOMAN MILLER: Maybe it

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 will, but it has to start somewhere, and
3 I don't think City Council -- I think we
4 were pretty shocked when that whole
5 attitude that we felt communications
6 coming out of the Board there was, I got
7 you. And some people feel stronger about
8 that than others, but, you know, we're
9 not going to create anything that's going
10 to hurt us, and I think that most people
11 generally want to follow the law, but
12 they have to know what the law is.

13 Don't rely so much on just the
14 website for posting information around
15 changes, amendments, et cetera. I mean,
16 it's good to have it there, but if
17 there's -- one of the ways, you can
18 always send an e-mail out just to say,
19 Hey, I think this month there's something
20 on our website you should be looking at.
21 Because we're not sitting there -- at
22 least I don't sit around and look at the
23 Ethics Board website every month.

24 MS. MANN: And I certainly can
25 appreciate that, but I think one of the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 ways -- and maybe the Board did take too
3 long in amending Regulation 2. Maybe
4 that was one of the things that we could
5 have done better, because Regulation 2
6 will now give you the kind of access, I
7 think, you're now looking for with the
8 Board, which I think to some degree you
9 had the access, but now you weighed in on
10 the access and you can come to the Board.

11 So, you know, the communication
12 thing I can't express more, but I also
13 actually can say take advantage, if you
14 have an opportunity, to talk to the Board
15 members. You'll get a sense of who they
16 are. They're not all lawyers anymore,
17 which I think is certainly a good thing,
18 and I am a lawyer. But understanding the
19 laws is something that we want people to
20 grasp, and if the training is not good,
21 we want to make it better.

22 COUNCILWOMAN MILLER: Well, we
23 do, and even though you did say that
24 you're only one member, the Board has to
25 realize that that is a very important

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 component of the responsibilities of the
3 Ethics Board as a whole. And whenever
4 you're going to bring that topic up at
5 your Board meeting on the agenda, can you
6 let me know, so maybe some of us could
7 come over and explain it more to the
8 Board why we think it needs to improve?

9 MS. MANN: Absolutely.

10 COUNCILWOMAN MILLER: Thank
11 you.

12 Thank you, Madam President.

13 COUNCIL PRESIDENT VERNA: Thank
14 you.

15 The Chair recognizes
16 Councilwoman Blackwell.

17 COUNCILWOMAN BLACKWELL: Thank
18 you. I have a general question, a legal
19 question. With regard to the Supreme
20 Court decision on corporate
21 contributions, and they talked about
22 advertising and we wonder how that
23 affects us, does it mean -- I'm not so
24 sure whether it means that corporations
25 can advertise for issues, advertise for

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 people or candidates and how that affects
3 us.

4 MS. MANN: I would have to look
5 a little into that issue. I don't want
6 to give you an answer, but I will -- how
7 does corporate advertising on campaigns
8 affect City Council; is that your
9 question?

10 COUNCILWOMAN BLACKWELL: Yeah.
11 There was a recent Supreme Court decision
12 that got a lot of press.

13 MS. MANN: Yes. I know it.

14 COUNCILWOMAN BLACKWELL: And we
15 were concerned of how it affected us.

16 MS. MANN: I will either myself
17 or have someone else call you and get you
18 that.

19 COUNCILWOMAN BLACKWELL: Thank
20 you. If you let the President know,
21 she'll let us all know.

22 MS. MANN: That's probably the
23 best way. Thank you.

24 COUNCIL PRESIDENT VERNA: Thank
25 you.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 The Chair again recognizes

3 Councilman Goode.

4 COUNCILMAN GOODE: Thank you,

5 Madam President.

6 Good afternoon. Related to my

7 other questions regarding legislative

8 intent, what is your opinion, your

9 personal opinion, of the purpose of a

10 campaign finance reform ordinance? Why

11 did City Council do a campaign finance

12 reform ordinance?

13 MS. MANN: Why did City Council

14 need a --

15 COUNCILMAN GOODE: What's the

16 purpose of a campaign finance reform

17 ordinance?

18 MS. MANN: I mean, I guess City

19 Council has to determine why they need

20 the ordinance. I can't answer that.

21 COUNCILMAN GOODE: No. We did

22 a campaign finance reform ordinance,

23 which the Board of Ethics has oversight

24 over. My question is, just very

25 generally, what was the purpose behind

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 campaign finance reform?

3 MS. MANN: Your proposed reform
4 that you just proposed?

5 COUNCILMAN GOODE: No; the one
6 that was done in 2003 and then amended
7 several times, including an amendment in
8 2006.

9 MS. MANN: I can't tell you off
10 the top of my head. I can't.

11 COUNCILMAN GOODE: So you don't
12 have any opinion about --

13 MS. MANN: I don't have any
14 opinion on it, no.

15 COUNCILMAN GOODE: On what the
16 purpose was. And that has never come up
17 in any decision you've made in terms of
18 what the actual purpose of that ordinance
19 was?

20 MS. MANN: None that I can
21 think of. When we get requests for
22 opinions, advice --

23 COUNCILMAN GOODE: My question
24 is about the law itself and what was the
25 purpose for the law.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MS. MANN: I don't have an
3 opinion on that.

4 COUNCILMAN GOODE: You don't
5 have any opinion on what the purpose of
6 the law was?

7 MS. MANN: Not right now.

8 COUNCILMAN GOODE: What was the
9 purpose of assigning campaign finance
10 oversight to the Board of Ethics?

11 MS. MANN: As I stated to you
12 earlier, I believe when I got on the
13 Board, it was already on there. I don't
14 know the purpose behind that.

15 COUNCILMAN GOODE: Why assign
16 campaign finance oversight to the Board
17 of Ethics rather than the City
18 Commissioner's Office?

19 MS. MANN: Well, one thing --
20 and this is my opinion. This is the
21 thing that jumps out at me -- is because
22 we cover ethics and citizens feel like
23 they have some right to know what's going
24 on with campaigns and things of that
25 nature. That's probably why it's part of

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 the Ethics Board.

3 COUNCILMAN GOODE: Well, the
4 City Commissioner's Office already covers
5 campaign finance, so why not assign
6 campaign finance oversight to the City
7 Commissioner's Office?

8 MS. MANN: Like I said, I
9 wasn't -- when I got on the Board, it was
10 already a part of the Board. It was
11 already part of their oversight.

12 COUNCILMAN GOODE: So you have
13 no opinion on, one, why there is a law
14 or, two, why oversight was assigned to
15 the Board of Ethics? You have no opinion
16 on that?

17 MS. MANN: I have no opinion on
18 why it was assigned to the Ethics Board.
19 It was already there when I got there. I
20 think --

21 COUNCILMAN GOODE: That --

22 MS. MANN: -- campaign
23 finance -- let me try to answer some of
24 your question. Campaign finance --

25 COUNCILMAN GOODE: Let me be

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 real clear. Do you have an opinion on
3 why there is a campaign finance law?

4 MS. MANN: Yes. Yes.

5 COUNCILMAN GOODE: So why is
6 there a campaign finance law?

7 MS. MANN: Because I think
8 citizens feel like they want to know what
9 candidates are doing, where --

10 COUNCILMAN GOODE: That's not
11 why there's a campaign finance law.

12 MS. MANN: You asked me for my
13 opinion.

14 COUNCILMAN GOODE: Okay. Go
15 ahead.

16 MS. MANN: And I think it's for
17 transparency issues. There's many --
18 there's at least some laws I can think of
19 where there are rules for candidates and
20 how they should deal with their campaign.
21 All that I think is related to
22 transparency. Perhaps that's why they
23 put it under the Ethics Board. I'm only
24 speculating, but that's my --

25 COUNCILMAN GOODE: Well, to end

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 the speculation, there is a campaign
3 finance law because I introduced a bill
4 in the fall of 2003 co-sponsored by
5 Councilwoman Reynolds Brown. It was
6 initiated by City Council.

7 So the answer to your question
8 about whether there is a campaign finance
9 law strictly because the public wants to
10 know and for the issue of transparency,
11 that is not its legislative intent.

12 The issue of why it is assigned
13 to the Board of Ethics versus the City
14 Commissioner's Office also is not an
15 issue strictly of transparency or
16 openness, because if it were assigned to
17 the City Commissioner's Office, that
18 would be the case, too. And that was
19 also my bill that assigned that
20 responsibility to the Board of Ethics.
21 Therefore, I can speak fully about its
22 legislative intent.

23 So one of my last questions
24 is --

25 MS. MANN: Wait. Let me -- you

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 asked me the legislative -- you didn't
3 ask me the legislative intent. You asked
4 me what I thought why there was campaign
5 finance laws. You didn't ask me
6 the legislative intent.

7 COUNCILMAN GOODE: I have a
8 better question for you. You can answer
9 it directly.

10 Do you think that -- because I
11 wanted to first establish the fact that
12 the legislative intent of the law I know
13 because I introduced it. The legislative
14 intent of the ordinance which assigned
15 oversight to the Board of Ethics I know
16 because I introduced it.

17 Lastly, in your experience, was
18 the purpose to limit people's influence
19 on elected officials or was it to limit
20 elected officials from being influenced?
21 And there's a big distinction.

22 MS. MANN: I think there's
23 probably a little bit of both. That's my
24 personal opinion.

25 COUNCILMAN GOODE: But that's

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 not the legislative intent.

3 MS. MANN: No. I didn't say --
4 you didn't ask me the legislative intent.

5 COUNCILMAN GOODE: If the
6 legislative intent -- I'm making a
7 statement.

8 If the legislative intent was
9 to limit people's influence on elected
10 officials, would that change any
11 decisions that you've made or that staff
12 has made in terms of having to pursue
13 enforcement of the law?

14 MS. MANN: I'm not going to
15 comment on any decisions I've made or any
16 future decisions. So I can't answer
17 that.

18 COUNCILMAN GOODE: Is it news
19 to you that the legislative intent of the
20 campaign finance law was to limit
21 influence on elected officials?

22 MS. MANN: That's not news to
23 me because I just said I thought there
24 was a little bit of both.

25 COUNCILMAN GOODE: Is it news

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 to you that the purpose was not to limit
3 elected officials from being influenced?
4 In other words, I don't think that any
5 member of this Council thought a need to
6 pass a law to stop themselves from being
7 influenced. So I think it would be
8 obvious that that was not the legislative
9 intent.

10 MS. MANN: That's --

11 COUNCILMAN GOODE: But if it's
12 not obvious that was the legislative
13 intent, I'm stating here for the record,
14 the purpose of the law was to limit
15 people's influence on elected officials.
16 That's a big distinction. I do not
17 believe that the way enforcement and
18 oversight of the law has been carried out
19 is consistent with the legislative
20 intent.

21 MS. MANN: And your point is
22 well taken.

23 COUNCILMAN GOODE: Thank you.

24 Thank you, Madam President.

25 COUNCIL PRESIDENT VERNA:

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 You're welcome.

3 COUNCILMAN GOODE: Madam

4 President, one more question.

5 COUNCIL PRESIDENT VERNA: I'm

6 sorry.

7 COUNCILMAN GOODE: Are you

8 familiar with the training given by the

9 Board of Ethics?

10 MS. MANN: I said earlier I

11 attend some of the training, yes.

12 COUNCILMAN GOODE: Do you think

13 it's appropriate that it's done by the

14 use of cartoons?

15 MS. MANN: I think the cartoons

16 are part of the illustration of what the

17 laws and codes and the charters are. I

18 don't deem it inappropriate. I don't

19 think it's inappropriate. I think it's a

20 part of the training. I don't --

21 COUNCILMAN GOODE: I think it's

22 inappropriate that it's done with the use

23 of cartoons.

24 MS. MANN: Well, I also

25 think -- your point is well taken, and if

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 that's a complaint that you have or a
3 concern that you have with respect to the
4 training, make it known.

5 COUNCILMAN GOODE: I just did.
6 Thank you. Thank you very much.

7 MS. MANN: Thank you.

8 COUNCILMAN GOODE: Thank you,
9 Madam President.

10 COUNCIL PRESIDENT VERNA: Thank
11 you.

12 Councilwoman Tasco, do you have
13 any further questions?

14 COUNCILWOMAN TASCO: I have a
15 couple.

16 COUNCIL PRESIDENT VERNA:
17 Please proceed.

18 COUNCILWOMAN TASCO: First I'd
19 like to request -- and there are a number
20 of the prospective Board members in
21 here -- that the Ethics staff e-mail to
22 the Councilmembers and any other elected
23 officials, I think to the City domino
24 staff, the notice of the meetings and the
25 agenda. We get it from every other Board

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 that we have oversight, and it can be
3 easily e-mailed to us.

4 MS. MANN: I don't think
5 there's a problem with that.

6 COUNCILWOMAN TASC0: That would
7 be very helpful.

8 I just want to go back to a
9 couple of things. I appreciate you
10 working with us on Regulation 2. And you
11 said you took too long to do it. I think
12 that what happened, there were -- and I
13 appreciate the Board -- that there were
14 questions raised about due process and it
15 had become knowledgeable throughout
16 everywhere that people going before
17 the -- that are being called into the
18 Office of the -- or getting contacted by
19 the Ethics Board or the staff, there was
20 no due process. And so what we wanted
21 was that there be a due process, and we
22 won't -- you don't have to discuss the
23 case, but the famous case that everybody
24 was aware of was the case of our
25 colleague, Councilwoman Sanchez, when she

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 was before the Ethics -- because that's
3 public. It's been in the paper -- asked
4 for a hearing by the Board and was told
5 she could not have a hearing.

6 My question to you is, at what
7 point does the Board -- at what point is
8 the Board aware that there is an
9 investigation of an individual and at
10 what point do you review the materials,
11 and if the materials are presented to
12 you, at what point do you review them and
13 if they're -- and I also understand that
14 she sent a letter asking for a hearing,
15 which you did not -- I'm not sure. She
16 can speak for herself -- see.

17 Ms. Mann, all of our concerns
18 here emanate from past involvement with
19 the staff of the Ethics Board. I told
20 you the other day I didn't know you,
21 don't know -- only know a couple of the
22 members. So we never had any contact
23 with you. The only contact that has been
24 with most of the people, the contact has
25 been with the staff, who decided how the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 process would work, whether a person got
3 a public hearing or not, whether the
4 person immediately went to court. And
5 there was no due process, and that is the
6 frustration and anger that you hear from
7 us as we talk about the process.

8 We set up this Board because we
9 wanted an Ethics Board. We voted for it,
10 but we did not expect it to be -- to have
11 a staff that is totally out of control.

12 I also suggested to you that we
13 want to know what the rules are up front,
14 not an interpretation. If the Board
15 has -- you've settled several cases, and
16 if you look at the pattern of the cases
17 and the tone of the cases, can you see
18 that there's something wrong and people
19 are not really aware of what they're
20 doing is wrong? And what would the Board
21 do to make a correction to see that
22 they're informed of what the regulations
23 are? That's what I would have hoped you
24 would have said today one of the things
25 you would do, was to make sure that as

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 you -- if you're looking at cases -- I'm
3 taking this from Maria -- that there's a
4 pattern, there's something wrong, we're
5 doing something wrong, and that the
6 information is not out there so that the
7 individuals can make the correct decision
8 or know what the rules are, and are the
9 rules in conflict with state law and
10 activities that people have been engaged
11 in for years and all of the sudden, after
12 they've done it, two years later the
13 staff says you've done something wrong.

14 MS. MANN: Can I start at your
15 first question --

16 COUNCILWOMAN TASC0: Yes.

17 MS. MANN: -- and then go from
18 there? You asked when are we made aware
19 that someone has a particular issue.
20 When we meet with the Board every
21 Wednesday, there's a public session that
22 happens at 1 o'clock, every third
23 Wednesday of the month. We go through
24 the agenda, which is also published. And
25 then after we make sure no one has any

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 questions, we go into what's called
3 executive session.

4 Now, I have to divide this up,
5 because when I first got on the Board, at
6 that point the staff would make us --
7 make known to us all the potential
8 investigations out there. Since we are
9 now moving toward administrative and
10 because some of them may ultimately wind
11 up to the Board, there's some
12 investigations right now that I have no
13 idea what's going on with, because
14 they're in that process of the amendments
15 of Regulation 2. So prior to Regulation
16 2 and grinding that out, we would go in
17 the back and they would debrief us on
18 what's going on. We'd ask more
19 questions, look into that, do this, do
20 that, let's make sure we've got all the
21 facts. That's when we would learn about
22 it.

23 To answer your question about
24 the rules, my -- this is the way I would
25 hope that it would happen, is that the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 people would go to the training, they'd
3 get the basic understanding of what the
4 rules were. If they had particular
5 questions specific to their personal
6 issue, they would ask the Board for an
7 opinion.

8 Learning that people are not
9 satisfied with the training, that now
10 becomes another issue, that the training,
11 people feel, isn't sufficient.

12 But that's how I would answer
13 your question, that I would expect that
14 they would go to the training, get the
15 bulk of what they needed from the
16 training, and if that wasn't
17 satisfactory, if they had a particular
18 instance to them, they would seek advice
19 from the Board.

20 And I don't know if I answered
21 Councilwoman Miller's questions on how we
22 give notice to someone. I think I
23 overlooked that, and that wasn't my
24 intention.

25 We send out -- it's the same

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 thing that goes to everyone -- notice
3 before we file a petition in court. We
4 don't just file a petition. We send out
5 a letter saying we believe these
6 violations have occurred. If there's
7 more than one, we list more than one, and
8 we tell you what the penalties are. We
9 also say in that statement that you can
10 settle this matter. We attach a copy of
11 the draft petition saying this is what
12 we're prepared to file. That's
13 something, I'll tell you, we don't have
14 to do, but we do it because -- and it's
15 private. We give the person the chance
16 to know the Board has actually looked
17 into this and this is what we believe is
18 out here, and they can respond to the
19 staff members based on that.

20 COUNCILWOMAN TASCO: Looking
21 back on -- I think I forgot my question.

22 Looking back on some of the
23 issues that have been raised from the
24 last election, can we request -- because
25 what Councilwoman Miller says is that we

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 don't want to know the rule or the
3 interpretation after we've made the
4 mistake. Most rules are public. We all
5 run, not just Councilpeople, all people
6 who run for office basically run under
7 the State Election Code, they try to
8 follow that code, but you don't know what
9 the Ethics Board is going to rule until
10 after you run under the certain rules and
11 then come back and say, Oh, well, you
12 shouldn't have done that.

13 One of the issues raised is the
14 single committee rule, and we want to
15 know what is the single committee and how
16 will it be interpreted? What is the
17 rule? You don't have to have 50
18 different opinions. It's one opinion.
19 If you have one committee, most of us
20 think of it as Friends of Marian Tasco,
21 Citizens of Marian Tasco, John Brown
22 Citizens for Tasco.

23 What is the single rule, how
24 does it apply, and how does it relate
25 to -- and we'll put this in writing, but

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 that's an issue for us.

3 MS. MANN: Well, actually, I
4 knew the single committee rule would be
5 an issue, so I did bring it. And it's
6 probably six lines. It says that the
7 campaign finance law provides that a
8 candidate for City elective office may
9 have no more than one political -- no
10 more than one political committee and one
11 checking account for the City office
12 being sought, into which all
13 contributions for such office shall be
14 made and out of which all expenditures
15 for that office shall be made. If a
16 candidate maintains other accounts, funds
17 collected in those accounts may not be
18 used to influence the outcome of a
19 covered election.

20 Now, I cannot get into how I
21 would rule -- and you didn't ask me that.
22 I'm not saying you asked me that, but
23 that is the rule.

24 COUNCILWOMAN TASC0: Well, let
25 me just say this: Going back to

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 something that's already been done, I
3 believe -- and I may be incorrect --
4 instances where people were charged with
5 having another campaign committee if
6 their name appeared on the ballot of a
7 ward. Because we talked about that.

8 MS. MANN: Yes.

9 COUNCILWOMAN TASC0: That's
10 what we want to be clear. I want to be
11 clear on that. If there's a ward that's
12 circulating a ballot with 20 people on
13 it, are they all part of that campaign
14 committee? That money being spent out of
15 there to put the ballot on the street,
16 are they in violation of the single
17 committee rule?

18 See, there are practices that
19 go on and that have gone on for years.
20 You don't know them. Most of the Board
21 members don't know them, but we need to
22 know up front, then we won't be on
23 ballots. We won't be on ballots. But we
24 don't know that until after the election
25 and then you haul people in and say, You

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 broke the rule. That's after the fact.
3 We want to know what the facts are and
4 what the rules are before we run in 2011,
5 before there's an election.

6 Going back, looking at some of
7 the cases you all have ruled on and fined
8 people for that they disagree, some of
9 them did not get before you to discuss it
10 and had to settle, because the staff said
11 they couldn't see the Board. We want to
12 know what are the campaign rules for 2011
13 and moving forward. That's very
14 important.

15 MS. MANN: And we will have
16 more -- as I stated in my statement, we
17 will have campaign finance training with
18 respect to -- in anticipation of the 2011
19 election.

20 COUNCILWOMAN TASC0: Let me ask
21 one final question. If you said that the
22 staff will bring you cases that may
23 possibly come up, do they have the
24 authority to settle a case without
25 bringing them to you or do you all settle

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 the cases?

3 MS. MANN: They come to us and
4 say -- sometimes they say, The person
5 wants to settle and here's what they're
6 proposing. They also always start off
7 with the facts, and we ask questions if
8 we need more facts, but they need to
9 report to us for a settlement.

10 COUNCILWOMAN TASCO: Okay.
11 Thank you.

12 COUNCIL PRESIDENT VERNA:
13 Councilman Green.

14 COUNCILMAN GREEN: Thank you,
15 Madam Chair.

16 Just keep in mind the point
17 Councilwoman Tasco just made and every
18 conversation we've had over the last year
19 and a half, including the first time you
20 were nominated and came to see me, and
21 our most recent conversation in the
22 office and my testimony before the Ethics
23 Board a couple of weeks ago. Is there
24 anything else you can think of that the
25 Ethics Board could improve on?

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MS. MANN: I don't know if you
3 heard when I said -- you weren't in your
4 chair, because I looked over -- that
5 perhaps we could have made the amendments
6 to Regulation 2 a little sooner. Perhaps
7 that would have stopped some of the
8 concerns that are here today. So that's
9 the other thing that I can think of.

10 COUNCILMAN GREEN: The answer
11 that I was looking for, because every
12 time I've seen you, I have suggested that
13 there currently are no standards, that
14 the Board -- it is boring work for the
15 staff and they don't want to do it, but
16 the one way you can make sure there are
17 clear rules is to actually introduce
18 regulations that say what that
19 six-sentence single committee rule means
20 and allow a public comment period for
21 that. And with respect to every other
22 thing where you have been applying the
23 law, as Councilwoman Tasco suggested, you
24 can introduce regulations that clarify
25 what the rules are. That is how you can

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 effectively communicate, by taking the
3 ordinance and doing what you're
4 authorized and what was expected of you
5 by City Council when they passed an
6 ordinance that was only six sentences
7 long, and, that is, promulgating
8 regulations, what regulatory bodies do,
9 which is essentially what you are,
10 promulgating regulations that make the
11 rules clear. That, in my opinion, is the
12 number one thing that the Ethics Board
13 can improve on, and it was surprising to
14 me that I didn't get that answer since
15 I've been having that conversation with
16 you personally and with the Ethics Board
17 and the Ethics Task Force for two years.

18 MS. MANN: You have made that
19 point clear when I was in your office
20 last week, and I passed along those.
21 When you say that the staff members -- I
22 don't want to misquote you -- don't like
23 to do that kind of work or it's boring
24 kind of work, that's not boring kind of
25 work to them. I took your comments. I

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 relayed it back to them. You asked me
3 what I thought. Those were your things
4 that you thought.

5 When anybody ever raises
6 concerns to me about the Board, I
7 always -- and the staff, I take them
8 back. Just because I didn't raise them
9 as one of the things that you had doesn't
10 mean I discount them, because I took them
11 back. Actually, that night -- that day I
12 left your office, I took them back.

13 COUNCILMAN GREEN: I appreciate
14 what you just said, but what you
15 essentially said was you don't agree.

16 You're on the Board. I don't
17 know whether you direct the staff or you
18 rely on the staff to tell you what to do,
19 but if you tell the staff to promulgate
20 regulations as a Board, they will. If
21 you don't, they won't. You're the boss
22 of the staff.

23 MS. MANN: The staff is not the
24 boss, and often times -- and I want to
25 make this clear. The staff does not tell

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 the Board what to do. They don't.

3 There's often times --

4 COUNCILMAN GREEN: I didn't
5 suggest they did. So my point is, your
6 answer to me was that you told the staff
7 that that was a concern I raised, but
8 that that was not something you thought
9 the Board needed to improve on. It
10 wasn't one of the things you considered
11 to be a problem at the Board level.

12 MS. MANN: That's not -- and I
13 want to make this clear. That's not how
14 I meant that to come off. What I said to
15 you is that when anyone -- and I've met
16 with many of the Councilpeople here --
17 pass along a concern, a complaint, a
18 suggestion, I pass that on to the staff
19 and the Board.

20 COUNCILMAN GREEN: So do you --

21 MS. MANN: Let me just say
22 this: I did not imply that it wasn't a
23 concern or a priority for me, so that
24 there's --

25 COUNCILMAN GREEN: I appreciate

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 that. I don't mean to characterize --

3 MS. MANN: I want to say this.
4 In my opinion, when City Council makes a
5 suggestion, it's important. It's
6 important, and it doesn't go unnoticed by
7 me. So I pass that on, just like the
8 thing about the PowerPoint, you're right,
9 we're arguing about a PowerPoint, but if
10 it's an issue to you, I want to take it
11 off the table.

12 So I didn't relay it and say,
13 Oh, this is Councilman Green's thing.

14 COUNCILMAN GREEN: I wasn't
15 characterizing you're relaying at all.
16 I'm just saying --

17 MS. MANN: That wasn't one of
18 the things that came to my mind when I'm
19 talking to you about how we can make
20 things better for the City, for Council,
21 for the Board. That wasn't one of the
22 things that I thought of sitting here.

23 COUNCILMAN GREEN: It did not
24 come to your mind as an area for
25 improvement, that the Board should spend

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 more time creating regulations so that
3 the rules are clear?

4 MS. MANN: It wasn't one --

5 COUNCILMAN GREEN: That's your
6 testimony?

7 MS. MANN: I heard your concern
8 last week Friday when I went to your
9 office, and I've relayed that to them.

10 COUNCILMAN GREEN: I
11 understand, but is that --

12 MS. MANN: That's not what I
13 said here today.

14 COUNCILMAN GREEN: Is that
15 something that you would do if you were
16 reappointed, make sure the Board starts
17 promulgating regulations?

18 MS. MANN: Absolutely. If
19 that's a concern of City Council, that's
20 one of the things that --

21 COUNCILMAN GREEN: As a Board
22 member.

23 MS. MANN: Yes. Absolutely.
24 And, Councilman Green, I don't want to
25 leave this subject with you even implying

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 that your concerns for this Board or the
3 staff has not been taken seriously,
4 because I think I can say this: You more
5 than anyone else in this room has been
6 the most active in our Board. The most
7 active in our Board. And I remember --
8 and when someone asked who comes to your
9 meetings, I remembered learning who
10 Lauren was very early, very early. I did
11 say, Who is this woman in the back?

12 So I don't take your
13 suggestions willy-nilly.

14 COUNCILMAN GREEN: I'm not
15 suggesting you do. I have made the same
16 suggestion for two years.

17 MS. MANN: If you wanted me --

18 COUNCILMAN GREEN: And it
19 hasn't happened, and you've been on the
20 Board during that time.

21 MS. MANN: Well, I pass it on
22 to the Board. You asked me for my
23 suggestions here. I told you I thought
24 lots of it was communications related.

25 COUNCILMAN GREEN: One way to

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 communicate clearly is through
3 regulation.

4 Thank you.

5 COUNCIL PRESIDENT VERNA: The
6 Chair recognizes Councilman Goode.

7 COUNCILMAN GOODE: Thank you,
8 Madam President. I was done, but
9 Councilwoman Tasco raised a point that
10 was key to me and Councilman Green
11 followed up on it.

12 This is not just a matter of
13 letting people know what the rules are.
14 This is not just a matter of interpreting
15 the law. It is also a matter of whether
16 the Board or its predecessors actually
17 understood the law to begin with. So I
18 ask, what was the purpose for the one
19 committee, one bank account rule?

20 MS. MANN: In my opinion in
21 looking at this single committee rule, it
22 seems --

23 COUNCILMAN GOODE: That's not
24 the law. That actually was created by
25 the Board of Ethics. I'm asking you in

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 terms of the law, which is not six
3 sentences. It's actually, I believe, one
4 sentence, the actual law.

5 MS. MANN: I'm looking at the
6 single committee rule. I'd like you to
7 tell me what law you're talking about.

8 COUNCILMAN GOODE: The code
9 that governs campaign finance in the City
10 of Philadelphia.

11 MS. MANN: Well, I don't have
12 that in front of me, so I'd ask you to
13 tell me what specifically you're talking
14 about, and then I'll try to answer the
15 question.

16 COUNCILMAN GOODE: You can use
17 the ruling if you like, but at the end of
18 the day, I will tell you without fear of
19 contradiction that the City Code and the
20 Philadelphia Home Rule Charter will
21 always trump whatever regulation the
22 Board comes up with. But the question
23 is, even if you want to go according to
24 your own regulation, what's the purpose
25 for the one committee, one bank account

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 rule?

3 MS. MANN: In looking at the
4 rule, it wants candidates to maintain one
5 account for one campaign, for one
6 campaign. Only money goes into one
7 account. Transparency.

8 COUNCILMAN GOODE: What's the
9 purpose for that?

10 MS. MANN: Transparency. So
11 people know where the money is going and
12 to keep -- there's campaign finance
13 limits. So people know where the money
14 is going.

15 COUNCILMAN GOODE: Actually,
16 what if it's not to track where the money
17 is going, but where the money is coming
18 from?

19 MS. MANN: Both. Coming from,
20 going to.

21 COUNCILMAN GOODE: Do you have
22 to have one committee and one account to
23 find out where the money is coming from?

24 MS. MANN: I can't answer that.
25 I can only tell you what this says.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILMAN GOODE: By way of
3 just reminding you, that rule comes from
4 an ordinance that I introduced. I'm
5 extremely familiar with it. I drafted
6 the one committee, one bank account rule.
7 I know why I did it. So you don't have
8 to tell me where it came from.

9 MS. MANN: It says one
10 political committee and one checking
11 account.

12 COUNCILMAN GOODE: You don't
13 have to tell me where it came from. I
14 understand where it came from. I also
15 understand why it was done. I also think
16 that there may be a difference of opinion
17 of why it was done, because it's not to
18 track necessarily where money went as
19 much as to track where money came from.
20 The purpose of the original ordinance,
21 period, was to establish campaign
22 contribution limits, period.

23 MS. MANN: I said limits.

24 COUNCILMAN GOODE: No; campaign
25 contribution limits, period. And, in

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 fact, if we got into the whole one
3 committee, one bank account rule or
4 several other aspects of that original
5 ordinance and other aspects of subsequent
6 amendments, they might be found to be in
7 conflict with state law, which still
8 governs election procedure and campaign
9 finance law.

10 The only purpose of the
11 original ordinance, not only as a matter
12 of what I'm saying it is now, but as a
13 matter of legislative record, if you go
14 back and read the transcripts, as the
15 primary sponsor of it, was simply to
16 limit campaign contribution limits and
17 say that it should not be allowed that
18 anyone can give as much money as they
19 want to anyone. And that's the purpose
20 of it.

21 MS. MANN: And I mentioned
22 campaign contribution limits.

23 COUNCILMAN GOODE: At the end
24 of the day, the one committee, one bank
25 account rule is not serious enough to be

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 pursued to the level it has been. That
3 was not the legislative intent and it
4 actually has been done in a ridiculous
5 way. And if you can't tell me what your
6 personal belief is and why there should
7 be a one committee, one bank account
8 rule, then maybe it shouldn't exist. I
9 know why it exists, but that's not the
10 reason why the Board -- that's not the
11 reason why the Board of Ethics pursues
12 it.

13 MS. MANN: The rule says one
14 political committee and one checking
15 account.

16 COUNCILMAN GOODE: So we can
17 just scrap that.

18 MS. MANN: Councilman Goode,
19 you have your -- you've stated your
20 interpretation of that. You said you
21 passed legislation with that. I
22 certainly take you at your word.

23 COUNCILMAN GOODE: So we can
24 just scrap that and the Board of Ethics
25 would have to take away its rule; is that

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 true?

3 MS. MANN: That's up to City
4 Council. I'm not here to tell City
5 Council what to do.

6 COUNCILMAN GOODE: No, but I'm
7 saying it is clear that the Board does
8 not have authority over campaign finance
9 in matters that are not contained within
10 the Code. Council can amend the Code if
11 it chooses to amend the Code. We can
12 give oversight to the City Commissioners.
13 We can take out the one committee, one
14 bank account rule. What we can't do
15 without an amendment to the Home Rule
16 Charter is do away with the Board of
17 Ethics, which we would not want to do, at
18 least I would not want to do, but if the
19 Board of Ethics is going to pursue minute
20 details of the law, that is ridiculous.
21 It's going to at one point force us to go
22 back and help you focus, because the
23 focus of the original ordinance is simply
24 to limit campaign contributions and it's
25 to limit people's influence on elected

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 officials. In other words, the term "got
3 you" has been used several times. We
4 were not trying to say "got you" to
5 ourselves over a bunch of petty issues
6 like one campaign committee and one bank
7 account.

8 MS. MANN: City Council is
9 certainly free to legislate and do
10 whatever they need to do. I read to you
11 what I believe is the single committee
12 rule, and that's -- I'm not --

13 COUNCILMAN GOODE: Let me be
14 honest with you. You read to me what the
15 rule is based upon the ordinance that I
16 drafted.

17 MS. MANN: That's what I said.

18 COUNCILMAN GOODE: So, in other
19 words, you didn't tell me anything,
20 because I know what the ordinance said
21 and I know what the rule is, because
22 there's not too far you can go. What's
23 surprising to me is that a Board of
24 Ethics and its predecessors and/or its
25 staff would assume that a campaign

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 contribution limit law, in addition to
3 what already exists in terms of state law
4 in terms of campaign finance reporting,
5 would necessitate someone actually
6 investigating ward committees and what
7 happened there when at the end of the
8 day, as my colleague here said, you let
9 Shane Creamer off because of
10 self-disclosure. Your issues in terms of
11 multiple accounts or committees is done
12 through self-disclosure.

13 MS. MANN: Like I said, you're
14 certainly entitled to the opinion. I
15 disagree that the Board let Shane Creamer
16 off. I disagree with that.

17 COUNCILMAN GOODE: No. I'm
18 dealing with the issue of
19 self-disclosure.

20 MS. MANN: Okay. And I didn't
21 say that was the reason.

22 COUNCILMAN GOODE: I'm dealing
23 with the issue of self-disclosure. The
24 issue of self-disclosure, you wouldn't
25 know whether there was more than one

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 committee or one bank account unless --

3 MS. MANN: Because you have to
4 report it.

5 COUNCILMAN GOODE: So obviously
6 that's self-disclosure. So why people
7 would pursue cases about there being more
8 than one committee or one bank account as
9 a matter of self-disclosure is ridiculous
10 to me, particularly considering the fact
11 that obviously we didn't consider ward
12 committees to be campaign committees in
13 our legislative intent in passing the
14 law.

15 MS. MANN: It seems like your
16 question to me is because you put it in
17 your campaign finance report, that, you
18 know, the one political committee and one
19 checking account is a form of
20 self-disclosure that the Board should
21 take into consideration. Is that what
22 you're saying?

23 COUNCILMAN GOODE: My issue is,
24 why are you pursuing the issue of one
25 committee and one bank account to the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 extent you've been pursuing it when the
3 context of that particular part of the
4 ordinance is still campaign contribution
5 limits. I don't know the particulars of
6 the cases and I don't claim to know the
7 particulars of the cases, but when I ask
8 a Board member who is here for
9 reconfirmation why a one committee, one
10 bank account rule exists and you don't
11 have any opinion other than to show me a
12 rule that's related to an ordinance that
13 I introduced, that's not going to tell me
14 anything.

15 MS. MANN: Councilman Goode, I
16 said to you I believe that because --

17 COUNCILMAN GOODE: So could the
18 one --

19 MS. MANN: Let me answer,
20 because I did answer you. I said so they
21 can keep track of the money and limits.
22 I said both of those things.

23 COUNCILMAN GREEN: Point of
24 information.

25 MS. MANN: And --

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCIL PRESIDENT VERNA:

3 Excuse me.

4 The Chair recognizes Councilman
5 Green for a point of information.

6 COUNCILMAN GREEN: Thank you,
7 Madam Chair.

8 Just related to Councilman
9 Goode's question. I think it may be the
10 first actual point of information since
11 I've been on Council.

12 The money goes from a candidate
13 committee to a ward committee for the
14 purpose of being put on that ward's
15 ballot. Is that a contribution or an
16 expense of the candidate committee?

17 MS. MANN: I have to look into
18 that. I'm not going to answer that here
19 today.

20 COUNCILMAN GREEN: And then
21 when that ward committee spends it on a
22 ballot, is that a contribution or an
23 expense for services provided?

24 MS. MANN: And let me say one
25 of the reasons why is because that issue

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 is -- there are cases before the Board
3 and I --

4 COUNCILMAN GREEN: That's
5 right.

6 MS. MANN: And I am not going
7 to answer questions personally on matters
8 that may be before the Board. I don't --

9 COUNCILMAN GREEN: I understand
10 cases --

11 MS. MANN: I don't think that's
12 appropriate.

13 COUNCILMAN GREEN: Cases before
14 the Board really kind of lay out what
15 your position is at this point.

16 Thank you, Madam Chair.

17 COUNCIL PRESIDENT VERNA:
18 You're welcome.

19 Councilman Goode.

20 COUNCILMAN GOODE: You were
21 still answering the question.

22 MS. MANN: I forgot what the
23 question was.

24 COUNCILMAN GOODE: The question
25 is still very simply --

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MS. MANN: I --

3 COUNCILMAN GOODE: -- what if
4 it's a dumb idea to have a one committee,
5 one bank account rule?

6 MS. MANN: Then Council decides
7 whether they want to change that rule.
8 All I know is that the Board has codes
9 and charters and rules. We try to follow
10 them. We look at them. We don't just
11 look at them as being black and white.
12 There's different perspectives of every
13 Board member.

14 If you say to me that City
15 Council may think about wiping that out,
16 the Board will deal with that. That's --

17 COUNCILMAN GOODE: That's
18 actually not what I'm saying to you. I'm
19 saying the purpose of the original
20 ordinance was to limit campaign
21 contributions. If the reason why you
22 know someone would have more than one
23 bank account and one committee is simply
24 a matter of transparency and
25 self-disclosure; in other words, people

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 file reports and you find out they have
3 more than one --

4 MS. MANN: I think that's part
5 of it, too.

6 COUNCILMAN GOODE: -- then you
7 actually -- the purpose of the reporting
8 requirements from the State and from the
9 City, the purpose of having the Board of
10 Ethics have some enforcement and
11 oversight are all settled by the fact
12 that you have this information. To
13 pursue it as an offense goes against the
14 legislative intent of the ordinance. The
15 offense is if you are going beyond the
16 campaign contribution limit. Do you see
17 the distinction?

18 MS. MANN: I see what you're
19 saying, and I'm not going to sit here and
20 say that I --

21 COUNCILMAN GOODE: In other
22 words, you can't violate, as the primary
23 sponsor of the original ordinance, you
24 can't violate the ordinance unless you
25 give above the contribution limits.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 That's the only way you can violate the
3 ordinance in terms of my legislative
4 intent.

5 MS. MANN: And I hear what
6 you're saying.

7 COUNCILMAN GOODE: And
8 everything else is ridiculous to me.

9 MS. MANN: I hear what you're
10 saying. I'm not saying that I agree with
11 that. I hear what you're saying.

12 COUNCILMAN GOODE: How can you
13 not agree with it? That's the original
14 intent of the original ordinance that I
15 drafted.

16 MS. MANN: Okay. I hear what
17 you're saying.

18 COUNCILMAN GOODE: I don't see
19 how you can disagree with it. If the
20 purpose was to limit campaign
21 contributions and there's a law set up to
22 limit campaign contributions, why can't
23 you see that the only offense would be if
24 somebody gave a contribution above that
25 limit? That offense is not if you have

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 another committee. The offense is not if
3 you have another committee or a bank
4 account. That's not a serious offense.

5 MS. MANN: I don't want to get
6 into what I think, what the Board thinks.
7 I said I hear what you're saying. I
8 heard the thought process you took and
9 what your intent was in passing and
10 proposing that legislation. I heard you.

11 COUNCILMAN GOODE: Let me end
12 with this, and I think it's a very
13 difficult way to deal with this in the
14 end, but don't you think it's ridiculous
15 that we may actually have to go back and
16 do legislative amendments that are based
17 upon rules that you create?

18 MS. MANN: I think that City
19 Council has to do what they think is
20 appropriate.

21 COUNCILMAN GOODE: And we did.

22 MS. MANN: And proposing
23 legislation to deal with these issues or
24 what they deem is appropriate, and
25 that's --

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILMAN GOODE: But don't
3 you believe that if the Board of Ethics
4 was created by this Council, if the
5 campaign finance reform law was created
6 by this Council, that City Council might
7 want to have some policy input and might
8 not feel it necessary to do it as a
9 matter of law or even legislative
10 amendment if it requires you
11 understanding that a rule simply does not
12 need to exist? If the purpose of the
13 ordinance was to limit campaign
14 contributions, you determine what within
15 that ordinance is actually created for
16 the purpose of limiting campaign
17 contributions and what is simply a
18 process to limit campaign contributions
19 that's not the substance of the law.

20 MS. MANN: I hear what --

21 COUNCILMAN GOODE: In other
22 words, at some point you have to
23 differentiate between substance and
24 process. There's a distinction between
25 substance and process, and in many cases

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 what you've dealt with is process and
3 have dealt with process as an offense,
4 when it has nothing to do with the
5 substance of the law.

6 Thank you, Madam President.

7 COUNCIL PRESIDENT Verna:

8 You're welcome.

9 Are there any other questions
10 from members of the Committee?

11 (No response.)

12 COUNCIL PRESIDENT Verna:

13 Seeing none, thank you.

14 MS. Mann: Thank you.

15 COUNCIL PRESIDENT Verna: At
16 this time, I would ask Mr. McPherson to
17 please read the title of Resolution No.
18 100023.

19 MR. McPherson: Resolution
20 confirming the appointment of Nolan
21 Atkinson as a member of the Board of
22 Ethics, to serve in the term ending
23 November 16, 2014.

24 (Witness approached witness
25 table.)

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCIL PRESIDENT VERNA:

3 Mr. Atkinson, I want to thank you for
4 your patience. You've been extremely
5 patient sitting back there.

6 MR. ATKINSON: Thank you,
7 Council President Verna. My notes say
8 good morning, but it's really good
9 afternoon. So good afternoon, Council
10 President Verna and distinguished members
11 of this City Council. I am Nolan
12 Atkinson and am currently a partner and
13 also the Chief Diversity Officer of the
14 law firm of Duane Morris. I am truly
15 honored to be a nominee for the
16 Philadelphia Board of Ethics and welcome
17 the opportunity to testify before City
18 Council in connection with my
19 qualifications to serve in this position.

20 I am providing City Council
21 with information about my background and
22 my motivation for wanting to serve on the
23 Board of Ethics. I currently have an
24 active practice of law at Duane Morris
25 that focuses on litigation wherein I

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 spend approximately 50 percent of my
3 time. Equally important, my remaining
4 working hours are devoted to my role as
5 the firm's Chief Diversity Officer where
6 I have nationwide responsibility for all
7 of Duane Morris' diversity initiatives.

8 I have been practicing law in
9 Philadelphia for the past 40 years.

10 After graduating from Howard Law School
11 and then receiving an LL.M from the
12 University of Pennsylvania Law School, I
13 began practicing in a small Philadelphia
14 firm. Throughout the '70s, I was active
15 primarily as a volunteer in Philadelphia
16 municipal elections and then as an early
17 supporter of Mayor W. Wilson Goode in the
18 '80s. It was also during this time that
19 I was elected a Commissioner of Lower
20 Merion Township from the Fourth Ward in
21 1973 wherein I was involved in every
22 aspect of municipal government for a
23 period of 12 years. I personally
24 consider my time as a Commissioner, as an
25 elected official, as some of the best

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 years of my life.

3 In Philadelphia, I was
4 instrumental in starting the law firm of
5 Atkinson, Myers, Archie and Wallace. Bob
6 Archie is well known to you, as he
7 currently leads the School Reform
8 Commission. John Wallace is an esteemed
9 Justice of the New Jersey Supreme Court.
10 And Jack Myers was a distinguished
11 criminal lawyer in Philadelphia courts
12 for many years.

13 Throughout my career, I have
14 always been involved in civic activities
15 in Philadelphia. I am a co-founder and
16 the first Chair of the Philadelphia
17 Diversity Law Group, a consortium of
18 every major law firm and corporation
19 committed to increasing ethnic and racial
20 diversity in Philadelphia's larger law
21 firms. I am currently a member of the
22 Board of Episcopal Community Services,
23 which provides a wide spectrum of social
24 services to Philadelphia residents living
25 at or below the limits of poverty and who

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 require a wide variety of social
3 services.

4 I am a former Director of First
5 Pennsylvania Bank, which became
6 CoreStates Bank, the former Chair of the
7 Philadelphia Child Guidance Clinic and a
8 past trustee of the Philadelphia Bar
9 Foundation. For many years, I taught
10 trial advocacy at Temple Law School.

11 Over the years, I have served
12 as a mediator and arbitrator in many
13 disputes and feel comfortable in
14 fulfilling, if approved, the duties of a
15 member of the Board of Ethics. I also
16 have represented many clients in
17 connection with legal issues involving
18 candidates and public officials serving
19 on public or quasi-public boards.

20 In closing, I would like to
21 thank Mayor Nutter for his nomination and
22 the members of this Council for
23 considering my qualifications for service
24 on the Ethics Board. If confirmed, I
25 pledge to follow the law and regulations

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 applicable and to do all in my power to
3 make the ethics rules, which are so
4 important in government, clear and
5 understandable for every citizen -- for
6 all of the citizens of Philadelphia.

7 A final note, although my
8 entire professional career has been spent
9 working in Philadelphia, as my service as
10 a Township Commissioner reflects, for
11 many years I was a resident of Lower
12 Merion Township. I am happy to report
13 that if the weather stays warm and it
14 doesn't snow and there's no rain, I will
15 be able to move into Naval Square in
16 South Philadelphia hopefully by the first
17 of May.

18 Thank you very much. I'm here
19 to answer any questions.

20 COUNCIL PRESIDENT VERNA: And I
21 would like to put the banner out, Welcome
22 into the 2nd Councilmanic District.

23 MR. ATKINSON: Happy to be
24 there.

25 COUNCIL PRESIDENT VERNA: Thank

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 you.

3 Section 8-410 provides that
4 with respect to opinions regarding state
5 law, the Law Department, at the option of
6 an employee requesting advice, shall have
7 concurrent authority with the Board to
8 render advisory decisions.

9 If an employee sought the
10 advice of the Board and the Law
11 Department concerning the application of
12 state ethic laws to that employee and the
13 Board and the Law Department reached
14 different conclusions regarding the
15 priority of an employee's actions, in
16 your opinion, which advice is an employee
17 entitled to rely upon?

18 MR. ATKINSON: Well, in my
19 opinion, first, if I am confirmed to
20 serve, I would try and hope that the
21 Board would gather all of the information
22 from whatever sources, be it the state or
23 from the Board or from the City
24 Solicitor.

25 The employee, the City

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 employee, in my judgment, is bound by the
3 rules of the Board of Ethics as they've
4 been promulgated, so that it would seem
5 to me, in the first instance, that they
6 would follow the rules of the Board of
7 Ethics as the Board interprets them. But
8 I would reserve any final judgment, A,
9 until I have the opportunity to serve on
10 the Board; B, until I get a sense of how
11 the various agencies interact; and, C,
12 always to be sure that whatever decision
13 is fair and provides information to the
14 employee before the employee is subject
15 to that rule.

16 COUNCIL PRESIDENT VERNA: Thank
17 you.

18 The Chair recognizes Councilman
19 Green.

20 COUNCILMAN GREEN: Thank you,
21 Madam Chair.

22 Good afternoon, Mr. Atkinson.

23 MR. ATKINSON: Good afternoon,
24 Councilman.

25 COUNCILMAN GREEN: I just have

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 a couple of quick questions. You heard
3 my colloquy with Ms. Mann. With respect
4 to focusing or focusing more of its
5 effort on providing clear advice through
6 regulation, is that something you think
7 that you'd be willing to -- I'm not
8 asking you to commit to any specific
9 thing, but you'd be willing to look at as
10 a new member of the Board as something
11 that it should consider?

12 MR. ATKINSON: Absolutely. I
13 would be willing to consider whatever
14 information comes to me first from a
15 governmental entity, but from any citizen
16 and be certain that that information was
17 reviewed, considered and that I get an
18 answer that I feel I could defend in this
19 Chamber.

20 COUNCILMAN GREEN: Thank you.
21 With respect to the decision to hire Evan
22 Meyer, I recognize you're not on the
23 Board, but if confirmed, you will be very
24 shortly. Do you think the Board should
25 put something up on its website or gather

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 more information about other qualified
3 candidates before hiring Mr. Meyer back
4 after his one day?

5 MR. ATKINSON: Councilman, I
6 think it would be inappropriate for me in
7 a confirmation hearing to second-guess
8 what Board members have or may have done
9 and without me being sensitive to all
10 that may have transpired within the
11 Board. I am fully aware of the issue of
12 DROP and the ethical implications of DROP
13 that have been fully discussed in the
14 public in this city, and I'd obviously be
15 sensitive to those issues, but I think
16 it's inappropriate for me to say that I
17 would take a particular action if I'm
18 confirmed, because I haven't been
19 confirmed yet.

20 COUNCILMAN GREEN: I
21 understand. Is it something you'd
22 consider?

23 MR. ATKINSON: I would --

24 COUNCILMAN GREEN: I'm not
25 asking what action you would take.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MR. ATKINSON: I would, as with
3 any question that I ever get from the
4 public, I would try and get answers and
5 get a full explanation of what was done
6 and why.

7 COUNCILMAN GREEN: Do you know
8 who Gregory Harvey is?

9 MR. ATKINSON: I do. I do. I
10 was in one of those cases and I
11 represented another of the defendants in
12 that case, and I first met Gregory Harvey
13 when he was the Chair of American for
14 Democratic Action and I believe your
15 father was a candidate for Mayor in 1971.
16 So I've known him since 1971.

17 COUNCILMAN GREEN: Do you know
18 any other lawyers in the Philadelphia Bar
19 that have been active in sort of
20 Philadelphia ethics or campaign finance
21 rules?

22 MR. ATKINSON: I think that
23 Gregory Harvey has been the person who's
24 received the most public notice. I don't
25 know or I certainly would not want to

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 call out other lawyers as being
3 specialists in ethical law.

4 COUNCILMAN GREEN: I don't want
5 to create any competition for Gregory
6 either. That's good. But suffice it to
7 say, would you imagine that there are
8 other lawyers within the Philadelphia Bar
9 who are capable enough to very quickly
10 become familiar with precedent, which
11 after all is what lawyers do, and serve
12 as the general counsel of the Ethics
13 Board?

14 MR. ATKINSON: Well, once
15 again, I don't want to sort of backdoor,
16 second-guess what the Ethics Board --

17 COUNCILMAN GREEN: I'm asking
18 if there are other lawyers who might be
19 as qualified.

20 MR. ATKINSON: Certainly there
21 may be other lawyers. Let me say that
22 since the Mayor nominated me and I got a
23 big binder of rules and regulations and
24 add to that my service on the Task Force,
25 which examined campaign and ethical

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 reform, I think it's a pretty small
3 number of people who would have the
4 experience to understand all of those
5 laws coming together and could provide
6 the kind of advice that would be needed,
7 but I certainly can't say there aren't
8 other people who understand that.

9 COUNCILMAN GREEN: I can think
10 of a few, Lewis Rosman, Richie Feder,
11 other people who have provided these
12 kinds of rulings over time.

13 So at any rate, thank you very
14 much for your testimony.

15 MR. ATKINSON: Thank you.

16 COUNCIL PRESIDENT VERNA: The
17 Chair recognizes Councilman Goode.

18 COUNCILMAN GOODE: Thank you,
19 Madam President.

20 Good afternoon, Mr. Atkinson.

21 MR. ATKINSON: Good afternoon,
22 Councilman.

23 COUNCILMAN GOODE:

24 Mr. Atkinson, I think you sell yourself
25 short in terms I know you are extremely

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 familiar with campaign finance
3 legislation. I would just say as --

4 MR. ATKINSON: I'm familiar
5 with what I used to call the Goode bill,
6 I think passed in December of 2003, if
7 I'm correct.

8 COUNCILMAN GOODE: But as a
9 member of the Mayor's Task Force on
10 Ethics and Campaign Finance Reform and as
11 a member of the subcommittee that dealt
12 with campaign finance, you thought it
13 appropriate to come meet with the primary
14 sponsor of the campaign finance
15 legislation; is that correct?

16 MR. ATKINSON: I missed it. I
17 felt it appropriate?

18 COUNCILMAN GOODE: Appropriate
19 to come meet with the original sponsor of
20 the campaign finance legislation.

21 MR. ATKINSON: We came and
22 visited with every Councilman that would
23 see or hear us, yes, sir.

24 COUNCILMAN GOODE: And before
25 that, in terms of offering advisory

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 opinions to the clients from your law
3 firm in trying to understand, interpret
4 the Goode ordinance, as you refer to it,
5 you sought out what the opinion of
6 Council and/or the primary sponsor might
7 be?

8 MR. ATKINSON: I believe that's
9 correct.

10 COUNCILMAN GOODE: So do you
11 find it strange that the Board members
12 and staff of the Board of Ethics have
13 never actually had a discussion with City
14 Council about policy matters with regard
15 to campaign finance? Not with regard to
16 cases, but with regard to policy matters.

17 MR. ATKINSON: I don't want to
18 make any comments about what the Board
19 has done or what the staff of the Board
20 has done, and I -- there is a body of law
21 which says that under certain
22 circumstances, you look to legislative
23 intent, and certainly that is an area.
24 As an administrative agency, there are
25 certain constraints on the Board as to

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 when they should or could seek advice or
3 counsel.

4 I think I respectfully, sir,
5 want to not delve into what others have
6 done. I'm sure at some point I'll be
7 fair game for you to ask what I've done.

8 COUNCILMAN GOODE: I appreciate
9 that, but without talking about the past,
10 without talking about any specific cases,
11 but in terms of the Board establishing
12 rules themselves or policy, if you had a
13 question, you would ask in terms of
14 legislative intent?

15 MR. ATKINSON: In terms of
16 promulgating any rules, I think you would
17 probably try and get as broad a set of
18 responses as you could to promulgate the
19 rules. I do not know what process was
20 used in the promulgation of the current
21 rules of the Ethics Board.

22 COUNCILMAN GOODE: Thank you.

23 Thank you, Madam Chair.

24 COUNCIL PRESIDENT VERNA:

25 Councilwoman Brown, did you want to be

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 recognized?

3 COUNCILWOMAN BROWN: Yes. I
4 just want to get clarity of my own facts,
5 Madam President.

6 Good afternoon.

7 MR. ATKINSON: Good afternoon,
8 Councilwoman.

9 COUNCILWOMAN BROWN: And I'm
10 not sure I have all my facts, so I'll ask
11 this question with caution. Did you have
12 the opportunity to hear all of the
13 testimony regarding the circumstance
14 around my colleague, Maria
15 Quinones-Sanchez?

16 MR. ATKINSON: I did this
17 morning and I met in a conference room
18 with the Councilwoman and others last
19 week, and so I do have an understanding
20 of the single committee issue.

21 COUNCILWOMAN BROWN: Okay. All
22 right. And so given that circumstance
23 and looking forward, what takeaways might
24 there be for you as a prospective new
25 member of this Board and how those type

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 of circumstances are handled going
3 forward?

4 MR. ATKINSON: I think the
5 takeaway that I got was in any way that
6 the Board can administratively foster
7 better information and knowledge and
8 clarity as to how a particular rule is
9 going to be applied under a certain set
10 of facts, that that might be helpful.
11 The constraint would be if you're
12 adjudicating someone, then you've already
13 gone beyond the point where you can get
14 that kind of dialogue. Hopefully there
15 could be some administrative actions
16 taken to provide the kind of information
17 and direction and perhaps simplicity in
18 the rule so that everyone knows exactly
19 how it will be applied.

20 COUNCILWOMAN BROWN: And when
21 you say everyone knows exactly how it
22 would be applied, does that equal
23 everyone interpreting it the same way?

24 MR. ATKINSON: I'm not sure I
25 could speak for anyone other than myself.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 COUNCILWOMAN BROWN: Okay.

3 MR. ATKINSON: Interpretation
4 is always -- there's always an element of
5 discretion in interpretation, and Supreme
6 Court interprets the Constitution all the
7 time and you get different answers. So I
8 don't want to include interpretation.

9 COUNCILWOMAN BROWN: Okay. All
10 right, then. Thank you for your
11 testimony.

12 MR. ATKINSON: Thank you.

13 COUNCILWOMAN BROWN: Thank you,
14 Madam Chair.

15 COUNCIL PRESIDENT Verna:
16 You're welcome.

17 Any other questions from
18 members of City Council?

19 (No response.)

20 COUNCIL PRESIDENT Verna:
21 Seeing none, do we have anyone else to
22 testify on these resolutions?

23 (No response.)

24 COUNCIL PRESIDENT Verna:
25 Seeing no one, thank you very much.

1 3/9/10 - WHOLE - RES. 100021, 22 and 23

2 MR. ATKINSON: Thank you.

3 COUNCIL PRESIDENT Verna: This
4 will conclude our public hearing. We
5 will now go into our public meeting.

6 The Chair recognizes
7 Councilwoman Tasco for a motion on
8 Resolution No. 100021.

9 COUNCILWOMAN TESCO: Madam
10 President, I move that Resolution 100021
11 be reported out of Committee with a
12 favorable recommendation.

13 (Duly seconded.)

14 COUNCIL PRESIDENT Verna: It
15 has been moved and seconded that
16 Resolution No. 100021 be reported out of
17 Committee with a favorable
18 recommendation.

19 All in favor will indicate by
20 saying aye.

21 (Aye.)

22 COUNCIL PRESIDENT Verna: Those
23 opposed?

24 (No response.)

25 COUNCIL PRESIDENT Verna: The

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 ayes have it and the motion carries.

3 Again, the Chair recognizes
4 Councilwoman Tasco concerning Resolution
5 No. 100022.

6 COUNCILWOMAN TASC0: Madam
7 President, Resolution 100022 will be
8 held.

9 COUNCIL PRESIDENT VERNA: Thank
10 you. We will now consider Resolution No.
11 100023.

12 COUNCILWOMAN TASC0: Madam
13 President, I move that Resolution 100023
14 be amended. I offer an amendment. The
15 amendment has been circulated.

16 (Duly seconded.)

17 COUNCILWOMAN TASC0: Is
18 everyone clear on the amendment?

19 COUNCIL PRESIDENT VERNA: It's
20 a technical amendment.

21 COUNCILWOMAN TASC0: I move for
22 the adoption of the amendment.

23 (Duly seconded.)

24 COUNCIL PRESIDENT VERNA: It
25 has been moved and seconded that the

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 amendment be adopted.

3 All in favor will say aye.

4 (Aye.)

5 COUNCIL PRESIDENT Verna: Those
6 opposed?

7 (No response.)

8 COUNCIL PRESIDENT Verna: The
9 ayes have it and the amendment is
10 adopted.

11 The Chair recognizes
12 Councilwoman Tasco.

13 COUNCILWOMAN TESCO: Madam
14 President, I move that Resolution 100023,
15 as amended, be reported out of Committee
16 with a favorable recommendation.

17 (Duly seconded.)

18 COUNCIL PRESIDENT Verna: It
19 has been moved and seconded that
20 Resolution No. 100023 be reported out of
21 Committee with a favorable
22 recommendation, as amended.

23 All in favor will say aye.

24 (Aye.)

25 COUNCIL PRESIDENT Verna: Those

1 3/9/10 - WHOLE - RES. 100021, 22 and 23
2 opposed?

3 (No response.)

4 COUNCIL PRESIDENT Verna: The
5 ayes have it and the motion carries.

6 Thank you all very much.

7 (Committee of the Whole
8 concluded at 1:15 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter on March 9, 2010, and that
this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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