

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE OF THE WHOLE

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Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, May 14, 2009
9:35 a.m.

- - -

PRESENT:

COUNCIL PRESIDENT ANNA C. VERNA
COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN DARRELL L. CLARKE
COUNCILMAN FRANK DiCICCO
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BILL GREEN
COUNCILMAN WILLIAM GREENLEE
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN JAMES F. KENNEY
COUNCILWOMAN JOAN L. KRAJEWSKI
COUNCILMAN BRIAN J. O'NEILL
COUNCILWOMAN MARIA QUINONES-SANCHEZ
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN FRANK RIZZO
COUNCILWOMAN MARIAN B. TASCO

RESOLUTIONS 090136, 090137, 090333

- - -

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2 COUNCIL PRESIDENT Verna: Good
3 morning, everyone. This is a public
4 hearing of the Committee of the Whole.

5 I would ask Ms. Ortiz to please
6 read Resolution No. 090136.

7 THE CLERK: 090136, resolution
8 appointing Beverly Coleman to the Board
9 of Directors of the Southeastern
10 Pennsylvania Transportation Authority.

11 COUNCIL PRESIDENT Verna: Is
12 Ms. Coleman here?

13 DEPUTY MAYOR CUTLER: She's out
14 in the hall. They're going to get her.

15 MS. ORTIZ: We're going to read
16 090137, resolution appointing Rina Cutler
17 to the Board of Directors of the
18 Southeastern Pennsylvania Transportation
19 Authority.

20 COUNCIL PRESIDENT Verna:
21 Ms. Cutler.

22 (Witness approached witness
23 table.)

24 COUNCIL PRESIDENT Verna: Good
25 morning. Welcome.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 DEPUTY MAYOR CUTLER: Good
3 morning. Thank you.

4 Council President Verna,
5 members of the Committee of the Whole, my
6 name is Rina Cutler, Deputy Mayor for
7 Transportation and Public Utilities. It
8 is an honor to sit before you today as
9 one of Mayor Nutter's two nominees to
10 serve as Philadelphia's representative on
11 the SEPTA Board of Directors. My three
12 decades of experience as a transportation
13 professional have prepared me to advance
14 the interests of Philadelphia and the
15 overall success of SEPTA on the agency's
16 Board. The strength of SEPTA is critical
17 to the success of our city and the
18 region.

19 There are few issues more
20 fundamental to Philadelphia's economy and
21 quality of life than the health of SEPTA.
22 Cities and regions across the nation are
23 coming to understand the key role public
24 transit plays in providing mobility,
25 reducing congestion, limiting pollution,

1 5/14/09 - WHOLE - RES. 090136, etc.
2 promoting economic vitality and enhancing
3 the quality of life. In this regard,
4 many cities look to Philadelphia and the
5 services SEPTA provides with envy.
6 Philadelphia and the region have
7 inherited a wealth of transit, subway,
8 trolley and regional rail infrastructure
9 that gives the City a strong competitive
10 advantage. To replace that
11 infrastructure would literally cost
12 billions of dollars. It is critical that
13 the City leverage these assets to promote
14 economic development, green growth and
15 neighborhood stabilization. This
16 approach is good for Philadelphia and
17 good for SEPTA.

18 To make the most of the system,
19 SEPTA must continue to focus on improving
20 customer service and maintaining their
21 system in a state of good repair.
22 Exceptional customer service paired with
23 a safe and reliable transit system is the
24 foundation of a world-class transit
25 system. SEPTA is making important

1 5/14/09 - WHOLE - RES. 090136, etc.

2 progress in both areas and winning over
3 thousands of new riders. If we ever hope
4 to genuinely change residents'
5 preferences from single-occupancy vehicle
6 travel to travel by transit, SEPTA must
7 continue this work.

8 If confirmed, I will work on
9 SEPTA's Board as I do in City government
10 to assist in promoting transit-oriented
11 development. Transit-oriented
12 development, or TODs for short, develop
13 neighborhoods surrounding transit stops
14 to be walkable and livable communities.
15 Residential, commercial and office uses
16 are mixed to create neighborhoods where
17 people live, work and play. A
18 sustainable city requires that we shift
19 our emphasis on development and land use
20 to reduce the use of automobiles and
21 increase the use of transit.

22 Ultimately, great service
23 complemented by transit-oriented
24 development encourages more people to
25 take transit and reduces dependence on

1 5/14/09 - WHOLE - RES. 090136, etc.
2 automobiles.

3 In addition, we all need to
4 collectively work to determine what the
5 transit system should look like 10, 15
6 and even 20 years from now. We need to
7 form a partnership to expand the system
8 to be able to deal with mobility issues
9 and to transport City residents to jobs
10 both outside of the City and across town.

11 Mobility is the main benefit
12 the City and its residents derive from
13 the Authority. Nearly every citizen in
14 Philadelphia lives within a half a mile
15 of a SEPTA bus, trolley, subway or
16 regional rail line. The transit network
17 coverage does not come close to this
18 level of service outside the boundaries
19 of the City. Nearly all service on SEPTA
20 goes into and out of the City. As a
21 result, 80 percent of SEPTA trips are
22 taken by Philadelphia residents. Without
23 SEPTA, access to commerce, education,
24 healthcare and entertainment affect the
25 quality of life, and it would be

1 5/14/09 - WHOLE - RES. 090136, etc.

2 seriously diminished.

3 Some people have expressed
4 concern that the City pays more than its
5 fair share of the local subsidy of
6 SEPTA's operating budget. It's worth
7 noting that just eight percent of SEPTA's
8 operating budget is supported by local
9 subsidies. A far greater portion comes
10 from farebox revenue, 37 percent; federal
11 subsidies, 39 percent; and state
12 subsidies, 14 percent. Of the local
13 subsidy, Philadelphia pays a share that
14 is almost equal to the share of City
15 ridership, which is 80 percent. My staff
16 has analyzed each of the five counties'
17 contributions to the overall budget based
18 on their respective contributions in
19 farebox, federal, state and local taxes.
20 Even conservative estimates indicate that
21 Philadelphia residents pay far less than
22 80 percent of the total operating budget.

23 The City derives benefits from
24 SEPTA far beyond the mobility it provides
25 our residents and visitors. Each day,

1 5/14/09 - WHOLE - RES. 090136, etc.

2 SEPTA delivers thousands and thousands of
3 regional consumers and commuters to the
4 City, resulting in wage and business
5 taxes critical to the financial health of
6 the City. Local businesses, from
7 restaurants to sports teams, benefit from
8 regional visitors who use transit. I'd
9 also like to point out that SEPTA is the
10 eighth largest employer in the City,
11 providing many residents with
12 high-quality jobs.

13 SEPTA's selection of projects
14 for funding through the American Recovery
15 and Reinvestment Act is one example, or
16 more commonly called stimulus funds, is
17 one example of our improving
18 relationship. The City consulted closely
19 with SEPTA on the selection of projects
20 within the City. Many of the projects
21 are beneficial to the City, including the
22 purchase of 40 hybrid buses,
23 rehabilitating the Girard and Spring
24 Garden stations on the Broad Street Line,
25 station improvements along Chestnut Hill

1 5/14/09 - WHOLE - RES. 090136, etc.
2 East and Chestnut Hill West on the
3 regional rail lines and improvements to
4 the Girard Avenue Subway.

5 Under new leadership at both
6 the City and SEPTA, a collaborative
7 relationship is growing. While it has
8 been common in the past to focus on
9 governance and money issues, I prefer to
10 focus on what the City and SEPTA can do
11 together to create a world-class transit
12 system for our residents and visitors,
13 with stable funding, excellent customer
14 service, planning for the future and
15 economic opportunities to provide access
16 to jobs both within and outside of the
17 City. I ask for your support for my
18 nomination and look forward to answering
19 any questions you may have.

20 Thank you for your time.

21 COUNCIL PRESIDENT VERNA: Thank
22 you very much.

23 Ms. Cutler, is this
24 appointment, does it have a fixed term or
25 does one serve at the pleasure of the

1 5/14/09 - WHOLE - RES. 090136, etc.

2 Mayor?

3 DEPUTY MAYOR CUTLER: I believe
4 one serves at the pleasure of the Mayor.

5 COUNCIL PRESIDENT VERNA: Thank
6 you.

7 The Chair recognizes Councilman
8 Goode.

9 COUNCILMAN GOODE: Thank you,
10 Madam President.

11 Good morning, Deputy Mayor
12 Cutler.

13 DEPUTY MAYOR CUTLER: Good
14 morning.

15 COUNCILMAN GOODE: In your
16 testimony you said that traditionally
17 when addressing SEPTA, people have
18 focused on governance and money issues,
19 but you choose not to. Is that your
20 decision? Is that the Mayor's decision?
21 Whose decision is that?

22 DEPUTY MAYOR CUTLER: Well, I
23 think there are two answers to the
24 question, Councilman. The first is, I am
25 certainly aware of them, so it isn't as

1 5/14/09 - WHOLE - RES. 090136, etc.

2 if I put them totally to the side. It is
3 certainly the Mayor and my decision that
4 we want to establish good relationships
5 with SEPTA and we'd like to really focus,
6 at least initially, on the things we have
7 in common and the things we wish to
8 accomplish in common. So I would say the
9 decision is coming from both the Mayor
10 and myself.

11 COUNCILMAN GOODE: So you had a
12 discussion about it?

13 DEPUTY MAYOR CUTLER: Pardon
14 me?

15 COUNCILMAN GOODE: You had a
16 discussion about it?

17 DEPUTY MAYOR CUTLER: I did.

18 COUNCILMAN GOODE: And when was
19 your last discussion about it?

20 DEPUTY MAYOR CUTLER: The
21 discussion with the Mayor on SEPTA was
22 very early on in his tenure.

23 COUNCILMAN GOODE: I'm talking
24 about minimizing governance and money
25 issues. When is the last time you had

1 5/14/09 - WHOLE - RES. 090136, etc.

2 that discussion with the Mayor?

3 DEPUTY MAYOR CUTLER: Early in
4 his tenure.

5 COUNCILMAN GOODE: And he
6 agreed?

7 DEPUTY MAYOR CUTLER: He did
8 agree.

9 COUNCILMAN GOODE: Okay. We'll
10 start with a series of questions, and the
11 first, for the record can you explain the
12 dispute between the City and SEPTA
13 regarding the lease-leaseback agreement?

14 DEPUTY MAYOR CUTLER: Well, I
15 certainly know that there is a
16 longstanding legal battle going on, and I
17 believe the primary issue is when the
18 City assumes its lease with SEPTA ended
19 and when SEPTA assumed their lease ended.
20 And I believe that and the -- there was a
21 second issue, if you give me two seconds
22 here.

23 COUNCILMAN GOODE: I actually
24 asked whether you could explain it.

25 DEPUTY MAYOR CUTLER: I can

1 5/14/09 - WHOLE - RES. 090136, etc.

2 explain that there is a legal dispute
3 that lawyers are handling.

4 COUNCILMAN GOODE: So what is
5 the dispute?

6 DEPUTY MAYOR CUTLER: That's
7 what I was looking for to give you.
8 Excuse me and let me just take a peek.

9 I think there are two things.
10 The City believes that the
11 lease-leaseback agreement expired in
12 December of 2005. SEPTA maintains that
13 it does not expire until 2029, and so
14 that is the primary issue that is in
15 court, I believe.

16 COUNCILMAN GOODE: So what is
17 your position on the dispute?

18 DEPUTY MAYOR CUTLER: I don't
19 know that I have a position on it. I
20 believe the City's position is my
21 position.

22 COUNCILMAN GOODE: What does
23 the lease-leaseback agreement say?
24 Doesn't it say December 31st, 2005?

25 DEPUTY MAYOR CUTLER: I think

1 5/14/09 - WHOLE - RES. 090136, etc.

2 you will need the City Law Department to
3 analyze the legal question for you. It
4 is a question of when bonds expire, as I
5 understand it from a briefing from the
6 Law Department. So I believe SEPTA's
7 position of 2029 is predicated on the
8 facts that there are bonds that were
9 issued with those assets, and so until
10 the bonds expire, the lease is good.

11 I think the City's position has
12 been that the language in the lease
13 itself is the override. So I believe
14 that is the --

15 COUNCILMAN GOODE: And what is
16 City Council's appropriate role in that
17 dispute?

18 DEPUTY MAYOR CUTLER: It's a
19 question for the Law Department, I
20 believe. Ultimately, there will be an
21 agreement, and City Council will need to
22 approve it.

23 COUNCILMAN GOODE: I'm asking
24 your position in terms of what you think
25 City Council's appropriate role is in the

1 5/14/09 - WHOLE - RES. 090136, etc.
2 dispute over the lease-leaseback, because
3 the lease-leaseback agreement was crafted
4 in 1968, was meant to exist for 37 years
5 and expire December 31st, 2005. That
6 lease-leaseback agreement had to be
7 approved by City Council. The City
8 claims that it ended in December 31st,
9 2005. I believe anyone and every member
10 of this Council who reads that agreement
11 would claim that it ended December 31st,
12 2005. Yet, SEPTA chose to dispute it,
13 saying it should be extended to 2029.

14 City Council approved that
15 agreement that expired four years ago.
16 The Administration has decided to
17 continue that agreement on a year-to-year
18 basis. How can the Administration do
19 that without City Council, when City
20 Council had to approve the original
21 agreement?

22 DEPUTY MAYOR CUTLER: I believe
23 that is a question you need to put to the
24 Law Department. It is part of the
25 litigation.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 COUNCILMAN GOODE: Should I ask
3 every question to the Law Department?

4 DEPUTY MAYOR CUTLER: Well, as
5 it relates to litigation, it is not my
6 role to make that decision.

7 COUNCILMAN GOODE: No. This is
8 not a matter of litigation. I'm asking
9 your position on the lease-leaseback
10 agreement, not on the legal battle over
11 it, but on the lease-leaseback agreement.
12 What role do you think City Council
13 should be playing and should we be part
14 of the negotiation of the new
15 lease-leaseback agreement?

16 DEPUTY MAYOR CUTLER: I believe
17 City Council will approve a new
18 lease-leaseback agreement when there is
19 one.

20 COUNCILMAN GOODE: You believe
21 that we will approve it when there is
22 one?

23 DEPUTY MAYOR CUTLER: I believe
24 you will get to approve that or
25 disapprove it when there is one.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 COUNCILMAN GOODE: Well, we
3 will have to approve it when there is
4 one.

5 DEPUTY MAYOR CUTLER: That is
6 correct.

7 COUNCILMAN GOODE: How many
8 members are on the SEPTA Board?

9 DEPUTY MAYOR CUTLER: I do not
10 know. There are two representatives from
11 the City.

12 COUNCILMAN GOODE: You don't
13 know how many members are on the SEPTA
14 Board?

15 DEPUTY MAYOR CUTLER: I do not.

16 COUNCILMAN GOODE: Do you know
17 how many -- when the last City official
18 served on the SEPTA Board?

19 DEPUTY MAYOR CUTLER: I believe
20 Jetty was at the last meeting --

21 COUNCILMAN GOODE: No. My
22 question is the last time a member of the
23 Mayor's Administration served on the
24 SEPTA Board, who was that?

25 DEPUTY MAYOR CUTLER: I do not

1 5/14/09 - WHOLE - RES. 090136, etc.

2 know that.

3 COUNCILMAN GOODE: Okay. I

4 don't have any questions. I can't

5 support your nomination.

6 COUNCIL PRESIDENT Verna: Thank

7 you.

8 The Chair recognizes Councilman

9 Green.

10 COUNCILMAN GREEN: Thank you,

11 Madam Chair.

12 Councilman Goode introduced a

13 bill that I'm pretty sure I co-sponsored

14 that deals with the SEPTA lease

15 situation, and under the Charter, you

16 can't keep renewing things year to year

17 to year to year, I don't believe.

18 There's a certain limit to that.

19 Essentially what you're doing is -- what

20 the Administration is doing by continuing

21 to extend that lease is subverting the

22 intent of the Charter. You can't go year

23 to year for 30 years.

24 And so in order for me to be

25 able to support your nomination, I have

1 5/14/09 - WHOLE - RES. 090136, etc.
2 to know what position you will take as
3 the City's representative on the Board
4 with respect to that lease. Do you
5 believe the lease has expired or not, and
6 how are you going to represent the
7 interests of Philadelphia on the Board?
8 That's a fair question.

9 DEPUTY MAYOR CUTLER: Well, it
10 is a fair question, Councilman, but I am
11 not in a position to disregard the Law
12 Department and the City's position on
13 this, which is that the lease is in
14 litigation.

15 COUNCILMAN GREEN: Well, you
16 are being elected -- or you are being
17 nominated to represent the City of
18 Philadelphia on the Board. You have to
19 come before this body to get approved.

20 DEPUTY MAYOR CUTLER: I do,
21 indeed.

22 COUNCILMAN GREEN: So it is
23 reasonable for us to know your position
24 on issues that affect the interests of
25 this body. If you're not willing to take

1 5/14/09 - WHOLE - RES. 090136, etc.

2 a position on them -- in other words, if
3 we put somebody independent who is not a
4 member of the Administration on the
5 Board, they are not going to say, I have
6 to listen to the Law Department. They're
7 going to say, This is what I think and
8 this is the position I'm going to take.

9 DEPUTY MAYOR CUTLER: It is --

10 COUNCILMAN GREEN: If you have
11 to listen to the Law Department, then
12 you're just really an extension of the
13 Administration.

14 DEPUTY MAYOR CUTLER: There
15 is --

16 COUNCILMAN GREEN: -- on the
17 SEPTA Board, and I would really like to
18 see some independent voices representing
19 the interests of Philadelphians.

20 I'm not -- I mean, if you can't
21 take a position on that, can you tell me
22 what your plan is with respect to
23 protecting the interests of
24 Philadelphians, who contribute the vast
25 majority of SEPTA funding from the five

1 5/14/09 - WHOLE - RES. 090136, etc.
2 surrounding counties, 64 million out of
3 \$80 million? How do you think we can get
4 more control over what's happening at
5 SEPTA, or are you even interested in
6 that?

7 DEPUTY MAYOR CUTLER: Well, I
8 don't know from me that the question is
9 about control. I think the question is
10 about providing excellent service to
11 residents of Philadelphia. I think the
12 current litigation and the issue of
13 whether the lease has expired or not is
14 not an issue that the residents are
15 either aware of or, frankly, need to be
16 aware of. It is two institutions trying
17 to resolve a long-term issue.

18 I believe if there are -- so I
19 believe my role --

20 COUNCILMAN GREEN: I yield to
21 Councilman Goode.

22 COUNCILMAN GOODE: Point of
23 information.

24 COUNCIL PRESIDENT VERNA: The
25 Chair recognizes Councilman Goode.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 COUNCILMAN GOODE: Ms. Cutler,
3 did you just say that the ridership in
4 Philadelphia does not need to be aware of
5 the lease-leaseback agreement?

6 DEPUTY MAYOR CUTLER: I'm
7 saying that mostly they are not aware of
8 it and it will not impact their
9 ridership.

10 COUNCILMAN GOODE: I believe
11 you said, And they don't need to be aware
12 of it.

13 DEPUTY MAYOR CUTLER: Well, it
14 will not impact them.

15 COUNCILMAN GOODE: But they
16 provide 80 percent of the fare revenue.

17 DEPUTY MAYOR CUTLER: Pardon
18 me?

19 COUNCILMAN GOODE: They provide
20 80 percent of the fare revenue and we
21 provide 80 percent of the subsidy of the
22 counties.

23 DEPUTY MAYOR CUTLER: That's
24 correct.

25 COUNCILMAN GOODE: But the

1 5/14/09 - WHOLE - RES. 090136, etc.

2 ridership doesn't need to care about the
3 lease-leaseback agreement?

4 DEPUTY MAYOR CUTLER: They need
5 to care about good service and getting
6 where they need to be, where they want to
7 go.

8 COUNCILMAN GOODE: And just pay
9 their fare and mind their business?
10 Okay.

11 Thank you, Madam President.

12 DEPUTY MAYOR CUTLER: It's not
13 a "mind your business." I'd like to
14 respond to that, Councilman, because I
15 think it's not a fair representation.

16 I think they should care,
17 because obviously we all support the
18 system, but this is really about whether
19 or not SEPTA riders in the City or even
20 coming into the City have the ability to
21 want to continue to ride the system
22 because they are getting good service and
23 they have a clean, reliable system. And
24 I do believe that is what the ridership
25 should care about. I believe that is

1 5/14/09 - WHOLE - RES. 090136, etc.
2 what Council should care about, and I
3 certainly believe it's what the
4 Administration should care about.

5 The issue of the lawsuit, which
6 I wish to go back to because both of you
7 raised it and I know it concerns you,
8 because we've certainly had a
9 conversation about it, the issue of the
10 lawsuit I do not believe at least as we
11 are attempting to resolve it -- and I
12 believe I explained to you that we were
13 meeting with SEPTA and we're trying to
14 figure out a resolution for it or at
15 least a decision to move it forward and
16 let a court decide so that we can get it
17 resolved once and for all. I think that
18 is ongoing. I am a member of the
19 Administration, so I certainly am not
20 intending to take a different position
21 than the City's Law Department as it
22 relates to City litigation.

23 COUNCILMAN GREEN: So --

24 COUNCIL PRESIDENT VERNA:

25 Councilman Green.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 COUNCILMAN GREEN: I think
3 that's fundamentally a problem, because
4 what we have here is a situation where as
5 soon as you're confirmed, Solicitor Smith
6 is going to say there is something in
7 dispute, and if she can settle -- she can
8 settle that lawsuit and extend it to 2029
9 without coming before Council, if she
10 determines that in fact there's a
11 legitimate item of dispute that a
12 settlement agreement can resolve. We
13 don't happen to believe there is any
14 dispute, because the contract language is
15 clear, but Administration after
16 Administration does this in order to
17 avoid coming back to City Council, and if
18 you're not willing to sit there and say
19 that this is a matter that needs to be
20 before City Council rather than resolved
21 by the Law Department, then I can't
22 support you either.

23 COUNCIL PRESIDENT VERNA: Thank
24 you.

25 Are there any other questions

1 5/14/09 - WHOLE - RES. 090136, etc.

2 from members of the Committee?

3 The Chair recognizes Councilman
4 Jones.

5 COUNCILMAN JONES: Thank you,
6 Madam President.

7 I'd like to shift gears a
8 little bit and get a better sense of --
9 I'm sorry Councilwoman Blackwell is not
10 here. We share a border on Market Street
11 from 4600 to 6300, which is the gateway
12 to West Philly and the first gateway to
13 suburban Pennsylvania that people see.
14 They've undergone over a decade of
15 construction/reconstruction and are
16 finally coming to the end of that.

17 I'd like to hear your vision
18 for that stretch of SEPTA elevated. I'd
19 like to hear your vision how it relates
20 to economic development there. People
21 there have suffered a great deal. Over
22 50 businesses, small mom-and-pop shops,
23 have closed due to that construction, and
24 I want to get a sense of whether it's
25 transit-oriented development or other

1 5/14/09 - WHOLE - RES. 090136, etc.
2 types of SEPTA synergies how we can bring
3 that part of both the 3rd and the 4th
4 District back through SEPTA's
5 involvement.

6 DEPUTY MAYOR CUTLER: Yes. I
7 do think that ultimately it's a superb
8 location for transit-oriented
9 development, and I think it is one of the
10 three that the City's Commerce Department
11 is looking at. And I know there is a
12 group of folks in the Commerce Department
13 looking at TRID legislation, and that is
14 one of the areas.

15 I also have had several
16 discussions with SEPTA relative to TODs
17 and have also found them very agreeable
18 to the notion. I mean, it goes back to
19 the first thing I said, which is that I
20 don't think there's anything more
21 fundamental to the health of the City
22 than a first-class transit system. And
23 so if you can build jobs, recreational
24 areas and housing around transit
25 stations, you get to solve any number of

1 5/14/09 - WHOLE - RES. 090136, etc.
2 economic development issues all in one
3 plan.

4 So I am very supportive of TODs
5 and I believe SEPTA is very supportive of
6 it as well, and it is my understanding
7 that Beverly Coleman, who is the other
8 nominee, will be speaking a great deal
9 about TODs in her testimony.

10 COUNCILMAN JONES: Can you
11 further enlighten us and this body on
12 your role with the signage issue, LCDs,
13 street furniture, what your vision is
14 regarding that as a complement to the
15 ridership that get to and from work to
16 home to recreation along that. Is there
17 a vision for that street furniture and
18 signage?

19 DEPUTY MAYOR CUTLER: Well, the
20 part of the street furniture related to
21 SEPTA is twofold. One is obviously the
22 transit shelters, and the information
23 that's put on them in many ways is far
24 improved from previous information.

25 The second piece to it and a

1 5/14/09 - WHOLE - RES. 090136, etc.

2 conversation I regularly have with SEPTA
3 and feel pretty strongly about is that we
4 really need to put out new information
5 for folks who are not regular users of
6 the system in order to make them
7 comfortable when they ride the system.
8 And so on-time information will be part
9 and built into the new bus shelter piece
10 of that contract, which will enable
11 technology to indicate when the next bus
12 is coming or other kind of public service
13 information. It will be LED lighting as
14 a scroll on the bus shelter the way we're
15 trying to get that specked. SEPTA is
16 working on the on-time information
17 technology as we speak, and we think that
18 will be a big asset to the bus shelter
19 information.

20 COUNCILMAN JONES: Finally,
21 when does the labor agreement with SEPTA
22 expire?

23 DEPUTY MAYOR CUTLER: I believe
24 it expires the end of June. I believe it
25 is -- I'm not privy at the moment to the

1 5/14/09 - WHOLE - RES. 090136, etc.
2 labor contract negotiations, but I
3 believe they are on hold, perhaps waiting
4 for the City to resolve their labor
5 contract.

6 COUNCILMAN JONES: I guess the
7 final issue I have and question I have
8 for you is the question of subway safety
9 and also how we work with the School
10 Board to deal with some of the truancy
11 issues. Councilman Greenlee and I
12 co-sponsored legislation on truancy, and
13 I wanted to know if there is an ongoing
14 working committee involving you as Deputy
15 Mayor of Transportation, the School Board
16 and others to deal with some of those
17 issues, particularly related to young
18 people that use the system.

19 DEPUTY MAYOR CUTLER: The lead
20 person for that is actually Deputy Mayor
21 Gillison because of the public safety
22 issues, but you should be aware, as an
23 aside, that one of the categories of
24 stimulus dollars that we are looking at
25 is one that will allow for an expanded

1 5/14/09 - WHOLE - RES. 090136, etc.
2 use of cameras down in the system, with
3 access for both SEPTA police and City
4 police.

5 COUNCILMAN JONES: Thank you,
6 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: Thank
13 you very much.

14 DEPUTY MAYOR CUTLER: Thank you
15 very much.

16 MR. McPHERSON: Resolution
17 090136, appointing Beverly Coleman to the
18 Board of Directors of the Southeastern
19 Pennsylvania Transportation Authority.

20 (Witness approached witness
21 table.)

22 COUNCIL PRESIDENT Verna: Good
23 morning, Ms. Coleman. Welcome.

24 MS. COLEMAN: Good morning,
25 Council President, and good morning,

1 5/14/09 - WHOLE - RES. 090136, etc.
2 other members of Council. My name is
3 Beverly Coleman. I'm Executive Director
4 of NeighborhoodsNow, and I want to thank
5 every member of Council for the
6 opportunity to provide testimony on this
7 resolution and to share with you why I'm
8 interested in representing the City of
9 Philadelphia on the SEPTA Board.

10 Although I am not a native
11 Philadelphian, I am truly a
12 Philadelphian, having spent the better
13 part of the last 30 years here. I first
14 came to Philadelphia as an undergraduate
15 at the University of Pennsylvania, where
16 I earned a degree in urban studies.
17 Several years later, I returned to earn a
18 Master's in Government Administration
19 from the Fels Center.

20 As a Philadelphian, I truly
21 appreciate one of our greatest assets,
22 our neighborhoods. That appreciation and
23 commitment to working to ensure that
24 Philadelphia's neighborhoods are vibrant
25 and healthy, are truly places where

1 5/14/09 - WHOLE - RES. 090136, etc.

2 people want to live, to work and to enjoy

3 a high quality of life defines my

4 professional career in this great city.

5 At the core of my work is the commitment

6 to realize the potential of

7 Philadelphia's neighborhoods. I have

8 pursued the goal of improving

9 neighborhoods from my first position with

10 the Philadelphia Commercial Development

11 Corporation, working on community

12 economic development programs, to serving

13 as Assistant Director for a

14 neighborhood-based development group in

15 Northwest Philadelphia, the Ogontz Avenue

16 Revitalization Corporation. Since then,

17 my professional and board affiliations

18 have been with organizations dedicated to

19 improving the lives of everyday

20 Philadelphians.

21 I am now the Executive Director

22 of NeighborhoodsNow, a non-profit

23 organization that evolved from a

24 successful community development program

25 called the Philadelphia Neighborhood

1 5/14/09 - WHOLE - RES. 090136, etc.
2 Development Collaborative. Over ten
3 years, PNDC supported community
4 development corporations, developed 1,900
5 housing units and more than 33,000 square
6 feet of non-housing development.
7 NeighborhoodsNow continues that mission
8 to strengthen neighborhoods through a
9 wide range of policy and project
10 initiatives targeted at leveraging our
11 city's most undervalued assets.

12 We recognize the value of
13 another one of Philadelphia and the
14 region's greatest assets, its
15 transportation system. SEPTA is the
16 fifth largest regional public transit
17 system in the country, averaging 325
18 million ride trips annually. It has 142
19 routes and more than 15,000 stops
20 throughout the Delaware Valley. Yet,
21 potential real estate growth around
22 neighborhood transit stations is stymied
23 by zoning limitations, undesirable land
24 uses, including long-term vacancies, and
25 safety concerns. Recognizing these

1 5/14/09 - WHOLE - RES. 090136, etc.
2 challenges, NeighborhoodsNow launched its
3 transit-oriented development initiative
4 several years ago to work with the City
5 and others to address those barriers.

6 I had the privilege of
7 providing testimony before Council
8 several months ago to talk about the
9 benefits of TOD, using transit as the
10 focal point for mixed-use, mixed-income,
11 pedestrian-friendly development and its
12 potential as a significant revitalization
13 strategy for neighborhoods.

14 We've made progress toward
15 making TOD a reality in Philadelphia and
16 we could not do it alone. When we
17 testified before Council, our partners
18 included SEPTA, the Delaware Valley
19 Regional Planning Commission, Asociacion
20 Puertorriquenos en Marcha, Enterprise
21 Heights, the Philadelphia Association of
22 Community Development Corporations,
23 10,000 Friends, Econsult Corporation and
24 the City Planning Commission. These
25 partners share our vision, to promote

1 5/14/09 - WHOLE - RES. 090136, etc.
2 policy and sustainable development so
3 that Philadelphians have improved access
4 to transit, jobs and quality of life
5 benefits.

6 I am particularly encouraged by
7 the new level of commitment and
8 enthusiasm of SEPTA's leadership.
9 They've actively participated in the
10 creation of Transit Revitalization
11 Investment District plans at 46th and
12 Market and Temple Regional Rail station.
13 These were the first two TRID plans in
14 Philadelphia. SEPTA is interested in
15 moving forward with many of the plan
16 recommendations, and they also understand
17 the importance of zoning and support TOD
18 zoning to facilitate development.

19 For the first time in many
20 years, SEPTA is thinking forward, with
21 the completion of a five-year strategic
22 business plan. SEPTA is serious about
23 changing the way they do business with a
24 renewed emphasis on customer service,
25 sustainability and commitment to make

1 5/14/09 - WHOLE - RES. 090136, etc.
2 public transit the best option for moving
3 around the region. Access to
4 transportation has never been more
5 critical. Transportation costs are a
6 family's highest expense after housing.
7 According to a 2006 report, families
8 earning from \$20,000 to \$50,000 in
9 Philadelphia spent about 30 percent of
10 their income on transit.

11 These uncertain economic times
12 challenges us to operate more efficiently
13 and effectively. I believe that SEPTA,
14 with dedicated operating funds and new
15 economic stimulus funds and guided by the
16 principles of a new strategic vision, is
17 now more than ever positioned to respond
18 to that challenge.

19 As the Executive Director of an
20 organization committed to strengthening
21 Philadelphia's and our region's assets
22 and as a Philadelphian with a commitment
23 to serve the public good, I am honored
24 and thrilled by the opportunity to serve
25 as a member of the Board of SEPTA.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 Thank you again, Madam Chair
3 and members of the Committee of the
4 Whole, for the opportunity to talk to you
5 about my qualifications and commitment to
6 promoting transit.

7 I ask for your support for my
8 nomination, and I would gladly answer any
9 questions you may have.

10 COUNCIL PRESIDENT Verna: Thank
11 you very much.

12 The Chair recognizes Councilman
13 Greenlee.

14 COUNCILMAN GREENLEE: Very
15 quickly, Madam President. This is more
16 of a comment than a question.

17 I've worked with Ms. Coleman on
18 the TOD legislation that Councilman Jones
19 and I introduced for a long time, and we
20 even shared an editorial, a letter to the
21 editor together, and I can tell you, she
22 certainly understands transportation in
23 this city. She understands the City of
24 Philadelphia. And in one person's
25 opinion, she'd be an excellent addition

1 5/14/09 - WHOLE - RES. 090136, etc.
2 to the Board.

3 Thank you.

4 COUNCIL PRESIDENT Verna: Thank
5 you.

6 The Chair recognizes Councilman
7 Goode.

8 COUNCILMAN Goode: Thank you,
9 Madam President.

10 Good morning, Ms. Coleman.

11 MS. Coleman: Good morning.

12 COUNCILMAN Goode: Ms. Coleman,
13 unlike the other nominee, do you know how
14 many members are on the SEPTA Board?

15 MS. Coleman: No. I'm sorry?

16 COUNCILMAN Goode: Unlike the
17 other nominee, do you know how many
18 members are on the SEPTA Board?

19 MS. Coleman: Yes. There are
20 15 members.

21 COUNCILMAN Goode: So the City
22 gets two appointments?

23 MS. Coleman: Two appointments.

24 COUNCILMAN Goode: But Deputy
25 Mayor Cutler's testimony was that we pay

1 5/14/09 - WHOLE - RES. 090136, etc.

2 80 percent of the subsidy of the
3 counties. We provide 80 percent of the
4 fare revenue. Do you think that's fair,
5 that we only have two out of 15 seats?

6 MS. COLEMAN: Let me say this:
7 I may not think that -- I would prefer it
8 to be otherwise and for the City to have
9 a higher representation --

10 COUNCILMAN GOODE: It's really
11 a yes/no question. Do you think it's
12 fair?

13 MS. COLEMAN: Do I think it's
14 fair? No.

15 COUNCILMAN GOODE: Thank you.

16 Thank you, Madam President.

17 COUNCIL PRESIDENT VERNA:
18 You're welcome.

19 Are there any other members who
20 have questions?

21 Councilman Jones.

22 COUNCILMAN JONES: Thank you,
23 Madam President.

24 I'll ask you the same question.
25 One million people ride the El from 46th

1 5/14/09 - WHOLE - RES. 090136, etc.
2 to 63rd Street every month. It is the
3 border that separates the 3rd District
4 from the 4th District. It has undergone
5 years and years of renovation.

6 What is your vision by way of
7 economic development, transit-oriented
8 development for that area?

9 MS. COLEMAN: Councilman, we
10 were actually able to do planning at the
11 46th and Market transit station and
12 looking at the use of land within a half
13 a mile of that station, and so I'll
14 generalize about opportunities between
15 63rd Street and 46th Street.

16 We think there's an opportunity
17 to do higher-density, mixed-use
18 development around all of the station
19 hubs. We think that that needs to be
20 integrated with open space. When we did
21 the planning, we certainly heard concerns
22 from residents, many of whom are elderly,
23 about safety, and we realize that there's
24 a need to not only look at the transit
25 stops but also to think about how they

1 5/14/09 - WHOLE - RES. 090136, etc.
2 connect to the bus and how they connect
3 to other modes of transportation.

4 So I think that there's
5 enormous opportunity there, but I do
6 think there's an opportunity to do
7 higher-density development adjacent to
8 the stations.

9 COUNCILMAN JONES: There was a
10 considerable amount of capital invested
11 to redo that system. It is a question of
12 striking while the iron is hot. And so I
13 appreciate your vision of that, and you
14 have shared it with me. I wanted to get
15 it on the record so that you would not
16 forget once you were on the SEPTA Board.

17 Thank you, Madam President.

18 MS. COLEMAN: Thank you.

19 COUNCIL PRESIDENT VERNA: The
20 Chair recognizes Councilwoman Sanchez.

21 COUNCILWOMAN SANCHEZ: Good
22 morning, Ms. Coleman.

23 MS. COLEMAN: Good morning.

24 COUNCILWOMAN SANCHEZ: I want
25 to speak to -- there's a great interest

1 5/14/09 - WHOLE - RES. 090136, etc.
2 on the transit-oriented development piece
3 of this and the opportunities. I
4 represent about ten of the El stops along
5 the Market-Frankford Line, where there
6 has been a lot of community work done
7 because of public investment in those
8 areas. It is very important for me that
9 those community organizations who have
10 worked for very long to make those
11 areas -- to revitalize those areas be
12 important partners as we move forward.

13 So I just wanted to put on the
14 record that one of the things that I am
15 hopeful that you will bring to the
16 discussion is understanding that type of
17 public investment, because now there's a
18 lot of private interest in those areas
19 because of the work that they did and
20 that they not be taken out of the
21 equation, because they were there when no
22 one else wanted to be there, and they are
23 important stakeholders in it for the long
24 run versus just a private investment.

25 So I just wanted to say that I

1 5/14/09 - WHOLE - RES. 090136, etc.

2 look forward to you bringing that
3 perspective, not only to the Board but as
4 we develop transit-oriented development.

5 MS. COLEMAN: Thank you. I
6 appreciate that.

7 COUNCILWOMAN SANCHEZ: Thank
8 you.

9 COUNCIL PRESIDENT VERNA: Are
10 there any other members that would like
11 to be recognized?

12 COUNCILWOMAN BROWN: Madam
13 Chair?

14 COUNCIL PRESIDENT VERNA:
15 Councilwoman Brown.

16 COUNCILWOMAN BROWN: Thank you.

17 Good morning.

18 MS. COLEMAN: Good morning.

19 COUNCILWOMAN BROWN: Please
20 discuss, if you would, briefly your view
21 or perspective on the role SEPTA Board
22 members can play when it comes to the
23 Mayor's goal for a greener city, tactics
24 that address sustainability and limiting
25 air pollution.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 MS. COLEMAN: I think that
3 SEPTA is an important part of addressing
4 sustainability. Obviously we need people
5 to actually increase the use of public
6 transportation. I think as a Board
7 member, it's to promote that, to -- I
8 think one way to increase ridership is
9 for SEPTA to have better customer
10 service, and they're focused on that.

11 I think there are other things
12 that contribute to sustainability. I
13 remember earlier being in Council and
14 Councilman DiCicco actually talking about
15 the idling of buses on Market Street.

16 So I think that there are
17 things that SEPTA can do in terms of its
18 operations to actually improve their
19 service and to be much more focused on
20 green -- on promoting greening and
21 promoting a safer environment.

22 COUNCILWOMAN BROWN: Do you
23 know if there currently exists a
24 subcommittee on the SEPTA Board that
25 deals with that issue?

1 5/14/09 - WHOLE - RES. 090136, etc.

2 MS. COLEMAN: That I don't
3 know. Sorry.

4 COUNCILWOMAN BROWN: Thank you,
5 Madam Chair. Thank you, Madam President.

6 COUNCIL PRESIDENT VERNA:
7 You're welcome.

8 The Chair recognizes Councilman
9 Clarke.

10 COUNCILMAN CLARKE: Thank you,
11 Madam President.

12 Good morning.

13 MS. COLEMAN: Good morning,
14 Councilman.

15 COUNCILMAN CLARKE: One quick
16 question. I know that you've been
17 intimately involved in the TOD process.
18 If you're appointed to the SEPTA Board,
19 will that work continue or will there be
20 somewhat of a conflict possibly?

21 MS. COLEMAN: As far as I know,
22 it isn't a conflict. It's something that
23 I personally am committed to and it's
24 something that my organization is
25 committed to. Whatever conflicts, if

1 5/14/09 - WHOLE - RES. 090136, etc.
2 there are any -- I mean, we don't do
3 direct development ourselves. So I want
4 to continue to promote transit-oriented
5 development.

6 COUNCILMAN CLARKE: I mean, I
7 appreciate the work you've done, because
8 I know you worked on a couple in my
9 district, and you do good stuff.

10 MS. COLEMAN: I will look at
11 that issue.

12 COUNCILMAN CLARKE: I just
13 would like not to see you have to remove
14 yourself from that process, particularly
15 given the fact that we're right in the
16 midst of approving a couple of those
17 districts. Can you just check that?

18 MS. COLEMAN: I will check
19 that, but there are other people in my
20 organization who could be spokespeople
21 for that.

22 COUNCILMAN CLARKE: I know
23 that, but, you know...

24 All right. Thank you.

25 MS. COLEMAN: Thank you.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 COUNCILMAN CLARKE: Thanks,
3 Madam President.

4 COUNCIL PRESIDENT Verna: Thank
5 you.

6 Any other questions from
7 members of the Committee?

8 (No response.)

9 COUNCIL PRESIDENT Verna:
10 Ms. Coleman, thank you very much.

11 MS. COLEMAN: Thank you.

12 MR. McPHERSON: Resolution
13 090333, resolution confirming the
14 appointment of Edward Kung as a member of
15 the Board of Ethics to serve in the term
16 ending November 16th, 2012.

17 (Witness approached witness
18 table.)

19 COUNCIL PRESIDENT Verna: Good
20 morning. Welcome.

21 MR. KUNG: Thank you. My name
22 is Edward Kung and I'm a nominee for the
23 Philadelphia Board of Ethics. I'm
24 honored to be here. Thank you for the
25 opportunity to testify before you.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 I believe for you to properly
3 consider my nomination, I should tell you
4 a little about myself and my reason for
5 wanting to serve on the Board of Ethics.

6 I was born in Shanghai, came to
7 the United States in 1949 to escape the
8 communist takeover of China, and was
9 naturalized under the Refugee Relief Act
10 of 1952. I received a Ph.D. degree in
11 Chemical Engineering from Carnegie Mellon
12 University and worked in a steel company
13 initially on the first process control
14 computers in the steel industry and then
15 on operations research of management
16 signs.

17 I moved to Philadelphia in 1968
18 when I was hired by the Insurance Company
19 of North America, or INA, as its first
20 Director of Operations Research. In the
21 early '70s, I was Vice-President of the
22 Computer Division at INA and led the
23 conceptual design of the first online
24 computer system in the property and
25 casualty insurance industry.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 After that job, I served as
3 either Chief of Staff or Chief Executive
4 Officer of a number of INA and then CIGNA
5 property and casualty subsidiaries.

6 In early '80s when the property
7 and casualty business was suffering a
8 severe downturn, I was asked to head the
9 training department for a couple of
10 years. My major assignment was to ensure
11 that our field underwriters are well
12 informed on home office and the writing
13 and pricing policies and guidelines.
14 Because we had thousands of underwriters
15 located nationwide, I worked with AT&T
16 and pioneered teletraining to accomplish
17 as a cost-effective way of accomplishing
18 that training.

19 Since the mid '50s, I have been
20 engaged in Philadelphia's non-profit
21 sector. I have served on a wide range --
22 on the board of a wide range of
23 non-profit agencies, including the
24 Community College of Philadelphia, the
25 Atwater Kent Museum, the Parents Union

1 5/14/09 - WHOLE - RES. 090136, etc.
2 for Public Schools, the Center City
3 Residents Association and the
4 Philadelphia Chinatown Development
5 Corporation. I'm currently Vice-Chair of
6 the Board of the Philadelphia Foundation,
7 Secretary of the Board of On Lok House,
8 which provides Section 8 housing to
9 low-income seniors in Chinatown and
10 operates a social service center for
11 seniors funded by the Philadelphia
12 Corporation for Aging. I'm also a Board
13 member at the Penn Asian Senior Services,
14 a member of the Steering Committee of
15 Asian Americans in Philanthropy, and an
16 Advisory Board member at the Philadelphia
17 Chinatown Development Corporation.

18 My wife, Marcia, who is sitting
19 behind me in red, has also been active in
20 the non-profit sector in Philadelphia.
21 She's currently Board Chair of the
22 Children's Village Childcare Center,
23 which serves low-income families in
24 Chinatown. She's also a volunteer in the
25 One Book, One Philadelphia program at the

1 5/14/09 - WHOLE - RES. 090136, etc.

2 Philadelphia Library and is a democratic
3 committee woman in the 8th Ward.

4 I was honored and excited when
5 Mayor Nutter offered to nominate me to
6 the Board of Ethics, because as an
7 engaged citizen, I want to do my part to
8 help the City government maintain high
9 ethical standards. Even though I'm not a
10 lawyer, as a corporate executive and
11 non-profit leader, I'm well versed in
12 issues of conflict of interest and
13 relationship with vendors. I'm also used
14 to making decisions on legal issues with
15 the advice of counsel, and I believe that
16 my training and computer background could
17 be of use to the Board of Ethics.

18 Thank you again for your time
19 and for considering me.

20 COUNCIL PRESIDENT VERNA: Thank
21 you very much.

22 The Chair recognizes Councilman
23 Greenlee.

24 COUNCILMAN GREENLEE: Thank
25 you, Madam President. I know we're

1 5/14/09 - WHOLE - RES. 090136, etc.

2 running late, but I wanted to ask a
3 couple of questions.

4 Good morning, sir.

5 MR. KUNG: Good morning.

6 COUNCILMAN GREENLEE: Mr. Kung,
7 do you believe that the Ethics Board
8 should have any role in the influence of
9 elections?

10 MR. KUNG: I'm sorry?

11 COUNCILMAN GREENLEE: Should
12 the Ethics Board have any role in the
13 influence of elections?

14 MR. KUNG: In influencing --

15 COUNCILMAN GREENLEE: Influence
16 of elections, yes.

17 MR. KUNG: The Board
18 influencing the election or the --

19 COUNCILMAN GREENLEE: No.
20 Should the Board of Ethics have a role in
21 influencing elections?

22 MR. KUNG: No.

23 COUNCILMAN GREENLEE: Should
24 they take efforts to make sure that that
25 does not happen in any information they

1 5/14/09 - WHOLE - RES. 090136, etc.
2 release?

3 MR. KUNG: That sounds
4 reasonable.

5 COUNCILMAN GREENLEE: You think
6 they do? Okay.

7 Do you think, then, that there
8 should be some consideration on timing
9 when they release information as to how
10 that might affect an election?

11 MR. KUNG: Well, that also
12 sounds reasonable.

13 COUNCILMAN GREENLEE: Okay. So
14 I have to ask then finally, the issue --
15 there was an issue where there was
16 information released on two candidates
17 for election six days before election.
18 Do you think that was appropriate?

19 MR. KUNG: I don't know the
20 reasoning of the Board of Ethics, so
21 before I can answer this question, I
22 obviously need to know their reasoning.

23 COUNCILMAN GREENLEE: Okay.
24 But generally would you have a problem
25 with information being released that

1 5/14/09 - WHOLE - RES. 090136, etc.
2 close to an election? Forgetting the
3 specifics of this particular matter,
4 because I think it's a broader issue than
5 that.

6 MR. KUNG: I think I understand
7 and appreciate your point.

8 COUNCILMAN GREENLEE: So just
9 so I could get an answer on record. I'm
10 sorry. I don't mean to push you, but do
11 you have concern about information being
12 given out six days or a week before an
13 election, findings of the Board? Not in
14 a specific case, just generally would
15 that concern you as a member of the
16 Board?

17 MR. KUNG: As I understand it,
18 there's a timeline. There's a timeline
19 on when information is provided to the
20 Board of Ethics when they can analyze it
21 and when they can act on it. That may be
22 the cause. And to me, there is also the
23 question that if the issue is brought up
24 after the election is over, then it may
25 not get acted on.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 COUNCILMAN GREENLEE: Well,
3 doesn't that slightly contradict the
4 other statement, though, as far as not
5 having influence on an election? If
6 you're giving out information, whatever
7 that information is, whether there's
8 still an investigation going on or there
9 was some resolution of a problem,
10 whatever that case may be, is that a
11 concern that -- is that something that
12 you think should at least be discussed as
13 far as policy of the Ethics Board?

14 MR. KUNG: Yes. I think it's
15 worth discussing, yes.

16 COUNCILMAN GREENLEE: Okay.
17 Thank you for your time, sir.

18 Thank you, Madam President.

19 COUNCIL PRESIDENT VERNA: Are
20 there any other questions from members of
21 the Committee?

22 The Chair recognizes
23 Councilwoman Tasco.

24 COUNCILWOMAN TASCO: Good
25 morning, Mr. Kung. What is your thought

1 5/14/09 - WHOLE - RES. 090136, etc.
2 regarding Ethics' staff members
3 discussing cases with the press before
4 they've been resolved by the committee?

5 MR. KUNG: I'm not familiar
6 with the --

7 COUNCILWOMAN TASC0: Do you
8 think the staff of the Ethics Board
9 should be in communications with the
10 press regarding cases before the Board
11 prior to the resolution, the Board making
12 a decision?

13 MR. KUNG: Oh, before? I see.
14 Before the Board voted on the resolution?

15 COUNCILWOMAN TASC0: Yes.

16 MR. KUNG: Discussing it? I
17 have to plead ignorance. I don't know
18 how the Board of Ethics operate, so I
19 have to look into this issue.

20 COUNCILWOMAN TASC0: Do you
21 have any notion of how the staff should
22 behave relative to its ethics?

23 MR. KUNG: Well, I think
24 certainly it should be -- the staff
25 should be held to the highest ethical

1 5/14/09 - WHOLE - RES. 090136, etc.

2 standard and should be guided by the

3 Board and its actions.

4 COUNCILWOMAN TASCO: Okay.

5 Thank you.

6 COUNCIL PRESIDENT VERNA: The

7 Chair recognizes Councilman Clarke.

8 COUNCILMAN CLARKE: Thank you,

9 Madam President.

10 Good morning.

11 MR. KUNG: Good morning.

12 COUNCILMAN CLARKE: Just a
13 couple of quick questions. One -- and I
14 know the answer and I know what you're
15 going to say, but I have to ask it. Is
16 it your belief that the Ethics Board
17 should interpret the law or make law?

18 MR. KUNG: They should
19 interpret the law.

20 COUNCILMAN CLARKE: Strictly
21 interpret the law.

22 In terms of the interpretation
23 of the law, the ability to seek counsel
24 on that, outside of the Ethics counsel or
25 the staff, do you think the Ethics Board

1 5/14/09 - WHOLE - RES. 090136, etc.

2 should be in a position to do that?

3 MR. KUNG: I'm used to as a
4 business executive or non-profit leader
5 seeking counsel, both inside and outside.
6 So my answer would be yes.

7 COUNCILMAN CLARKE: So you
8 believe in getting the widest level,
9 within reason, of advice on a particular
10 matter --

11 MR. KUNG: Yes.

12 COUNCILMAN CLARKE: -- not
13 strictly interpreting the law based on a
14 legal staff member's interpretation,
15 understanding that --

16 MR. KUNG: I don't know whether
17 our budget can afford that or not.

18 COUNCILMAN CLARKE: Well, I
19 understand that. There's a lot of
20 volunteerism going on right about now
21 based on President Obama's call to
22 service. So I think we can get advice
23 without having to pay for it, and then I
24 do understand that sometimes you get what
25 you pay for, but I think that we'd be in

1 5/14/09 - WHOLE - RES. 090136, etc.

2 a position to get some good advice.

3 Do you believe that prior to a
4 ruling or prior to public action, that
5 there should be a conversation with any
6 person or entity that will ultimately be
7 a part of that ruling? It could simply
8 be that an individual or a person didn't
9 understand the interpretation of that
10 law. Should they be given that level of
11 flexibility to -- because sometimes
12 people just simply didn't understand that
13 they were not supposed to do something.
14 This happened recently. I'm not going to
15 get into the particulars, but there was a
16 wide-ranging issuance of an order by the
17 Ethics Board, and I know a lot of the
18 people who were involved, and they simply
19 didn't understand what it was alleged
20 they had done, but they were fined
21 basically without the ability to respond
22 in a reasonable way.

23 MR. KUNG: When talking with
24 Councilmembers, I've heard this issue,
25 and if I'm confirmed to the Board of

1 5/14/09 - WHOLE - RES. 090136, etc.

2 Ethics, I will look into it.

3 Generally, I believe in taking
4 the least amount of action to achieve the
5 desired outcome. So it's the long-term
6 outcome that is important to me.

7 COUNCILMAN CLARKE: Right. So
8 it's not your need to say, "I got you,"
9 but it's more a need to make sure that
10 everybody understands and then follows
11 the law, as opposed to getting you before
12 you have an ability to understand and
13 follow the law?

14 MR. KUNG: That's why I feel my
15 experience in training may be of use,
16 because training is -- getting people
17 well informed is the most -- is a very
18 important part.

19 COUNCILMAN CLARKE: Okay.

20 Thank you.

21 MR. KUNG: Thank you.

22 COUNCILMAN CLARKE: Thank you,
23 Madam President.

24 COUNCIL PRESIDENT Verna:

25 You're welcome.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 The Chair recognizes Councilman
3 Green.

4 COUNCILMAN GREEN: Thank you,
5 Madam Chair.

6 I guess it's Dr. Kung?

7 MR. KUNG: Ed is fine.

8 COUNCILMAN GREEN: You have a
9 very impressive resume. I have never met
10 you. Based on this resume, I would
11 certainly --

12 MR. KUNG: We worked where you
13 were campaigning.

14 COUNCILMAN GREEN: Oh, okay. I
15 apologize. I forget.

16 Based on your resume, I would
17 want you on the Board of Directors of a
18 start-up company I was founding. I would
19 want you as an advisor to a scientific
20 company or some other kind of company.
21 Your talents are -- you have a very
22 impressive history. You've been very
23 successful. But I'm not sure why I want
24 you on the Ethics Board, because I don't
25 know what you currently know about what

1 5/14/09 - WHOLE - RES. 090136, etc.
2 our ethics laws are or what the current
3 position of the Ethics Board is on
4 certain matters, and I want the
5 opportunity to know where you come down
6 on some things before you're there, which
7 I think -- in other words, Councilman
8 Clarke asked a question about whether or
9 not the Ethics Board should make law or
10 interpret law. Well, there's been
11 precedent in this city for 50 years about
12 what the law is, and it's a series of
13 City Solicitor opinions that exist that
14 interpret the Charter. Under a current
15 City Solicitor opinion, the Ethics Board
16 can ignore 58 years of precedence, which
17 means that the Ethics Board is
18 essentially making law because all of
19 that precedence is irrelevant. So in
20 effect, the Ethics Board is in the
21 law-making business, and we don't know
22 what the laws are that apply to us or any
23 other elected official, because there's
24 been no statement of the status quo or
25 anything else.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 So, frankly, before -- rather
3 than sit here and question you about what
4 you currently think of the ethics law or
5 what your interpretation is of the
6 Charter or even how you would approach
7 reaching a determination on this issue or
8 that issue, I would like the opportunity
9 to meet with you in person or with a
10 group of fellow Councilpeople. And I
11 don't -- this is no reflection on you,
12 but I am very surprised the
13 Administration would bring you before me
14 without having set up an appointment so
15 that you and I can talk.

16 This issue has been a very
17 important one to me. I have testified at
18 the Mayor's Commission -- or Task Force
19 on ethics, worked with them on their
20 report, and, frankly, we should have had
21 an opportunity to speak and meet
22 before -- or speak about this issue
23 before today.

24 So I don't really have any
25 questions for you now, because I really

1 5/14/09 - WHOLE - RES. 090136, etc.

2 have an hour's worth of conversation I'd
3 like to have with you.

4 So I'd just like to ask that we
5 hold this until you have an opportunity
6 to meet with Councilpeople and we can
7 understand where it is you're coming
8 from.

9 Thank you, Madam Chair.

10 COUNCIL PRESIDENT Verna:

11 You're welcome.

12 Are there any other questions
13 from members of the Committee?

14 (No response.)

15 COUNCIL PRESIDENT Verna: Any
16 other questions?

17 (No response.)

18 COUNCIL PRESIDENT Verna: Thank
19 you.

20 MR. Kung: Thank you.

21 COUNCIL PRESIDENT Verna: This
22 concludes our public hearing.

23 The Chair recognizes
24 Councilwoman Tasco regarding Resolution
25 No. 090136.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 COUNCILWOMAN TASCO: Madam
3 President, Resolution 090136, I move that
4 we report this resolution out.

5 (Duly seconded.)

6 COUNCIL PRESIDENT Verna: All
7 in favor will indicate by saying aye.

8 (Aye.)

9 COUNCIL PRESIDENT Verna: Those
10 opposed?

11 (No response.)

12 COUNCIL PRESIDENT Verna: The
13 ayes have it, and Resolution No. 090136
14 has been reported out of Committee with a
15 favorable recommendation.

16 Did you make a recommendation?

17 COUNCILWOMAN TASCO: No.

18 COUNCIL PRESIDENT Verna: Oh,
19 so we're just reporting it out. Very
20 well.

21 The Chair recognizes
22 Councilwoman Tasco regarding Resolution
23 No. 090137.

24 COUNCILWOMAN TASCO: Madam
25 President, I report out Resolution

1 5/14/09 - WHOLE - RES. 090136, etc.
2 090137.

3 (Duly seconded.)

4 COUNCIL PRESIDENT VERNA: All
5 in favor will indicate by --

6 COUNCILMAN GREEN: I'd like to
7 speak on this matter.

8 COUNCIL PRESIDENT VERNA: The
9 Chair recognizes Councilman Green.

10 COUNCILMAN GREEN: Thank you,
11 Madam Chair.

12 I would just like to say that I
13 will vote to move Ms. Cutler forward to
14 the next step, but I think there are many
15 Councilpeople who have issues and would
16 have liked the courtesy of a meeting
17 prior to a SEPTA Board nomination
18 hearing. So that I will ask that we have
19 that meeting with Ms. Cutler, either one
20 or several of us together, to save her
21 time to try to address some concerns we
22 have about how effectively she's going to
23 represent the interest of citizens versus
24 what could be a different view in the
25 Administration, at least in my view.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 COUNCIL PRESIDENT Verna: Very
3 well.

4 COUNCILMAN GREEN: So I would
5 just like to put that on the record, that
6 we have that opportunity prior to a final
7 vote on this matter.

8 COUNCIL PRESIDENT Verna: Very
9 well.

10 A motion was made by
11 Councilwoman Tasco that we report
12 Resolution No. 090137 out of Committee,
13 and I believe it was seconded.

14 All in favor will say aye.
15 (Aye.)

16 COUNCIL PRESIDENT Verna: Those
17 opposed?

18 COUNCILMAN GOODE: Nay.

19 COUNCIL PRESIDENT Verna: The
20 ayes have it. The record will reflect
21 that Councilman Goode voted in the
22 negative.

23 The Chair recognizes
24 Councilwoman Tasco regarding Resolution
25 No. 010333.

1 5/14/09 - WHOLE - RES. 090136, etc.

2 COUNCILWOMAN TASC0: 090333.

3 COUNCIL PRESIDENT Verna:

4 090333.

5 COUNCILWOMAN TASC0: Madam

6 President, because many of the

7 Councilmembers have not had an

8 opportunity to sit with Mr. Kung, we are

9 going to hold this resolution until that

10 process takes place.

11 COUNCIL PRESIDENT Verna: Very

12 well.

13 This concludes the hearing of

14 the Committee of the Whole.

15 (Committee of the Whole

16 concluded at 10:35 a.m.)

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1
2 CERTIFICATE

3 I HEREBY CERTIFY that the
4 proceedings, evidence and objections are
5 contained fully and accurately in the
6 stenographic notes taken by me upon the
7 foregoing matter on May 14, 2009, and that
8 this is a true and correct transcript of same.

9
10
11
12
13
14 _____
15 MICHELE L. MURPHY
16 RPR-Notary Public
17
18

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20 transcript does not apply to any reproduction
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