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COUNCIL OF THE CITY OF PHILADELPHIA

4

PUBLIC HEARING - COMMITTEE ON PUBLIC SAFETY

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Room 400, City Hall

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Philadelphia, Pennsylvania

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Tuesday, May 3, 2005, 10:45 a.m.

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Bill 050071 - An ordinance authorizing the
Managing Director, on behalf of the
City, to execute a mutual aid
agreement, creating the Southeastern
Pennsylvania Terrorism Task Force,
SEPTTF, under certain terms and
conditions.

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15 PRESENT:

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COUNCILWOMAN DONNA REED MILLER, Chair
COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN DARRELL L. CLARKE
COUNCILMAN DAVID COHEN
COUNCILMAN JUAN F. RAMOS
COUNCILMAN FRANK RIZZO

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1 Public Safety - 5/3/05

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

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5 COUNCILWOMAN MILLER: Good morning.

6 We'll now call the Committee on Public Safety
7 to order.

8 We have Council member Frank Rizzo,
9 Council member Jannie Blackwell, and Council
10 member Juan Ramos, all members of the
11 Committee, and that states our quorum.

12 Would the clerk please read the
13 title of the bill.

14 THE CLERK: Bill Number 050071, an
15 ordinance authorizing the Managing Director,
16 on behalf of the City, to execute a mutual
17 aid agreement, creating the Southeastern
18 Pennsylvania Terrorism Task Force, SEPTTF,
19 under certain terms and conditions.

20 COUNCILWOMAN MILLER: Okay. Thank
21 you.

22 We have Mr. Nucci -- I'm just trying
23 to find your testimony first. We have Mr.
24 Nucci to testify on this bill. Would you
25 please proceed with your testimony. Please

1 Public Safety - 5/3/05

2 state your name and department for the
3 record.

4 MR. NUCCI: Right. Good morning,
5 Madam Chairman, and members of the City
6 Council Public Safety Committee.

7 My name is Mike Nucci, and I am the
8 Director of Emergency Management for the City
9 of Philadelphia.

10 I am here to testify in favor of
11 Council Bill Number 050071 which authorizes
12 the Managing Director of the City of
13 Philadelphia to enter into a mutual aid
14 agreement with the counties of Bucks,
15 Chester, Delaware, and Montgomery for
16 reciprocal disaster preparedness, prevention
17 and emergency response and recovery.

18 The reasons for Council to approve
19 this ordinance are both legal, financial as
20 well as being operationally sound.

21 Let me elaborate. The Emergency
22 Management Code and the Counter Terrorism
23 Planning Preparedness and Response Act of
24 2002 require political subdivisions in the
25 Commonwealth of Pennsylvania to develop

1 Public Safety - 5/3/05
2 mutual aid agreements with adjacent
3 jurisdictions, for the purpose of providing
4 reciprocal assistance and prevention planning
5 and emergency response and recovery.

6 The Counter Terrorism Planning and
7 Preparedness and Response Act also created
8 the Southeastern Pennsylvania Counter
9 Terrorism Task Force as one of nine regional
10 counter terrorism task forces, and requires
11 that one county in each region be designated
12 to act as the agent for the planning and
13 training funds available.

14 The U.S. Department of Homeland
15 Security, the source of all funding for
16 counter terrorism grants, mandates that
17 starting with the federal fiscal year 2005
18 appropriated funds, all grants will be
19 contingent upon the development of a regional
20 plan and signed mutual aid agreements.

21 The federal fiscal year 2005 urban
22 area security initiative funds are about \$23
23 million for the region, plus a significant
24 portion of the \$33 million that the state
25 gets through the State Homeland Security

1 Public Safety - 5/3/05

2 Grant Program.

3 Operationally, the mutual aid
4 agreement makes sense. As a region we are
5 rich in emergency response capability, yet no
6 single political subdivision can afford to
7 maintain the capacity to respond to a truly
8 catastrophic event.

9 The Southeastern Pennsylvania
10 Counter Terrorism Task Force has made great
11 progress in developing a regional response
12 plan and enhancing the region's response
13 capability through its subcommittees on law
14 enforcement, fire fighting, hazardous
15 materials, public health, school safety,
16 public utilities, communications, explosive
17 ordinance and urban search and rescue.

18 This proposed ordinance formalizes
19 the existing spirit of cooperation among the
20 emergency response organizations in our
21 region.

22 It brings us into compliance with
23 Commonwealth law and ensures a continued
24 source of vital homeland security funding.

25 We urge City Council to pass this

1 Public Safety - 5/3/05

2 legislation.

3 I would now be happy to answer any
4 questions.

5 COUNCILWOMAN MILLER: Councilman
6 Rizzo.

7 COUNCILMAN RIZZO: Thank you, both
8 of you, for working on this. It's important.

9 The question that I have, since this
10 is homeland security money, federal money,
11 why do we limit this -- New Jersey's closer
12 than Bucks County. Why do we limit this to
13 Pennsylvania and not also include Camden
14 County and some of the other counties that
15 are within minutes to Philadelphia versus
16 many minutes, when you talk about Bucks,
17 Chester Counties?

18 MR. NUCCI: That's an absolutely
19 good question.

20 Administratively, the Federal
21 Government is dealing with the states to
22 administer the program. So, the money comes
23 from Homeland Security to, in Pennsylvania's
24 case, the Pennsylvania Emergency Management
25 Agency, who then administers it on a

1 Public Safety - 5/3/05

2 statewide basis.

3 We have in this region, in the area
4 of communications interoperability, actually
5 gotten into an agreement with the state --
6 with five counties in the State of New
7 Jersey, basically the river counties:
8 Burlington, Camden, Salem, Gloucester, and...
9 What's the last one?

10 For two projects on communications
11 interoperability. First... And this one is
12 almost complete... we've purchased a regional
13 site license for an emergency management
14 program that all the ten counties will have,
15 and the hardware that goes with it, so we can
16 share information on what's going on in each
17 of the counties with the emergency management
18 agencies in those counties.

19 The second part of it, which is in
20 the process of an engineering study, is to
21 establish a voice communications link between
22 the dispatch centers and each of the ten
23 counties.

24 As you know, everybody has a
25 different radio system. So doing it --

1 Public Safety - 5/3/05

2 COUNCILMAN RIZZO: We know about
3 radios. We know about radios here.

4 MR. NUCCI: -- would be problematic.
5 So, what we're doing is having an engineering
6 study to link the communications centers,
7 using in some cases microwave and in some
8 cases fiberoptics, where it exists, that the
9 dispatch centers will be able to patch the
10 principals in each county: Police officer in
11 Philadelphia with one in Camden County, with
12 one in Montgomery. So we're doing that, and
13 that will include ten counties.

14 COUNCILMAN RIZZO: Mr. Nucci, you
15 used a word inter... What's that word again?

16 MR. NUCCI: Interoperability.

17 COUNCILMAN RIZZO: Interoperability.
18 Well, I don't think we have interoperability
19 right now between Philadelphia and the State
20 of Pennsylvania.

21 I just learned something recently
22 just within a day, that the state has spent a
23 tremendous amount of money on an 800
24 megahertz radio system which we now operate
25 on. And State Troopers in the Commonwealth

1 Public Safety - 5/3/05
2 of Pennsylvania are using their 800 megahertz
3 radio system for data and using their old VHF
4 150 megahertz radio system for voice.

5 That's a sad situation that for
6 years and years and years have gone by, and
7 the Commonwealth of Pennsylvania still has
8 not activated their 800 megahertz radio
9 system. So, as far as I'm concerned, that
10 title inter...

11 MR. NUCCI: Interoperability?

12 COUNCILMAN RIZZO: Is a word because
13 I don't think we have that. Would you agree?

14 MR. NUCCI: Absolutely.

15 COUNCILMAN RIZZO: Okay. Thank you.

16 COUNCILWOMAN MILLER: Okay. Thank
17 you.

18 Mr. Nucci, without this agreement,
19 then what position would Philadelphia be in
20 if we didn't have this agreement, in case of
21 an emergency?

22 MR. NUCCI: We would basically
23 technically be on our own, without help from
24 the other counties. They would -- As we kind
25 of intimate in here, they would respond. I'm

1 Public Safety - 5/3/05

2 sure they would, just as we would if they got
3 in trouble.

4 The problem is, there's nothing
5 formal. And in the case of the counties
6 responding, sending forces to help us, they
7 would probably not be covered under their
8 insurance because unlike the City of
9 Philadelphia which is self insured, they have
10 private insurance for most of their police
11 departments and volunteer fire companies.
12 And they are -- their policies say that
13 they're covered within their own area and
14 with any jurisdiction that they have a formal
15 mutual aid agreement with.

16 So, if the mutual aid agreement does
17 not exist and technically support us, they're
18 kind of hanging out there.

19 COUNCILWOMAN MILLER: Okay. I have
20 one other question.

21 COUNCILMAN COHEN: Madam Chairman, I
22 have a question.

23 COUNCILWOMAN MILLER: Let me just
24 finish my last question.

25 You said there are nine regional

1 Public Safety - 5/3/05

2 counter terrorism task force. Where are
3 they? Here in the eastern... I'm assuming
4 they're somewhere here on the east coast.

5 MR. NUCCI: No. They're all in
6 Pennsylvania. They were created by the state
7 act.

8 COUNCILWOMAN MILLER: Okay. Okay.

9 MR. NUCCI: And we are one of the
10 nine which is the Southeast Pennsylvania Task
11 Force.

12 COUNCILWOMAN MILLER: Thank you.

13 Councilman Cohen.

14 COUNCILMAN COHEN: Thank you, Madam
15 Chair.

16 COUNCILWOMAN MILLER: You're
17 welcome.

18 COUNCILMAN COHEN: What would this
19 agreement cover?

20 For example, this Council voted
21 overwhelmingly against the provisions of the
22 Patriot Act. And there's been no changes in
23 that position.

24 Now, what part of the... And that
25 worries me. What are we agreeing to?

1 Public Safety - 5/3/05

2 policies, unrelated to terrorist activities,
3 wouldn't we be yielding our position of
4 opposition, if it's just trying to bring in
5 other policies that we don't agree with? I
6 mean, doesn't it take our freedom of decision
7 away from us?

8 MR. NUCCI: No. The way -- The way
9 the mutual aid agreement is narrowly crafted
10 to deal with emergency situations after
11 something has happened...

12 COUNCILWOMAN MILLER: For example, I
13 guess if we have to use 9/11 as an example,
14 for example, if something like 9/11 occurred
15 in Bucks County, then fire fighters and
16 whomever from Philadelphia --

17 MR. NUCCI: We would provide --

18 COUNCILWOMAN MILLER: -- would be
19 able to go and provide assistance.

20 MR. NUCCI: -- for them, and they
21 would do the same thing for us.

22 COUNCILWOMAN MILLER: Okay.

23 MR. NUCCI: If we had a mass
24 casualty situation that quickly overwhelmed
25 our EMS, emergency medical service --

1 Public Safety - 5/3/05

2 COUNCILWOMAN MILLER: Right.

3 MR. NUCCI: -- resources.

4 COUNCILWOMAN MILLER: Right. But
5 if -- because we don't have an agreement with
6 Camden, we wouldn't be able --

7 MR. NUCCI: Well, and in fact, we
8 have sent assets to Camden for fires and
9 things like that when they requested it.

10 This particular agreement just
11 covers the counties in Pennsylvania because
12 that's what we can do under state law.

13 What has to happen between states
14 for mutual aid is that Pennsylvania has to
15 sign a state pact with New Jersey first, and
16 then we can formally have a mutual aid
17 agreement with Camden and Burlington, et
18 cetera, et cetera.

19 We do do informal things, like the
20 communications interoperability with New
21 Jersey. It's just that for the mutual aid
22 part, we have to let the state take the lead
23 on that.

24 COUNCILWOMAN MILLER: Okay. And
25 basically this is -- this bill is around

1 Public Safety - 5/3/05

2 disaster preparedness, as you have stated in
3 your first paragraph, prevention, emergency
4 response and recovery, correct?

5 MR. NUCCI: Yes, ma'am.

6 COUNCILWOMAN MILLER: Are there any
7 other questions by members?

8 COUNCILMAN COHEN: The time is
9 limited to emergency responses? For example,
10 suppose after the response there's some legal
11 action needed. What protections does the
12 defendant have? Does he have those given to
13 him under the theories of U.S. Attorney
14 General now Diaz or Gonzalez, rather?

15 MR. NUCCI: It only -- It only
16 carries -- covers emergency response and
17 planning for that emergency response.

18 It doesn't cover anything that
19 really -- The Patriot Act is really something
20 separate from this.

21 COUNCILWOMAN MILLER: Seems to me
22 that it would be a matter of very serious
23 concern.

24 And then, I don't understand what it
25 achieves. If we can't have that arrangement

1 Public Safety - 5/3/05
2 of cooperation without this agreement, what
3 does this agreement provide that nothing else
4 would?

5 Suppose we agreed with you that
6 there should be this arrangement, but it
7 ought to be an informal arrangement rather
8 than a formally signed document?

9 MR. NUCCI: Without the formally
10 signed document... First of all, we have to
11 have a formally signed document to comply
12 with the state law, and also the provisions
13 of Homeland Security. It's contingent upon
14 the Homeland Security money continuing.

15 The feds want formal mutual aid
16 agreements for support. So that's basically
17 why, you know, we have to formalize something
18 that has really existed for decades here, as
19 far as mutual aid.

20 COUNCILMAN COHEN: Was a document
21 presented here, the exact language?

22 COUNCILWOMAN MILLER: Is this the
23 first time we will have this mutual aid
24 agreement?

25 MR. NUCCI: This is the first time

1 Public Safety - 5/3/05

2 it will be a formal agreement.

3 COUNCILWOMAN MILLER: Okay. And who
4 designed the agreement? Was it something
5 already maybe drafted by the Federal
6 Government with certain provisions, certain
7 language, et cetera?

8 MR. CHART: Madam Chairman, my name
9 is Gabriel Chart. I'm with the Law
10 Department.

11 I looked at state law. Basically I
12 drafted the agreement. According to the
13 state law requirements, there is in the state
14 law it says that this agreement requires an
15 ordinance.

16 It specifies what belongs in the
17 ordinance, and then it also specifies what
18 should be covered within the agreements, as
19 far as the term, liability coverage, the way
20 the financial structure -- the way it's
21 structured financially, which counties would
22 be the head agent financially. I used all
23 that information to structure the agreement.

24 COUNCILWOMAN MILLER: Okay. Which
25 counties --

1 Public Safety - 5/3/05

2 COUNCILMAN COHEN: How about the
3 substance of the agreement? You're talking
4 about the form of the agreement. That's one
5 thing.

6 I'm deeply concerned that there may
7 be efforts being made here to incorporate
8 provisions of the Patriot Act or other
9 provisions, not necessarily the Patriot Act
10 that we would not be in agreement with here.

11 MR. CHART: This agreement's
12 completely separate from the Patriot Act.
13 They really aren't related in any way.

14 This is strictly for first response.
15 It's for disaster preparedness and first
16 response. It doesn't get into at all the
17 consequences of any terrorist action, any
18 kind of surveillance or evidentiary
19 requirements that might be covered in
20 something like the Patriot Act.

21 This is simply a mechanism to use
22 state funds in order to purchase equipment
23 and manage manpower through the municipality.

24 COUNCILMAN COHEN: But how do we
25 know how it will be interpreted later on?

1 Public Safety - 5/3/05

2 MR. CHART: The scope of this
3 agreement is pretty narrow. It's strictly
4 for purchasing equipment, managing manpower,
5 and doesn't get into any of those other
6 issues.

7 It's very narrow, as far as what the
8 scope of this agreement is. I don't think it
9 could be construed outside of the bounds of
10 this agreement.

11 COUNCILWOMAN MILLER: Right.

12 COUNCILMAN COHEN: Well, but I'm not
13 sure what the bounds of the agreement is.
14 That's what concerns me.

15 This is the first presentation to
16 the City Council, members of City Council.
17 Except for those of us here today know
18 probably nothing about this. I knew nothing
19 until the hearing of the notice.

20 And I'm not much ready to trust
21 those people who would have -- would have
22 then and even now seem to be desirous of
23 changing basically the rights for citizens of
24 this country with respect to trials and
25 evidence, and that kind of thing, and

1 Public Safety - 5/3/05

2 suspicious conduct.

3 How do we know that what you're
4 saying is actually the limits of the act?

5 MR. CHART: Well, sir, I'm an
6 attorney for the City, and I protect the
7 City's interests. I made sure that this was
8 not beyond the scope.

9 This is strictly a tool so that the
10 counties can manage their resources. It
11 doesn't go beyond that.

12 COUNCILMAN COHEN: Well, do we need
13 it in Philadelphia?

14 MR. CHART: It's required by the
15 state law. We do need it.

16 COUNCILMAN COHEN: Why do we need
17 it? What happens in Philadelphia if we don't
18 agree with it?

19 MR. NUCCI: If we don't, first of
20 all, we are not complying with state law; and
21 second of all, it will probably stop the flow
22 of Homeland Security money to this region, to
23 purchase the resources that we need to manage
24 a major emergency.

25 COUNCILMAN COHEN: Have we gotten

1 Public Safety - 5/3/05

2 funds from Homeland Security?

3 MR. NUCCI: Absolutely.

4 COUNCILMAN COHEN: How much?

5 MR. NUCCI: In the -- And remember
6 what I'm talking about, federal fiscal years.
7 It takes... We're talking about when the
8 money was appropriated. And it's usually
9 about a year to 14 months after that that we
10 actually get the equipment.

11 But in the 2003 federal fiscal
12 years, we got -- and this is just
13 Philadelphia -- \$2,079,753 for equipment and
14 \$668,000 for planning, training and
15 exercises.

16 In 2004, we got \$3.9 million for
17 equipment and \$596,000 for planning, training
18 and exercises. Additionally in the 2004 --
19 and this is the equipment which is actually
20 just being purchased by the state now -- it
21 included \$3 million for a new fire boat to
22 replace our aging ones, \$800,000 for a van,
23 an X-ray van, that the police can pull up
24 between a suspected truck that they suspect
25 may be carrying a bomb. And it will X-ray

1 Public Safety - 5/3/05

2 that and show you where everything is on
3 the -- everything is loaded there, and
4 \$600,000 to replace the cameras in the police
5 helicopters to get them to where they're
6 somewhere close to what the news media has.

7 COUNCILMAN COHEN: It's one of my
8 understandings that on a national basis --
9 and I think it included Philadelphia.
10 Studies showed that homeland spending was far
11 below what municipalities were actually
12 spending for defense against terrorism, and
13 that municipalities throughout the country
14 were complaining.

15 Is there anything in the agreement
16 which says that any fund contribution by the
17 Federal Government will be eliminated or may
18 not be considered unless counties are part of
19 the agreement?

20 MR. NUCCI: Yeah. In -- In the -- I
21 guess it would be the regulations from the
22 Department of Homeland Security for the
23 fiscal 2005 funding, they -- they made it
24 contingent upon there being signed mutual aid
25 agreements between the jurisdictions and

1 Public Safety - 5/3/05

2 urban area.

3 COUNCILWOMAN MILLER: And isn't
4 there also a provision in there for
5 reimbursement to cities for some of their
6 expenses?

7 MR. NUCCI: The other part of this
8 is if a major catastrophe should occur, that
9 would occasion a Presidential disaster
10 declaration.

11 And say it was in Montgomery County,
12 whatever. And we sent assets to help them
13 out in Montgomery County. We would be
14 eligible in a Presidential declaration to
15 recover costs to Philadelphia, if there was a
16 signed mutual aid agreement.

17 COUNCILMAN RIZZO: Point of
18 information.

19 COUNCILWOMAN MILLER: Councilman
20 Rizzo.

21 COUNCILMAN RIZZO: Mr. Nucci, I had
22 a off-the-record conversation with you back
23 there -- and now I'll put it on the record --
24 that I think the exposure of the City is more
25 so than to Montgomery County.

1 Public Safety - 5/3/05

2 frequently we respond to mutual aid and what
3 the tab is for that mutual aid.

4 Because we have now red light
5 cameras at Red Lion and the Boulevard because
6 we don't have enough police officers to
7 monitor that intersection, and do it the old
8 fashioned way and write tickets.

9 I don't want to see the day when we
10 had 80 K-9 dogs... I don't want to see the
11 few that we have left out in Delaware County
12 when we need one here.

13 So, again, I want to be a good
14 neighbor, but I'm having a little trouble
15 with this here today, knowing what commitment
16 we are making in the area of mutual aid, when
17 we have one bomb squad that may be somewhere
18 in Bucks County when we have an issue here.

19 So I'm a bit concerned about what
20 we're offering to our suburban friends. And
21 I just want us maybe to slow down a little
22 bit and know exactly what kind of numbers
23 we're dealing with that have not been
24 reimbursed.

25 Again, I'd love to be helpful. But

1 Public Safety - 5/3/05

2 I would like to know the tab for mutual aid
3 and the departments that have provided it.

4 MR. NUCCI: Up until now it's been
5 police and fire. And mostly, I guess, in
6 frequency it's been the bomb squad going to
7 Montgomery County -- not particularly
8 Montgomery County but Chester County.

9 COUNCILMAN RIZZO: Other counties.

10 MR. NUCCI: There are two other bomb
11 squads in the region. Delaware County has a
12 small one and Montgomery County has one.

13 They don't have the experience that
14 ours does. Ours is probably one of the
15 premiere bomb squads on the east coast.

16 They've done training for the F.B.I.
17 So what we're -- what we're attempting to do,
18 with the bomb squad's help, is... There are
19 a lot of calls that they get for going out in
20 the suburbs that really do not require a bomb
21 squad of our capacity or don't require it in
22 an emergency fashion. There are things that
23 the police officers can do to ameliorate the
24 situation.

25 COUNCILMAN RIZZO: Here's what I'd

1 Public Safety - 5/3/05

2 like to do. Is there a scenario in this
3 entire plan, counselor... Most of the
4 communities that you mentioned have both
5 affluent and poor areas, but I think they
6 could pay for our service.

7 Is there a way we could -- If they
8 want us -- If they want us to come to
9 Montgomery County -- And I'm concerned about
10 that. I don't care how much money they would
11 pay us. I like our assets to be here because
12 we need them.

13 And if they're out in Montgomery
14 County or Bucks County and we need them, no
15 amount of money -- But even if we do respond,
16 and maybe more selectively going forward, I
17 think that we should have something in this
18 that we get paid.

19 I mean, if we tie up five, six,
20 eight officers, a couple million dollars'
21 piece of equipment, that they should be able
22 to write us a check or don't call us. Call
23 Delaware County. Use their own bomb squad or
24 build a bigger one because -- You know what
25 it is? I think they know we're here.

1 Public Safety - 5/3/05

2 I think they know that they've got
3 this mutual aid deal. Why would you, if you
4 were a county manager, dump more money into
5 your operation, if you can pick up the phone
6 and call Philadelphia. We schlep out there
7 for free, and do their work. Again, I want
8 to be a good neighbor, but I don't want to
9 give away my taxpayers' money.

10 MR. NUCCI: I understand what you're
11 saying. And maybe the bomb squad, because
12 that's very specialized, is maybe not a good
13 example.

14 But we're also involved in things
15 like emergency medical services. Now, the
16 assets in emergency medical services in the
17 suburbs far outstrip what we have.

18 We have informal agreements now with
19 them. So, if we had a 9/11 type thing here,
20 we would not have enough ambulances, medic
21 units. All right.

22 So, we have arranged informally with
23 them to send us ambulances in blocks of ten,
24 you know, with paramedics, the whole thing.

25 So, although we have the bomb squad

1 Public Safety - 5/3/05

2 assets that nobody else has, they have huge
3 numbers of other assets which we could use.

4 COUNCILMAN RIZZO: I'm not
5 suggesting -- But what I am concerned about
6 is --

7 MR. NUCCI: Is the day-to-day.

8 COUNCILMAN RIZZO: Yeah, the
9 day-to-day stuff. The catastrophic stuff I
10 can, you know, deal with that.

11 But I think it would be interesting
12 to know -- And you say it's so far been
13 limited to police and fire, but I'm sure that
14 the Water Department has helped on occasion.

15 You mentioned the fact that
16 Montgomery County helped us during a water
17 emergency. But I think that based on the
18 limitations that we have today, that if they
19 want our help, they need to pay us for it.

20 MR. CHART: Well, the state law
21 requires this would be on a non-reimbursable
22 basis for this type of agreement, if this is
23 for regional task force set up by state law
24 to channel funds from the federal government.

25 And what it's creating is a pot of

1 Public Safety - 5/3/05

2 money and resources for the counties in this
3 region.

4 COUNCILMAN RIZZO: Until I know how
5 much money we get from Homeland Security
6 versus how much we spend, I'm not really too
7 keen to be supportive of this, at least with
8 my vote, because I think we're exposing our
9 taxpayers to a financial hardship that I
10 don't even know... Like Councilman Cohen
11 said, this is the first I'm hearing about it
12 today.

13 And this quick study of it kind of
14 puts my red flag up. And when that flag goes
15 up, I sit tight. So I'm not planning to be
16 supportive of this today, not knowing what
17 the implications are. I need to really study
18 this a little bit more.

19 MR. CHART: I'd like to add
20 something also, that the... According to
21 state law, the State of Pennsylvania also
22 indemnifies the City of Philadelphia for any
23 damage to county or municipal property, if
24 it's in response to a catastrophic event. So
25 there is that provision in there.

1 Public Safety - 5/3/05

2 COUNCILMAN RIZZO: Catastrophic --

3 MR. CHART: You're talking about a
4 fire boat or something like that being
5 damaged.

6 COUNCILMAN RIZZO: A routine -- God
7 forbid, a routine response from one of our
8 police units, and there's officers killed,
9 they're off the hook. We own those officers,
10 even if it's in Montgomery County.

11 And, you know, I've read it as fast
12 as I could when I got it. And I understand
13 if we have a response to a general alarm fire
14 in Montgomery County, that our commanders are
15 still in charge, but there's a chain of
16 command. You know, I've read all that. And
17 I'm okay with that stuff.

18 But I'm talking about the dollars of
19 this thing. And until I see how much we
20 spend versus how much we gain, I'm going to
21 hold back on my vote today. I'm going to
22 vote no for this to come out of committee.
23 That's just me.

24 COUNCILMAN COHEN: May I ask this:
25 Does this change the decision making? Who

1 Public Safety - 5/3/05

2 now makes the decisions when calls come in
3 requiring assistance to other counties?

4 MR. NUCCI: Well, in the case of
5 the --

6 COUNCILMAN COHEN: In the case of
7 any problem that exists.

8 MR. NUCCI: In the case of the Fire
9 Department, the City Charter gives the Fire
10 Commissioner -- In fact, it specifically
11 states in there that he can provide mutual
12 aid to surrounding jurisdictions and on his
13 authority. So, it's the Commissioner of the
14 Police --

15 COUNCILMAN COHEN: And does that
16 change now?

17 MR. NUCCI: Huh?

18 COUNCILMAN COHEN: Does that change?
19 Suppose he disagrees with the request.

20 MR. NUCCI: Then he can -- he can --
21 he can -- Just as in the mutual aid
22 agreement, he can say, no, I can't spare that
23 asset.

24 COUNCILMAN COHEN: But suppose
25 that's not it. Suppose he just thinks it's

1 Public Safety - 5/3/05

2 not wise or he feels that if situation
3 occurred within the City he would not use the
4 aid being requested. He might use some other
5 method.

6 Who would have the decision? In
7 other words, are our forces now threatened or
8 not threatened but facing the possibility of
9 having to obey somebody else's order, other
10 than --

11 MR. NUCCI: No, no, no. The way the
12 agreements work is, if we were supplying aid
13 to Camden or one of the counties in
14 Pennsylvania, those forces remain and
15 equipment remain under the control of people
16 from the Philadelphia Fire --

17 COUNCILMAN COHEN: Who makes the
18 decision as to whether the request should be
19 complied with?

20 MR. NUCCI: The Fire Commissioner.
21 Or the Police Commissioner if it's a police
22 matter.

23 COUNCILMAN RIZZO: And to follow up
24 on what the Councilman is saying is the fact
25 that -- You know, and again, I don't want to

1 Public Safety - 5/3/05

2 drag in the closures of our fire fighting
3 forces and our Police Department reduction in
4 numbers.

5 But I'm -- my responsibility is to
6 worry about the people that visit and live
7 here. And I'm okay with mutual aid, as long
8 as somebody pays for it.

9 And counselor can tell me. What do
10 we need to do to change... the state
11 legislators, our representatives, that we
12 could get reimbursed when we're called for
13 mutual aid if the decision is made to
14 respond?

15 MR. NUCCI: That would require, I
16 guess, change in the state law, wouldn't it?

17 MR. CHARTER: Right.

18 COUNCILMAN RIZZO: Well, we're
19 talking about closing eight engine and ladder
20 companies. And we have the potential of
21 sending our equipment to another distant
22 county for no compensation. That troubles
23 me.

24 Thank you.

25 COUNCILWOMAN MILLER: This would not

1 Public Safety - 5/3/05

2 just be for ordinary... This would not just
3 be for ordinary emergency responses, unless
4 it's the bomb squad, like you said. That's
5 the one that's used --

6 MR. NUCCI: The bomb squad is
7 probably the one that occurs most on a
8 routine basis.

9 The other... I said, you know, a
10 big chunk of the police force or Fire
11 Department outside Philadelphia, things have
12 to be pretty bad.

13 We've done it with Camden when they
14 had their traditional mischief night
15 fire-setting problem. We've sent several
16 fire companies.

17 But it is not... It is not routine
18 and usual. The fact of the matter is that
19 the fire assets out in the counties are quite
20 substantial, to handle their own -- you know,
21 for their volunteer firemen. But they have a
22 lot of equipment, a lot of assets.

23 So -- So that the likelihood on the
24 routine basis that we would be getting this
25 is pretty slim.

1 Public Safety - 5/3/05

2 COUNCILMAN RAMOS: Madam Chair, if I
3 may.

4 COUNCILWOMAN MILLER: Yes.

5 COUNCILMAN RAMOS: I know that
6 Councilman -- my good friend and colleague,
7 Councilman Rizzo -- did not mean it in the
8 way that I thought I heard it. But if I know
9 that our fire -- our Fire Department, in the
10 event of something that is beyond the
11 controls of any of our neighbors, that we're
12 more than -- we're very charitable --
13 Philadelphians are very charitable -- that we
14 will use all the equipment that we have, to
15 go and put out a fire anywhere, if it is in
16 fact something that is beyond the control of
17 the neighbor, the good neighbor, that we
18 might have to the north, south east or west
19 of us.

20 And are you, also, reaffirming and
21 through the Law Department, that this is one
22 state law is requiring this of us, that this
23 has to do more with catastrophic -- and
24 please correct me if I'm wrong -- than our
25 regular, you know, day-to-day routine work of

1 Public Safety - 5/3/05

2 when they arise, of putting out fires or
3 threats of, you know, of local levels, and
4 that this -- this money from the Federal
5 Government is very well defined, is very
6 specific in its use. Am I correct about
7 that?

8 MR. NUCCI: That's absolutely true.
9 They -- They -- They give you the categories
10 that -- that the money can be spent on. And
11 in some cases they specify what types of
12 equipment they approve by, and with the
13 planning and training, there are rules on
14 that, too. So it's very tight.

15 For instance, we can't buy police
16 cars. We can't buy, you know, routine fire
17 apparatus. You can buy specialized
18 equipment. Detection equipment, personal
19 protective equipment for purchase from
20 others. So, it's fairly tight.

21 COUNCILMAN RAMOS: Do you have any
22 idea of the appropriation amount for this
23 type of mutual agreement activities with our
24 counties? I believe Councilman Rizzo or
25 Councilman Cohen asked that question.

1 Public Safety - 5/3/05

2 I don't think I heard, you know, a
3 reply to that. Do you have any idea what
4 pool of money -- you know, if the pool of
5 money is or how is it determined?

6 If the pool of money is a million
7 dollars, then I can see all the concerns of
8 Councilman Cohen and Councilman Rizzo because
9 then, you know, if something, God forbid,
10 catastrophic happens, there's but so much
11 resources out there for us to address it.

12 MR. NUCCI: Right. Well, for the
13 federal fiscal year 2004 equipment, we're
14 talking about directly to Philadelphia, that
15 they do the ordering, is \$3.9 million.

16 COUNCILMAN RAMOS: Can you repeat
17 that again? I'm sorry.

18 MR. NUCCI: \$3.9 million, plus \$3
19 million for a fire boat, \$800,000 for the
20 X-ray van, and \$600,000 for the helicopter
21 cameras. So -- So, we're talking about \$8
22 million in 2004 just to Philadelphia, and
23 probably a similar amount in the 2005. We're
24 not sure how that's going to break down.

25 COUNCILMAN RAMOS: When do we lose

1 Public Safety - 5/3/05

2 the opportunity to be able to tap into these
3 resources for local mutual agreement Homeland
4 Security type of operations?

5 MR. NUCCI: Would we --

6 COUNCILMAN RAMOS: Yeah. Let's say
7 that this does not come out of committee and
8 it gets delayed. Is there a deadline that we
9 need to get to or is this wide open, that we
10 can -- you know, this can be delayed, this
11 process, and still have access to that
12 program?

13 MR. NUCCI: Both the state and the
14 Federal and the Home -- Department of
15 Homeland Security are fairly firm on that for
16 the 2005 federal fiscal year appropriation,
17 that they want the mutual aid agreements in
18 place.

19 COUNCILMAN RAMOS: So chances are
20 that this might not be here. If we don't act
21 on it, this might not be here in the next
22 fiscal year.

23 MR. NUCCI: After 2004 --

24 COUNCILMAN COHEN: What is the end
25 of the year, federal fiscal, 2005?

1 Public Safety - 5/3/05

2 MR. NUCCI: And actually started --

3 The money for 2005 has been appropriated.

4 The difference in the timing on this is that
5 it's appropriated at the federal level, and
6 it takes about 14 to 16 months for Homeland
7 Security to make up the list of rules for
8 that money, the money to be passed on to the
9 state, and then us to supply our list of
10 equipment that we want, and then the state
11 does the procuring on the equipment.

12 All the equipment is being procured
13 through state contracts, and delivered to
14 Philadelphia and the other counties. You
15 know, there's a gap. There's a about a 14 to
16 16 month gap.

17 COUNCILMAN RIZZO: There's no
18 deadline then.

19 MR. NUCCI: No. No. No. No, but
20 we will be...

21 COUNCILWOMAN MILLER: But the sooner
22 you get it in, the sooner you can get it out.

23 COUNCILMAN RAMOS: Because of the
24 bureaucracy, it's still going to --

25 MR. NUCCI: They have already

1 Public Safety - 5/3/05

2 appropriated the 2005 money. We don't get to
3 order from it unless this is in place.

4 COUNCILMAN RAMOS: Thank you, Madam
5 Chair.

6 COUNCILWOMAN MILLER: Thank you.

7 Are there any other questions by
8 committee members?

9 COUNCILMAN COHEN: Well, does it
10 seem to me... When did the City first learn
11 about this problem or this opportunity?
12 Whichever way you want to call it. Because
13 at this stage I don't know whether it's a
14 problem or an opportunity for the City.

15 But I think we need more time in it.
16 I just think it's unfair to put Council in a
17 position without any briefing or any
18 information, to come to us and say, you've
19 got to act right away on it.

20 Most of the members don't even know
21 of its existence. Speaking for myself, I
22 didn't know at all of any part of this
23 problem until I saw the notice for the
24 hearing.

25 Now, there should have been some

1 Public Safety - 5/3/05

2 contact between the administration and the
3 Council before. We should be briefed on it.
4 Every member of Council ought to know what he
5 or she is doing about it.

6 And we ought to have a feeling of
7 confidence that it's a good thing for the
8 citizens to do, if that's what we want to do.
9 But if not, we've got to take negative
10 action.

11 I have no opinion on this, except
12 I'm concerned about being put in a position
13 of being asked to vote in a way that may harm
14 Philadelphians or it may help them.

15 I think we need more time on this,
16 and I think we need a kind of briefing which
17 all members of Council are free to ask any
18 questions they want.

19 COUNCILMAN RIZZO: I'd appreciate
20 the same opportunity, to get the information
21 to the Chair, that I requested on the amount
22 of activity of mutual aid, non-catastrophic,
23 to see what exactly the cost to the City is.

24 And also, I'd like to develop a
25 protocol. Like Councilman Cohen said, when

1 Public Safety - 5/3/05

2 do we respond? Obviously, we want to be good
3 neighbors.

4 I'd love to see the legislature
5 change the rules so we could get compensated
6 for our services.

7 But I'm also concerned that our bomb
8 squad, a limited bomb squad, is here when we
9 need it. So that's why I would appreciate
10 more time waiting for the information that
11 you'll provide or the Police Commissioner or
12 Fire Commissioner or other municipal
13 departments in the area of mutual aid.

14 It sounds like a lot of money, \$8
15 million, that we get from Homeland Security.
16 But also I'd like to know how much we spend.
17 I'm sure it's not \$8 million, but I'd like to
18 know.

19 And if you could give us more time,
20 and the Chair would consider that, it would
21 be appreciated because I don't think you're
22 up against it to delay, so we can make an
23 intelligent decision. I can't make an
24 intelligent decision here today on the
25 limited information that I have.

1 Public Safety - 5/3/05

2 MR. NUCCI: You know, I'm...

3 COUNCILWOMAN MILLER: We also -- I
4 think also what would be helpful for
5 committee members is to see a draft of the
6 agreement, to make sure that...

7 MR. CHART: It should have been
8 attached to your...

9 COUNCILWOMAN MILLER: Testimony?

10 MR. NUCCI: No.

11 MR. CHART: No. It was part of the
12 whole packet, ordinance packet.

13 MR. NUCCI: One of the problems with
14 the --

15 COUNCILWOMAN MILLER: Oh. It's in
16 here? Just a minute.

17 COUNCILMAN RAMOS: Madam Chair, can
18 I get a question in?

19 COUNCILWOMAN MILLER: Sure.

20 COUNCILMAN RAMOS: Are other
21 jurisdictions like New York City, Washington,
22 have they signed mutual agreements with their
23 counties? Have they?

24 MR. NUCCI: Most of them have, yeah.

25 COUNCILMAN RAMOS: Like, can you

1 Public Safety - 5/3/05
2 tell me who for sure has signed this type of
3 agreement in our northeast corridor?
4 MR. NUCCI: New York City.
5 COUNCILMAN RAMOS: New York City.
6 MR. NUCCI: Washington, D.C.
7 COUNCILMAN RAMOS: Washington has
8 done it.
9 MR. NUCCI: I'm not sure about
10 Baltimore yet, but Washington and New York.
11 COUNCILMAN RAMOS: They already have
12 a plan.
13 MR. NUCCI: Already have it.
14 COUNCILMAN RAMOS: So we're kind of
15 lagging behind on this. And although I
16 understand there's no formal deadline here,
17 but bureaucracy being what it is, the longer
18 we delay this, the longer it will be for us
19 to have additional protection that we all in
20 this country agree, you know, we definitely
21 need, under the circumstances that we're
22 living under; is that correct?
23 MR. NUCCI: That's correct.
24 COUNCILMAN RAMOS: Okay. All right.
25 Thank you.

1 Public Safety - 5/3/05

2 COUNCILWOMAN MILLER: Okay. What
3 I'd like to do is, I'd like to actually have
4 a briefing, have your department, have you
5 guys come over and open the briefing up to
6 all Council members, so that we can become
7 more familiar with this whole process, and
8 have an opportunity to ask questions and
9 redraft and whatever other information you're
10 going to send over.

11 So, what we'd like to do is vote the
12 bill out, but not to have it vote on final
13 passage until we get the information from you
14 and have a briefing for all Council members.
15 Okay?

16 MR. NUCCI: We can do that.

17 MR. CHART: We'd like to schedule it
18 sooner than later.

19 COUNCILWOMAN MILLER: We won't have
20 it come up for final passage until we are
21 able to schedule the briefing and also get
22 the information that Councilman Rizzo
23 requested and any other member requested.

24 MR. CHART: For background, I
25 drafted the agreement two years ago, pretty

1 Public Safety - 5/3/05

2 much, the act that was passed in 2002. It
3 was ready for City Council probably last
4 year. It was just held up for various
5 reasons. Just got held up over here.

6 COUNCILMAN RIZZO: Now there's a
7 perfect example. You're dumping this thing
8 on us.

9 MR. NUCCI: No, no.

10 MR. CHART: No, no, not at all.

11 COUNCILMAN RIZZO: Well, where has
12 it been for two years?

13 MR. NUCCI: We've been working on
14 it.

15 COUNCILMAN RIZZO: Where has it
16 been, on the second floor or on the Managing
17 Director's? I mean that's not fair to us to
18 have --

19 MR. CHART: No, no, no. I wasn't
20 implying that at all. I was just asking if
21 we could expedite the briefing process.

22 COUNCILMAN RIZZO: No, but my point
23 is that this thing's been ready to go for two
24 years. Where did it stall? Not in City
25 Council. Just got here.

1 Public Safety - 5/3/05

2 MR. CHART: Getting to City Council.
3 Has nothing to do with City Council.

4 COUNCILMAN RIZZO: Well, then, all
5 of a sudden two years of this thing kicking
6 around someplace, we're expected to deal with
7 it in one day? Not me.

8 COUNCILWOMAN MILLER: Yeah.
9 Sometimes the process around here really
10 doesn't --

11 COUNCILMAN RIZZO: Not me.

12 COUNCILWOMAN MILLER: -- work. It's
13 unfair to Council members --

14 COUNCILMAN RIZZO: Two years.

15 COUNCILWOMAN MILLER: -- to not have
16 the information in timely fashion so we can
17 at least, you know, read and get as much
18 information as we can before coming into
19 these hearings.

20 MR. CHART: I'm sorry, sir. I
21 didn't mean to put that on City Council.
22 That was not my intention.

23 COUNCILMAN RIZZO: No, no; you
24 weren't. What you were doing is, you pushed
25 my button, telling me this thing's been

1 Public Safety - 5/3/05

2 sitting someplace in a pipeline. And now it
3 comes here after two years, and you expect me
4 to digest all this stuff and make an
5 intelligent decision. That's not fair to me.

6 COUNCILWOMAN MILLER: Right. It's
7 not fair to Council members.

8 So, what we want to do is have a
9 briefing and give everybody an opportunity to
10 ask as many questions as they need to ask, to
11 become comfortable with this whole -- with
12 this whole bill.

13 So at this point we will close -- if
14 there are no other questions from Council
15 members or committee members, we will close
16 the public hearing and move into the public
17 meeting.

18 (Public hearing concluded at 11:33
19 a.m.)

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1 Public Safety - 5/3/05

2 CERTIFICATE

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

10

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15 _____
16 DAVID A. DEIK, RPR and

17 Commissioner of Deeds

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21 this transcript does not apply to any
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24 supervision of the certifying reporter.)

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1 Public Safety - 5/3/05

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

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5 MR. CHART: Will we be notified of
6 the briefing or the schedule?

7 COUNCILWOMAN MILLER: Yes. You
8 can...

9 MS. FLOYD: I'm sorry. The
10 administration will work with Council to
11 schedule a briefing as soon as possible, to
12 make sure that all Council members have all
13 the documentation that they need.

14 COUNCILWOMAN MILLER: Will you
15 please state your name for the record,
16 please.

17 MS. FLOYD: I'm Kia Floyd, from the
18 Mayor's Office.

19 COUNCILWOMAN MILLER: So what you're
20 saying, Kia, is that the administration will
21 arrange for the briefing.

22 MS. FLOYD: The administration will
23 handle it, any particular issues that Council
24 members have with regard to topics to be
25 discussed. We planned that the briefing will

1 Public Safety - 5/3/05

2 be comprehensive, but in light of some of the
3 questions that came up today, we're going to
4 try to tailor it and have a specific agenda
5 to cover at least the things that were
6 brought to our attention at today's hearing.

7 COUNCILWOMAN MILLER: Okay. Thank
8 you.

9 MR. CHART: Thank you. Thank you.

10 COUNCILWOMAN MILLER: All right.
11 Thank you.

12 COUNCILWOMAN MILLER: Okay. I'd
13 like someone to make a motion on Bill Number
14 050071 to move it out of committee.

15 COUNCILMAN RAMOS: Madam Chair, I
16 move that Bill Number 050071 be reported out
17 of committee with a favorable recommendation;
18 further move that the rules of Council be
19 suspended to permit first reading of this
20 bill at our next Council meeting, pending a
21 briefing.

22 COUNCILWOMAN MILLER: I don't think
23 we need a rule suspension on this.

24 COUNCILMAN RAMOS: I retract that,
25 at the request of the Chair.

1 Public Safety - 5/3/05

2 COUNCILWOMAN MILLER: Okay. It has
3 been moved that Bill Number 050071 be
4 reported out of this committee with a
5 favorable recommendation.

6 COUNCILMAN RIZZO: I'm voting no.

7 COUNCILWOMAN MILLER: All in favor?
8 (Chorus of "ayes.")

9 COUNCILMAN RIZZO: No.

10 COUNCILMAN COHEN: No.

11 COUNCILWOMAN MILLER: Two nos,
12 Councilman Rizzo and Councilman Cohen.

13 COUNCILMAN COHEN: I don't know
14 why -- I don't understand why --

15 COUNCILWOMAN MILLER: Because we're
16 going to have a briefing. We are going to
17 have everything that everybody wants.

18 COUNCILMAN RIZZO: I know you said
19 it once, but we're going to hold this going
20 to the first reading of Council, correct,
21 until we're...

22 COUNCILWOMAN MILLER: Absolutely.

23 COUNCILMAN RIZZO: Until we have the
24 briefing.

25 COUNCILWOMAN MILLER: I said it

1 Public Safety - 5/3/05

2 twice, actually.

3 COUNCILMAN RIZZO: Yeah. I
4 appreciate it.

5 COUNCILWOMAN MILLER: And I'll say
6 it again a third time.

7 COUNCILMAN RIZZO: Thank you.

8 COUNCILWOMAN MILLER: So we have
9 Councilman Rizzo and Councilman Cohen voting
10 no, Councilwoman Blackwell, Councilwoman
11 Miller and Councilman Ramos voting yes.

12 COUNCILMAN COHEN: I think it's far
13 better if we didn't take a vote on this today
14 because we're asking for information.

15 A vote no will indicate to some
16 people that there's opposition which may or
17 may not exist. There may be support; if it's
18 a good thing, we're for it.

19 But we can not properly be asked to
20 vote on something when facts are not made
21 available to us, particularly under the
22 circumstances where for more than two years
23 this matter has been known to the
24 administration and not imparted to the
25 Council.

1 Public Safety - 5/3/05

2 COUNCILWOMAN MILLER: I agree that
3 the administration should have given us much
4 more information in a more timely fashion.

5 COUNCILMAN COHEN: But this is the
6 precise reason I'm concerned about the thing.
7 Are we going to forget normal rules of
8 decency?

9 COUNCILWOMAN MILLER: We're not
10 forgetting the normal rules of decency? This
11 is not the first time that this kind of
12 situation has come about, where you just
13 don't have the information.

14 I mean, I've had this... Seems like
15 this has happened on many, many occasions
16 since I became a Council member.

17 We're not saying we're going to vote
18 it out. We're saying that we want them to
19 send us information. We will set up a
20 briefing with the administration.

21 Council members will have the
22 opportunity to ask questions and get all the
23 information that's needed before we call this
24 bill up. And if we don't get it, then we
25 won't call it up.

1 Public Safety - 5/3/05

2 COUNCILMAN COHEN: But why should we
3 be in a position where Council is giving
4 preliminary approval when we don't have the
5 information?

6 COUNCILWOMAN MILLER: And it's the
7 will of the committee. And I understand.
8 You know, I want to respect everyone's point
9 of view. The committee has voted. And I'm
10 trying to assure all committee members that
11 all their needs will be met before we pull
12 this bill up for final vote.

13 COUNCILWOMAN MILLER: Okay. So the
14 vote's been documented. The vote's been
15 taken. The vote's been documented. This
16 ends the public safety committee hearing.

17 (Public meeting concluded at 11:40
18 a.m.)

19 COUNCILWOMAN MILLER: We are taking
20 a re-vote to make sure that everything was
21 done correctly.

22 Councilman Ramos has made the
23 motion.

24 COUNCILWOMAN BLACKWELL: Second.
25 Councilwoman Blackwell is seconding

1 Public Safety - 5/3/05
2 the motion to move Bill 050071 out of this
3 committee with a favorable recommendation.
4 All in favor?
5 (Chorus of "ayes.")
6 COUNCILWOMAN MILLER: Opposed?
7 COUNCILMAN RIZZO: Yes, opposed.
8 COUNCILMAN COHEN: Opposed.
9 COUNCILWOMAN MILLER: All right.
10 Good.
11 Councilman Rizzo, Councilman Cohen
12 is voting no.
13 Councilwoman Miller, Councilwoman
14 Blackwell, Councilman Ramos is voting aye.
15 This meeting is adjourned. Thank
16 you.
17 (Public meeting concluded at 11:42
18 a.m.)
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CERTIFICATE

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

DAVID A. DEIK, RPR and
Commissioner of Deeds

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