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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE OF THE WHOLE

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, November 14, 2006
10:30 a.m.

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PRESENT:

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COUNCIL PRESIDENT ANNA C. VERNA

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COUNCILWOMAN JANNIE BLACKWELL

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COUNCILMAN DARRELL L. CLARKE

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COUNCILMAN FRANK DiCICCO

13

COUNCILMAN W. WILSON GOODE, JR.

COUNCILWOMAN DONNA REED MILLER

COUNCILMAN JUAN RAMOS

COUNCILWOMAN BLONDELL REYNOLDS BROWN

COUNCILMAN FRANK RIZZO

COUNCILWOMAN MARIAN B. TASCO

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RESOLUTION 060772 - Resolution confirming the
appointment of Richard Glazer, Esquire as a
member of the Board of Ethics...

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RESOLUTION 060773 - Resolution confirming the
appointment of Richard Negrin, Esquire as a
member of the Board of Ethics...

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RESOLUTION 060774 - Resolution confirming the
appointment of Reverend Dr. Alyn E. Waller as
a member of the Board of Ethics...

19

RESOLUTION 060775 - Resolution confirming the
appointment of Pauline Abernathy as a member
of the Board of Ethics...

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RESOLUTION 060776 - Resolution confirming the
appointment of Stella M. Tsai, Esquire as a
member of the Board of Ethics...

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COUNCIL PRESIDENT VERNA: Good morning, everyone. I apologize for the delay. This is the public hearing of the Committee of the Whole.

I would ask Mr. McPherson to please read the title of the resolutions that we will be considering.

MR. MCPHERSON: Resolution 060772, resolution confirming the appointment of Richard Glazer, Esquire as a member of the Board of Ethics to serve in the term ending November 1, 2011.

Resolution No. 060773, resolution confirming the appointment of Richard Negrin, Esquire as a member of the Board of Ethics to serve in the term ending November 1, 2010.

Resolution 060774, resolution confirming the appointment of Reverend Dr. Alyn E. Waller as a member of the Board of Ethics to serve in the term ending November 1, 2009.

Resolution 060775, resolution confirming the appointment of Pauline

1 11/14/06 - WHOLE - RES. 060772, ETC.
2 Abernathy as a member of the Board of
3 Ethics to serve in the term ending
4 November 1, 2008.

5 Resolution 060776, resolution
6 confirming the appointment of Stella M.
7 Tsai, Esquire as a member of the Board of
8 Ethics to serve in the term ending
9 November 1, 2007.

10 COUNCIL PRESIDENT VERNA:
11 Ms. Wilkerson, are you going to be
12 testifying?

13 MS. WILKERSON: Yes. I'd like
14 to ask for the proposed candidates of the
15 Commission to come forward so I can
16 introduce them.

17 Good morning.

18 COUNCIL PRESIDENT VERNA: Good
19 morning.

20 MR. WILKERSON: My name is
21 Joyce Wilkerson. I'm Chief of Staff for
22 Mayor Street. I'm delighted to appear
23 before you today to introduce the five
24 nominees to the new independent Board of
25 Ethics. Before I introduce the nominees,

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2 however, I'd like to first provide some
3 context for this morning's hearing by
4 reviewing recent ethics reform in
5 Philadelphia and then by highlighting
6 some of the main features of the new
7 Ethics Board.

8 As Council is well aware,
9 Philadelphia has taken strides forward in
10 ethics reform over the recent years. In
11 2004, the Mayor issued two Executive
12 Orders which reconstituted a previously
13 existing Ethics Board and strengthened
14 rules prohibiting City employees from
15 accepting gifts or meals from anyone
16 seeking to do business with the City.

17 The City had also passed laws
18 to limit political contributions to
19 elected officials and candidates and, in
20 December 2005, passed regulations to
21 prevent campaign contributions making
22 contributions in excess of certain levels
23 from receiving -- making contributors who
24 make contributions in excess of certain
25 levels, prohibiting them from receiving

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2 City contracts that are not required to
3 be competitively bid.

4 At the same time the City
5 passed contract reform measures in
6 December 2005, the City also established
7 legislation that would create a new
8 independent Board of Ethics subject to
9 voter approval of an amendment to the
10 Home Rule Charter. On May 16, 2006,
11 Philadelphia voters overwhelmingly
12 approved the amendment to the Charter.
13 The new Board of Ethics joins six other
14 independent boards and commissions under
15 the Home Rule Charter.

16 The new Ethics Board will have
17 investigative and enforcement powers and
18 jurisdiction over all City government,
19 not just the executive branch of
20 government. To ensure that everyone
21 knows where the boundaries of acceptable
22 conduct are, it will be responsible for
23 providing guidance and education on
24 ethics rules to the entire City
25 workforce, as well as to City vendors.

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2 Unlike the rest of City government, the
3 Ethics Board will be supported by its own
4 legal staff in significant areas,
5 including campaign contributions,
6 contracting, in addition to more
7 traditional ethics areas.

8 The new Ethics Board will also
9 promote greater transparency in
10 government by overseeing financial
11 disclosures by City officials and by
12 publishing campaign finance disclosures
13 by elected officials and candidates.
14 Finally, provisions that will permit
15 removal of Board members only for cause
16 and that will protect the new Board's
17 budget from cuts will assure its
18 independence.

19 Under the new law, the Mayor
20 nominates five members to the new Ethics
21 Board, with the advice and consent of a
22 majority of the members of City Council.
23 Soon after the City passed the
24 legislation in December 2005, the
25 Administration began to search for

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2 eligible candidates with impeccable
3 judgment and a willingness to serve on
4 this vital new Board. Eligibility
5 restrictions under the new law made the
6 search challenging. Members are
7 restricted from seeking or holding a
8 position as an appointed or elected
9 public official. They may not be an
10 officer of a political party, and they
11 are prohibited from making political
12 contributions to local officials or
13 candidates. After their service on the
14 Board, they and the Executive Director
15 and counsel are prohibited from seeking
16 any City elected office for a period of
17 two years. But in the end, we were able
18 to select five candidates with high
19 integrity and diverse experience.

20 The initial terms are staggered
21 from one to five years. After the
22 initial terms, all members serve for a
23 term of five years. Board members are
24 limited to serving no more than two
25 five-year terms. There are additional

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2 restrictions on the activities of Board
3 members both during and after their
4 service. Once they are confirmed,
5 members to the new Ethics Board may be
6 removed only for cause after notice from
7 the Mayor, a hearing before City Council
8 and a vote of two-thirds of City Council.

9 With that background, it is my
10 pleasure to introduce the five nominees
11 to the Philadelphia's Board of Ethics.
12 They are Pauline Abernathy, who is to my
13 left. Pauline is Deputy Director for
14 Policy Initiatives and Health and Human
15 Services for the Pew Charitable Trusts.
16 Ms. Abernathy served in the Clinton
17 administration on its Domestic Policy
18 Council and its National Economic Council
19 as well. Ms. Abernathy's term on the
20 Ethics Board will be for two years.

21 Richard Glazer, sitting to my
22 right, is a founder of Cozen O'Connor,
23 one of the 100 largest law firms in the
24 United States. Mr. Glazer has served on
25 the board of a number of local non-profit

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2 organizations, including the Committee of
3 Seventy and also the Public Interest Law
4 Center and did a stint with local
5 government as "a dollar a year" employee.
6 Mr. Glazer's term on the Board will run
7 for five years.

8 Richard Negrin, to my right, is
9 Vice-President and Associate General
10 Counsel of Aramark. He served previously
11 as an attorney at Morgan Lewis and is a
12 prosecutor in the Major Trials Unit of
13 the Philadelphia District Attorney's
14 Office. Some of his responsibilities at
15 Aramark include ethics work in the area
16 of regulatory affairs, and so he brings
17 that expertise to this Board.

18 To my right, too, is Stella
19 Tsai. Stella is an attorney from the law
20 firm of Christie, Pabarue, Mortensen and
21 Young. Previously she served as Chair of
22 the Administrative Law for the
23 Philadelphia Law Department and also as
24 counsel for the Civil Service Commission.
25 Her term on the Board will run for one

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2 year.

3 And, finally, to my left is
4 Reverend Dr. Alyn E. Waller. He's the
5 Senior Pastor for Enon Tabernacle Baptist
6 Church. Under Dr. Waller's leadership,
7 Enon Tabernacle congregation has grown to
8 over 7,000 members, including a dozen new
9 ministries and such community outreach
10 programs as a computer lab and
11 technology-based ministry. Reverend
12 Waller's term on the Board will run for
13 three years.

14 These five candidates were
15 chosen for their independence, integrity,
16 civic commitment and high ethical
17 standards. On behalf of the
18 Administration, I respectfully request
19 that you confirm these five nominees to
20 the new independent Board of Ethics by
21 approving Resolutions 060772 through
22 060776 so that they can begin their
23 important work as soon as possible.

24 I also have amendments that I
25 would like to submit to the Committee.

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2 The resolutions as transmitted had each
3 member serving a term ending November 1st
4 of the particular year when their term
5 was to expire. It's not anticipated that
6 the adoption will occur until this coming
7 Thursday, and so we would ask that the
8 resolutions be amended to have terms
9 ending on November 16th of the various
10 years. I believe these were circulated
11 previously with a letter of explanation
12 from the City Solicitor's Office.

13 COUNCIL PRESIDENT VERNA: They
14 were. Thank you. Thank you very much.

15 The Chair recognizes Councilman
16 Clarke.

17 COUNCILMAN CLARKE: Thank you,
18 Madam President.

19 I had a real quick question
20 with respect to the roles and
21 responsibilities of the new Ethics Board,
22 and you've explained that somewhat in
23 your testimony. My question centers
24 around the fact that we currently have an
25 Inspector General whose primary

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2 responsibility is to oversee any
3 unethical or actually illegal activity by
4 City employees. We also have a City
5 Controller, who most people believe
6 that's the Controller's role and
7 responsibility to a degree, and we now
8 have a reconstituted Ethics Board. And
9 my question is, do you anticipate any
10 overlap that could possibly cause
11 problems with the three entities
12 essentially having jurisdiction over
13 that?

14 MS. WILKERSON: I think one of
15 the major challenges of the new Ethics
16 Board is working through those difficult
17 areas. I think the Inspector General's
18 major responsibility is conducting
19 investigations. Their responsibility is
20 largely limited to the executive branch
21 of government. It doesn't extend across
22 all of government.

23 Under the new law, it is, to
24 some extent, an investigative arm of the
25 new Ethics Board, but I think inevitably

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2 there are going to be conflicts and a
3 little bit of confusion, and one of the
4 things that the Board will have to do is
5 chart that course, help define where the
6 boundaries are between the Controller,
7 the Ethics Board and the Inspector
8 General.

9 COUNCILMAN CLARKE: Well, in
10 your testimony, since you referenced
11 DIG's role as being more investigative,
12 you did state in your testimony that the
13 Ethics Board will also have investigative
14 powers. My concern -- and I don't know
15 how this would happen. I'm assuming
16 that, to some degree, these various
17 entities have autonomy. Will there be
18 some sort of coordinated effort or will
19 this be this turf war in terms of who
20 gets to investigate the City employee or
21 whose investigation takes precedence over
22 whom? I'm just a little concerned that
23 we can have somewhat of a conflict and
24 some duplication.

25 MS. WILKERSON: Well, the

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2 Inspector General serves at the direction
3 of the Mayor and does not rise to the
4 level of being a Charter-created
5 position. I think that they're -- I
6 would anticipate there are going to be
7 matters that the Administration might
8 send to the Inspector General to have the
9 Inspector General investigate. Not
10 everything will necessarily go to the
11 Ethics Commission. But we're going to
12 have to work through those issues. I
13 think that --

14 COUNCILMAN CLARKE: So -- I'm
15 sorry. Go ahead. I guess I'm wondering,
16 why do we need an Inspector General?

17 MS. WILKERSON: I think the
18 Administration is interested in having
19 that ability to conduct discreet and
20 secretive investigations of matters that
21 may not fall under the Ethics Board.

22 COUNCILMAN CLARKE: All right.
23 I'm going to leave it at that. I would
24 like to probably inquire a little more
25 further in-depth about the roles and

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2 responsibilities off the record so I can
3 get a better understanding of who will be
4 doing what.

5 MS. WILKERSON: All right.

6 COUNCILMAN CLARKE: Thank you.

7 Thank you, Madam President.

8 COUNCIL PRESIDENT VERNA:

9 You're welcome.

10 The Chair recognizes
11 Councilwoman Miller.

12 COUNCILWOMAN MILLER: Thank
13 you. Thank you, Madam President.

14 Good morning, Ms. Wilkerson.

15 MS. WILKERSON: Good morning.

16 COUNCILWOMAN MILLER: On Page 2
17 of your testimony at, I guess, the last
18 full paragraph, it says, "Board members
19 are limited to serving no more than two
20 five-year terms" and "there are
21 additional restrictions on the activities
22 of Board members both during and after
23 their service."

24 What are those restrictions?

25 MS. WILKERSON: I believe

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2 they're -- Shane, you can help me.

3 I believe they're restricted --
4 some of it is in the testimony. Their
5 political activities are restricted.
6 They can't serve on boards and
7 commissions. I don't believe they can
8 contract with the City.

9 MR. CREAMER: Good morning.
10 Shane Creamer, Executive Director to the
11 current Philadelphia Board of Ethics.
12 Good morning, Councilwoman.

13 Yes, that's correct. The main
14 restriction I think on both the members
15 of the Ethics Board, the new Ethics
16 Board, and also on the Executive Director
17 and General Counsel is that they are
18 prohibited from running for a local City
19 office for a period of two years after
20 they leave the Board. That's the primary
21 restriction after they leave service.

22 COUNCILWOMAN MILLER: And can
23 you tell me what's the difference between
24 the old Ethics Board and the new?
25 Because I just don't know.

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2 MR. CREAMER: Certainly. The
3 current Ethics Board was reconstituted by
4 Executive Order in August of 2004. It is
5 an advisory body only, in that it lacks
6 investigative enforcement powers. It
7 also has its jurisdiction limited to the
8 administrative branch of government since
9 it was created by Executive Order. It
10 cannot reach conduct by those in
11 independently elected offices.

12 The new Ethics Board as a
13 Charter organization will have
14 jurisdiction over all of City government,
15 all the independently elected offices,
16 and it will also have investigative and
17 enforcement powers that the current Board
18 lacks. There is also a provision for
19 monetary fines that are unavailable for
20 violations currently. They escalate in
21 each calendar year.

22 And then the new Board will
23 also have jurisdiction over certain
24 disclosures, including financial
25 disclosures. It will take over that

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2 function from the Records Department, and
3 it will also take over the new campaign
4 finance reporting functions that the
5 Records Department is currently managing.

6 Under one of the ordinances
7 that was passed last year, candidates and
8 campaigns have to report the same
9 campaign finance information that they
10 are required to report to the City
11 Commissioners and to the Secretary of
12 State to now the Records Department and
13 then the new Ethics Board when that gets
14 online. And the new Ethics Board will be
15 required to publish that information
16 online in a searchable database. And the
17 new Board will also have enforcement
18 powers over the campaign finance
19 disclosure process. To the extent that
20 there are material misstatements or
21 omissions in those filings, they will be
22 able to enforce those disclosures.

23 COUNCILWOMAN MILLER: So just
24 the practical question of filing, so we
25 will still take our campaign finance

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2 reports or disclosures and take them
3 downstairs the way we normally do, and
4 then it's their responsibility to get the
5 copies to the Ethics Board?

6 MR. CREAMER: You will still
7 have to take it downstairs to the City
8 Commissioners. However, you will
9 simultaneously be required to transmit it
10 to the Ethics Board. I think that the
11 Records Department has been working on an
12 electronic filing system. I'm not sure
13 where they are. I think they were
14 testing it the last time I spoke to
15 Commissioner Decker. I believe it may be
16 up and running and available for some
17 candidates to take advantage of that
18 electronic filing system, but they also
19 accept paper filing at this time, it's my
20 understanding, and those paper filings
21 are then scanned into the database by the
22 Records Department.

23 The future Ethics Board will
24 have to develop rules and regulations
25 around the campaign finance reporting

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2 function, and under the ordinance,
3 they're also required to reach out to
4 candidates and campaigns to offer
5 instruction on the system and I think
6 also to work with the county
7 commissioners, City commissioners, on
8 that outreach effort.

9 COUNCILWOMAN MILLER: All
10 right.

11 COUNCILMAN CLARKE: Madam
12 President, point of order.

13 COUNCIL PRESIDENT Verna: Yes.
14 The Chair recognizes Councilman Clarke.

15 COUNCILMAN CLARKE: Thank you,
16 Madam President.

17 With respect to Councilwoman
18 Miller's question on the filing,
19 currently under the current system if the
20 candidate does not file certain
21 information on their disclosure form,
22 there can be a court challenge and
23 subsequently that candidate can be taken
24 off the ballot. Will there be a similar
25 potential for penalty if they do not file

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2 adequately with the Ethics Board?

3 MR. CREAMER: Not a similar
4 penalty. I believe -- I think that a lot
5 of this has to be sorted out, but the
6 sanctions that the new Board can issue --

7 COUNCILMAN CLARKE: Will it be
8 sorted out before May?

9 MR. CREAMER: Oh, yes.

10 COUNCILMAN CLARKE: The May
11 primary?

12 MR. CREAMER: Yes. The
13 sanctions are in the statute. I think
14 the Board has to develop rules and
15 regulations on how it's going to enforce
16 those rules, but there is not an
17 available sanction that they would be
18 taken off the ballot under this
19 legislation.

20 COUNCILMAN CLARKE: Because
21 that's state mandated, that's a state
22 regulation?

23 MR. CREAMER: That's correct,
24 but there are monetary fines. If you
25 fail to file a report, you could be

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2 sanctioned a monetary fine by the new
3 Ethics Board.

4 COUNCILMAN CLARKE: Okay.
5 Thank you.

6 Thank you, Madam President.

7 MR. CREAMER: I do have a
8 follow-up on your question, Councilman,
9 on the Inspector General and the
10 relationship between the new Ethics Board
11 and the Inspector General. Originally in
12 the ordinance that has the powers and
13 duties of the new Ethics Board, Bill
14 051024 contained a provision where the
15 new Ethics Board could, if it chose to,
16 refer matters for investigation to the
17 Inspector General, and the Inspector
18 General would thereafter have to issue a
19 report back to the Ethics Board. And I
20 think on the advice of the Law
21 Department, it's my understanding that
22 provision was removed because of concerns
23 over counsel directing an appointee of
24 the Mayor to do certain things. So that
25 language was taken out and what was left

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2 in there was that the new Ethics Board
3 can refer matters for investigation to
4 the Inspector General if they choose to.

5 And I think getting back to
6 your question about overlap, I think
7 there is going to be a lot of overlap
8 between what the new Ethics Board does,
9 what the Inspector General does, what the
10 Controller does and even what the
11 prosecutors do both locally and
12 federally, and I think that the new
13 Ethics Board and the Inspector General
14 and the Controller and even the
15 prosecutors are going to have to work on
16 those relationships. I think that you
17 may see many cases of overlap where, for
18 example, you have what I consider to be
19 an integrity issue, which is the primary
20 jurisdiction of the Inspector General;
21 for instance, maybe misuse of City
22 property. There may be a conflict of
23 interest violation in there that the
24 Ethics Board would pursue, but there's
25 also an integrity issue that the

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2 Inspector General may pursue or the
3 Controller may pursue, and you may see
4 both of those or all three bodies
5 investigating at different times, and
6 they're going to have to work out what
7 sequence is appropriate, particularly if
8 you have a case where you have criminal
9 investigations ongoing. Criminal
10 prosecution may take a priority or it may
11 not. We're going to have to sort out how
12 those investigations relate to one
13 another.

14 But to give you another example
15 of an overlap, the simple case of
16 bribery, if there is a simple case,
17 clearly has -- there's an ethical
18 violation in there, but there's also a
19 criminal violation or potential criminal
20 violation. So the Ethics Board may still
21 act in those cases that are prosecuted
22 criminally, and they're going to have to
23 determine at what point they initiate
24 their enforcement, whether it's
25 simultaneous or whether it's before or

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2 after the criminal prosecution.

3 MS. WILKERSON: But those
4 things happen now. The Inspector General
5 will refer matters for prosecution. I
6 mean, you have that overlap now.

7 COUNCILMAN CLARKE: I
8 understand, and I'm just -- I guess I'm a
9 little concerned that sometimes when you
10 have multiple investigations taking
11 place, it can sometimes create problems
12 for the investigation because of the
13 overlap and because --

14 MR. CREAMER: That's right.
15 And I think one of the challenges in
16 government is to maintain efficiencies
17 and not to duplicate --

18 COUNCILMAN CLARKE: Exactly.

19 MR. CREAMER: -- work and to
20 have inconsistent findings or outcomes or
21 discovery. So I think that I've already
22 had some conversations with the Inspector
23 General about the need for working on a
24 relationship with the new Ethics Board.
25 I don't work for the new Ethics Board,

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2 but I'm preparing the nominees and I'm
3 working on the process here. So I think
4 it's appropriate at this point to
5 consider how they're going to be
6 interacting, and I think that's already
7 occurring. People are already talking
8 about that.

9 COUNCILMAN CLARKE: Thank you.

10 COUNCILWOMAN MILLER: Council
11 President, I just have one more question.

12 Mr. Creamer, you stated when
13 Councilman Clarke asked his question that
14 certain things have not been sorted out
15 yet. So once it's sorted out, is there
16 going to be some type of process to
17 inform Council about policies,
18 procedures, steps, whatever?

19 MR. CREAMER: I'm sorry. I
20 apologize. Sorting out is probably not
21 the most descriptive language I could
22 have used, but under the statute, the new
23 Ethics Board has to adopt policies and
24 procedures for enforcement, for
25 investigations, for rendering informal

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2 advice and for rendering formal advice.
3 They also have to issue rules and
4 regulations around financial disclosure
5 and also on campaign finance. And so the
6 Board is going to have to meet in, I
7 think, a public way to consider what
8 those policies and procedures should be.
9 They're going to have to vote on them, I
10 would imagine, and approve and adopt
11 them, and that would be done in a public
12 way, I would imagine, under the Sunshine
13 Act. And I think that would be the
14 opportunity for Council and the public at
15 large to learn about what the process
16 will be in those areas.

17 MS. WILKERSON: I think there's
18 also an acknowledged role in educating
19 people generally. It's something that
20 started with the current Executive Board.
21 There's been just months and months of
22 education for everybody in local
23 government on a department-by-department
24 basis about what's required of them. I
25 mean, I think as the new Ethics Board

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2 develops its policies, develops its
3 standards, issues opinions, there will be
4 an ongoing need to really meet with the
5 people in the departments.

6 There's currently a system of
7 integrity officers in all City
8 departments, and the new Ethics Board
9 will have to decide whether it wants to
10 continue working through integrity
11 officers in the various departments. But
12 that's been an effective way of helping
13 to educate people in various levels of
14 government as to their responsibilities.

15 COUNCILWOMAN MILLER: What
16 about Council staff and members? Because
17 we have not had the departmental
18 workshops that you're talking about that
19 you've had.

20 MR. CREAMER: That's right.
21 It's always been our intention to offer
22 training to City Council and staff.
23 Regrettably -- and I have a statement
24 from the Ethics Board that mentions our
25 City-wide ethics training program, and

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2 what we did was, we had a "train the
3 trainer" model. We've trained 263
4 embedded trainers throughout City
5 government, and they report to what's
6 called the Training Consortium, which
7 reports to the Personnel Department or is
8 coordinated by the Personnel Department.
9 And the Training Consortium consists of
10 41 Human Resource managers throughout the
11 City, and we were able to sort of use
12 them as the middle men to reach the
13 trainers embedded in the departments and
14 coordinate the training for the trainers.

15 Unfortunately, I think we don't
16 have a staffer from City Council on the
17 Training Consortium currently and so we
18 just sort of -- we were outside that
19 loop.

20 The other issue was that we
21 couldn't compel City Council or staff to
22 accept the training, because we only have
23 jurisdiction over the administrative
24 branch. But it was always our intention
25 to offer that training at some point, and

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2 I think that we would probably want to
3 arrange for different training for
4 Councilmembers and perhaps their top
5 staff than we would for rank and file
6 staff. But that's all to be worked out.

7 We are ready, willing and able
8 to adapt our program for Council's needs,
9 but at a certain point, I think we
10 decided we would just wait for this new
11 Board to come online since there is a
12 provision in there that requires all
13 elected officials, all board and
14 commission members, all department heads
15 to receive mandated ethics training
16 within one year of the effective date of
17 the legislation, which will be June 15th,
18 I believe, 2007. So by June 15th, 2007,
19 City Council will be required under the
20 law to receive ethics training.

21 So at one point -- I'm not sure
22 when it was over the spring or summer --
23 we decided we would defer offering the
24 training to City Council. We thought it
25 would make more sense to make that

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2 something for the new Board to take up
3 with City Council since you're going to
4 be required to do it anyway. We didn't
5 want to duplicate the training for you.

6 COUNCILWOMAN MILLER: Thank
7 you.

8 Thank you, Madam President.

9 COUNCIL PRESIDENT VERNA:
10 You're welcome.

11 The Chair recognizes
12 Councilwoman Tasco.

13 COUNCILWOMAN TASCO: Thank you.

14 Good morning. Good morning,
15 everyone. Welcome. I just want
16 clarification. Some of the questions I
17 had have been answered.

18 I understand we will file our
19 financial disclosure forms with you. In
20 terms of what those disclosures should
21 contain, are we in compliance with the
22 state law or will you -- well, no. The
23 City has its own form, right?

24 MR. CREAMER: Well, yeah.
25 You're talking about financial

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2 disclosure?

3 COUNCILWOMAN TASC0: Right.

4 MR. CREAMER: There are three
5 financial disclosure forms. There is the
6 state form, the City form and then
7 there's a Mayor form that was created by
8 Executive Order, and only certain people
9 have to file that. I think the Mayor and
10 cabinet members and maybe certain
11 department heads have to file that.

12 So there are three forms.
13 Those forms remain unchanged at the
14 moment. And I think it's really just the
15 function of receiving those disclosures
16 will transfer from the Records Department
17 to the new Ethics Board. However, there
18 will be that enforcement layer that does
19 not exist presently that will exist in
20 the future. So if there is a failure to
21 file or a failure to disclose a material
22 misstatement on a financial disclosure
23 form, the new Ethics Board would be able
24 to investigate that and enforce the
25 rules. They may issue sanctions for

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2 those violations.

3 COUNCILWOMAN TASC0: So we
4 would file -- all of the forms would go
5 to the --

6 MR. CREAMER: To the Ethics
7 Board.

8 COUNCILWOMAN TASC0: What about
9 the campaign finance disclosure form that
10 goes to the state?

11 MR. CREAMER: They still will
12 have to -- whatever you have to file with
13 the state will still be filed with the
14 state. Whatever is filed with the City
15 Commissioners still will be filed with
16 the City Commissioners. In addition to
17 those filings, you have to file the same
18 exact information with the new Ethics
19 Board in the future.

20 COUNCILWOMAN TASC0: Do we have
21 to file campaign expense reports with
22 this Ethics Board?

23 MR. CREAMER: I believe the law
24 says all contributions, financial
25 information on contributions and

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2 expenditures, have to be reported to the
3 Ethics Board and it's -- I think the way
4 it's described is in the same information
5 that you have to disclose to the state
6 and to the City Commissioners has to be
7 disclosed.

8 COUNCILWOMAN TASC0: So we file
9 one with you, one with the state and one
10 with the City Commissioners?

11 MR. CREAMER: Correct. And an
12 effort has been made by Commissioner
13 Decker currently, because the law became
14 effective when it was passed earlier this
15 year and before the new Ethics Board was
16 installed, the Records Department was
17 responsible for implementing that
18 provision, and they have made a great
19 effort to make the filing process as
20 consistent with the state process as
21 possible. I think they use the same
22 templates. They work with -- I think
23 there's several vendors that have
24 computer systems, software systems, for
25 candidate finance management, and I

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2 believe their application is consistent
3 with those systems in a way that it
4 should be as painless as possible to
5 duplicate the filing for the Ethics
6 Board.

7 COUNCILWOMAN TASC0: What is
8 the process for review of the financial
9 disclosure forms and/or campaign expense
10 reports? Would the Board have the
11 authority to question expenditures?

12 MR. CREAMER: No.

13 COUNCILWOMAN TASC0: You are
14 just to receive them?

15 MR. CREAMER: That's a very
16 good question. The jurisdiction is
17 limited to enforcing for material
18 misstatements or omissions and that's it.
19 So we cannot question -- and I guess --
20 no. That's it. That is it. We cannot
21 question the nature of the expenditures
22 in any way.

23 MS. WILKERSON: But it also
24 overlaps with the contracting laws, and
25 so City Council enacted the "Nutter

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2 rules" that require that parties doing
3 business with the City for
4 non-competitive contracts disclose
5 certain contributions. That's also
6 enforced by the new Ethics Commission.
7 So there will be disqualification
8 decisions made by the new Ethics Board as
9 a result of campaign contributions. So
10 it's not direct to the Councilperson or
11 the elected official, but it may impact
12 contractors with the City.

13 MR. CREAMER: Right. The new
14 Board will have jurisdiction over the
15 disclosures in the contract process, the
16 new contract process. So in that
17 process, for certain qualifying no-bid
18 contracts, vendors must disclose certain
19 political contributions they've made and
20 their firm has made over the past two
21 years, and they also have to disclose
22 consultants who have been hired to assist
23 them get the contract. So the new Ethics
24 Board, its jurisdiction is essentially
25 limited to the ethics rules, but the

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2 jurisdiction is extended under the law to
3 govern and regulate, again, material
4 misstatements and omissions of the
5 disclosures in that contract procedure.

6 COUNCILWOMAN TASCO: How much
7 staff will you have?

8 MR. CREAMER: Well, that will
9 be up to the new Ethics Board to
10 determine. They're required under the
11 law to hire an Executive Director and a
12 General Counsel, and they're left to
13 determine such other staff as necessary.
14 I suspect that for the functions that
15 they're going to be required to carry out
16 and comparing our program to other
17 municipal ethics programs around the
18 country, I think initially a fair number
19 might be anywhere from four to eight, but
20 it would certainly grow up from there. I
21 think if you look around at some other
22 models around the country with programs
23 that are doing similar functions to what
24 this new Board will be required to do,
25 staff tends to be in the low 20's. But I

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2 think it's certainly going to take us
3 quite a time to get to that level, to
4 grow into that size of a program.

5 COUNCILWOMAN TASC0: Under what
6 department will this Ethics Board fall?

7 MS. WILKERSON: It's an
8 independent commission.

9 COUNCILWOMAN TASC0: Now, what
10 is their budget, line item budget costs?

11 MS. WILKERSON: I think their
12 budget is 1.6 or 1.2.

13 MR. CREAMER: No. It's \$1
14 million in each of the first two fiscal
15 years of operation.

16 MS. WILKERSON: Okay.

17 MR. CREAMER: And then after
18 that, there's language that it has to be
19 an amount that's appropriate for it to
20 fulfill its function, something like
21 that. So there's a guaranteed budget of
22 a million dollars in each of the first
23 two years.

24 COUNCILWOMAN TASC0: You can
25 buy whatever you want to buy. There's no

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2 limit, right?

3 MR. CREAMER: Well, I don't
4 know if it says that.

5 COUNCILWOMAN TASC0: Okay. I
6 think that's all the questions I have
7 right now. Thank you.

8 MR. CREAMER: You're welcome.

9 COUNCIL PRESIDENT VERNA: Thank
10 you.

11 The Chair recognizes
12 Councilwoman Brown.

13 COUNCILWOMAN BROWN: Thank you,
14 Madam President.

15 Good morning, everyone. In
16 response to Councilwoman Tasco's question
17 regarding staff, first repeat the answer,
18 please.

19 MR. CREAMER: Certainly. Under
20 the law, the new Board is required to
21 hire an Executive Director and a General
22 Counsel, and then the law also says that
23 they can hire such staff as they deem
24 necessary and appropriate. Beyond that,
25 my prediction was that at least initially

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2 it would need four to eight people to run
3 the operation initially, within the first
4 six to ten months or so. And then sort
5 of looking forward, if you compare our
6 program and what it's going to be
7 required to do to other municipal ethics
8 programs around the country and what
9 they're required to do, there's some more
10 mature programs out there. There's New
11 York that has been in existence for 17
12 years. They don't have campaign finance
13 responsibilities. That's a different
14 board in New York. There's Los Angeles.
15 They have jurisdiction over campaign
16 finance. They have enforcement
17 responsibilities. I think Los Angeles
18 has a staff of about 23 and a budget of
19 about 2.3 million. I think New York's
20 budget is 1.7 million. Chicago has a
21 staff of, I think, 15. They have a
22 budget of about \$800,000, I believe. I
23 have the details in my --

24 COUNCILWOMAN BROWN: You can
25 forward that to the Chair just for my own

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2 information.

3 MR. CREAMER: Certainly.

4 COUNCILWOMAN BROWN: So given
5 the current state of the department or
6 agency, who is the go-to person for
7 candidates and/or a candidate's team
8 members when they need clarity of the law
9 so that they are in compliance?

10 MR. CREAMER: Currently that
11 would be the Law Department, I believe.

12 COUNCILWOMAN BROWN: That would
13 be the Law Department?

14 MR. CREAMER: And it is the Law
15 Department who I think has been answering
16 those questions. Lewis Rosman in
17 particular I think --

18 COUNCILWOMAN BROWN: Repeat
19 that person's name.

20 MR. CREAMER: Lewis Rosman in
21 the Law Department I believe is the
22 person who has been answering and
23 interpreting those questions.

24 MS. WILKERSON: But I think
25 once the new Commission is up and

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2 operating, it will have an Executive
3 Director. I think it's very unclear
4 where the jurisdiction between the Law
5 Department and the ethics legal
6 department begins and ends. And those
7 are the kinds of conflicts that have to
8 be resolved. There's going to have to be
9 a lot of conversation.

10 I think there's a body of law
11 that currently exists within the City.
12 Evan and other people in the Law
13 Department have been writing opinions for
14 a pretty long time, and whether or not
15 that becomes the law under the new Ethics
16 Board is something that will have to --
17 all those things have to be thought about
18 and resolved moving forward.

19 COUNCILWOMAN BROWN: Well, then
20 recognizing that in 90 short days a
21 number of us will be moving to candidate
22 posture and wanting to honor the letter
23 of the law with regards to the completion
24 of those forms, who is the go-to person?
25 Is it the person you just stated?

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2 MR. CREAMER: Well, that
3 function is currently being handled by
4 the Records Department. So they have
5 been receiving campaign finance reports
6 since January of this year, I believe.
7 They have an electronic database that is
8 available online if you go to the City's
9 website. It is searchable in four
10 different categories, as required by the
11 law. And if you have any questions,
12 technical questions, about how you
13 physically go about submitting the
14 information, I would contact Commissioner
15 Decker, and then if you have questions
16 about interpretation of the law --

17 COUNCILWOMAN BROWN: Which is
18 what my greater question is, the issue of
19 interpretation.

20 MR. CREAMER: I think for the
21 moment, you'd have to go to the Law
22 Department. In the future, once the
23 Ethics Board has counsel, the law
24 provides that the Ethics Board does not
25 have to rely on the advice of the Law

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2 Department, and, therefore, I would think
3 in the future at some point when the new
4 Board has the capacity to answer those
5 questions, then you'll have to go to the
6 General Counsel of the new Ethics Board
7 for questions interpreting that
8 provision.

9 MS. WILKERSON: But with
10 respect to the filing, one thing that the
11 City has been able to do is to support a
12 lot of these varying filing requirements
13 with technology. So, for example, under
14 the "Nutter contracting laws," reports
15 have to get filed, documents filed. The
16 rules aren't necessarily consistent. And
17 with the help of MOIS, a system has been
18 created so that once a document is
19 created electronically, it automatically
20 gets filed in the places that it needs to
21 be filed. And so we'll be working with
22 the Ethics Commission to try to integrate
23 the various filing requirements and
24 support them with technology, give
25 everybody a fighting chance at some of

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2 this.

3 COUNCILWOMAN BROWN: All right.

4 So for the record, in the short term, the
5 point person is?

6 MR. CREAMER: I would go to
7 Commissioner Decker if you need to -- and
8 if she can't answer your question, she
9 will refer you to the Law Department, I
10 believe.

11 But we have a system that is up
12 and running. It is working well. I
13 think Commissioner Decker did a
14 phenomenal job of getting that database
15 up and running in a very short time. I
16 think she did it in less than a month.
17 And I think they have a lot of experience
18 now with the several reporting
19 requirements this year already with
20 receiving reports and voting them into
21 the database and answering questions of
22 candidates and campaigns. So I would
23 certainly go to her first with your
24 questions, and then if she can't answer
25 them, she'll direct you to the right

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2 people.

3 COUNCILWOMAN BROWN: Very well.

4 Thank you.

5 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. I'll be brief, because

12 I know we have to get to a vote at some

13 point.

14 Question, you just referenced

15 the Ethics Board not necessarily being

16 subject to the City Solicitor. So I'm a

17 City employee and I want to get a ruling

18 as to whether or not something that I'm

19 going to get involved with is a conflict

20 of interest. City Solicitor does the

21 opinion and says, That's not a conflict

22 of interest. Ethics Board gets involved

23 and says, after I, the employee, go out

24 and do whatever it is, with the

25 understanding it's not a conflict of

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2 interest, now the Ethics Board comes in
3 and says, Well, that is a conflict of
4 interest, and starts an investigation.

5 Where does that put --

6 MR. CREAMER: You've put your
7 finger on one of the more intriguing
8 parts of the new law, and I think the
9 intention there -- and you are correct,
10 there can be a difference of opinion.
11 The new Ethics Board is not bound by the
12 opinion of the Law Department, and that
13 does create the potential for some
14 conflict in opinions and interpretation.
15 But I think they are potential conflicts.
16 I think that it is possible for the new
17 Ethics Board to work with the Law
18 Department in a way in the future that
19 would minimize, if not eliminate, the
20 potential for conflict there.

21 But there is that provision in
22 the law, and I think there are several
23 reasons why that is so. I think if you
24 ask the people who wrote the law, they'd
25 probably tell you that they wanted this

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2 new Board to be completely independent in
3 every way. It is financially
4 independent. It is politically
5 independent. It is an independent City
6 Charter organization and it is not -- it
7 is independent legally in terms of
8 interpreting the law. It is independent
9 from the City Law Department. I think
10 that's one reason why they did that.

11 A second reason I think that
12 they had --

13 COUNCILMAN CLARKE: I
14 understand the intent. The issue is the
15 practical application.

16 MR. CREAMER: Right.

17 COUNCILMAN CLARKE: And I've
18 heard you on several occasions say that
19 we're going to work it out and we're
20 going to talk about it, and I'm concerned
21 that we, the Council, we can confirm
22 these members today -- and I believe
23 they're all fine individuals. I happen
24 to know a couple of them, so I have no
25 problem with respect to the vote, but the

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2 practical application of the regulatory
3 portion of this Board concerns me,
4 because I keep hearing you say, We're
5 going to work it out, we're going to work
6 it out. The reality is, if we vote to
7 confirm today, we probably won't hear
8 from you again as it relates to the
9 Ethics Board. So --

10 MR. CREAMER: Right. The law
11 does --

12 COUNCILMAN CLARKE: Let me
13 finish.

14 MR. CREAMER: I'm sorry.

15 COUNCILMAN CLARKE: So my
16 question is -- and I'm probably going to
17 get into a little trouble. Somebody will
18 criticize me in saying that I'm not for
19 ethics reform, but is there a way that
20 you can work some of these nuances of
21 this whole regulatory function of the
22 Board prior to final approval? And I
23 know you probably can't, but I guess I'm
24 just concerned that we'll take a vote and
25 we won't hear about it and then these

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2 problems will creep up as we move through
3 the process of --

4 MR. CREAMER: No. I appreciate
5 your question. I think it is a
6 legitimate concern, and I think it's one
7 that's difficult for me to answer because
8 the statute says that the new Board must
9 issue and adopt rules and regulations in
10 certain categories. So that's a process
11 left to be done. It doesn't say how
12 they're supposed to interact with some of
13 these other offices and agencies. That
14 something is a practical matter that they
15 should strive to do.

16 COUNCILMAN CLARKE: Well, who
17 makes that happen?

18 MR. CREAMER: Well, I think
19 that the Board members or working through
20 staff can reach out to people like the
21 Inspector General. I've had
22 conversations already with the Inspector
23 General about anticipating the new Board
24 coming online and how we would work
25 together. The Inspector General, both

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2 this Inspector General and the previous
3 Inspector General, came to several of the
4 current Ethics Board's meetings and they
5 were invited to speak, and one session I
6 think the current Inspector General even
7 participated in an executive session on a
8 matter that we had referred to him and he
9 was reporting back to us at that point on
10 that referral.

11 So we have worked with the
12 current Inspector General. The current
13 Board has in the past. So we have some
14 basis of experience to work from to guide
15 us in the future as we try to work out
16 where the boundaries are and how we're
17 going to work together.

18 MS. WILKERSON: I think when
19 Council enacted this legislation, a lot
20 of these concerns were on the table. I
21 think people understood that we would
22 have to kind of figure it all out, and
23 there's really no way of doing it before
24 you have a Board, because the Board is
25 the entity that has to make the

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2 decisions.

3 COUNCILMAN CLARKE: I
4 understand. I am in no way, shape or
5 form trying to take us out of the
6 equation as it relates to some of the
7 potential problems. We in Council
8 sometimes vote for things and we don't
9 look at the details and the nuances of
10 the details, but we are here today in a
11 confirmation hearing and I just would
12 like to feel comfortable that there is
13 going to be a real process to make sure
14 that some of these details get dealt with
15 in a reasonable way. While we want to
16 create an independent Ethics Board, we
17 don't want to create a board --

18 MS. WILKERSON: Don't want them
19 to be independent.

20 COUNCILMAN CLARKE: -- with
21 reproach. We don't want them to just
22 like -- we're not trying to create kings.
23 And I in no way want to imply that any of
24 these individuals would even accept that
25 role if in fact we tried to make them

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2 kings or queens, but I'm just a little
3 concerned that once we do this, the genie
4 is out of the box and we're not in a
5 position to be ensured that these things
6 will be resolved.

7 MR. CREAMER: Just a couple of
8 comments. I don't know if it will really
9 truly alleviate your concerns, but
10 technically there is a reporting
11 requirement. The new Ethics Board will
12 have to issue periodic reports to City
13 Council and to the Administration. I
14 think there is a requirement for an
15 annual report and then there's a second
16 fiscal report that has to be reported out
17 to Council.

18 And then practically, I think
19 the mission of this new Ethics Board, if
20 you interpret all of the provisions
21 together, is one where they really have a
22 responsibility for educating not only
23 those people within City government but
24 people outside government. They're
25 actually required to reach out. They

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2 have to provide ethics training to
3 businesses. They have to develop a
4 business code of ethics for people that
5 are doing business with the City. And
6 then they have to do the internal
7 training.

8 So I think that the new Board
9 is going to have to think about how it
10 operates functionally in a way that
11 instills confidence in both the people
12 within government and outside of City
13 government, and I think that in order to
14 do that, it's got to be working in sync
15 with some of these other offices. And so
16 I think they will have the right
17 incentive to work cooperatively with some
18 of these other agencies that they have
19 overlapping jurisdiction with, whether
20 they're prosecutors or the Inspector
21 General or the Controller's Office.

22 MS. WILKERSON: And I just want
23 to add, a lot of these laws aren't new
24 laws that they'll be interpreting. The
25 state law has been around for a long

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2 time. A lot of the City's constraints
3 are not new constraints on the activities
4 of employees. The Law Department, Evan
5 and others, have been interpreting these
6 laws for a long time, and this becomes
7 part of what the new Ethics Commission
8 will inherit. You wouldn't expect them
9 to wake up making decisions 180 degrees
10 different, and so they will be drawing on
11 all the case law that precedes their
12 coming into effect.

13 COUNCILMAN CLARKE: All right.
14 If the Administration -- I'd like to get,
15 if at all possible, the budget, to have
16 it forwarded to the Chair, the budget of
17 the Inspector General's Office, and
18 you've already indicated what the budget
19 of the Ethics Board will be. If you can
20 just include that in the information.
21 And if at all possible, the budget of the
22 investigative arm of the City
23 Controller's Office and indicate how many
24 investigators are currently on staff with
25 the Controller, with the Inspector

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2 General and proposed number of
3 investigators on the Ethics Board.

4 COUNCIL PRESIDENT VERNA: Do
5 you have a point of information?

6 COUNCILMAN CLARKE: I'm done,
7 Madam President.

8 COUNCIL PRESIDENT VERNA:
9 Councilwoman, is that a point of
10 information? Because Councilman Rizzo's
11 light has been on.

12 COUNCILWOMAN TASC0: He's done.

13 COUNCIL PRESIDENT VERNA: But
14 Councilman Rizzo's light has been on.

15 COUNCILWOMAN TASC0: Yes, on
16 this issue.

17 COUNCIL PRESIDENT VERNA: Okay.

18 COUNCILWOMAN TASC0: You made
19 me forget my question.

20 MS. WILKERSON: We were talking
21 about budgets.

22 COUNCILWOMAN TASC0: Yeah,
23 right. I guess this is a new issue.
24 I'll wait until -- I'd better write it
25 down.

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2 MS. WILKERSON: I can
3 appreciate that.

4 COUNCILWOMAN TASC0: Councilman
5 Rizzo, I'll wait until you finish.

6 COUNCIL PRESIDENT VERNA: The
7 Chair recognizes Councilman Rizzo.

8 COUNCILMAN RIZZO: Thank you.
9 Good morning.

10 MR. CREAMER: Good morning,
11 Councilman.

12 COUNCILMAN RIZZO: During our
13 briefing last week, I think it was, in
14 the Caucus Room, which I appreciate, I
15 learned a lot there and had an
16 opportunity to meet the nominees, what
17 I'd like to know, we had a lot of
18 discussion there with some of the
19 members, some of the Councilmembers and
20 their staff. Anything that we discuss
21 develop into anything? Did the one point
22 that was made about the fact that I have
23 a concern that there could be an
24 investigation going in an operating
25 department and the Ethics Board not know

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2 about it because there's no requirement
3 for that particular department to notify
4 you that there is an active
5 investigation. And there were some other
6 points, but that's the one that concerned
7 me the most, that that could be held back
8 because there's no requirement to bring
9 that forward to you.

10 MR. CREAMER: I do recall that
11 question, Councilman, and after we had
12 that conversation, I did go back and
13 check the law. I've read it a hundred
14 times and I keep finding new things in
15 there. In the backdrop of your question,
16 I looked at this provision a little
17 differently. It sort of jumped out at
18 me. But there is a provision in there
19 that whenever a City agency receives a
20 complaint alleging a violation of the
21 provisions of this chapter or determines
22 that a violation of this chapter may have
23 occurred, it shall refer such matter to
24 the Board. And so that means that any
25 City agency that knows about a potential

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2 violation of the Ethics Code must report
3 that to the Ethics Board. If they don't,
4 I would think that would be a violation
5 of the Ethics Code, because this is in
6 the Code now. And we have to determine a
7 couple of things, what does it mean for
8 an agency to know. I think that's a
9 matter of interpretation. I think it's
10 something more than just the head of that
11 agency or department knowing about it. I
12 think if a staff worker reports something
13 to a supervisor or manager, I think at
14 that point that would rise to the level
15 of the agency knowing about the potential
16 violation in a way that would force them
17 to refer the matter to the Ethics Board,
18 whether they're conducting an action on
19 it or not.

20 And so we need to teach people
21 in these departments and agencies about
22 this requirement, and they're going to
23 have to develop a process for ensuring
24 that they're in compliance with this
25 provision and that they are capturing all

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2 potential violations that they're aware
3 of and reporting it on to the new Ethics
4 Board.

5 COUNCILMAN RIZZO: That's good
6 to hear. I'm glad that you clarified
7 that. And so I understand, even an
8 internal investigation that is not the
9 result of a phone call, your notification
10 to the Board would be required if an
11 internal investigation --

12 MR. CREAMER: That's correct,
13 as long as it involves a potential
14 violation of the Ethics Code, yes, they
15 would be required to report that on to
16 the Ethics Board, notwithstanding their
17 own investigation.

18 COUNCILMAN RIZZO: What's the
19 mechanism for confidentiality? The more
20 people that know, there's the possibility
21 of leaks. There's the possibility of
22 compromise to the investigation. I think
23 somebody else concerned about a lot of
24 people involved.

25 What is the process and what is

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2 the ramification for a member that would
3 violate or leak or call a friend, say,
4 Hey, look, you're under scrutiny?

5 MR. CREAMER: Right. Actually,
6 just a couple paragraphs down from the
7 provision I just read, there's a
8 provision on confidentiality that says
9 that all of the records, reports,
10 memoranda and filings of the Board shall
11 be confidential. And so I think that up
12 to the point until there is an
13 adjudication perhaps -- and, again, a lot
14 of this process has to be worked out, but
15 I interpret this provision to mean that
16 you cannot disclose a complaint or any
17 information about an investigation or any
18 information or materials that have been
19 discovered in the course of an
20 investigation or an enforcement action
21 until you're at a stage where the
22 enforcement proceeding is going public.

23 COUNCILMAN RIZZIO: What happens
24 if -- not this Board, but what happens if
25 in fact it is determined, a wire tap or

1 11/14/06 - WHOLE - RES. 060772, ETC.
2 something picks up a Board member saying
3 to a person that's under investigation
4 that you're being investigated? There's
5 got to be a consequence.

6 MR. CREAMER: That's a
7 violation of the Ethics Code, I would
8 think. This confidentiality provision is
9 in the Ethics Code, and, therefore, if
10 you violate this provision, that's a
11 violation of the Ethics Code and you'd be
12 subject to the sanctions of the Code.

13 COUNCILMAN RIZZ0: Well, I
14 think it even should be more severe.
15 There should be, I think, even stiffer --

16 MR. CREAMER: Well, I think as
17 a practical matter, if a Board member or
18 staffer did that, I think they would
19 probably have more serious consequences
20 than just the enforcement action.

21 COUNCILMAN RIZZ0: Well, I
22 would hope. There's a lot of trust here.

23 MR. CREAMER: That's correct.

24 COUNCILMAN RIZZ0: Thank you.

25 Thank you, Madam President.

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2 COUNCIL PRESIDENT VERNA:

3 You're welcome.

4 I would like to remind my
5 colleagues that this is a confirmation of
6 the recommended appointees. I think
7 we've gotten off of the confirmation
8 issue. I think we're now actually having
9 a public meeting on the contents of the
10 bill itself.

11 Councilwoman, it's my
12 understanding that Reverend Waller
13 apparently has a 12 o'clock service and
14 would like to be recognized now.

15 So, Ms. Wilkerson, if you'd
16 just remain there.

17 Thank you. Reverend Waller.

18 REVEREND WALLER: Good morning.
19 Please allow me to thank you for this
20 opportunity to come before you this
21 morning. I'm honored to be one of the
22 five nominees announced by the Honorable
23 John F. Street for consideration for the
24 new City Board of Ethics. Please allow
25 me to share with you an overview of my

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2 qualifications and experience as it
3 relates to the Board of Ethics.

4 My name is Reverend Dr. Alyn
5 Waller. I'm the Senior Pastor of the
6 Enon Tabernacle Baptist Church in
7 Germantown and the Mt. Airy sections of
8 Philadelphia. I am a revivalist and a
9 lecturer and a musician, and in the
10 February of 1999 edition of the Upscale
11 Magazine, I was described as a true
12 visionary, an individual who has been
13 called to operate far beyond the
14 restraints of traditionalism.

15 My partner in ministry and
16 marriage is Ellyn Jo Waller. She serves
17 as the leader of our women's ministry and
18 is a devoted mother to our two daughters,
19 Elynn Morgan and Eryka Lynn.

20 I am not from Philadelphia.
21 I'm born in Cleveland, Ohio, 1964, to the
22 late Reverend Dr. Alfred M. Waller and
23 Belva J. Waller. I was awarded a
24 Bachelor degree in music, or a BGS, in
25 1985 from Ohio University in Athens,

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2 Ohio. In June of 1987, I received my
3 license to preach the gospel and was
4 ordained in November of 1988 at the
5 Shiloh Baptist Church in Cleveland, Ohio.
6 I've served as the Minister of Music in
7 Kentucky from 1987 to 1990 at the Canaan
8 Missionary Baptist Church where I also
9 during that time received my Master of
10 Divinity degree from Southern Baptist
11 Theological Seminary in Louisville,
12 Kentucky and my Doctor of Ministry degree
13 in Ministry to Marriage and Family, which
14 is a D.Min, from Eastern Baptist
15 Theological Seminary in Wynnewood,
16 Pennsylvania.

17 In September of 1990, the Lord
18 led me to accept a call to the pastorate
19 at the First Baptist Church of Donora in
20 Pennsylvania, which is Southwest
21 Pennsylvania. In July of 1994, I became
22 the Pastor of the Enon Tabernacle Baptist
23 Church. God's anointing on this
24 pastorate has been evidenced by
25 unprecedented numerical and spiritual

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2 growth. As a result of Enon's growth,
3 four worship services are held each
4 weekend and Saturday evenings, along with
5 three Bible studies during the week,
6 which includes the Hour of Power lunch
7 Bible study, which is held here in Center
8 City, which I'm on my way to, and we have
9 over 50 ministries that serve the
10 community.

11 Responding to the specific
12 needs of the local community and hearing
13 the needs of the community, we
14 established the Enon Coulter Community
15 Development Corporation, a non-profit
16 community development corporation that
17 provides educational and support services
18 to children and families. The ECDC
19 sponsors innovative programs, including a
20 pre-school preparatory program for
21 neighborhood children, after-school
22 advanced computer program for teens and a
23 Christian summer camp experience.

24 My background has been varied
25 and extensive as it relates to my

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2 ministry. I have lectured at numerous
3 institutions throughout the United
4 States, including a number of seminaries,
5 including Union Theological Seminary in
6 New York City, Eastern Baptist
7 Theological Seminary, Center for Urban
8 Theological Studies in Philadelphia,
9 Pennsylvania, Southern Baptist
10 Theological Seminary and Lutheran
11 Theological Seminary, the National Bible
12 Conference presented by the California
13 State Baptist Convention, and I continue
14 to have an extensive music ministry as
15 well.

16 In October 2004, a personal
17 music project was released in the form of
18 a CD entitled "With His Permission."
19 November 2004, we began a radio outreach
20 ministry on WURD 900 AM in Philadelphia
21 on Sunday evenings. We expanded that to
22 include "It's Family Time" every
23 Wednesday from 2 to 3 o'clock with my
24 lovely wife and best friend, Ellyn Jo, as
25 co-host.

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2 Again, in 2006, I released my
3 first book "Enjoy Your Journey," which
4 had an international release date of
5 March 2006 and was released locally April
6 5, 2006.

7 On July 29, 2006, the Lord
8 answered the prayers of Enon Tabernacle
9 Baptist Church and we held our Inaugural
10 Worship Service in our new edifice at
11 Enon East. We are now one church in two
12 locations. Enon West is in Germantown
13 and Enon East in Mt. Airy. The official
14 dedication service was held on Saturday,
15 September 16, 2006.

16 I have been involved with
17 numerous service organizations and have
18 been awarded countless honors for my
19 leadership in the community.

20 Please know that I am looking
21 forward to serving and working as one of
22 the participants of this new Board of
23 Ethics in the City of Philadelphia, if
24 confirmed. We are being asked to serve,
25 for lack of better words, as guardian

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2 angels for the people of Philadelphia.
3 One of our goals is to restore the
4 confidence of our citizens in local
5 governance. The Greek philosopher Plato
6 wrote that good government is wise,
7 brave, temperate and just, which is what
8 this Board will strive to accomplish.

9 Thank you for your indulgence
10 and the opportunity to serve. God bless
11 each one of you.

12 COUNCIL PRESIDENT VERNA: Thank
13 you, Reverend.

14 Are there any questions or
15 comments from any members of the
16 Committee?

17 The Chair recognizes
18 Councilwoman Tasco.

19 COUNCILWOMAN TASCO: I'd like
20 to congratulate Reverend Waller on his
21 appointment. I think it's a good choice.
22 His church is about three blocks from my
23 house and he does a wonderful service and
24 is a man of honesty, high integrity, and
25 I believe he will be fair and just.

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2 COUNCIL PRESIDENT VERNA: Thank
3 you.

4 The Chair recognizes
5 Councilwoman Miller.

6 COUNCILWOMAN MILLER: Thank
7 you, Madam President.

8 I, too, want to welcome
9 Reverend Waller to the world of City
10 Hall, and I also agree with the comments
11 of Councilwoman Tasco and I believe, too,
12 this was an excellent choice.

13 Thank you.

14 COUNCIL PRESIDENT VERNA: Thank
15 you.

16 Thank you very much, Reverend.
17 We appreciate your coming in. Thank you.

18 REVEREND WALLER: Thank you.

19 MR. MCPHERSON: Richard Glazer.

20 COUNCIL PRESIDENT VERNA: Good
21 morning. Welcome.

22 MR. GLAZER: Thank you. Thank
23 you, President Verna. Good morning. My
24 name is Richard Glazer. Thank you for
25 giving me the opportunity to speak in

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 connection with my nomination by Mayor

3 Street for a seat on the newly

4 constituted Philadelphia --

5 COUNCIL PRESIDENT VERNA:

6 Mr. Glazer, excuse me a moment, please.

7 The Chair recognizes Councilman

8 Clarke.

9 COUNCILMAN CLARKE: Thank you,

10 Madam President.

11 Madam President, I have around

12 25 people across the hall waiting for me

13 for an 11 o'clock meeting. I'm clearly

14 late. I'd like to be able to leave my

15 vote for the amendments, all the

16 amendments to the resolutions, and a vote

17 aye on the confirmation of all of these

18 members.

19 COUNCIL PRESIDENT VERNA: Thank

20 you.

21 COUNCILMAN CLARKE: You're

22 welcome.

23 COUNCIL PRESIDENT VERNA:

24 Please proceed, Mr. Glazer.

25 MR. GLAZER: Thank you.

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2 I'd like to share with you some
3 information on my background and my
4 motivation for wanting to serve on this
5 important new Board.

6 My legal career of 32 years was
7 spent at one law firm, Cozen O'Connor.
8 Joining as the fifth attorney in 1972 as
9 a litigator, Department Chair of the
10 largest department of 125 lawyers and
11 with firm-wide management responsibility,
12 I helped to build the firm into one of
13 the 100 largest and most successful law
14 firms in the United States.

15 Retiring from Cozen O'Connor at
16 year end 2003, in February 2004 I began
17 service as "a dollar a year" Senior
18 Advisor to Philadelphia Managing Director
19 Phil Goldsmith, responsible for strategic
20 oversight of special projects, continuing
21 in that role for his successor, Pedro
22 Ramos. Members of Council may be
23 familiar with some of these projects.
24 First, oversight of a working group for
25 the reduction of police overtime for

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2 court attendance; second, liaison with
3 the Law Department in negotiating
4 pedestrian at-grade crossings to access
5 Schuylkill River Park at Race and Locust
6 Streets; third, providing strategic
7 direction to OSH in the development of a
8 comprehensive facilities plan to improve
9 and obtain additional shelters; and
10 assisting Commissioner of Public Property
11 Schlotterbeck in the sale of City assets.

12 My thoughts on this experience
13 in municipal government are perhaps best
14 described in a fairwell e-mail that I
15 have passed on to my City colleagues and
16 has been provided to Council in advance
17 of this testimony.

18 Public service both locally and
19 internationally has always been part of
20 my core values. From two years' service
21 in the Peace Corps in Malawi, Central
22 Africa in my twenties, I have continued
23 my commitment to social justice and good
24 government with active membership on the
25 Boards of Public Interest Law Center of

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2 Philadelphia and the Committee of
3 Seventy. Sensitive to the potential of a
4 conflict of interest, I have tendered
5 resignations to both these organizations.
6 Internationally, I remain active with
7 Malawi Children's Village as a founder,
8 general counsel and Board member of this
9 non-governmental organization that
10 provides physical facilities and
11 village-based assistance to families for
12 the care of their children orphaned by
13 the AIDS pandemic. Additionally, I'm
14 serving as a founding Director of the
15 Board and general counsel for Peace Corps
16 Encore, a national organization created
17 to utilize the cross-cultural skills of
18 returned Peace Corps volunteers to serve
19 again in socially responsible projects in
20 developing countries.

21 As a lifelong native son of
22 Philadelphia who cares deeply about the
23 vitality of the City, being part of this
24 ground-breaking, independent,
25 Charter-sanctioned Board provides another

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2 opportunity for service. Working in the
3 Managing Director's Office for the last
4 two and a half years gives me, I believe,
5 a unique and valuable perspective from
6 within. Having recently met the four
7 other nominees, I am convinced that the
8 Mayor has chosen wisely. They are
9 talented, committed and represent, in the
10 best possible way, Philadelphia's
11 diversity.

12 The citizens of Philadelphia
13 deserve honest and efficient government.
14 They spoke loudly and clearly last May
15 16th when the Charter amendment creating
16 the Ethics Board was approved by over an
17 80 percent margin. Moreover, it does not
18 overstate the case to suggest that
19 meaningful ethics reform, besides its
20 intrinsic value, will help to enhance the
21 economic competitiveness of Philadelphia.

22 If confirmed, I commit to you
23 my energy, equanimity and judgment to
24 create an Ethics Board of which we all
25 can be proud.

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2 Thank you.

3 COUNCIL PRESIDENT VERNA: Thank
4 you.

5 Are there any questions or
6 comments from members of the Committee?

7 (No response.)

8 COUNCIL PRESIDENT VERNA:
9 Seeing none, I thank you very much.

10 MR. GLAZER: Thank you.

11 MR. MCPHERSON: The next
12 witness is Richard Negrin.

13 MR. NEGRIN: Good morning. My
14 name is Richard Negrin. I currently
15 serve as Vice-President and Associate
16 General Counsel to Aramark Corporation
17 here in Philadelphia.

18 First, let me thank you, and I
19 want to acknowledge my wife Karen, who is
20 in the back, who was a distinguished
21 prosecutor here in Philadelphia for ten
22 years in the Child Abuse and Rape Unit of
23 the Philadelphia District Attorney's
24 Office.

25 Thank you for your time. I

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2 think that it is an honor for me to be
3 included with such a distinguished group.
4 We come from different backgrounds, but
5 the one thing that I think we all have in
6 common is, we have a love for the City
7 and the people and our deeply held belief
8 that we can do our part to help move
9 things forward.

10 As Chief Counsel to Aramark
11 Healthcare, I oversee approximately
12 60,000 employees and help enforce what we
13 call a Business Conduct Policy, which is
14 short for the BCP at Aramark. That
15 Business Conduct Policy is not unlike the
16 Philadelphia Code of Ethics. There is a
17 gift policy. There is a conflict of laws
18 policy. There's rules and regulations
19 regarding inappropriate conduct and what
20 people should and should not do. But,
21 most importantly, what I think is
22 significant for this Code of Ethics in
23 the City is, the BCP at Aramark actually
24 creates a culture that is more than just
25 a set of rules but it really is a guiding

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2 principle that everyone takes very
3 seriously. I hope to bring that
4 experience from the corporate environment
5 here to work for the City.

6 Prior to working for Aramark, I
7 was an attorney here with a large law
8 firm called Morgan Lewis & Bockius. At
9 Morgan Lewis, I worked as a litigator in
10 what is commonly referred to as the white
11 collar group, where I helped corporations
12 navigate heavily regulated industries,
13 helped them in their compliance with laws
14 and meeting the regulatory needs and
15 performing internal investigations with
16 regard to employee misconduct. I think
17 that experience and the fact that I bring
18 that to bear is going to be a huge asset
19 based on what we've heard today and what
20 the mission of this Ethics Board is.

21 Prior to Morgan Lewis, I
22 started my career, cut my teeth in the
23 rough and tumble courtrooms here in
24 Philadelphia as a young District
25 Attorney, where I rose to the level of

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2 the Major Trials Unit, prosecuting far
3 too many felony crimes here in
4 Philadelphia but gained a lot of trial
5 experience but, most importantly, learned
6 a very valuable lesson that I think is
7 important for every young lawyer to
8 learn, and, that is, the concept of
9 fairness, the concept of discretion and
10 the concept that the search for justice
11 is of the utmost importance in any
12 endeavor. And I think this endeavor is
13 no different.

14 It's easy when we see this
15 Board being submitted for confirmation to
16 think that this is the beginning of a
17 process. I want to thank City Council, I
18 want to thank the Mayor and I want to
19 thank the staff and the former Board,
20 because I think a lot of work has already
21 been done, and as evidenced by the binder
22 that we received, which is about six
23 inches thick in our orientation packets.
24 But there's been a lot of thought and a
25 lot of time invested in helping us get to

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2 where we are today, and I think that
3 there's a great foundation in place here
4 to help move things forward, and I think
5 everyone is to be commended for that.

6 Throughout my career, when I
7 left the District Attorney's Office to go
8 into private practice, it was critically
9 important for me to keep doing things in
10 the public sector, because I've always
11 had a heart for the City and wanted to
12 give back to it. In recent years, I've
13 served as the Chair of the Governor's
14 Homeland Security Committee for the
15 Pennsylvania Commission on Crime and
16 Delinquency. I've had the honor of
17 serving the City on a task force to
18 examine police discipline, and most
19 recently, I helped work with Pedro Ramos
20 and the City as part of the City's
21 Emergency Preparedness Committee and
22 submitted a report in that regard.

23 I see this Board as an
24 extension of that work, an opportunity on
25 the part of all of us to give back and

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2 help make the City a better place.

3 I look forward to working with
4 all of you, and thank you very much.

5 COUNCIL PRESIDENT VERNA: Thank
6 you.

7 Are there any questions or
8 comments from members of the Committee?

9 (No response.)

10 COUNCIL PRESIDENT VERNA: Thank
11 you again.

12 MR. NEGRIN: Thanks.

13 MR. McPHERSON: Pauline
14 Abernathy.

15 COUNCIL PRESIDENT VERNA: Good
16 morning.

17 MS. ABERNATHY: Good morning.

18 Thank you, Council President Verna,
19 members of City Council and staff, for
20 the opportunity to speak with you this
21 morning and for your leadership in
22 creating an independent City Board of
23 Ethics and enacting other important
24 ethics reforms. My name is Pauline
25 Abernathy, and I'm honored to be

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2 nominated to serve on this Board.

3 In May, Philadelphia residents
4 voted overwhelmingly to amend the City
5 Charter to establish an independent
6 Ethics Board with investigative and
7 enforcement powers, reflecting widespread
8 support for transparent, accountable and
9 effective government. This is not only
10 what residents want, it is also essential
11 for attracting businesses to invest and
12 create jobs in the City.

13 As many have noted, and Rich
14 just did as well, my fellow nominees and
15 I are a diverse group that shares a
16 common love for the City. Whether we
17 were born here or we moved here, we have
18 stayed because of the qualities that make
19 Philadelphia unique.

20 When I moved to Philadelphia in
21 2000 to work for the Pew Charitable
22 Trusts, I immediately felt at home. At
23 the time, I didn't know anyone in
24 Philadelphia. Today as I walk my dog in
25 Center City or as I walk to work, I

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2 invariably see and greet neighbors and
3 friends. Through Leadership
4 Philadelphia, I quickly met community
5 leaders. I joined Tabernacle United
6 Church in West Philadelphia, where I
7 currently serve on the church council.
8 For the last three and a half years,
9 through Philadelphia Futures, I have
10 mentored an extraordinary young woman,
11 who is now a senior at Lincoln High
12 School and applying to college.

13 While I have not been involved
14 in City government, I have spent my
15 entire career working in government at
16 the federal level, both in the
17 legislative and executive branches, as
18 well as in the non-profit sector. My
19 experience has underscored for me both
20 the need for and value of clear ethics
21 rules that are consistently applied and
22 enforced. As a legislative assistant in
23 the Senate, I encountered lobbyists who
24 respected the legislative process and
25 those who did not, who thought they were

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2 entitled to special treatment. While
3 working for the U.S. Deputy Secretary of
4 Education, I saw how the behavior of a
5 small number of employees can demoralize
6 and tarnish the reputation of the vast
7 majority of hard-working and dedicated
8 civil servants.

9 In the course of my work, on
10 multiple occasions, I sought advice from
11 the relevant ethics counsel to ensure I
12 acted within both the letter and the
13 spirit of federal ethics rules and laws.
14 These and other experiences underscored
15 for me the need for public officials to
16 reinforce the importance of ethics rules,
17 for ongoing employee education and
18 training, and for clear rules that are
19 consistently and fairly applied and
20 enforced. City policies, actions and
21 words need to reinforce the expectation
22 and the reality that the City takes
23 ethics seriously and that those who break
24 the rules will be sanctioned. Across the
25 country, the ethical bar for public

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2 officials is indeed rising. That
3 something was acceptable or common in the
4 past is no longer a defense for actions
5 that violate current ethics rules and
6 laws.

7 In setting our priorities and
8 agenda consistent with the City Charter,
9 if confirmed, I expect and am confident
10 that my colleagues and I will immediately
11 seek input from a broad range of people
12 and organizations within and outside of
13 City government. As Rich just said, the
14 new Board of Ethics will benefit greatly
15 from the work of the current Board
16 chaired by Charisse Lillie. We owe its
17 members and staff gratitude for
18 successfully launching the first
19 City-wide ethics education and training
20 program and creating a website that
21 explains City ethics rules and laws,
22 answers frequent questions and provides a
23 place to submit concerns.

24 If confirmed, I will work to
25 ensure the new Ethics Board does its part

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2 to strengthen public trust and ensure
3 that City employees serve the public with
4 integrity.

5 Thank you.

6 COUNCIL PRESIDENT VERNA: Thank
7 you very much.

8 Are there any questions or
9 comments from members of the Committee of
10 this witness?

11 (No response.)

12 COUNCIL PRESIDENT VERNA: Thank
13 you again.

14 MR. MCPHERSON: The next
15 witness is Stella Tsai.

16 MS. TSAI: Good morning. It's
17 always difficult to bat clean-up, but
18 here I am.

19 I wanted to acknowledge my
20 husband, Paul McCarthy, who is Associate
21 General Counsel at the Philadelphia
22 School District, and he also is probably
23 known best to you as the guy at the Law
24 Department who worked on the
25 (unintelligible). So anyway...

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2 I am a shareholder at the
3 Philadelphia office of Christie, Pabarue,
4 Mortensen and Young and a nominee for the
5 Philadelphia Board of Ethics. Thank you
6 for giving us an opportunity to testify
7 before the City Council and your
8 consideration of our nominations for the
9 Philadelphia Board of Ethics.

10 I am honored to be nominated
11 for the Board along with my colleagues
12 Richard Glazer, Pauline Abernathy,
13 Richard Negrin and Reverend Alyn Waller,
14 individuals for whom I have the highest
15 regard. We each have diverse
16 backgrounds, ideas and opinions, but we
17 all share the common goal of wanting to
18 ensure that the public servants uphold
19 the public trust by conducting the
20 business of government ethically and
21 responsibly. We are also keenly aware
22 that the people of Philadelphia are
23 counting on us to act as an independent
24 voice in government to protect against
25 the influence of special interests and

1 11/14/06 - WHOLE - RES. 060772, ETC.
2 self-interest.

3 Fortunately, we are not working
4 from a blank slate, but rather the
5 extensive body of research and expertise
6 provided by Shane Creamer, the current
7 Executive Director, and Law Department
8 colleague, Evan Meyer of the Law
9 Department. We also have the rather
10 excellent and thoughtful work of the
11 former Ethics Board, which is chaired by
12 Charisse Lillie.

13 I was born and raised in
14 Harrisburg, Pennsylvania and first
15 enjoyed an opportunity at public service
16 as a page for the State House of
17 Representative. I then became a
18 legislative fellow of the Bipartisan
19 Management Committee of the House of
20 Representatives, and there I met members
21 of the Philadelphia Caucus. And when I
22 interviewed members of the Philadelphia
23 Delegation, members of the Legislative
24 Black Caucus, I there learned
25 perspectives of the world and politics

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2 that I did not have myself, and these
3 individuals gave me the opportunity to
4 learn about the world other than my
5 narrow perspective from living and
6 growing up in Harrisburg.

7 Soon thereafter, I moved to
8 Philadelphia to start law school at the
9 University of Pennsylvania, and I've
10 worked and lived here ever since. Not
11 only is there incredible architecture and
12 social institutions and incredible sports
13 obsessions here, but I found, more
14 importantly, that the people of
15 Philadelphia have a great deal of empathy
16 for each other and strive to live justly
17 and harmoniously.

18 After working in private
19 practice for 12 years, in 2000 I joined
20 the City Law Department where I was Chair
21 of Administrative Law, where I supervised
22 45, at the end, 45 Law Department
23 attorneys who handled thousands of child
24 welfare cases and mental health
25 proceedings which affects the most

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2 frumpled populations of our City. During
3 my tenure, I worked with the Department
4 of Human Services, the Law Department
5 attorneys, the judges and staff at Family
6 Court and the child/parent advocates to
7 institute court reforms which would
8 provide families of basic procedural
9 norms that are otherwise taken for
10 granted in the court system.

11 I returned to private practice
12 in 2003, but I was not done with public
13 service, because then I became the
14 counsel of the City Service Commission
15 where I helped conduct civil service
16 proceedings and I helped to draft the
17 opinions. These cases, which ranged from
18 disciplinary proceedings to disputed oral
19 examination scores, provided me with a
20 unique opportunity to examine the civil
21 service system and understand both its
22 challenges and its merits.

23 I believe that the people of
24 Philadelphia deserve effective and
25 efficient government and an excellent

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2 return on their tax dollars. The public
3 has entrusted the government and its
4 elected officials to provide a
5 significant portion of its resources --
6 to provide these resources and make
7 appropriate investments in -- provide
8 these services and make significant and
9 appropriate investments in the community.

10 If confirmed, I will work with
11 my fellow Board members to ensure that
12 there are clear, basic rules and
13 procedures that will protect the public's
14 interest. We will help to educate the
15 government and the public on the meaning
16 and value of ethics government and use
17 good, sound judgment in the application
18 and enforcement of these rules and
19 procedures.

20 Thank you very much for your
21 time. I really appreciate the
22 opportunity to serve.

23 COUNCIL PRESIDENT VERNA: Thank
24 you very much.

25 Are there any questions or

1 11/14/06 - WHOLE - RES. 060772, ETC.
2 comments from members of the Committee of
3 this witness?

4 (No response.)

5 COUNCIL PRESIDENT VERNA:

6 Again, I thank you.

7 Does anyone else wish to
8 testify on the resolutions?

9 COUNCILWOMAN TASCO: I just
10 have one question.

11 COUNCIL PRESIDENT VERNA: The
12 Chair recognizes Councilwoman Tasco.

13 COUNCILWOMAN TASCO:
14 Ms. Wilkerson, I just want to ask a
15 question. Will the staff of the Ethics
16 Board be civil service or appointments?

17 MS. WILKERSON: I believe they
18 are exempt employees, not civil service.

19 COUNCIL PRESIDENT VERNA: The
20 Chair recognizes Councilman Goode.

21 COUNCILMAN GOODE: I just have
22 one question for all the proposed members
23 of the Board of Ethics. I did not want
24 to ask it after individual testimonies,
25 but wanted to ask it after everyone was

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2 done their individual testimonies.

3 The question is, we've talked
4 about the work of the Ethics Board that
5 was done through Executive Order.
6 Somewhat lost in the conversation is the
7 fact that there were a number of pieces
8 of legislation offered by the Mayor and
9 City Council over the last few years,
10 many of which were not voted on,
11 considered or enacted, and my question to
12 the Ethics Board is, to what extent do
13 you think it appropriate for Council to
14 continue to legislate on ethics issues
15 from this point on? That's for each of
16 the members of the Board.

17 MS. ABERNATHY: I think I can
18 speak for all of us in saying that the
19 work of ethics work is never done and
20 there is always room for improvement, and
21 as the world changes, laws need to change
22 as well. So I would expect there would
23 continue to be work in this area, as in
24 every other area.

25 MS. TSAI: And to the extent

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2 that we would observe some areas that
3 might need amendment because of some
4 practical realities in facing and dealing
5 with these laws, that we would turn
6 perhaps to City Council to help us make
7 these changes. So I see a role for City
8 Council -- I think we all do -- in the
9 continuing work of this particular Board.

10 MR. GLAZER: Councilman, part
11 of the ordinances that were passed do
12 require and charge the new Board with
13 providing recommendations for additional
14 ethics legislation, so that that should
15 and would be part of our duties and
16 responsibilities.

17 COUNCILMAN GOODE: I guess my
18 question is a little bit more direct. Of
19 the several pieces of legislation that
20 were offered, there was not a lot of
21 consensus on several pieces of them.
22 Therefore, we were pleased to be able to
23 pass an independent Board of Ethics,
24 believing that to be the most important
25 piece of legislation that we could pass.

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2 To what extent is it
3 appropriate, after the new independent
4 Board of Ethics takes power, for us to
5 individually or independently legislate
6 on the issue of ethics, particularly
7 around those issues that may or may not
8 become policies of the Board?

9 MR. NEGRIN: If I can answer
10 that. To the extent that -- I think it
11 was Pauline --

12 COUNCIL PRESIDENT VERNA: I
13 think you ought to identify yourself if
14 you're responding, please.

15 MR. NEGRIN: Richard Negrin.

16 I think it was Pauline who
17 stated that one of the things we want to
18 do as a Board is talk to people as
19 broadly as possible, so that when we sit
20 down to talk about our processes and
21 logistics of doing what we do in helping
22 to work out some of the things that we
23 were talking about earlier today in terms
24 of there's gaps that are going to have to
25 be filled in terms of how we go about

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2 doing this important work, I certainly
3 think it's appropriate for anyone in this
4 room and anyone who has a vested interest
5 to have input in that process and to talk
6 to us about how we might do that, to the
7 extent that there's anything that did not
8 make it, to answer your question
9 directly.

10 COUNCILMAN GOODE: I'll try it
11 one more time. How do we distinguish
12 between policy by the independent Board
13 of Ethics or legislation that may be
14 passed by this Council and signed into
15 law by the Mayor in the future? Does one
16 override the other?

17 MS. TSAI: Well, I'll take a
18 stab at this. I would think that if
19 there is a piece of legislation that were
20 passed by this body and that was then
21 signed off by the Mayor, or however it
22 would become law, certainly with respect
23 to procedures and policies, that would
24 have certainly some binding effect on the
25 Board, I believe. So if you were to

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2 adopt policies and procedures
3 inconsistent with those that we used as
4 operating procedures internally, I would
5 think that we'd have to abide by whatever
6 rules and procedures are enacted as
7 legislation.

8 Am I missing it?

9 MR. GLAZER: Let me try it.
10 The statute provides to the Ethics Board
11 the exclusive jurisdiction for
12 interpreting the particular Ethics Codes,
13 which are included in the Home Rule
14 Charter, the City Code and the State
15 Code. To the extent that you are making
16 reference to new legislation, that would
17 clearly be the prerogative of Council,
18 but, again, I think that we are charged
19 with if we see something that seems to
20 work, to be a remedy, we would report to
21 you and suggest that that is possible
22 future legislation.

23 COUNCILMAN GOODE: Okay. Thank
24 you.

25 Thank you, Madam President.

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2 COUNCIL PRESIDENT VERNA: Thank
3 you.

4 Any other questions or comments
5 from members of the Committee?

6 Yes. Ms. Wilkerson.

7 MS. WILKERSON: Joyce
8 Wilkerson, Chief of Staff.

9 I've been corrected by the City
10 Solicitor Evan Meyer. I said that I
11 thought that employees of the Commission
12 would probably not be civil service. The
13 Executive Director in fact would be
14 exempt. The lawyers for the Commission
15 would be exempt. Those are the only
16 exempt positions. The staff to the
17 Commission, the other staff to the
18 Commission, would probably need to be
19 civil service. But we can get an opinion
20 from the Law Department before they go
21 out of business in this area. We'll get
22 clarity somehow.

23 COUNCIL PRESIDENT VERNA: Okay.
24 Thank you very much. Thank you.

25 Do we have anyone else that

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 would like to testify?

3 MR. CREAMER: Shane Creamer,
4 Executive Director of the current Board
5 of Ethics.

6 Madam President, I have a
7 statement from the current Board of
8 Ethics, which has been submitted this
9 morning, that I would like to read to
10 you, if I could.

11 COUNCIL PRESIDENT VERNA:
12 Please.

13 MR. CREAMER: Thank you.

14 To the Committee of the Whole,
15 the members of the current Philadelphia
16 Board of Ethics, reconstituted by
17 Executive Order 001-04 in August 2004,
18 regret that they are unable to appear
19 before City Council to testify on
20 Resolutions 060773 (sic) through 060776
21 regarding confirmation of the five
22 nominees to the new independent Board of
23 Ethics. Nevertheless, the current Ethics
24 Board respectfully requests that the
25 Committee of the Whole accept the Board's

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 unanimous support of the confirmation
3 process for the five nominees to the new
4 independent Board of Ethics.

5 In early 2004, the Ethics
6 Committee of the Philadelphia 21st
7 Century Review Forum recommended that the
8 Philadelphia Home Rule Charter be amended
9 to create a new Board of Ethics with all
10 necessary adjudicatory and enforcement
11 powers. Both the Chair and Vice-Chair of
12 the current Ethics Board were members of
13 that Committee. All members of the
14 current Ethics Board have advocated that
15 an independent Ethics Board with
16 enforcement powers be created to replace
17 the current Board since it was
18 reconstituted in August 2004. The
19 current Board has always supported the
20 legislative process necessary to produce
21 an independent Ethics Board. Our support
22 for an independent Ethics Board was first
23 expressed in a statement issued on
24 September 22, 2004 and was later
25 expressed in the form of testimony

1 11/14/06 - WHOLE - RES. 060772, ETC.
2 presented to the Committee on Law and
3 Government almost exactly a year ago, on
4 November 16, 2005.

5 The current Board understood
6 that the legislative process would take
7 time. In the interim, we have worked to
8 build a foundation for a robust ethics
9 program, which we knew that one day the
10 new independent Ethics Board would
11 continue to build upon.

12 We have created a City-wide
13 Ethics Training Program, which provided
14 ethics training to 16,224 City officials
15 and employees in the first ten months of
16 operation. This ongoing initiative will
17 provide ethics training to most of the
18 City's workforce by the end of this
19 calendar year. No other city in the
20 country has trained as much of its
21 workforce over a similar time period as
22 we have already trained in Philadelphia.

23 We have created an Ethics Board
24 website that is a powerful resource for
25 anyone who seeks to learn more about the

1 11/14/06 - WHOLE - RES. 060772, ETC.
2 ethics rules, recent ethics legislation
3 or about the current Board's activities
4 and operation. The current Board
5 facilitated the distribution of The
6 Philadelphia Code of Ethics to every City
7 official and employee in July of this
8 year, as required by the same ordinance
9 that contains the powers and duties for
10 the new Ethics Board. We have also
11 rendered advisory opinions to those
12 seeking guidance on the ethics rules and
13 conducted a review of conduct that raised
14 an appearance of impropriety.

15 The current Board supports this
16 penultimate step in the legislative
17 process necessary to establish the new
18 Ethics Board, the confirmation of the
19 Mayor's five nominees to the new Board by
20 a majority of the members of City
21 Council. We applaud City Council for
22 scheduling this confirmation hearing
23 promptly. The five nominees to the new
24 Ethics Board are highly qualified
25 candidates with diverse backgrounds and

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 experiences. We urge Council to vote on
3 the nominees quickly in order to move
4 Philadelphia further along the road to a
5 new independent Board of Ethics as
6 swiftly as possible.

7 Once the new Ethics Board is
8 installed, we will work with it to ensure
9 a smooth transition of the City's ethics
10 program from one Board to the next. To
11 that end, we will submit a report to the
12 new Board and to the Administration that
13 will describe our work over the past two
14 years and will include our
15 recommendations to the new Board and to
16 the Administration.

17 Respectfully submitted,
18 Charisse R. Lillie, Esquire, Chair; Dan
19 P. McElhatton, Esquire, Vice-Chair; and
20 Romulo L. Diaz, Jr., Esquire, Member.

21 Thank you.

22 COUNCIL PRESIDENT Verna: Thank
23 you very much.

24 Any questions or comments from
25 members of the Committee?

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 (No response.)

3 COUNCIL PRESIDENT VERNA:

4 Seeing none, thank you again.

5 MR. CREAMER: Thank you.

6 COUNCIL PRESIDENT VERNA: I

7 would like to place on the record a memo

8 I received from the Law Department that

9 encloses proposed amendments to each of

10 the five resolutions confirming the Board

11 of Ethics appointments. I circulated a

12 copy of that memo and the amendments to

13 all members yesterday.

14 As explained in the memo, both

15 the title and the body of each of the

16 resolutions need to be amended to correct

17 the date each term will end. That date

18 depends on the date the resolutions are

19 adopted. So the amendments would insert

20 November 16th of the appropriate year in

21 each resolution, of course, on the

22 assumption that Council will approve

23 these resolutions at this Thursday's

24 session of Council. If for any reason

25 Council does not approve these

1 11/14/06 - WHOLE - RES. 060772, ETC.
2 resolutions on Thursday, they can be
3 amended again to reflect any later
4 approval date.

5 Are there any questions on the
6 amendments?

7 (No response.)

8 COUNCIL PRESIDENT Verna:
9 Seeing none, this will conclude the
10 public hearing. We will now go into our
11 public meeting of the Committee of the
12 Whole, and the Chair recognizes
13 Councilwoman Blackwell for a motion to
14 amend Resolution No. 060772.

15 COUNCILWOMAN BLACKWELL: Thank
16 you, Madam President. I move that the
17 amendment to Resolution No. 060772 as
18 circulated and described by you be
19 adopted.

20 (Duly seconded.)

21 COUNCIL PRESIDENT Verna: It
22 has been moved and seconded that the
23 amendment stand approved.

24 All in favor will please say
25 aye.

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 (Aye.)

3 COUNCIL PRESIDENT VERNA: Those
4 opposed?

5 (No response.)

6 COUNCIL PRESIDENT VERNA: The
7 ayes have it and the amendment is
8 adopted.

9 Again, the Chair recognizes
10 Councilwoman Blackwell.

11 COUNCILWOMAN BLACKWELL: Thank
12 you, Madam President. I move that the
13 amendment to Resolution 060773 be
14 adopted.

15 COUNCIL PRESIDENT VERNA: Be
16 what? I'm sorry. I didn't hear you.

17 COUNCILWOMAN BLACKWELL: I'm
18 sorry. Madam President, I move that
19 Resolution No. 060772 as amended be
20 reported out of Committee with a
21 favorable recommendation.

22 (Duly seconded.)

23 COUNCIL PRESIDENT VERNA: It
24 has been moved and properly seconded that
25 Resolution No. 060772 be reported out of

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 Committee with a favorable recommendation
3 as amended.

4 All in favor will indicate by
5 saying aye.

6 (Aye.)

7 COUNCIL PRESIDENT Verna: Those
8 opposed?

9 (No response.)

10 COUNCIL PRESIDENT Verna: The
11 ayes have it and the motion carries.

12 Again, the Chair recognizes
13 Councilwoman Blackwell regarding
14 Resolution No. 060773.

15 COUNCILWOMAN BLACKWELL: Thank
16 you, Madam President. I move that the
17 amendment as circulated to Resolution No.
18 060773 be adopted.

19 (Duly seconded.)

20 COUNCIL PRESIDENT Verna: It
21 has been moved and seconded that the
22 amendment as submitted be adopted.

23 All in favor will signify by
24 saying aye.

25 (Aye.)

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 COUNCIL PRESIDENT VERNA: Those
3 opposed?

4 (No response.)

5 COUNCIL PRESIDENT VERNA: The
6 ayes have it and the motion carries.

7 Again, the Chair recognizes
8 Councilwoman Blackwell.

9 COUNCILWOMAN BLACKWELL: Thank
10 you, Madam President. I move that
11 Resolution No. 060773 as amended be
12 reported out of Committee with a
13 favorable recommendation.

14 (Duly seconded.)

15 COUNCIL PRESIDENT VERNA: It
16 has been moved and seconded that
17 Resolution No. 060773 be reported out of
18 Committee with a favorable recommendation
19 as amended.

20 All in favor will say aye.

21 (Aye.)

22 COUNCIL PRESIDENT VERNA: Those
23 opposed?

24 (No response.)

25 COUNCIL PRESIDENT VERNA: The

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 ayes have it and the motion carries.

3 The Chair recognizes
4 Councilwoman Blackwell regarding
5 Resolution No. 060774.

6 COUNCILWOMAN BLACKWELL: Thank
7 you, Madam President. I move that the
8 amendment to Resolution No. 060774 be
9 adopted.

10 (Duly seconded.)

11 COUNCIL PRESIDENT VERNA: It
12 has been moved and seconded that the
13 amendments as circulated be adopted.

14 All in favor will say aye.

15 (Aye.)

16 COUNCIL PRESIDENT VERNA: Those
17 opposed?

18 (No response.)

19 COUNCIL PRESIDENT VERNA: The
20 ayes have it and the motion carries.

21 Again, the Chair recognizes
22 Councilwoman Blackwell.

23 COUNCILWOMAN BLACKWELL: Thank
24 you, Madam President. I move that
25 Resolution No. 060774 as amended be

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 reported out of Committee with a
3 favorable recommendation.

4 (Duly seconded.)

5 COUNCIL PRESIDENT VERNA: It
6 has been moved and seconded that
7 Resolution No. 060774 be reported out of
8 Committee with a favorable recommendation
9 as amended.

10 All in favor will signify by
11 saying aye.

12 (Aye.)

13 COUNCIL PRESIDENT VERNA: Those
14 opposed?

15 (No response.)

16 COUNCIL PRESIDENT VERNA: The
17 ayes have it and the motion carries.

18 Again, the Chair recognizes
19 Councilwoman Blackwell regarding
20 Resolution No. 060775.

21 COUNCILWOMAN BLACKWELL: Thank
22 you, Madam President. I move that the
23 amendment to Resolution No. 060775 be
24 adopted.

25 (Duly seconded.)

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 COUNCIL PRESIDENT VERNA: It
3 has been moved and seconded that the
4 amendment as proposed be adopted.

5 All in favor will say aye.
6 (Aye.)

7 COUNCIL PRESIDENT VERNA: Those
8 opposed?

9 (No response.)

10 COUNCIL PRESIDENT VERNA: The
11 ayes have it and the amendment is
12 adopted.

13 Councilwoman Blackwell.

14 COUNCILWOMAN BLACKWELL: Thank
15 you, Madam President. I move that
16 Resolution No. 060775 as amended be
17 reported out of Committee with a
18 favorable recommendation.

19 (Duly seconded.)

20 COUNCIL PRESIDENT VERNA: It
21 has been moved and seconded that
22 Resolution No. 060775 be reported out of
23 Committee with a favorable recommendation
24 as amended.

25 All in favor will please say

1 11/14/06 - WHOLE - RES. 060772, ETC.
2 aye.
3 (Aye.)
4 COUNCIL PRESIDENT Verna: Those
5 opposed?
6 (No response.)
7 COUNCIL PRESIDENT Verna: The
8 ayes have it and the resolution as
9 amended will be reported out of
10 Committee.
11 Again, the Chair recognizes
12 Councilwoman Blackwell regarding
13 Resolution No. 060776.
14 COUNCILWOMAN BLACKWELL: Thank
15 you, Madam President. I move that the
16 amendment to Resolution No. 060776 be
17 adopted.
18 (Duly seconded.)
19 COUNCIL PRESIDENT Verna: It
20 has been moved and seconded that the
21 amendment as proposed to Resolution No.
22 060776 be adopted.
23 All in favor will say aye.
24 (Aye.)
25 COUNCIL PRESIDENT Verna: Those

1 11/14/06 - WHOLE - RES. 060772, ETC.

2 opposed?

3 (No response.)

4 COUNCIL PRESIDENT VERNA: The

5 ayes have it and the amendment is

6 adopted.

7 Councilwoman Blackwell.

8 COUNCILWOMAN BLACKWELL: Thank

9 you, Madam President. I move that

10 Resolution No. 060776 as amended be

11 reported out of Committee with a

12 favorable recommendation.

13 (Duly seconded.)

14 COUNCIL PRESIDENT VERNA: It

15 has been moved and seconded that

16 Resolution No. 060776 be reported out of

17 Committee with a favorable recommendation

18 as amended.

19 All in favor will signify by

20 saying aye.

21 (Aye.)

22 COUNCIL PRESIDENT VERNA: Those

23 opposed?

24 (No response.)

25 COUNCIL PRESIDENT VERNA: The

1 11/14/06 - WHOLE - RES. 060772, ETC.
2 ayes have it. And this will conclude our
3 public meeting. I thank you all for your
4 patience. You've been extremely patient.
5 Thank you.

6 (Committee of the Whole
7 adjourned at 12:10 p.m.)

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CERTIFICATE

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I HEREBY CERTIFY that the

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proceedings, evidence and objections are

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contained fully and accurately in the

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foregoing matter on November 14, 2006, and

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that this is a true and correct transcript of

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same.

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MICHELE L. MURPHY

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RPR-Notary Public

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