

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC SAFETY

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, December 12, 2012
2:25 p.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR., CHAIR
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN BOBBY HENON
COUNCILMAN JAMES KENNEY
COUNCILMAN DENNIS O'BRIEN
COUNCILMAN DAVID OH
COUNCILWOMAN BLONDELL REYNOLDS BROWN

RESOLUTION 120807 - Resolution authorizing
Council's Committee on Public Safety to
investigate the potential financial liability
and fiscal impact to the city for the current
contract with the Philadelphia Fire Fights
that will enter arbitration for a third time.

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COUNCILMAN JONES: We'll be now proceeding with the Committee on Public Safety.

We'll now open our public hearing on Resolution No. 120807. I note for the record that we do not need a quorum, but I do have the co-sponsor of this bill, Councilman Oh is here, Councilman O'Brien, Councilwoman Blondell Reynolds Brown is here.

And will the Clerk read the title of the resolution.

Councilman Bobby Henon is also here, my Vice-Chair of Public Safety.

THE CLERK: Resolution 120807, authorizing Council's Committee on Public Safety to investigate the potential financial liability and fiscal impact to the city for the current contract with the Philadelphia Fire Fighters that will enter arbitration for a third time.

COUNCILMAN JONES: Thank you. And I will ask Councilman Oh, the author of this resolution, to a few opening

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2 remarks.

3 COUNCILMAN OH: Thank you very
4 much, Mr. Chairman, and I appreciate all
5 of the Committee members, number one, for
6 being here and, second of all, for
7 allowing me to sit up here as well.

8 I think this is a critical
9 issue, and it goes to the heart of what
10 we do. We as legislators represent the
11 taxpayers of this city, and ultimately we
12 are being asked to fund the efforts of
13 this city when it comes to public safety,
14 and we do not know how much that is. On
15 the one hand, we hear \$200 million and
16 the City cannot afford it. On the other
17 hand, we hear \$64 million and the City
18 can afford it.

19 So in this situation, so that
20 we are not caught by surprise or we may
21 have to be ordered to make payments that
22 we're not prepared for, thereby putting
23 the taxpayers of this city at risk, and
24 also because we want to understand that
25 if there is an amount of money that is

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2 not in disagreement, why has that money
3 not been put aside, why have payments not
4 been started, as this is an issue that I
5 think is important to everyone here.

6 So thank you very much for the
7 opportunity to address that issue.

8 COUNCILMAN JONES: Would other
9 members of this Committee or in Council
10 like to say a few words in the opening of
11 this hearing.

12 Councilman O'Brien.

13 COUNCILMAN O'BRIEN:
14 Mr. Chairman, I would like to thank you
15 for having these important hearings, and
16 I'd like to thank Councilman Oh for the
17 introduction of this inquiry into the
18 status of the Firefighters contract.

19 There's just a couple
20 observations. One being that the City
21 police officers and the firefighters
22 operate under Act 111, which precludes
23 them from the right to strike. There
24 also was amendments to Act 111 in
25 Harrisburg during the PICA negotiations,

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2 and in that legislation it said that the
3 arbitrators have to give weight to the
4 financial condition of the City. I will
5 state for the record I was there when
6 that took place, and it never was meant
7 to be controlling. It was meant so the
8 arbitrators would look at the financial
9 condition of the City, and they have
10 properly made awards given weight to the
11 financial condition of the City.

12 There's always been parity
13 between the FOP and the Firefighters.
14 There's a number of other issues that
15 have attached to these contract
16 negotiations over the last several years.
17 I'm looking for clarity. I've requested
18 information from the Administration on a
19 number of points, including the financial
20 aspects of this contract, training, and
21 other issues that we've made in other
22 hearings related to firefighters, and I'm
23 still waiting for that information to be
24 delivered to my office or to the members
25 of the Committee.

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2 I find it difficult to the
3 calculate at this point, given the lack
4 of response from the Administration, that
5 this appeal is nothing but punitive. So
6 I'm desperately looking for explanations
7 today to take me in another direction,
8 but what I'm really looking for is fair
9 and adequate treatment for our
10 firefighters who protect this city at
11 large in extraordinary ways, at great
12 sacrifice to themselves.

13 Thank you.

14 (Applause.)

15 COUNCILMAN JONES: Are there
16 any other members wishing to have an
17 opening statement?

18 Councilman Henon.

19 COUNCILMAN HENON: Thank you,
20 Mr. Chairman. And I too just want to
21 echo what some of my colleagues had just
22 stated, and I want to thank the author,
23 Councilman Oh, for the introduction of
24 this, as I think this is a great
25 opportunity for everybody in the --

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2 especially with the most recent news of
3 another appeal from a contract.

4 We all want to see fair
5 contracts for the folks who are on the
6 front lines and our friends and our
7 family. I don't know anybody who doesn't
8 live next to a firefighter or has a
9 firefighter in their family. And we
10 appreciate what you do on a daily basis,
11 putting your lives at risk, and I think a
12 fair contract is just that, a fair
13 contract, and you deserve a fair
14 contract. And I couldn't see a better
15 forum to have the questions asked and
16 questions answered in a public hearing
17 like we have here.

18 So I look forward to hopefully
19 coming to some kind of resolve on some of
20 the questions that have been outstanding
21 and also have the voices heard to some of
22 the questions that have never been
23 answered.

24 So game on. Let's go, guys.

25 (Applause.)

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2 COUNCILMAN JONES: Thank you,
3 Councilman.

4 First and foremost, before the
5 Clerk calls the first witness, thank you
6 for your patience. We had a lot of
7 business to attend to today. None more
8 important than yours, but needed
9 attention.

10 So will the Clerk please read
11 the first person to be called.

12 THE CLERK: Suzan Chau.
13 (Witness approached witness
14 table.)

15 COUNCILMAN JONES: Good
16 afternoon.

17 MS. CHAU: Good afternoon,
18 members of the Committee.

19 COUNCILMAN JONES: Would you
20 please state your name for the record and
21 begin your testimony.

22 MS. CHAU: My name is Suzan
23 Chau.

24 COUNCILMAN JONES: Try the
25 other mic. Bring the other mic over.

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2 It's been a long day. Can you try it
3 again? There you go.

4 MS. CHAU: Good afternoon,
5 Chairman Jones and members of the
6 Committee. My name is Suzan Chau and I'm
7 an attorney. Most recently I worked for
8 the First Judicial District of
9 Pennsylvania for a period of 11 years as
10 a law clerk and then later as a staff
11 attorney under Court Administration.
12 During my employment with the First
13 Judicial District, my duties included
14 legal research, analysis, and writing,
15 primarily for civil cases. I graduated
16 from Temple University School of Law and
17 earned a BA from Cornell University. I
18 am licensed to practice law in the
19 Commonwealth and the States of New Jersey
20 and Hawaii. I am also admitted to argue
21 before the US District Court of New
22 Jersey and the Supreme Court of the
23 United States.

24 I'm here today to testify on
25 the most recent arbitration award between

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2 the City and the International
3 Association of Firefighters, Local 22.
4 In preparing for today's testimony, I
5 reviewed the opinions of the arbitration
6 panel, the evidence that was submitted
7 during the arbitration, and researched
8 the governing law on arbitrations between
9 public employers and labor unions. The
10 arbitration records were made available
11 to me through Councilman Oh's office.

12 Before I begin, I would like to
13 explain why this award was subject to
14 arbitration and what an arbitration is.
15 Most of you may already know the answers
16 to this, but just in case, I'd like to
17 make sure we're all on the same page with
18 legal terminology and mechanics. Also,
19 it will provide a comprehensive overview
20 for the record.

21 I believe all of you have
22 handouts, and if I may direct your
23 attention to Slide 1.

24 COUNCILMAN JONES: You can
25 continue.

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2 MS. CHAU: An arbitration is a
3 process used to resolve disputes outside
4 of a court. It's held privately and
5 conducted in the same fashion as a trial,
6 but it's not as formal.

7 During an arbitration, disputes
8 are presented before one or more
9 arbitrators, who serve as both judge and
10 jury in the case. When there is a panel
11 of arbitrators, an award is reached when
12 the majority of the panel agrees on a
13 decision, and this decision is
14 enforceable by law.

15 As for the reason why this
16 dispute is subject to arbitration, it's
17 the law in Pennsylvania. If I may direct
18 your attention to Slide 2. Under Act
19 111, firefighters and police are not
20 permitted to strike, as Councilman
21 O'Brien stated.

22 COUNCILMAN O'BRIEN: I don't
23 have Slide 1 or Slide 2. Are they in the
24 back?

25 COUNCILMAN JONES: Yes.

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2 COUNCILMAN O'BRIEN: Okay.

3 COUNCILMAN JONES: Thank you.

4 MS. CHAU: Firefighters and
5 police are not permitted to strike. They
6 are, however, permitted to unionize and
7 seek binding arbitration when an
8 agreement on compensation and benefits
9 cannot be reached.

10 In this particular case, a
11 panel of three arbitrators was selected
12 to preside over the arbitration. The
13 three arbitrators serving on the panel
14 consisted of one arbitrator selected by
15 the Firefighters Union, one arbitrator by
16 the City, and a neutral arbitrator
17 approved by both the City and Local 22.
18 I should also like to mention that all of
19 the arbitrators who served on the panel
20 have outstanding reputations.

21 I am now going to go over some
22 of the duties that the arbitrators had
23 for this arbitration. These duties are
24 important, because they will later come
25 up when we discuss the reason why this

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2 award has yet to be honored or enforced.

3 If I may direct your attention
4 to Slide 3. The arbitrators in this case
5 had the following duties: to be
6 impartial and fair; to stick to the
7 issues, meaning that the scope of their
8 decision-making authority must remain on
9 terms and conditions of employment, which
10 are categorized under Act 111. These
11 categories include wages, benefits,
12 working conditions, and retirement;
13 three, not to require the parties to do
14 anything that would be illegal or violate
15 constitutional rights.

16 And additionally, under the
17 Pennsylvania Intergovernmental
18 Cooperation Act, which I will now refer
19 to as PICA, by way of background for
20 those of you unfamiliar with PICA, as
21 Councilman O'Brien had stated earlier,
22 PICA was created by the Commonwealth in
23 1991 to oversee the restoration of the
24 City's fiscal solvency. In order for the
25 City to receive state funding, PICA must

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2 approve the City's Five-Year Financial
3 Plan, which is submitted annually, or
4 more often if there is a change, like an
5 arbitration award that would require the
6 Plan to be revised.

7 Under PICA, the arbitration
8 panel must give substantial weight in its
9 decision to, four, the City's
10 PICA-approved Five-Year Financial Plan;
11 five, the City's financial ability to pay
12 the cost of increased wages or fringe
13 benefits without adversely affecting
14 levels of service; and, six, in making
15 these considerations, the arbitrators
16 must also state in writing its
17 considerations of Items 4 and 5.

18 As for the award in
19 controversy, this award is for contract
20 term 2009 through 2013. It has undergone
21 two arbitrations to date. Ultimately the
22 dispute comes down to the City's ability
23 to pay in light of its fiscal forecast
24 from which its Five-Year Financial Plan
25 weighs heavily and the historic wage and

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2 benefit relationship that exists between
3 firefighter and police unions, where
4 wages and benefits have pretty much been
5 on par with one another. This
6 relationship is also known as parity in
7 legalese, and you may hear this term
8 mentioned later on by other witness.

9 In going over the positions for
10 each party in this case, it is the
11 Firefighters' contention that as first
12 responders, whose pay is among the lowest
13 in the nation for a large U.S. city, they
14 deserve a contract similar to what the
15 Fraternal Order of Police, the FOP,
16 received in 2009, and that the City has
17 the ability to pay for the contract
18 without adversely affecting levels of
19 service.

20 The Firefighters further
21 maintain that the financial outlook for
22 the City is not nearly as grim as the
23 City would like us to believe.

24 The City, however, holds a
25 different position. The City argues that

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2 it is struggling to recover from the

3 impact of the recession and that the

4 demands made by the FOP and the

5 Firefighters are distinctly different.

6 The City argues that the FOP made certain

7 cost-saving concessions in its

8 negotiations, such as agreeing to

9 furloughs, reducing the City's healthcare

10 contribution, and restructuring their

11 pension plan that has allowed the City to

12 balance the cost of the FOP award and

13 that the Firefighters have not taken

14 enough steps to offset the costs of its

15 demands. Therefore, in considering

16 financial outlook of the City and its

17 Five-Year Financial Plan, the City argues

18 that it cannot afford to give the

19 Firefighters what they want and remain

20 fiscally solvent without adversely

21 affecting levels of service in the City.

22 During both arbitrations held

23 in this case, the positions of the City

24 and the Firefighters were presented in

25 great abundance and detail through expert

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2 testimony, economic reports, opinions,
3 exhibits, and post hearing briefs. For
4 the first arbitration, hearings were held
5 from September 2009 through April 2010.
6 After the panel held a series of
7 executive committees to deliberate, an
8 award was rendered in October of 2010 in
9 a two-to-one decision, with the City
10 arbitrator dissenting and the arbitrator
11 from the Firefighters Union concurring,
12 which means he agreed with the award, but
13 stated additional reasons for doing so.

14 That award was appealed by the
15 City to the Court of Common Pleas.

16 If I may direct your attention
17 to Slide 4. The prevailing issues on
18 appeal for that first arbitration were,
19 one, whether the panel afforded the
20 appropriate deference to the City's
21 Five-Year Financial Plan; and, two,
22 whether the panel properly considered the
23 City's ability to pay without adversely
24 affecting levels of service.

25 Additional issues that were

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2 raised include whether there was

3 sufficient written explanation for the

4 decision, whether certain portions of the

5 award went beyond the authority of the

6 panel by infringing on the City's

7 managerial authority, and, five, whether

8 the neutral arbitrator exceeded his

9 jurisdiction by assigning himself as

10 arbitrator to resolve disputes arising

11 from the implementation of the award.

12 During the appeal for the first

13 arbitration, the parties mutually agreed

14 to undergo another arbitration.

15 Consequently, the Honorable Paul P.

16 Panepinto signed off on that agreement

17 and issued the order to send the case

18 back to the same arbitration panel in

19 November 2011.

20 Now, as far as what a court can

21 do with an Act 111 arbitration award, the

22 court's power is limited. A court will

23 not interfere with the award or the

24 panel's findings, nor will it go as far

25 as to say whether the panel was correct

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2 in its determinations. What it can do is
3 vacate or undo the award or portions of
4 it under limited circumstances, like a
5 violation of constitutional rights or if
6 a panel exceeds its authority or
7 jurisdiction.

8 When a court vacates award
9 terms dealing with Act 111 bargainable
10 categories, which include wages,
11 benefits, working conditions, and
12 retirement, it will also remand or send
13 back the same issue to the panel to
14 resolve. So, for example, if the award
15 terms cover pay raises and increased
16 pension contributions but also violates
17 certain constitutional rights, the court
18 will vacate that award term and send it
19 back to the panel to resolve.

20 In the second round of
21 arbitration, hearings were conducted
22 March through May in 2012. This past
23 July, the panel issued an award that was
24 two to one, with the City arbitrator
25 again dissenting and the Firefighters'

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2 arbitrator again concurring. This award
3 was similar to the last one. And,
4 Committee members, you have a copy of the
5 award with the file.

6 The majority removed most of
7 the terms listed under additional issues
8 raised from Slide No. 4. The majority
9 explained that perhaps by removing these
10 terms, it would hasten the acceptance of
11 the award because it was not unlost to
12 the majority that the expiration of this
13 contract is approaching. The majority
14 also clarified in writing and even more
15 detail the basis for the award, pursuant
16 to PICA requirements.

17 This July award was also
18 appealed by the City to the Court of
19 Common Pleas on the grounds that the
20 panel violated PICA violations -- PICA
21 requirements. Last month, the Honorable
22 Idee C. Fox denied the appeal.
23 Yesterday, as many of you know, the City
24 filed an appeal to the Commonwealth
25 Court, which is the next highest court

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2 above the trial court. Following a
3 ruling from the Commonwealth Court,
4 either party can then go to the Supreme
5 Court.

6 A final word on cost. No
7 penalties or fees were imposed for the
8 delay in implementing this award.
9 However, under the law, because the trial
10 court affirmed the panel's award, the
11 City will have to begin complying with
12 the award and make payments toward it
13 during the appeal to the Commonwealth
14 Court. Meanwhile, the Firefighters
15 currently have an outstanding motion
16 before Judge Leon Tucker in the Court of
17 Common Pleas to enforce the award.

18 COUNCILMAN JONES: Thank you
19 for your testimony. A couple of quick
20 questions, and then I'll rely on members
21 of the Committee to further ask.

22 In plain speak, what is the
23 purpose of binding arbitration?

24 MS. CHAU: The purpose of
25 binding arbitration with respect to labor

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2 unions is to seek a resolution on wage
3 and benefits or compensation so that they
4 can be implemented as soon as possible.
5 Because the firefighters and the police
6 cannot strike, as a matter of public
7 policy, you do not want unhappy first
8 responders serving the City while these
9 matters are being held up.

10 COUNCILMAN JONES: And at that
11 point, what is the authority of that
12 arbitration? They're mandated to that
13 arbitration by whom?

14 MS. CHAU: Ordinarily -- well,
15 the court would -- the court can enforce
16 the award, and ordinarily these awards
17 are enforced, but with the PICA
18 amendment, it has allowed a certain
19 window of appeal for the court to review
20 on a limited basis the findings of the
21 panel.

22 COUNCILMAN JONES: And that's
23 the financial condition of the City?

24 MS. CHAU: Yes.

25 COUNCILMAN JONES: If I

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2 understood your testimony.

3 MS. CHAU: Yes.

4 COUNCILMAN JONES: And so then
5 this decision was made and the City of
6 Philadelphia, on the grounds that it
7 could not afford the mandate, decided to
8 appeal? That's my --

9 MS. CHAU: Yes.

10 COUNCILMAN JONES: I'm going to
11 assume that's the motivation.

12 What was the amount of that --
13 what was the monetary amount of the
14 award?

15 MS. CHAU: The award doesn't
16 state a full monetary amount.

17 COUNCILMAN JONES: What's the
18 guesstimate of its impact? I'll say it
19 that way. What did it say? What were
20 the terms?

21 MS. CHAU: From the testimony
22 provided to the panel, the City is saying
23 that -- or the dissenting opinion from
24 the last award, Kenneth Jarin, had stated
25 that it would cost the City over \$220

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2 million to implement it. The
3 Firefighters have a different number.
4 Their figure is around, I believe, \$66
5 million. That is -- how much it actually
6 costs is beyond not only my expertise,
7 but it's not something that I can readily
8 answer, or even if politely asked if I
9 could give you that information later,
10 I'm telling you, I probably wouldn't be
11 able to get that to you.

12 COUNCILMAN JONES: Okay.
13 The Chair recognizes Councilman
14 Oh.

15 COUNCILMAN OH: Thank you very
16 much, Chairman.

17 So basically what you're saying
18 and I believe why we're here is at the
19 end of the decision, two decisions, the
20 award was granted to the Firefighters,
21 but it's not a numerical number. There
22 are certain things that have to be taken
23 into account, and then ultimately a
24 number is calculated, and we have two
25 different numbers that we're looking at

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2 right now.

3 MS. CHAU: That's correct. And
4 part of that, I believe, is, there is
5 reference to self-insurance, and that's
6 something that I believe should have
7 started in September. I don't know if it
8 has yet. But those are costs that we're
9 not going to know what the cost is until
10 maybe a year after it's been implemented.

11 COUNCILMAN OH: Okay. Thank
12 you very much.

13 COUNCILMAN JONES: Are there
14 any other questions by members of this
15 Committee?

16 (No response.)

17 COUNCILMAN JONES: Seeing none,
18 thank you for your testimony.

19 Will the Clerk please read the
20 name of the next person to testify.

21 THE CLERK: Rob Dubow, Finance
22 Director, and Rebecca Rhynhart, Budget
23 Director.

24 (Witnesses approached witness
25 table.)

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2 COUNCILMAN JONES: Good

3 afternoon, and I would also thank you for
4 your patience. We had a busy agenda in
5 the Chambers today.

6 Would you state your name for
7 the record and please submit your
8 testimony.

9 MR. DUBOW: Sure. Thank you.
10 Good afternoon, Chairman Jones and
11 members of the Committee. My name is Rob
12 Dubow. I'm the Finance Director, and I'm
13 here with Rebecca Rhynhart, and we're
14 here to testify on this resolution, which
15 called for a hearing on the fiscal impact
16 of the award.

17 The impact of the award would
18 be substantial. Over the course of the
19 current Five-Year Plan, it would add more
20 than \$200 million of additional costs to
21 the City's General Fund. The FY13 costs
22 alone would be more than \$84 million.
23 The City can't afford those costs without
24 making budget cuts that would damage key
25 services. As a result, the City has

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2 appealed the award.

3 The PICA Act requires the City
4 to submit a Five-Year Financial Plan of
5 its anticipated revenues and expenditures
6 at least annually to the PICA Board for
7 the Board's approval. The City's Plan
8 must show a balanced budget in each of
9 its years. If the award were implemented
10 and the City was required to assume 84
11 million in new costs this year and \$200
12 million in General Fund costs by the end
13 of the current Plan, cuts of roughly 2 to
14 5 percent across City departments would
15 have to be made to avoid deficits.

16 During its review of the FY13
17 to FY17 Five-Year Plan, PICA asked the
18 Administration to detail the type of
19 budget adjustments it would have to make
20 to compensate for the award. In response
21 to that request, the Administration
22 provided the attached list of potential
23 cuts.

24 I should be clear. While we
25 wouldn't have to make all of the cuts on

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2 the attached list, we would have to make
3 many of them, and they could endanger key
4 services. We appealed the award in order
5 to avoid having to make cuts like those.

6 That concludes my testimony,
7 and we're happy to answer any questions
8 you have.

9 COUNCILMAN JONES: Is there any
10 additional testimony, Ms. Rhynhart?

11 MS. RHYNHART: No, there is
12 not.

13 COUNCILMAN JONES: Councilman
14 Oh.

15 COUNCILMAN OH: Thank you very
16 much, Mr. Chairman.

17 There is an amount of money
18 that is owed under the existing contract;
19 is that correct?

20 MR. DUBOW: I'm not sure --

21 COUNCILMAN OH: There's a
22 dispute as to -- there has been an award
23 given by the arbitration panel.

24 MR. DUBOW: That was appealed.

25 COUNCILMAN OH: That is being

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2 appealed.

3 MR. DUBOW: Right.

4 COUNCILMAN OH: But there is an
5 amount that has been ordered, and as the
6 first witness just testified, it's not a
7 numerical amount. We've had some
8 different numbers. You've testified that
9 it's somewhere north of \$200 million; is
10 that correct?

11 MR. DUBOW: Right.

12 COUNCILMAN OH: Over five
13 years?

14 MR. DUBOW: Over five years,
15 that's correct.

16 COUNCILMAN OH: And so you're
17 appealing it because what the claim of
18 the City is, it cannot afford to pay that
19 amount.

20 MR. DUBOW: Correct.

21 COUNCILMAN OH: Without
22 substantial cuts.

23 MR. DUBOW: Yes.

24 COUNCILMAN OH: So in regards
25 to the number that the Firefighters have

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2 said they calculate to be the number, is
3 that also more than the City can afford?
4 The City, in other words, cannot afford
5 \$64 million over five years?

6 MR. DUBOW: I don't think that
7 that number is close to being accurate.
8 So, I mean, we haven't run that through
9 our budgets because the number is 200
10 million.

11 COUNCILMAN OH: Okay. So I'm
12 going to ask you how you calculate 200
13 million, but before I get to that, I
14 wonder has there -- in other words, you
15 submitted a PICA plan which did not take
16 into account any number that would have
17 to be paid under this contract; is that
18 correct or incorrect?

19 MR. DUBOW: It's correct, and
20 what we submitted to PICA, then we added
21 an addendum that showed what kinds of
22 things we'd have to do to pay for the
23 award if we had to pay it.

24 COUNCILMAN OH: So was there
25 any amount of money set aside for the

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2 City to start paying or to hold in trust
3 or something so the City would have money
4 to pay for the Firefighters' contract?

5 MR. DUBOW: So any payments for
6 the contract would have to come out of
7 our fund balance. I think the Five-Year
8 Plan ended with a fund balance of roughly
9 \$60 million, the plan we submitted to
10 PICA. So that's where payments for the
11 award would have to come from. So
12 obviously if you have a \$200 million
13 award with a \$60 million fund balance,
14 you have a substantial deficit and you
15 have to figure out how to close that.

16 COUNCILMAN OH: That's a \$60
17 million fund balance over five years?

18 MR. DUBOW: At the end of the
19 Five-Year Plan.

20 COUNCILMAN OH: At the end of
21 the Five-Year Plan. Taking a remaining
22 portion of money over five years, you
23 would end up with \$60 million?

24 MR. DUBOW: Correct.

25 COUNCILMAN OH: Okay. Has any

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2 of that money been set aside or has any
3 of that money been used to pay down the
4 money owed under the contract?

5 MR. DUBOW: No.

6 COUNCILMAN OH: And why would
7 that not be done?

8 MR. DUBOW: Because it's under
9 appeal.

10 COUNCILMAN OH: Okay. But in
11 the meantime, the City is spending money.

12 MR. DUBOW: We spend money
13 every day, I mean, on a whole variety of
14 things, yes.

15 COUNCILMAN OH: Right. I
16 understand that, but I guess my concern
17 is that as a legislator, we do oversee
18 and sometimes approve, we transfer money,
19 and we are interfacing with the
20 Administration and we just know that
21 there's amount of money that's being
22 spent on something, and there has been no
23 money set aside, which means all of this
24 money is going to be suddenly due.

25 MR. DUBOW: Well, it's due -- I

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2 mean, the award, it's actually due over
3 the next five years.

4 COUNCILMAN OH: But being that
5 the City has lost two arbitrations and a
6 Common Pleas appeal and now has presented
7 all of its evidence, do you believe that
8 you are going to win this appeal and not
9 have to pay anything, or what do you
10 think the result of the appeal is going
11 to be?

12 MR. DUBOW: We do believe that
13 we will be successful in the appeals
14 court, which means we will go back to --
15 it will be remanded to an arbitration
16 panel.

17 COUNCILMAN OH: To begin again?

18 MR. DUBOW: Yes.

19 COUNCILMAN OH: Okay. So would
20 you explain how you came to \$200 million?
21 Because we will later hear from witnesses
22 who will say it's not \$200 million. So
23 if you could just kind of go through that
24 for us. Thank you.

25 MS. RHYNHART: Rebecca

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2 Rhynhart, Budget Director.

3 The \$200 million cost is a
4 combination of the wage increases of the
5 3 percent over multiple years, payments
6 to the retiree trust fund, legal
7 services, and the significant healthcare
8 costs that the award entailed, as well as
9 the lack of savings that are in our
10 budget. So it's all of that put
11 together, and we do a detailed analysis
12 on that to come to those projections.
13 That's what the cost estimate, where it
14 comes from.

15 COUNCILMAN OH: So in general,
16 \$50 million over four years or is it five
17 years?

18 MS. RHYNHART: No. It's
19 actually weighted to the front. So over
20 all-funds number is about 87 million in
21 the first year alone because of the retro
22 payments in the award.

23 COUNCILMAN OH: Okay. All
24 right. I have no other questions.

25 COUNCILMAN JONES: Hold it.

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2 Gentlemen, be patient with us.

3 Councilman Henon.

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

6 I don't want to belabor or beat
7 the same question into the ground over
8 and over, but there does seem to be a
9 large disparity between a \$64 or \$66
10 million cost over five years as opposed
11 to a 200 million or 220 million. Do you
12 have any speculation or reason why there
13 could be such a -- because it just -- if
14 you were off \$20 million, \$10 million,
15 you could say, All right, well, it's a
16 little off, but something seems to be
17 missing.

18 MR. DUBOW: We can show you the
19 details of our analysis and how we got to
20 our number. I can't speculate about
21 where the 66 million came from, but we
22 can show you how we got to our number.

23 COUNCILMAN HENON: I would
24 appreciate it. If you could just provide
25 it to the Chair, that would be one.

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2 You had said that in your
3 calculation of the \$200 million, you put
4 a number dollar value to the savings. Is
5 that savings because there is no contract
6 or do we know accrual of 3 percent
7 raises? What dollar value in savings by
8 not having a contract could you account
9 for?

10 MS. RHYNHART: Actually, at the
11 beginning of the deep recession and the
12 fiscal crisis that we entered into in the
13 fall of '08, we put an amount of savings
14 across all employees unions, exempts,
15 non-reps that we were going to get from
16 new contracts that were any type of
17 savings. It could be on health insurance
18 or in any part of the total compensation
19 package. So there was a portion
20 allocated to Fire, similar to a portion
21 allocated to Police, a portion allocated
22 to exempts, et cetera.

23 COUNCILMAN HENON: And those
24 savings are not just wages; they're
25 wages, they're healthcare?

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2 MS. RHYNHART: It could be
3 savings from --

4 COUNCILMAN HENON: Or do you
5 have them broken down?

6 MS. RHYNHART: Right. I mean,
7 it could be savings from any of the
8 areas. We didn't care where we got the
9 savings from. We just needed to get
10 savings.

11 COUNCILMAN HENON: And that
12 would be savings related to a lack of
13 contract?

14 MS. RHYNHART: No. I mean, no,
15 not savings related to a lack of
16 contract. Savings related to reforms or
17 changes in the total compensation package
18 which would reduce the City's costs.

19 MR. DUBOW: That would be part
20 of a new contract.

21 MS. RHYNHART: Right.

22 COUNCILMAN HENON: Which could
23 actually turn out after that type of or
24 kind of analysis at a higher number. So
25 if somebody -- right now you have two

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2 numbers that are out here that are in
3 dispute, so to say. You have a \$66 or a
4 \$64 million and you have a \$200 million.
5 So you're saying that the \$200 million
6 has those types of reforms and changes or
7 whatever you're trying to save, how
8 you're trying to save money? So that can
9 add up to the \$200 or \$220 million; is
10 that correct?

11 MS. RHYNHART: No. I don't
12 think that's -- I mean, the difference --
13 we haven't seen any calculation of the
14 60-some million, and we believe the 200
15 million is accurate. So I don't think
16 that that one factor would in any way --

17 MR. DUBOW: I think that
18 savings number is probably in the order
19 of 12 and a half million dollars over the
20 five years. So it's a small part of the
21 200.

22 COUNCILMAN HENON: Okay. Legal
23 fees, legal fees has been a part of --
24 that would be part of the \$200 million;
25 is that correct?

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2 MS. RHYNHART: Legal fees
3 spent?

4 COUNCILMAN HENON: Legal fees
5 spent on appeals?

6 MR. DUBOW: No. No. It's not
7 in that number.

8 COUNCILMAN HENON: Do you have
9 an accurate record on how much you've
10 spent on legal fees and what you intend
11 on spending?

12 MR. DUBOW: I think we have to
13 get back to you on that. We don't have
14 that with us.

15 (Audience members yelling.)

16 COUNCILMAN HENON: If you could
17 provide that.

18 MR. DUBOW: I think we have
19 provided that at other hearings. We
20 don't have that today, but we'll get that
21 to you.

22 COUNCILMAN HENON: If you could
23 provide it to the Chair and in
24 anticipation of a possible future appeal
25 or future litigation.

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2 MS. RHYNHART: We have it from
3 the last five years. We've sent to
4 Council before. We'll resend it.

5 COUNCILMAN HENON: Do you have
6 that money set aside for legal? Is that
7 in the budget? Is that calculated in any
8 budget?

9 MS. RHYNHART: It's paid for
10 out of Law's budget. So it is covered.

11 COUNCILMAN HENON: So Law right
12 now is anticipating potential or possible
13 appeals?

14 MS. RHYNHART: Right. They
15 have a certain budget for outside
16 counsel, and outside counsel would cover
17 labor issues.

18 COUNCILMAN HENON: My last
19 question, the fund balance. Do you know
20 off the top of your head what we have in
21 our fund balance right now, today?

22 MR. DUBOW: We ended last year
23 at about 145 million.

24 COUNCILMAN HENON: And you
25 anticipate that to grow on a yearly basis

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2 in the next five years?

3 MR. DUBOW: No. We anticipate
4 that that will shrink over the next five
5 years.

6 MS. RHYNHART: It's projected
7 to go to 117 million in Fiscal '13. It's
8 in our last public quarterly report.

9 COUNCILMAN HENON: What I'm
10 getting to is, if the number was
11 around -- let's just say you split it.
12 There's a disparity in the 200 million
13 and 64 million or 66 million, and if that
14 grows on an annual basis, you're not
15 talking that much over the course of five
16 years if it was 100 million for a
17 contract award; would that be correct?
18 So over five years, it would be 20
19 million, 20 million, 20 million, 20
20 million. Would the fund balance be able
21 to sustain it?

22 MR. DUBOW: The problem is,
23 it's 200 million, and the fund balance
24 can't sustain that.

25 COUNCILMAN HENON: Well, I'd

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2 love to see your analysis.

3 MR. DUBOW: Yeah. We'll get
4 you the analysis.

5 COUNCILMAN HENON: I have no
6 further questions.

7 COUNCILMAN JONES: Thank you,
8 Councilman Henon.

9 Just as an observation, when
10 Councilman Oh introduced this, it read in
11 the body of the resolution that this was
12 to determine the financial impact of this
13 arbitration and now subsequent appeals,
14 and for you not to come with the level of
15 detail that we --

16 MR. DUBOW: We have the detail.
17 We can show it. I mean, we have the
18 calculation with us.

19 COUNCILMAN JONES: Okay.

20 MR. DUBOW: That's why we're
21 offering to show it to you. We have it
22 with us.

23 COUNCILMAN JONES: Can you give
24 that to the Clerk, please.

25 MS. RHYNHART: Sure.

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2 COUNCILMAN JONES: Because
3 that's the whole purpose of this
4 resolution.

5 Now, when you enter into an
6 arbitration, you guys have to go into
7 arbitration just like the Fire
8 Department. This is not a question of
9 opting to go into it. You had to go into
10 it, right, and you knew that it was --

11 MR. DUBOW: Right. If you
12 reach an impasse in negotiation, you go
13 into arbitration for Fire and Police.

14 COUNCILMAN JONES: And I hope
15 I'm not speaking out of turn, but there's
16 a general sense by a lot of the rank and
17 file in the Fire Department that some of
18 this is just kind of retribution.

19 (Applause.)

20 COUNCILMAN JONES: And trusting
21 you on your word that the reason you're
22 appealing this is financial hardship,
23 that's why these numbers become
24 critically important and I believe is why
25 Councilman Oh introduced the legislation.

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2 The other thing is that when we
3 started going through the numbers of the
4 details of the Department's impacts,
5 there was one line item that -- it was in
6 reference to the blackouts that --
7 brownouts that could have been
8 resolved -- excuse me; brownouts that
9 could have been resolved --

10 (Audience members yelling.)

11 COUNCILMAN JONES: But it could
12 have been resolved by a number that was
13 closing in on \$2 million to resolve that
14 whole issue by bringing more members on.
15 I remember that distinctly. And so \$2
16 million to kind of do that, it goes with
17 the theory that for some reason, the Fire
18 Department is the bald-headed stepchild
19 of government.

20 (Applause.)

21 MR. DUBOW: For us, this is
22 about the \$200 million cost, and that's
23 more than we can afford.

24 (Audience members yelling.)

25 COUNCILMAN JONES: All right.

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2 Are there any other questions by members
3 of the -- Councilman O'Brien.

4 COUNCILMAN O'BRIEN: I'm
5 just --

6 COUNCILMAN JONES: Hold it,
7 gentlemen.

8 I get to use this. Look. Here
9 we go. My first time.

10 COUNCILMAN O'BRIEN: I'm new to
11 this process, and so you have to excuse
12 some of my naivete and my problems with
13 some of the process here.

14 If we're talking in your terms
15 of \$200 million, is that over a four-year
16 period or is that over an eight-year
17 period? Exactly how many years are you
18 calculating that?

19 MR. DUBOW: We're looking at
20 the cost over our Five-Year Plan. So
21 from FY13 through FY17.

22 COUNCILMAN O'BRIEN: But those
23 numbers in your Five-Year Plan, are they
24 calculated over these awards over an
25 eight-year period?

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2 MR. DUBOW: I think there's a
3 retro portion of the award, and that's
4 included in the calculation.

5 COUNCILMAN O'BRIEN: That makes
6 it a lot easier to talk about in terms of
7 what our annual surpluses are.

8 The other issue that I have
9 real concern about is at the same time
10 the Administration is telling us that we
11 don't have the money for this contract
12 award and -- excuse me. Where I came
13 from before, we'd have a final budget.
14 Sometimes it would take us a year or
15 longer to do that budget, but there was
16 finality, but here we are a couple months
17 into this budget process and we transfer
18 \$50 million. Why isn't it not the
19 practice of this Administration that when
20 you have a budget that's passed at the
21 end of June and you have a contract
22 award, how can you then say that we have
23 to save money across all these other
24 departments, but we're going to find \$50
25 million to give other departments, not

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2 the Fire Department some of that \$50
3 million?

4 (Applause.)

5 MR. DUBOW: So the biggest
6 portion of the number that you're talking
7 about is actually a transfer between
8 funds for the Department of Human
9 Services, transfer between the Grants
10 Fund and the General Fund. So it wasn't
11 actually -- that's not an increase in
12 overall spending. It's a movement
13 between funds. That was --

14 COUNCILMAN O'BRIEN: No. I
15 understand that. I understand that.
16 That picture is never going to get bigger
17 given the current climate, and I'll
18 reemphasize that when we talked about
19 PICA in Harrisburg, we anticipated that
20 there would be less emphasis on health
21 and human services funding and other
22 things specific to Act 111, and that's
23 why that language was not meant to be
24 controlling.

25 Act 111, these guys are

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2 different, and I'll reemphasize that.
3 That's why I'm having trouble processing
4 this. And when you transfer those
5 monies, why wasn't that anticipated in
6 our final budget in June? And regardless
7 of my commitment to health and human
8 services, transferring \$50 million when
9 you have outstanding obligations like
10 this is problematic to me. But the other
11 issue is that we make choices in
12 budgetary negotiations, and these guys
13 don't have the right to strike for public
14 safety issues, they're committed to
15 protecting the public. There's a lot of
16 other ancillary issues, and as I said
17 sidebar, back in February I requested
18 some information informally and in other
19 hearings like this subsequent I requested
20 volumes of information that have not been
21 forthcoming from this Administration. So
22 I'm not prepared to make the kind of
23 judgments, because I don't have the
24 information that I requested, and I have
25 a real problem with that. But I do come

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2 back to where I have to pull that number
3 out, and it's part of a Five-Year Plan
4 and the assertion -- and I'm not saying
5 that you're purposely misrepresenting
6 this, but it's part of a Five-Year Plan,
7 but it's an eight-year calculation
8 because you have the retroactive piece in
9 that.

10 To me, with all the other
11 things going on, I can't help but come to
12 a conclusion that there is some punitive
13 agenda here, because --

14 (Applause.)

15 COUNCILMAN O'BRIEN: --
16 fundamentally you're not going to find
17 anybody that's more committed to
18 transferring monies to health and human
19 services, but the federal government and
20 the state government are constantly going
21 to push back on that. But that becomes
22 another sense of executive and
23 legislative responsibility, where we have
24 to push back on those issues and demand
25 that those levels of government kick in

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2 more money. This is deemed to be, from
3 other levels of government, our
4 responsibility, our house, and our
5 firefighters and protecting our public.
6 And I would like to wait for the
7 testimony of the City Controller and see
8 what kind of numbers he comes up with.

9 I find it paralyzing for me
10 that we have to sit here as a legislative
11 body and arbitrate these contract
12 negotiations instead of going on with the
13 business of bringing the best research
14 standards to our Fire Department in
15 practice and training and in wages and
16 salaries that approximate their level of
17 service.

18 Thank you.

19 MR. DUBOW: I just want to --

20 (Applause.)

21 MR. DUBOW: I just want to
22 clarify one thing. The \$35 million for
23 human services was not an increase in
24 spending. It was a shift between the
25 Grants Fund and the General Fund.

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2 MS. RHYNHART: So it didn't
3 result in taking one dollar from the
4 General Fund balance.

5 COUNCILMAN O'BRIEN: That's
6 what I'm talking about, but you're
7 transferring inside after we have a final
8 budget. So you're finding money to
9 transfer. I'm just of the mind that
10 maybe we shouldn't transfer -- we
11 shouldn't have transferred those dollars.
12 We shouldn't transfer any more dollars
13 until we have this issue at hand
14 resolved.

15 (Applause.)

16 COUNCILMAN JONES: The Chair
17 recognizes Councilman Oh, and then we're
18 going to move to the Controller.

19 COUNCILMAN OH: Thank you very
20 much, Mr. Chairman.

21 One of the concerns that we
22 have ultimately is that the award has
23 been given. It's been given a couple of
24 times. And the reason that you can
25 appeal it in some part is that you are

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2 projecting how much money you won't have
3 in the future. And so the projections
4 are very important in the sense that if
5 you intentionally projected low, you
6 could say we don't have the money. We're
7 going to go through numerous appeals that
8 contradict the spirit and the very reason
9 why Act 111 was created.

10 In this current situation, what
11 that also leads to for us as well as for
12 the Administration is not only the fact
13 that we're going to have to suddenly deal
14 with an issue that we're unprepared for,
15 possibly raising taxes tremendously upon
16 residents who are unprepared for it,
17 taking money out of essential services
18 and money we may provide to education and
19 other things, but we're also, in this
20 current climate, not meeting our
21 responsibilities for the life and safety
22 of our firefighters, which are employees.
23 And I think all these things combined are
24 very problematic.

25 We will go through the details

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2 that you've provided. We will look at
3 the history of how the fund balances have
4 been. We will look carefully at the
5 projections to see whether these are
6 projections that stand up under the light
7 of what other people will -- other
8 experts will state once they've examined
9 them. But thank you very much for coming
10 here and providing that.

11 MR. DUBOW: And we're happy to
12 go through that process with you. Any
13 questions you have about our numbers,
14 we're happy to talk to you about it.

15 COUNCILMAN OH: Thank you very
16 much.

17 Mr. Chairman, I have no other
18 questions.

19 COUNCILMAN JONES: Okay. Are
20 there any other questions for this panel?

21 (No response.)

22 COUNCILMAN JONES: Seeing none,
23 can the Clerk call the next witness.

24 THE CLERK: Alan Butkovitz,
25 City Controller.

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2 (Witness approached witness
3 table.)

4 COUNCILMAN JONES:

5 Mr. Controller, good afternoon.

6 MR. BUTKOVITZ: Good afternoon.

7 COUNCILMAN JONES: Thank you
8 for your patience.

9 MR. BUTKOVITZ: Good afternoon.
10 Thank you very much. We have submitted
11 some detailed testimony, which I'm going
12 to ask be entered into the record. I
13 don't want to have to read that. I just
14 want to make a couple of brief points.

15 First of all, this award is
16 inevitable. It's already --

17 (Applause.)

18 MR. BUTKOVITZ: It's already
19 been awarded twice. It's been sustained
20 by a Common Pleas Court judge. So when
21 we talk about fiscal prudence and
22 planning, Philadelphia, as Councilman
23 O'Brien remembers well, PICA and the
24 whole fiscal supervision of the City was
25 brought about in 1991 because the City

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2 just budgeted recklessly without any
3 regard for the costs that they were going
4 to have to pay. They ran up something
5 like a \$300 million deficit in
6 make-pretend promises that they didn't
7 have the money to pay. Well, that's
8 exactly what's going to happen here.
9 Already the City was in arrears \$84
10 million. Now they're in arrears we heard
11 from the testimony just now, went up \$300
12 million in six months. They're in
13 arrears \$87 million on a bill that they
14 know they had to pay, and their answer is
15 this: How about we don't pay it some
16 more.

17 Now, in Washington we're
18 dealing with this on a very large basis.
19 The federal government legally has the
20 power to do it. It's been a big mess and
21 a big mistake. The City government
22 doesn't have the power to run deficits
23 like that, but that's what they're doing.
24 If they go on another two years and the
25 inevitable happens, they will owe \$120 or

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2 \$140 million in arrears. Now, what does
3 that mean? That means that you will have
4 no alternative but to pass a tax increase
5 just to pay for the arrearage in this
6 award.

7 So the prudent thing to do is
8 to take a count of your expenses as they
9 occur and to pay for them as they occur.
10 So that's point number one.

11 Point number two is, the City
12 does have the money. It --

13 (Applause.)

14 MR. BUTKOVITZ: This was the
15 issue in the review of the Five-Year
16 Plan. And the money that the City put
17 away for debt service over five years
18 shows \$90 million in proposed borrowing
19 that's unnecessary and unlikely to occur.
20 At a time when the City says it is broke
21 and it can't afford to do anything, there
22 are these spikes in the year-to-year
23 borrowing and interest. How come? Well,
24 because that's a convenient place to
25 store money. Why would we be suddenly

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2 borrowing money at that rate when we
3 don't have money to do anything?

4 And the final point -- it's a
5 point that we have hit obsessively in our
6 office for about six years now -- there's
7 tremendous waste and inefficiency in the
8 City's Administration of the rescue squad
9 program. They are running the paramedics
10 into the ground. They are 85 percent --

11 (Applause.)

12 MR. BUTKOVITZ: The national
13 standards say they should be operating 42
14 percent of the time. They're operating
15 85 percent of the time. And by the
16 admission of Fire Commissioner Ayers
17 himself, 50 to 80 percent of the calls
18 are not for emergencies. So why doesn't
19 Philadelphia come into the 21st century
20 like everybody else and get rid of the
21 unnecessary emergency calls? That will
22 cut --

23 (Applause.)

24 MR. BUTKOVITZ: That will cut
25 the cost of those services \$21 million a

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2 year.

3 Well, what are they being asked
4 to pay in the Firefighters award? After
5 the retroactive amount, they're being
6 asked to pay \$29 million a year. So you
7 can save almost all of the money you need
8 right out of Fire Department operations
9 to fund the contract.

10 Those are the three points.

11 (Applause.)

12 COUNCILMAN JONES: I'd like to
13 acknowledge the presence of Councilman
14 Kenney and ask him if he'd like to
15 comment.

16 (Applause.)

17 COUNCILMAN KENNEY: One of the
18 significant powers of the Controller's
19 Office is the ability or inability or
20 refusal to sign off on any additional
21 borrowing. And since the position that
22 you're basically taking is that we're
23 going into debt more and more and more as
24 we don't either escrow the money or pay
25 the award, why would additional debt be

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2 prudent and wouldn't the failure or
3 refusal to sign off on current bond
4 requests and future bond requests until
5 the money is escrowed or paid out would
6 be in the best long-term interest of the
7 fiscal health of the City?

8 MR. BUTKOVITZ: First of all, I
9 don't have the power to stop bond
10 issuing. The Mayor --

11 COUNCILMAN KENNEY: Don't you
12 have to sign off on it?

13 MR. BUTKOVITZ: No. I am one
14 of three signatories on the Bond
15 Committee and --

16 COUNCILMAN KENNEY: What
17 happens if you don't sign?

18 MR. BUTKOVITZ: Can I answer?
19 The Mayor needs two signatures. The
20 Mayor, the City Solicitor, and me. If he
21 gets two out of three, he gets his bond
22 issue. So I can dissent and I can make a
23 symbolic gesture, and I'll take into
24 consideration what you're recommending,
25 the specific borrowings, though, all

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2 affect things that are necessary for the
3 City. I mean, we're clearing properties,
4 we're doing capital improvements to all
5 sorts of things that also create -- I
6 agree with you, I'm ready to play hard
7 ball as well as anybody in this city,
8 Councilman.

9 COUNCILMAN KENNEY: It's all
10 about leverage.

11 MR. BUTKOVITZ: It's about
12 leverage, but it's --

13 (Applause.)

14 MR. BUTKOVITZ: And I've been
15 unequivocal in my support of the
16 firefighters, but it's also about kids --

17 COUNCILMAN KENNEY: We're
18 all --

19 MR. BUTKOVITZ: -- not getting
20 injured at rec centers and making all the
21 necessary repairs that the City has to
22 make. This city is literally falling
23 apart. The school buildings are falling
24 apart. Streets are falling apart. And
25 if it involves a bond issue that's

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2 necessary for those repairs, I'll value
3 it, but I can't in good conscience say
4 we're not going to fix anything.

5 COUNCILMAN KENNEY: There's a
6 big one coming up in the airport and
7 there's a number of pieces to that. Some
8 of it can be done sooner than later. I'm
9 just saying I'm trying to look for all
10 the possible -- we could actually
11 transfer money around and do it that way.
12 However, the Mayor doesn't have to spend
13 anything we transfer. So he's got the
14 power to actually make the expenditures.
15 We get the power to appropriate.

16 But I think if we're really
17 serious about being right and respectful
18 towards these folks, who yesterday or two
19 days ago watched them again at a
20 four-alarm fire in South Philadelphia
21 that never had to happen, because L&I
22 doesn't do its job --

23 (Applause.)

24 COUNCILMAN KENNEY: I think the
25 more we get in this together, the better

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2 chance they have to succeed.

3 MR. BUTKOVITZ: Well, the
4 problem is that under this Charter, the
5 Mayor has a lot of power not to do
6 things.

7 COUNCILMAN KENNEY: I
8 understand.

9 MR. BUTKOVITZ: When he's got
10 stuff that he needs, that's somewhat
11 leverage, but frequently it seems this
12 Administration is more interested in not
13 doing things. One of the things they
14 want to not do is fund this contract.

15 COUNCILMAN KENNEY: If you
16 dissent on a bond request or a bond issue
17 and don't sign it, what does that do to
18 the attractiveness of the bond in the
19 market? Does it affect it at all?

20 MR. BUTKOVITZ: In my
21 experience, it doesn't really -- I don't
22 believe -- it will be what the credit
23 rating agencies decide to make of that.

24 COUNCILMAN KENNEY: But if the
25 reason --

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2 MR. BUTKOVITZ: And they will
3 look at all of the underlying factors
4 about the City's credit worthiness.

5 COUNCILMAN KENNEY: But if the
6 reason that you dissented is you refused
7 to put the City further into debt when
8 they're on this -- I hate to use the word
9 "fiscal cliff," because it stinks, that
10 word -- while we're accumulating all this
11 additional potential debt that you've
12 talked about in your testimony, it would
13 be irresponsible to allow the City to
14 acquire more debt.

15 MR. BUTKOVITZ: It's only
16 important if it would stop the bond
17 issuance. In my experience, the bond
18 buyers are interested in only one thing,
19 are they going to get the bond for a good
20 deal, are they going to make money on it.
21 If they figure out a way that it is
22 guaranteed and that they're going to get
23 their money, they're going to buy it
24 regardless of any political statement or
25 dissent.

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2 COUNCILMAN KENNEY: We make a
3 lot of symbolic gestures in here as far
4 as resolutions and hearings, so that
5 symbolic gesture added to our symbolic
6 gestures may be symbolic enough to get
7 something --

8 MR. BUTKOVITZ: Well, while
9 we're talking about symbolic gestures,
10 let me point out that for the first time
11 in history last year, I gave an adverse
12 opinion on the City's Five-Year Plan
13 because the City didn't put any money the
14 Firefighters award. That was never done
15 in 21 years.

16 COUNCILMAN KENNEY: It's the
17 right thing to do.

18 MR. BUTKOVITZ: PICA came --
19 (Applause.)

20 MR. BUTKOVITZ: PICA came
21 within one vote of sustaining that. It
22 sounds like if that situation recurs this
23 June or July, that that may actually
24 happen. That is something that will not
25 have symbolic power; that is something

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2 that will have actual power, because
3 there'll be about \$300 million in state
4 money that we desperately need to
5 function that will be frozen and
6 unavailable to the City because of the
7 City's failure to budget responsibly and
8 to account for this cost that everybody
9 knows they have to pay.

10 COUNCILMAN KENNEY: We're all
11 on the same page.

12 Thank you.

13 COUNCILMAN JONES: Thank you,
14 Councilman.

15 (Applause.)

16 COUNCILMAN JONES: Are there
17 any other questions for the City
18 Controller?

19 The Chair recognizes Councilman
20 Oh.

21 COUNCILMAN OH: Thank you very
22 much, Mr. Chairman.

23 Mr. Controller, did you have an
24 opportunity to review the City's
25 Five-Year budget proceeding forward?

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2 MR. BUTKOVITZ: Yes.

3 COUNCILMAN OH: And listening
4 to the testimony that you heard today
5 from the City's representatives, Mr. Rob
6 Dubow, I asked a question which had to do
7 with projecting five years ahead, the
8 ability to project low so you don't have
9 money or to project objectively or even
10 to project high so you have more money.

11 Did you form any type of
12 opinion as to the accuracy or reliability
13 of the projections?

14 MR. BUTKOVITZ: The City was
15 conservative in their projections, but
16 they were within the range of acceptable
17 projections. There's always a certain
18 amount of guesswork about whether the
19 economy is going to be a little worse or
20 a little better than it is, and it really
21 is prudent to be mildly pessimistic about
22 that, because you don't want to be in a
23 situation -- and the purpose of PICA is
24 to make sure the City doesn't get caught
25 short. If you have more money than you

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2 thought, we can usually find a way to
3 spend it and handle that. If you have
4 less money, you really violated the
5 intent of PICA and now you're scrambling
6 to cut necessary services or raise taxes.

7 But the point I would -- I
8 mean, what does the City government of
9 Philadelphia exist for? The two main
10 services that the City provides are
11 police and fire services. Those are the
12 first two services. So when you say you
13 don't have the money to pay for that,
14 what is it that you do have money for
15 that comes before that?

16 (Applause.)

17 COUNCILMAN OH: Thank you very
18 much.

19 COUNCILMAN JONES: Are there
20 any other questions for the Controller?

21 (No response.)

22 COUNCILMAN JONES: Seeing none,
23 thank you, Mr. Butkovitz.

24 (Applause.)

25 COUNCILMAN JONES: Will the

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2 Clerk call the next witness, please.

3 THE CLERK: Bill Gault and Rick
4 Poulson.

5 (Applause.)

6 COUNCILMAN JONES: Gentlemen.

7 MR. GAULT: Good afternoon,
8 Council President.

9 COUNCILMAN JONES: Thank you
10 again for your -- I'm not the President.
11 Majority Leader. Okay. The President
12 monitors these conversations and gets
13 upset with me.

14 MR. GAULT: No disrespect.

15 COUNCILMAN JONES: Thank you
16 for your patience again. We had a full
17 agenda today. So state your name and
18 begin your testimony.

19 MR. GAULT: I'm Bill Gault.
20 I'm President of the Philadelphia
21 Firefighters and Medic Unit. With me is
22 Rick Poulson, our lawyer.

23 Good afternoon. My name is
24 William Gault. I'm a Fire Lieutenant and
25 proud 28-year member of the Philadelphia

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2 Fire Department. I'm also honored to
3 serve as President of International
4 Association of Firefighters, Local 22,
5 the union that represents over 4,000
6 active and retired firefighters and
7 paramedics who risk their lives every day
8 in order to serve the citizens of
9 Philadelphia.

10 I appear today before this
11 Committee to provide testimony as a
12 result of Resolution No. 120807, which
13 called for this Committee to investigate
14 the costs of our most recent contract
15 award and the impact of this award on the
16 City's finances. I'm grateful for the
17 opportunity to testify on this issue,
18 because there has been a steady stream of
19 misinformation from the Nutter
20 Administration on the costs of our award.
21 I don't know whether the Administration
22 is trying to scare the public, to
23 intimidate Council or just generate
24 evidence that they can use for further
25 appeals. But I do know this much: The

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2 Nutter Administration isn't telling the
3 truth about our award. They are pumping
4 up costs and hiding savings. In other
5 words, they are doing what they always
6 do.

7 Before I address the numbers,
8 let me provide some background. The
9 award we are talking about today has an
10 effective date of July 1, 2009. It was a
11 four-year award. So we are sitting here
12 today three and a half years later in a
13 four-year award and the City still has
14 not implemented the award or set aside
15 even a penny to pay its costs. It's
16 crazy.

17 In fact, we start bargaining on
18 our next contract this month. How can we
19 start that process if we haven't finished
20 the last one? How does Council pass a
21 budget with that kind of uncertainty?
22 Our award has been issued twice now in
23 arbitration and affirmed once in court,
24 but the Nutter Administration filed
25 another appeal just yesterday. They

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2 refuse to face reality, and it makes
3 yours, Council's, job that much harder,
4 from our perspective. The responsible
5 thing for this Administration to do at
6 this point is to implement the award,
7 deal with its costs, and start working on
8 the next contract. Enough is enough.

9 Let me also provide some
10 context on the award itself. I believe
11 the award is fair. Both sides made
12 gains; both sides made losses. That's
13 the nature of the beast in that arena.

14 The Nutter Administration would
15 have you believe that the award contained
16 only very expensive improvements for
17 firefighters and paramedics, but that's
18 just not true.

19 The fact is that our contract
20 contains significant economic concessions
21 that they don't want to tell you about,
22 including a pay freeze, medical benefit
23 reductions, pension reductions that were
24 implemented by this Council in 2010. We
25 don't like these provisions, but we also

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2 know that we went through 31 days of
3 hearings, 31 days of hearings, and the
4 Act 111 panel had more than enough
5 evidence to issue a fair decision on the
6 economic provisions of the award.

7 So we are willing to live with
8 the award, and even though there are bad
9 parts to it, but the Mayor never tells
10 you about the reforms we won. He hides
11 that, and he continues to thumb his nose
12 at the men and women who risk their lives
13 for Philadelphians every day simply
14 because he didn't get every single thing
15 he wanted. It's just wrong, and my
16 members deserve better.

17 Local 22's legal counsel,
18 Richard Poulson, is with me here today,
19 and he can provide specifics on the
20 actual cost of the award. He worked on
21 the arbitration and can vouch for the
22 mountain of economic evidence that the
23 City and Local 22 put before the panel.
24 But in my opinion, the bigger issue is
25 regardless of whether the award costs 16

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2 million or 70 million or 200 million, is
3 that the award has now been awarded twice
4 and affirmed in court. Act 111 says
5 these awards are supposed to be final and
6 binding. That's a sacred promise made 50
7 years ago by the citizens to the
8 firefighters. We don't strike. We keep
9 risking and losing our lives even though
10 we're being treated poorly in
11 negotiations. But at the end of the
12 process, we get an award that we live
13 with. That's the deal. Those are the
14 rules. We play by the rules.

15 Unfortunately, to this
16 Administration, final and binding doesn't
17 mean final and binding, at least when it
18 comes to the Philadelphia Firefighters
19 and Medics. I'm willing to bet that
20 virtually every one of your constituents
21 would tell you that Philadelphia's
22 Firefighters and Medics deserve better
23 than that, much better. And I urge you's
24 to take whatever steps that are in your
25 power to courage this Administration to

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2 step up to the plate, play by the rules,
3 and honor our award.

4 Thank you for your time and
5 your continued support.

6 (Standing ovation.)

7 COUNCILMAN JONES: I want to
8 acknowledge the presence of Councilwoman
9 Jannie Blackwell as well.

10 (Applause.)

11 MR. POULSON: Thank you,
12 Mr. Chair.

13 COUNCILMAN JONES: State your
14 name for the record.

15 MR. POULSON: Good afternoon.
16 My name is Richard Poulson. I'm an
17 attorney with the firm of Willig,
18 Williams and Davidson here in
19 Philadelphia, and we are proud to serve
20 as legal counsel to the Philadelphia
21 Firefighters and Paramedics Union, IAFF
22 Local 22. In addition to my work with
23 Local 22, I also serve as legislative
24 counsel to the Pennsylvania Professional
25 Firefighters Association and the

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2 Pennsylvania State Lodge of the Fraternal
3 Order of Police, and I also work with a
4 number of police and fire unions across
5 the Commonwealth in places of virtually
6 every size and every type of
7 municipality. So I have been asked to
8 testify today, bringing with me not just
9 my experience, direct experience, in this
10 specific dispute that's before you, but
11 also to perhaps provide some context
12 about how Philadelphia stands in
13 comparison to Act 111 processes in the
14 rest of the state.

15 I do have prepared remarks, and
16 I'm sure that you are looking forward to
17 reading them. I would like to dispense
18 with them and maybe hit the highlights
19 given that we're late in the day, and
20 maybe tonight instead of watching Modern
21 Family you can read the remarks.

22 COUNCILMAN JONES: No, no.
23 Don't shorten it. We've been here.
24 Thank you. Thank you for your
25 consideration.

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2 Would the Clerk get a copy of
3 that.

4 MR. POULSON: You probably have
5 the remarks. I believe they're in your
6 packet.

7 COUNCILMAN JONES: Thank you.

8 MR. POULSON: Let me just get
9 to some of the points, because it's my
10 understanding that the point of this
11 hearing is to try to get to the bottom of
12 what this award costs. And I can provide
13 some insight into that answer, and I'm
14 going to do my best to provide straight
15 answers to Council, because that's what
16 you deserve, and, quite frankly, that's
17 what the firefighters and medics in the
18 City deserve and they haven't gotten from
19 the Administration.

20 If you were to look at the City
21 statement that the award costs
22 essentially \$200 million, it's important
23 to provide a little bit of context there
24 and ask yourself over what period of time
25 are we using to get to the \$200 million

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2 number? As Council was very much aware,
3 under the PICA statute the City generates
4 five-year plans. It's tough enough to
5 budget for one year, but you guys to get
6 to do it for five, which is really an
7 extraordinarily difficult endeavor. But
8 the fact of the Five-Year Plan enables
9 the City to take the cost of an award in
10 one year and increase it by a factor of
11 five and come up with a big number.

12 In this instance, because the
13 City has refused to comply with the award
14 and they've appealed and they've lost the
15 appeal of the award, in the first year of
16 the Five-Year Plan, when they say that
17 this award costs \$200 million over the
18 Five-Year Plan -- they didn't tell you
19 directly, but it came out in their
20 testimony -- the first year of the Plan
21 contains four years of costs. So they
22 get to \$200 million, and it sounds like a
23 lot of money, but we're talking about
24 eight years, over eight years it costs
25 \$200 million. And let's not forget the

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2 size of the budget in this city. We have
3 a \$4 billion budget, and we want to -- if
4 we want to try to gauge the size or the
5 importance of a \$200 million cost, let's
6 remember the size of the budget. And if
7 we're talking about eight years, we're
8 not talking about \$4 billion. We're
9 talking about \$32 billion. Likely
10 higher, right, because that's going to
11 increase. Two hundred million dollars
12 measured against \$32 billion is about
13 one-half of 1 percent. So even if their
14 numbers are correct -- and they're not
15 correct. We don't believe they're right;
16 we think they're high -- I guess the
17 bigger issue is, is it really going to
18 affect the City's fiscal condition? The
19 answer is no. Worst case scenario, it
20 might cost 0.6 of 1 percent to fund the
21 award. If you look at our numbers, it
22 might cost 0.4 of 1 percent to fund the
23 award. We're not too terribly far apart.
24 When the Firefighters have said
25 that the amount of the award is \$66

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2 million is what it costs, those numbers
3 come directly from the City. And
4 actually attached to my remarks is an
5 excerpt from the actual arbitration award
6 itself, and this is the City arbitrator's
7 dissent. So these are City numbers. And
8 according to the City's arbitrator, if
9 you look at Year 1, FY13, there's a list
10 of costs. If the question is what does
11 this award cost, it's a four-year award.
12 I think it's fair to say during the term
13 of the four-year award, what are the new
14 costs that this award poses on the City.
15 Looking at the City's own numbers, the
16 answer is \$66 million. There's about \$34
17 million in salaries. There's about \$32
18 million in active and retiree medical
19 costs. Sixty-six million dollars. Over
20 four years, 16 and a half million
21 dollars. Those are hard numbers.

22 We can talk about a five-year
23 plan. Let's talk about a 20-year plan if
24 we want to come up with a big number.
25 But if you want a straight answer as to

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2 what the award costs during its term, we
3 believe \$66 million is the appropriate
4 number.

5 Now, one point that I will make
6 is if you were to look at this chart,
7 they don't give you a number of \$66
8 million for FY13. The number is \$77
9 million, and the reason for that really
10 extraordinary, because what the City does
11 is, they say in our Five-Year Plan, we
12 budgeted to reduce our costs. So
13 essentially at the start of the process,
14 we went into negotiations saying, Well,
15 we don't really care what happens, as
16 long as the end is that we pay less,
17 firefighters get paid less after the
18 award comes out than before. And they
19 have over the course of five years
20 identified \$20 million in savings that
21 they didn't get because they don't get to
22 decide the outcome of the process. It is
23 a two-way street. They take those lost
24 savings and call them costs.

25 So if you were to go and buy a

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2 flat screen TV that costs 800 bucks and
3 you say, Well, my budget is, I'm only
4 going to pay \$600 for it, and you go to
5 Best Buy and the clerk decides to sell
6 you the TV for the sales price, not the
7 600 bucks you want to pay, you paid \$800
8 for that TV. By the City's logic, you
9 actually have paid \$1,000 for the TV,
10 because you paid the \$800 and then you
11 count the 200 that you didn't save and
12 put it on top.

13 That is extraordinary that that
14 is the method of calculation used by the
15 fifth largest city in the country.
16 That's the type of financial accounting
17 that we're dealing with in these types of
18 proceedings.

19 So we believe that an accurate
20 assessment of the cost is \$66 million
21 over the four-year term of the award, and
22 we think when you measure those costs
23 against the entire City budget, we're not
24 talking about an extraordinarily costly
25 award. President Gault was correct. The

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2 average wage increase over the four years
3 of the agreement was 2.25 percent. There
4 were health benefit concessions that will
5 save the City millions of dollars. It
6 was the City's proposal. There were
7 long-term pension reductions or reforms
8 that will save the City additional
9 millions over the years. There's a lot
10 of stuff in there that, as President
11 Gault said, the Firefighters aren't
12 thrilled with, but they trust the
13 process. And literally their lives are
14 in this process. They can't strike.
15 They never would.

16 But I'm very, very concerned
17 that if something doesn't happen here and
18 if Council doesn't take whatever steps
19 are at its disposal, which may be
20 limited, to try to get the Administration
21 to step up and do the right thing, we're
22 going to go back to the bad old days of
23 the '50s and the '60s where we had
24 significant labor unrest within Police
25 and Fire Departments, and that threatens

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2 the public safety. That's why we have
3 Act 111.

4 So the City's wrong we believe
5 on the numbers. They're certainly wrong
6 when they say they can decide the outcome
7 of the bargaining progress. They can
8 write the last page of the book and say
9 you write the first 300, we don't care.
10 And that's certainly not what the PICA
11 law requires. That's why we've been
12 successful in court so far. That's why
13 today the Nutter Administration as we sit
14 here is in violation of the law by not
15 complying with the award. We're going to
16 continue to do everything in our power to
17 get them to do the right thing, and we
18 will take any help we can get, because,
19 quite frankly, we need it, and the men
20 and women in this department surely
21 deserve it.

22 Thank you.

23 (Applause.)

24 COUNCILMAN JONES: Thank you
25 all for your testimony.

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2 The Chair recognizes Councilman
3 Kenney.

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

6 Could you -- I listened to most
7 of the testimony in my office before I
8 came here, so I didn't hear it. Could
9 you, if you have the figures, talk about
10 in similarly situated cities, size-wise,
11 urban environments, where we rank in
12 average pay vis-a-vis New York, Boston,
13 Chicago, you know, the larger urban areas
14 that have similar fire departments. Do
15 you know the numbers?

16 MR. GAULT: The last time I
17 looked in Firehouse Magazine, we were
18 114th.

19 COUNCILMAN KENNEY: Out of?

20 MR. GAULT: Out of probably --

21 COUNCILMAN KENNEY: Somebody
22 back there held up 15th. I guess --

23 (Audience member talking
24 without microphone.)

25 COUNCILMAN KENNEY: She

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2 can't -- okay.

3 MR. POULSON: Councilman,
4 during the arbitration hearing, the
5 interest arbitration process, we did
6 present evidence on that issue. We
7 looked at cities in the northeastern part
8 of the United States that were close in
9 size. There was a significant pay
10 disparity. I'm going to say about a 20
11 percent pay disparity. And from our
12 perspective, firefighters should be
13 making a heck of a lot more than they are
14 now. That's the other side of the parity
15 issue, the longstanding issue of parity.
16 We received salary increases that were
17 identical to those for the police in the
18 same years of the award, and that's been
19 history here and that's life, but it
20 shouldn't be lost on anyone that the
21 firefighters in Philadelphia make less
22 than others.

23 COUNCILMAN KENNEY:

24 Mr. Chairman, I think it's also
25 significant that they are the only

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2 largest situated city that does not have
3 lifetime medical. And I can tell you for
4 sure -- my father reminds me of it all
5 the time -- that they don't have lifetime
6 medical, and I think if you really want
7 to look at the savings, they ought to
8 factor the lack of lifetime medical into
9 the number when they figure out the 200
10 million.

11 (Applause.)

12 COUNCILMAN KENNEY: And I will
13 also tell you that firefighters put their
14 lives on the line every day, but the
15 older they get and the longer they've
16 served, the sicker they are and the
17 sicker they get. There's lung issues and
18 heart issues that don't come into the
19 forefront until later in life. There's
20 issues relative to hearing loss because
21 of the close proximity of sirens on a
22 regular basis. Your knees give out, your
23 back gives out.

24 I remember doing fire training.
25 I think then Representative O'Brien was

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2 at fire school when we did that 12-hour
3 ops in '08.

4 MR. POULSON: I was there.

5 COUNCILMAN KENNEY: 2008 ops.
6 I will tell you, I didn't realize that
7 you spend most of your firefighting time
8 on your knees. It was the roughest thing
9 on my knees that I've ever experienced,
10 and I think -- what I also think is very
11 sad is that the Mayor was also with us in
12 2008 ops and should understand at least
13 for the 12-hour period of span how
14 difficult and dangerous this job is.

15 So as I said before, I love our
16 City employees. I love our librarians
17 and our rec leaders and our Health
18 Department workers and everybody -- our
19 sanitation workers, but I don't know how
20 you can categorize these men and women
21 and men and women of the Police
22 Department as regular workers. They're
23 not. And anyone who is willing to go to
24 work in the morning and not come home at
25 night should be treated with more respect

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2 than these people have been treated.

3 (Applause.)

4 COUNCILMAN JONES: The Chair
5 recognizes Councilman O'Brien.

6 COUNCILMAN O'BRIEN: I remember
7 that day very well, and our Attorney
8 Poulson and the Mayor and I were all in
9 the same group going through the
10 buildings. I was wearing a chief's coat.
11 He was just wearing a regular coat. So
12 maybe there's some hidden meaning in
13 there.

14 COUNCILMAN KENNEY: At the end
15 of the day --

16 MR. POULSON: If I had a time
17 machine, I might have done things
18 differently that day.

19 COUNCILMAN JONES: Councilman.

20 COUNCILMAN KENNEY: At the end
21 of the day, they had me in the back of a
22 rescue squad hooked up to a heart
23 monitor. They wanted to check me out
24 before they let me go home. That's how
25 tough it is.

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2 So thank you.

3 COUNCILMAN JONES: Thank you.

4 I just want to recognize that
5 Councilman Henon went up and did really
6 well on some of the tests. We actually
7 went up together.

8 Councilman Henon.

9 COUNCILMAN HENON: Thank you,
10 Mr. Chairman.

11 Are there any other major
12 municipalities in the United States who
13 have similar situations where their
14 contracts have been appealed on a regular
15 basis?

16 MR. POULSON: The laws are
17 different in each state so that the
18 standards are different. What we've seen
19 in the Commonwealth, in Pennsylvania,
20 over the last 20 years is that the City
21 of Philadelphia has become more and more
22 aggressive in challenging these awards,
23 and from the Administration's
24 perspective, unfortunately, they really
25 have nothing to lose. They have nothing

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2 to lose. There are no penalties that are
3 imposed as part of the process for
4 appealing. So from their perspective,
5 what they do and what they have done with
6 increasing frequency over the last 20
7 years is, they'll just appeal and appeal
8 and appeal and figure one of these days
9 maybe we'll win.

10 COUNCILMAN HENON: So the added
11 costs in their \$200 million number, which
12 is in dispute from many folks here, you
13 could do the same thing. You could say
14 through your negotiations and contract
15 negotiations and concessions, you have
16 added costs that you took a loss in; is
17 that correct?

18 MR. POULSON: The union could
19 file a petition to vacate the award if
20 they saw fit.

21 COUNCILMAN HENON: My point is,
22 numbers could be inflated. You've saved
23 the City a tremendous amount of money
24 through healthcare concessions and other
25 kind of administrative suggestions that

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2 would save the City money too. So

3 there's a dollar value to that --

4 MR. POULSON: Absolutely.

5 COUNCILMAN HENON: -- on the

6 side of which you're trying to argue; is

7 that correct?

8 MR. POULSON: Were it not for

9 the award, that \$200 million figure,

10 assuming it's correct, could be much

11 larger if the award had more appropriate

12 provisions.

13 COUNCILMAN HENON: So you're

14 saying Year 1 is not Year 1. It's Year

15 5, because you're going back, and how

16 much money could the City have saved

17 three years ago if they honored the

18 contract and moving forward --

19 MR. POULSON: That's correct.

20 COUNCILMAN HENON: -- and

21 likewise, right? So that would be your

22 eight years, five years moving forward,

23 three years moving back?

24 MR. POULSON: That's correct,

25 sir. That's how we get to eight years.

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2 The continued strategy of avoidance is
3 not going to help anyone in the long run,
4 as Controller Butkovitz pointed out, and
5 from our -- from a citizen's
6 perspective -- I'm a Philadelphian, a
7 lifelong Philadelphian. From a citizen's
8 perspective, we would like to see -- I'd
9 like to see the Administration implement
10 the award and give the Firefighters what
11 they're due. If they want to continue to
12 challenge it, implement it in the
13 meantime, which, by the way, is what they
14 did in 2006 when they appealed and lost.

15 But from a taxpayer standpoint,
16 if you're not going to give the money to
17 the Firefighters, you got to set it
18 aside. You have to set it aside so that
19 when what we believe is going to happen,
20 when they lose this next round of
21 appeals, the money will be there. And if
22 they win, I guess it's gravy.

23 COUNCILMAN HENON: There is
24 money being set aside; it's for legal
25 fees, right?

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2 MR. POULSON: Well, apparently,
3 yeah.

4 COUNCILMAN HENON: I have no
5 further questions. Thanks.

6 COUNCILMAN JONES: We're going
7 to quickly go --

8 MR. GAULT: That's a very good
9 question, though, Councilman, what are
10 the legal fees? It's our taxes on one
11 end paying the legal fees and our dues on
12 the other. We haven't had a raise for
13 three years, and our real estate taxes
14 are going up every year. Our quality of
15 life has diminished the last three years.
16 We deserve to be treated better. We
17 demand to be treated better.

18 Thank you for hearing us today.

19 COUNCILMAN JONES: Well, we
20 thank you for what you do.

21 We're going to hear from
22 Councilman O'Brien quickly and then we'll
23 close out with Councilman Oh.

24 COUNCILMAN O'BRIEN: I'd just
25 like to summarize by going through

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2 Philadelphia math. So it's not -- it's a
3 Five-Year Plan, but it's 200 over eight
4 years?

5 MR. POULSON: Correct.

6 COUNCILMAN O'BRIEN: It's 66
7 million in contract costs, \$20 million in
8 anticipated savings that never should
9 have been calculated?

10 MR. POULSON: Correct.

11 COUNCILMAN O'BRIEN: And just
12 as summary, this is binding arbitration,
13 correct?

14 MR. POULSON: The Constitution
15 was amended to provide for this binding
16 arbitration.

17 COUNCILMAN O'BRIEN: Thank you
18 very much.

19 COUNCILMAN JONES: Thank you,
20 Councilman.

21 Councilman Oh.

22 COUNCILMAN OH: Thank you very
23 much, Mr. Chairman, and I'd like to thank
24 all my colleagues on City Council. All
25 17 voted in favor of the resolution. All

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2 17 share very grave concerns. And I
3 think this has been very important for
4 not only us on Council, but for the City
5 of Philadelphia and its citizens, because
6 some of these things were not known.
7 Some of them are very hard to understand.
8 But I think there has been certainly
9 testimony from the Administration.
10 They've given us their numbers and their
11 calculations, and you have pointed out
12 some very clear things as well and given
13 us their own calculations for us to
14 compare.

15 If I think we find that there
16 has been substandard accounting practices
17 employed -- and I'm not saying there is.
18 We're going to have to take a look at
19 this -- in the sense of coming up with
20 very large numbers that shouldn't be
21 there, if it is true that this is
22 actually an eight-year calculation and
23 the number is high, I think that's very,
24 very disturbing in the sense that it
25 would mean that the City should have,

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2 could have, and was able to pay this.

3 I think from here, we will have
4 to come up with some type of conclusion
5 from this Public Safety Committee, which
6 is up to the Chairman, but we will take
7 action, and we very much appreciate your
8 being here to shed light on this issue.

9 Thank you very much.

10 (Applause.)

11 COUNCILMAN JONES: Are there
12 any other questions for this panel?

13 (No response.)

14 COUNCILMAN JONES: Seeing none,
15 let me close out by saying thank you, and
16 that patience is a virtue but at some
17 point it gets a little old.

18 This concludes our public
19 hearing of the Committee on Public Safety
20 for City Council.

21 Thank you.

22 MR. GAULT: Thank you very
23 much, Mr. Chairman.

24 COUNCILMAN JONES: We will
25 recess to the call of the Chair.

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2 Thank you.

3 (Committee on Public Safety

4 recessed at 3:50 p.m.)

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CERTIFICATE

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

MICHELE L. MURPHY
RPR-Notary Public

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