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COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC HEARING

COMMITTEE ON COMMERCE AND

ECONOMIC DEVELOPMENT

- - - -

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, December 15, 2004
10:30 a.m.

- - - -

RESOLUTION 040827

RESOLUTION 040977

RESOLUTION 041014

PRESENT:

COUNCILMAN W. WILSON GOODE, JR., Chair
COUNCILMAN MICHAEL NUTTER, Vice Chair
COUNCILWOMAN MARIAN TASCO
COUNCILMAN JUAN RAMOS
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN FRANK RIZZO

- - - -

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I N D E X

1		
2		
3		
4	RESOLUTIONS 040827, 040977	PAGE
5	MICHAEL SKINNER.....	11
	DIANE WALKER.....	17
6	ROBERT MCGOWAN.....	19
	ROSALIND HENRY.....	26
7	NORASIS WILLIAMS.....	27
	GEORGE KINGS.....	28
8	VINCENT DOUGHERTY, Commerce.....	30
	DUANE BUMB, Commerce.....	58
9	ANGEL ORTIZ.....	79
	JOHN MACKLIN.....	
10	ROSCOE MURPHY.....	94
	BRUCE CRAWLEY.....	112
11	ANTHONY FULLARD.....	112
	NICK SHENOY.....	150
12	LUIS CRUZ.....	153
	EDDIE CHISOM.....	164
13	EDDIE BATTLE.....	164
	PHILIP HARRIS.....	174
14	LARRY MITCHELL.....	182
	DAVID ESPOSITO.....	186
15	THOMAS TRAVICK.....	194
	DEBORAH COBB.....	204
16	TINA KING.....	208
	CAROL ROBINSON.....	214
17	MICHAEL P. WILLIAMS, MBEC.....	223
18		
19		
20		
21		
22		
23		
24		
25		

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILMAN GOODE: Good morning.

3 This hearing is called to order. This is the
4 public hearing of the Commerce and Economic
5 Development Committee on Resolutions No.
6 040827 and 040977 and No. 041014. My name is
7 W. Wilson Goode, Jr., Chair of this Committee.

8 I note that a quorum is present. To
9 my left is Majority Leader Marian Tasco; to my
10 right is Vice Chair Michael Nutter; also
11 present are Committee Members Blondell
12 Reynolds Brown and Frank Rizzo.

13 The title of the first resolution,
14 No. 041014, a resolution authorizing the
15 Committee on Commerce and Economic Development
16 to hold hearings to examine and investigate
17 the City's provision of assistance and
18 services to businesses through the Commerce
19 Department and the Mayor's Business Action
20 Team.

21 The title of the second resolution,
22 No. 040977, a resolution authorizing the
23 Committee on Commerce and Economic Development
24 to hold hearings to examine the Minority
25 Business Enterprise Council with regards to

1 12/15/04 - COMMERCE - RES.040977, 041014
2 Chapter 17-500 of the Philadelphia Code and
3 Executive Order No. 103, and to assess the
4 efforts to improve participation levels and
5 utilization goals for minority, women and
6 disadvantaged business enterprises in City
7 contracting and procurement and the
8 effectiveness of attempts to eliminate related
9 discriminatory and unfair practices.

10 The third resolution, No. 040827, is
11 not being considered today.

12 I'll ask the primary sponsor of the
13 first resolution if she has any opening
14 comments. Afterwards she can call her first
15 witness.

16 COUNCILWOMAN TASCO: Thank you, Mr.
17 Chairman.

18 Good morning, everyone. I'm
19 Councilwoman Marian Tasco, and I represent the
20 9th Councilmanic District. Both of these are
21 my resolutions. We're going to have the one
22 on the Mayor's Business Action Team because
23 it's not as extensive as the MBEC, so we want
24 to move along quickly.

25 We're here to discuss the Mayor's

1 12/15/04 - COMMERCE - RES.040977, 041014
2 Business Action team, known as MBAT, and how
3 it provides services to businesses in this
4 City. As an example of this provision of
5 services, we will use this hearing to discuss,
6 among other issues, Mutual Industries, a
7 business located in my Council district.

8 More than two years ago my office
9 contacted the Department of Licenses and
10 Inspections, L&I, regarding neighbors'
11 complaints about Mutual Industries. In fact,
12 I have three pictures that show the community
13 before Mutual Industries expanded in the
14 community and after. I'll show them to my
15 Committee Chairs, and we'll show them to the
16 first witness when he comes. These pictures
17 illustrate how a residential neighborhood has
18 been a commercial nightmare.

19 When we contacted L&I we learned
20 that the Mayor's Business Action Team of the
21 Commerce Department was providing business
22 assistance to Mutual Industries. Prior to
23 that, my office was not aware of nor informed
24 by MBAT that they were assisting Mutual
25 Industries.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 In addition, my office held several
3 community meetings with residents and
4 representatives of Mutual Industries, L&I and
5 the Police Department in an effort to discuss
6 the neighbors' complaints and bring about a
7 resolution to the issue.

8 Due to various code violations, L&I
9 issued a notice of intent to cease operations
10 to Mutual Industries' president, Edmund M.
11 Dunn. In response to this notice, Mutual
12 Industries filed a petition with Judge Esther
13 Sylvester to prevent the City from enforcing
14 this notice.

15 During court hearings regarding
16 their petition, I personally appeared to
17 testify and appealed to Judge Sylvester to
18 take action against Mutual Industries and to
19 give relief to the neighbors from the nuisance
20 activities taking place. In addition, my
21 office provided Judge Sylvester with various
22 photographs that illustrated the conditions of
23 Mutual Industries' properties.

24 Even with my testimony and the
25 information provided by my staff and the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 community, Judge Sylvester decided to grant in
3 part Mutual Industries' petition to prevent
4 the City's enforcement of the cease operations
5 notice until the Zoning Board hearing.

6 On January 8th, 2003, Mrs. Marian
7 Johnson of my office, who represents the 9th
8 District before the Zoning Board, appeared
9 before the Zoning Board, along with neighbors,
10 and strongly opposed Mutual Industries'
11 application. At the end of the hearing, the
12 Zoning Board stated that they would release
13 their decision at a later date.

14 On January 30th, 2003 I forwarded a
15 letter to the Zoning Board to follow-up and
16 reiterate my opposition regarding Mutual
17 Industries' application to expand its present
18 operation. I pointed out to the Zoning Board
19 the following:

20 One, the expansion plan was not
21 compatible with the R9-A zoning at 5700 and
22 5800 North 7th Street that surrounds the
23 business. Particularly I oppose the open air
24 storage that Mutual Industries uses for its
25 products that would affect the neighbors. I

1 12/15/04 - COMMERCE - RES.040977, 041014

2 offered to assist Mutual Industries in
3 locating a more appropriate site.

4 I opposed Mutual Industries'
5 proposal for a nine foot barb wire fence and
6 stated to them that I would not ask my
7 constituents to conform to such an indignity
8 in their neighborhood, which is already a
9 besieged community. There has been no such
10 approval of a similar design in any
11 residential area in the City, and therefore
12 the approval of Mutual Industries' application
13 would be inconsistent with previous Zoning
14 Board decisions.

15 Even with all of the presentations
16 and evidence presented to the Zoning Board
17 pointing out the reasons why I, the District
18 Councilperson, and the community residents
19 were opposed to the application, the Zoning
20 Board still granted Mutual Industries'
21 application and only addressed a portion of
22 our concerns.

23 It it's February 21st, 2003
24 decision, the Zoning Board directed Mutual
25 Industries to plant evergreen shrubs to

1 12/15/04 - COMMERCE - RES.040977, 041014
2 provide a buffer for the neighbors, maintain
3 all trash in an enclosed area within their
4 property line and ensure that their properties
5 satisfy the Fire Code.

6 For the record, the photographs that
7 I am circulating to the Committee show that
8 prior to the expansion of Mutual Industries,
9 the neighbors enjoyed green grass, a place for
10 their children to play and no involvement or
11 encroachment of the company. They tore all
12 the greenery away and constructed concrete
13 driveways and put up this fence with all of
14 this material behind it. It just changed the
15 whole quality of life for those people.

16 To this day my office continues to
17 receive complaints from constituents -- as a
18 matter of fact, every day -- regarding the
19 business operations of Mutual Industries in
20 their neighborhood. We have contacted the
21 Managing Director's Office. He has sent us
22 letters saying that they're in compliance when
23 they're not. I mean, I don't know how we can
24 get that many complaints from a community when
25 this company is not being cooperative.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Considering this information and all
3 that we have gone through and the frustration
4 of the constituents in my district and the
5 people who live near this place, we will use
6 this hearing to discuss this matter and
7 determine whether this example is indicative
8 of the way services were provided by MBAT. If
9 so, we will also discuss what measures can be
10 taken so MBAT's provision of services are not
11 done in a way that negatively affects
12 constituents and disrupts communities.

13 Also, we want to know what MBAT can
14 do to work with Mutual Industries to change
15 some of the ways they're doing business and
16 improve the quality of life for the people in
17 that community.

18 So this morning we're going to first
19 call on the two residents from the community
20 prior to calling on MBAT.

21 We're going to ask Mr. Michael
22 Skinner, Block Captain of 5700 North 7th
23 Street Neighbors, and Nicholas Brown, 5700
24 North 7th Street Neighbors, to come forward.

25 Are they here?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Mr. Skinner, would you come forward
3 to the table, please.

4 COUNCILMAN GOODE: Let me quickly
5 note for the record that we are also joined by
6 Committee Member Donna Reed Miller.

7 COUNCILWOMAN TASC0: Are there other
8 neighbors from the community you want to bring
9 up?

10 MR. SKINNER: Yes.

11 COUNCILWOMAN TASC0: They can come
12 up. Have all of them come up at the same
13 time, please. You may have a seat.

14 You may all have a seat in the black
15 chairs there. Two of you can sit at the
16 witness table and then as others may want to
17 testify you can just exchange seats.

18 We also have Robert McGowan, who is
19 the Ward Leader of the 61st Ward here.

20 You can proceed, Mr. Skinner. First
21 identify yourself for the record. Speak into
22 the microphone. You can pull it toward you.

23 MR. SKINNER: Good morning. My name
24 is Michael Skinner. I live in the 5700 block
25 of North 7th Street.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 The problems we are having with
3 Mutual Industries is what Ms. Tasco said. Our
4 way of life has been extremely affected by the
5 way they conduct business. We cannot enjoy
6 our way of living in our homes.

7 We have structural damage since
8 these people have started their construction.
9 Rodents are coming in and out of our houses.
10 Our wives and our children are being cursed at
11 when the trucks come through our neighborhood.
12 If we say that you can't come, they come
13 through our neighborhood and they use all type
14 of language towards us.

15 We ask the police for their
16 cooperation. We can't get any response from
17 nobody. We called L&I a number of times and
18 asked for them to help us. Instead they
19 granted them a license to do whatever they
20 want.

21 Now, our thing is, if the law
22 doesn't apply to Mutual Industries, then if I
23 want to extend my deck -- which I have started
24 the project -- why should I have to pay \$300
25 to extend our deck to the City? I don't feel

1 12/15/04 - COMMERCE - RES.040977, 041014

2 as though it's fair. None of us feel as
3 though it's fair for us to sit on our decks
4 and have to look at this type of stuff.

5 In October of 2000 we had a fire,
6 which was the second fire. 7 o'clock at
7 night. We had to leave our homes.

8 COUNCILWOMAN TASC0: Where was the
9 fire?

10 MR. SKINNER: The fire was right in
11 back of our homes, which these pictures will
12 prove.

13 COUNCILWOMAN MILLER: Was that in
14 the manufacturing plant?

15 MR. SKINNER: No. The fire was in
16 back of our homes where they tore down and use
17 as an open air storage facility.

18 COUNCILWOMAN MILLER: In their yard?

19 MR. SKINNER: If you want to say
20 that, in the yard, yes. But our yard is about
21 from here to where you people are sitting.

22 As you can see, the smoke and stuff
23 is blowing towards our way. If we had more
24 wind our whole block would have went up.

25 Like I said earlier, this is the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 second fire. In 2000 we had the first fire,
3 which was in the 5800 block. That fire lasted
4 about six hours. These materials that these
5 people have stored in this open air facility
6 are flammable. You cannot just put it out
7 with water. You have to have a special
8 chemical to put this stuff out.

9 The fire marshal came there several
10 times and told these people beforehand that
11 they couldn't put this stuff out here without
12 sprinkler systems, without this stuff being
13 stored in an enclosed area, not in an open
14 area, that it definitely would affect our way
15 of living and they were taking a strong risk
16 of burning up our neighborhood.

17 Mutual Industries' argument was that
18 children set it. It's probably true. We're
19 not denying that. But the point I'm trying to
20 make is, if you take a decent neighborhood and
21 change the way of living of that neighborhood
22 where people are already accustomed to living
23 a certain way and you change that
24 neighborhood, yes, you're going to get
25 undesirables. You will get people that do

1 12/15/04 - COMMERCE - RES.040977, 041014

2 stupid things, malicious things. And this is
3 what was happening. We never had that problem
4 until Mutual Industries took it upon
5 themselves to do what they wanted to do.

6 It's just a number of things that,
7 you know, goes on with this company and how
8 it's affecting our way of life.

9 Our insurance, for instance, is
10 going up. Our equity in our neighborhood is
11 going down. If I pay a certain amount of
12 money for my home, which is an investment, I
13 would like to receive a profit from that when
14 I'm ready to move on, which I cannot do now
15 because nobody wants to buy a house that's in
16 the back of a bunch of trash. It's as simple
17 as that.

18 What attracted me to my home -- I
19 looked at that home for two years, my wife and
20 I. We came through that neighborhood
21 surveying the neighborhood night and day.
22 What attracted me to that home, like I figure
23 everybody else, was the fact we had this park,
24 that we had use of this park.

25 When I bought my home, my real

1 12/15/04 - COMMERCE - RES.040977, 041014
2 estate office told me that I was responsible
3 for certain parts of that park. They even
4 measured off and showed me what I was
5 responsible for. People had gardens back
6 there. If you go in our neighborhood and you
7 go around my neighborhood within, say, a
8 three-mile radius, you see people have similar
9 parks in the back of their homes. They have
10 swimming pools. They have swings. It's a
11 place where we know where our children are.
12 Now they're forcing our children to be in the
13 streets.

14 These trucks can't stop like cars.
15 If you got a stop sign saying stop and you've
16 got an 18-wheeler shifting gears, there's no
17 way for that truck to break down if a child
18 just runs out in front of that car like that.
19 These are the problems that we have.

20 I thank you for your time.

21 COUNCILWOMAN TASCO: Thank you so
22 much, Mr. Skinner.

23 Would you identify yourself for the
24 record, please?

25 MS. WALKER: Good morning. My name

1 12/15/04 - COMMERCE - RES.040977, 041014
2 is Diane Walker. I live at the 5700 block of
3 North 7th Street.

4 My problem is the driveway, on
5 either end you can't get out. I'm going to
6 work. I work shift work. I work for the
7 Police Department. I'm trying to get out to
8 go to work. I have to come out extra early,
9 sit there and wait for these people to move.
10 They won't move these trucks. They even park
11 them and take parts off of them that can't be
12 moved unless the front part that drives is
13 there to pull it along.

14 Therefore, I've got to back up. I
15 never know what I'm going to hit backing up.
16 You can't turn around. Back all the way out
17 of the driveway to the other end. Now, that's
18 all blocked up.

19 I live right here. This fence is
20 there, and all this plastic all over this
21 fence is flying like flags and everything,
22 making all this noise. The trash blows up
23 against the gate, so therefore there's a lot
24 of trash; soda bottles filled with urine, all
25 kinds of crazy crap. I looked in there --

1 12/15/04 - COMMERCE - RES.040977, 041014
2 they look like they tore up -- they made this,
3 I guess some kind of -- where they store their
4 stuff out made out of stone. It looks like
5 they were back there breaking that up and just
6 left it there. They never came to haul it
7 away or anything. It's full of trash inside
8 the gates. Not just outside the gates.
9 Inside of the place it's filthy.

10 People are coming in there stealing.
11 The products that they have back there are out
12 in the open, so anybody can just park their
13 truck and start loading this stuff, breaking
14 in the gates and taking the stuff. And that
15 means you don't know who's coming in.

16 Somebody told me you can go and
17 steal this. And it's easy. There's no guards
18 there. So anybody from anywhere can just come
19 in and knock you in your head while they're
20 going over there to steal. If you look and
21 are watching, you know they're going to be
22 upset because nobody wants to be identified,
23 you know, if you take a picture or get a video
24 camera and film these people stealing. Of
25 course being in neighborhood I have to turn my

1 12/15/04 - COMMERCE - RES.040977, 041014

2 head and act like I don't see what's going on,
3 that I don't know who these people are. They
4 get upset.

5 The place is just a mess. They park
6 in the street. I try to go out Grange Street.
7 One will be coming this way and one will be
8 coming that way. So where am I going to fit?
9 They can't pull over because they're so big.
10 You have to wait on these people, whatever
11 they're doing. It's a mess back there. It's
12 a total disaster. There's no trees or
13 anything.

14 I thank you for your time.

15 COUNCILWOMAN TASCO: Thank you.

16 Mr. McGowan.

17 MR. MCGOWAN: Good morning,
18 everyone. My name is Robert McGowan. I'm the
19 Democratic Ward Leader of the 61st Ward.

20 This has been brought to light
21 through the Committee people. There's two
22 divisions, the 6th and the 7th Division. This
23 was brought through my Committee people to me
24 because it is a problem. I notified
25 Councilwoman Tasco. We've had meetings with

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Mutual Industries at the school. They seem to
3 want to help the neighbors.

4 It started on the 5800 block with
5 the noise from their 3:00 to 11:00 shift,
6 especially in the spring and the summertime
7 with the loud music out the windows. It was
8 disrupting the neighbors.

9 In the past couple of years, the
10 problem with the 5700 block is where they're
11 storing everything. That just came to light
12 in the past couple of years.

13 They've had a couple of fires. The
14 first fire was at the factory itself in the
15 5800 block. Two years ago they had the fire
16 where they just started storing. That storage
17 area was just built about three years ago.
18 There was problems with that. We had another
19 meeting. They were supposed to do some
20 things. I don't believe everything that was
21 discussed at the school has been rectified.

22 The whole quality of life down there
23 has changed. Being the ward leader, I get a
24 lot of phone calls, probably a lot more than
25 the Councilwoman does, because they see me in

1 12/15/04 - COMMERCE - RES.040977, 041014

2 the neighborhood.

3 You know, the properties are going
4 for about \$60,000 and up in that area. It's
5 row homes. I know the factory has been there
6 since, I believe, 1923.

7 I went back to the previous ward
8 leader -- he wasn't there back when it was
9 first built -- but Charles Murray was the
10 previous ward leader. We discussed a lot of
11 this. I know there was an ordinance put
12 through where the tractor trailer trucks could
13 only use Grange Street from 5th back to the
14 facilities for entrance and exits. But they
15 also come down Nedro and Chew Street and go
16 over.

17 Now, as far as the parking back
18 there, they should know how many trucks they
19 have coming in and how long it will take to
20 unload them so they can get them in and get
21 them out as to not disrupt the traffic.
22 Because where the properties are is on the
23 west side of 7th Street and their back is to
24 Mutual Industries. What happens is their
25 driveways are blocked as they go in from 7th

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Street back into Mutual Industries, they're
3 are blocked by these 18-wheelers.

4 In the beginning we were getting
5 complaints because they were idling their
6 vehicles. And if you idle a tractor-trailer
7 truck at 4 o'clock in the morning when you're
8 trying to sleep, that's not a nice sound to
9 here.

10 So a lot of things can be worked
11 out, I believe, with the City's help and
12 Mutual Industries to help the neighbors out,
13 to keep the community back to where it's
14 supposed to be.

15 I don't want to see any industry
16 leave Philadelphia, because I believe they
17 handle 100 employees. I could be off on that
18 figure. I'm trying to remember what they
19 said. I don't want to see jobs leave the City
20 and everything, but I don't want to see a
21 community disrupted, where you keep the
22 company but you don't have any neighbors.
23 Then the homes go down. I don't want to see
24 that.

25 I'm hoping through your Committee,

1 12/15/04 - COMMERCE - RES.040977, 041014
2 Councilman Goode, that we can work something
3 out with the City and Mutual Industries to
4 help the neighbors of the 6700 and 6800 block,
5 and also Nedro, Range and Chew Avenue because
6 of the problems with the tractor-trailer
7 coming in off of 5th Street.

8 Thank you very much for your time.

9 COUNCILWOMAN TASC0: Thank you very
10 much.

11 MR. SKINNER: I'd like to add
12 something.

13 Like this gentleman said about the
14 tractor-trailers on Grange Street. The
15 problem we have with the trailers running on
16 Grange Street is, at the top of the hill an
17 elementary school sits there. This is where
18 our children travel every day to go to school.
19 As I said earlier, these trucks cannot even
20 see these little people. The crossing guards
21 have problems with directing when they come
22 down to do it.

23 Now, they have two entranceways.
24 They are using Grange Street and they're using
25 Chew. They built a cement block where they

1 12/15/04 - COMMERCE - RES.040977, 041014
2 put a loading dock up. Everything they just
3 did was illegal. We do not want to say that
4 Mutual Industries can't grow.

5 To give you an example. Your wife
6 or girlfriend starts out in a one-bedroom
7 apartment. You start to have children.
8 Common sense tells you you have to move and
9 get a larger house. We don't have a problem
10 with Mutual Industries growing, but we have a
11 problem with Mutual Industries when they start
12 to affect our lives.

13 Marian Tasco offered to help these
14 people find a better location within the City
15 that they can operate without disturbing
16 nobody. I know several locations that they
17 can go to myself.

18 All we're simply saying is that
19 we're not trying to put anybody out of work.
20 Everybody needs work, especially in this day
21 and time. We know that. But when your work
22 affects our way of living and we pay taxes and
23 we set laws to protect us as neighbors and
24 citizens and nobody is responding to that,
25 then it becomes a problem.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Like I said earlier, we as neighbors
3 are starting to turn against ourselves because
4 where our children had the freedom to play and
5 people had places to park their cars, they
6 don't have that no longer. So there becomes a
7 lot of tension now because my alarm is going
8 off because the kids put up their basketball
9 court and the ball accidentally hits the car or
10 something. Now you've got people who don't
11 speak to each other.

12 We have a community that's diverse
13 with all types of nationalities. A lot of
14 people are not here because they can't speak
15 English. Some are senior citizens. It's a
16 bunch of things. I'm not making up no excuses
17 or apologizing for no big crowd. We're
18 dealing with one block, which is the 5700
19 block.

20 Yes, Mutual Industries, the building
21 has always been in the 5800 block. But it was
22 never what it is now. It was a knitting mill.
23 It was a number of things. As they said
24 earlier, never in history as any 18-wheelers
25 been allowed to travel in our neighborhood

1 12/15/04 - COMMERCE - RES.040977, 041014

2 that freely.

3 I thank you very much.

4 COUNCILWOMAN TASC0: Thank you very
5 much.

6 The problem has been that we haven't
7 been able to get the cooperation of the City
8 to help with this issue. That's why we
9 brought this here today. We want them to hear
10 what you have to say.

11 You and the neighbors have attended
12 all of the meetings when the community
13 meetings have been held. All the neighbors
14 have come out. It is difficult getting out
15 today, but Mr. Skinner and Mr. Brown have been
16 in court. We all have been in court. We've
17 been before the Zoning Board. So it's just
18 their frustration that brought this hearing
19 here today.

20 We'd like the other three to come
21 forward, if you have anything to say, briefly.

22 MS. HENRY: Good morning. My name
23 is Ms. Rosalind Henry from the 5800 block
24 North 7th Street. I'm the block captain.

25 Basically the concerns that we have

1 12/15/04 - COMMERCE - RES.040977, 041014
2 have been covered. I'll just briefly say that
3 in back of our block is Mutual Industries.
4 Since the expansion, there has been a
5 disruption in our lives. The open storage of
6 the materials, we did have a fire that did
7 threaten our homes. They have trees in the
8 back. There are tree lines back there. The
9 trees caught on fire, which extended over onto
10 our decks. There is the big problem with
11 noise from round-the-clock shifts and also
12 tractor-trailers. A lot of neighbors have
13 brought their concerns to me, which have been
14 covered, so I would just like to reiterate
15 that.

16 COUNCILWOMAN TASCO: Thank you.

17 MS. WILLIAMS: Good morning, Panel.
18 My name is Norasis Williams (ph). I reside in
19 the 5700 block of North 7th Street.

20 As stated by my other neighbors, I'm
21 miserable. The tractor-trailers are robbing
22 our homes. We have a problem with rodents
23 coming in. I have absolutely no idea what the
24 industry actually has in that open area. I do
25 hope that our problems will be solved so that

1 12/15/04 - COMMERCE - RES.040977, 041014
2 we can reside in our neighborhoods peacefully
3 and calmly.

4 I thank you for your time and your
5 interest.

6 MR. KINGS: My name is George Kings.
7 I live in the 5700 block of 7th Street.

8 Some of the neighbors say they have
9 problems since they've been driving them down
10 the driveway with the forklift and cracked up
11 some of the driveway. The drain lines have
12 been clogged up.

13 When me and my wife first bought the
14 house, we bought the house because the land
15 that was behind the driveway, you could do
16 certain things out there, like in the
17 summertime have cook outs or whatever, have
18 friends over. You had trees there. It was
19 like a little park there. But now all that's
20 been gone. They took down all the trees.

21 When we came to the Zoning Board
22 hearing, I think they said they had to put up
23 shrubbery or something. They haven't done
24 nothing that was said at the hearing. They
25 got just a big, ugly fence there.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 You had the trees that would block
3 off the air from your house in the wintertime.
4 Now that's all wide open and you feel a lot of
5 air in your houses that causes your heating
6 bill to go up in the wintertime.

7 It's all been a lot negative as far
8 as I'm concerned. I think it needs to be
9 rectified one way or the other.

10 COUNCILWOMAN TASC0: Thank you very
11 much.

12 COUNCILMAN GOODE: Are there any
13 questions fr the people on this panel?

14 (No response.)

15 COUNCILMAN GOODE: Councilwoman,
16 could you please call the next panel?

17 COUNCILWOMAN TASC0: We'd like to
18 have Vincent Dougherty, the MBAT Director.

19 Is Mrs. Naidoff here? Is she
20 coming?

21 You all might want to wait and hear
22 Mr. Dougherty, who is the director of the MBAT
23 office, before you leave.

24 Good morning.

25 MR. DOUGHERTY: Good morning, Mr.

1 12/15/04 - COMMERCE - RES.040977, 041014
2 Chairman and Members of the Committee on
3 Commerce and Economic Development. My name is
4 Vincent Dougherty. I'm the Assistant Director
5 of Commerce for the City of Philadelphia and
6 the Acting Director of the Mayor's Business
7 Action team, MBAT. I've submitted written
8 testimony about MBAT and how we work, who we
9 are, what we do.

10 Basically we are the one-stop shop
11 for business and business advocates and we
12 work with businesses to grow and expand here
13 in the City. We have a team of five staff
14 members who are spread out throughout the
15 City. Each have a geographic area that they
16 handle and are the primary liaison for that
17 particular area with the business community.

18 In short that's who we are and what
19 we do.

20 We could get to your specific case,
21 Councilwoman, if that's appropriate.

22 COUNCILWOMAN TASC0: We didn't know
23 that MBAT was working with this company in my
24 district. I want to know how you interact
25 with District Councilpeople when you're

1 12/15/04 - COMMERCE - RES.040977, 041014
2 interacting or you're working with a business
3 to grow or come into a neighborhood.

4 MR. DOUGHERTY: Councilwoman, in
5 this particular case, if I may, I'll tell you
6 what I know firsthand.

7 This issue came to my attention
8 shortly after I was appointed Acting Director,
9 and we had a meeting over at your office to
10 discuss it. Prior to that, probably a year or
11 so before that, one of the MBAT-ers came up to
12 me. I was doing Enterprise Zone Program or
13 the Keystone Opportunity Zone Program, but I
14 had a lot of knowledge about how businesses
15 acquire properties, either through sheriff's
16 sale or lien sale or condemnation, et cetera.
17 I did the basic research for this young
18 staffer, who was an inexperienced staff person
19 who didn't know.

20 Basically the first thing that
21 jumped out at me, quite bluntly, that jumped
22 out at me is this particular lot, which was an
23 old, I guess, coal siding to serve that
24 building on the 5800 block. It was vacant.
25 It was privately owned by a company called RPU

1 12/15/04 - COMMERCE - RES.040977, 041014
2 Company, who bought a lot of ConRail's old
3 siding. What jumped out at me right away was
4 it was zoned R9-A. From the aerial photos and
5 maps at L&I, you can see the row of houses
6 that sit there with a common driveway behind
7 them.

8 The first thing I said to the staff
9 member was, this company has got to work with
10 the Councilwoman's office because they are
11 going to need the zoning variance to do
12 whatever they want. They're going to have to
13 work with the community, as you have often
14 suggested to me on certain issues. You
15 recommend that I meet with the community. So
16 that's the last I heard of it, actually, this
17 last particular case, until it was brought to
18 my attention, like I said, a few weeks or a
19 month after I became the Acting Director of
20 the Mayor's Business Action Team.

21 Going backwards, what I found out
22 was that this company bought the property at
23 lien sale. They acquired it and then did
24 whatever they wanted to do. We did do a phase
25 one environmental on the property, which is

1 12/15/04 - COMMERCE - RES.040977, 041014
2 just an environmental preview to see what the
3 former use, if there were any blatant
4 environmental issues there.

5 Then from my understanding, the
6 Mayor's Business Action Team representative
7 who was working with the company advised them
8 on the things they had to do. Again, contact
9 you and the community to work with this, how
10 to get permits, how to get things like that
11 taken care of for this expansion to move
12 forward. To the extent this company did or
13 did not do that, that is, quite bluntly, on
14 the company. We can advise, but we cannot
15 force them to do anything particular. We are
16 not an enforcement agency.

17 COUNCILWOMAN TASC0: Did you work
18 with the enforcement agencies to make sure
19 that they do what they're supposed to since
20 you are responsible for bringing them or
21 helping them to expand?

22 MR. DOUGHERTY: That, I can't speak
23 definitively to. I know there were community
24 meetings that I understand became rather
25 contentious. And I understand that the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 company walked away from those meetings and
3 had no subsequent meetings. That's my
4 recollection of the situation. Again, I was
5 not part of it at that particular time.

6 COUNCILWOMAN TASCO: Well, what can
7 you do about it now?

8 MR. DOUGHERTY: If I may take one
9 step backwards.

10 After the meeting with you basically
11 they hired at that point a -- I don't even
12 remember who it was -- but I just remember
13 that it was a high-priced, well-known lawyer
14 in the City of Philadelphia who does zoning.
15 At that point we walked away. They elected to
16 ignore our recommendations and do whatever
17 they chose.

18 We had recommended additional
19 meetings with you, et cetera. We tried to set
20 up a meeting with the business and you and
21 leaders of the community and they elected not
22 to do it. So at that point we walked away and
23 basically there's nothing we can do. They
24 chose their own fate, and that's what it is.
25 We've not been involved with them whatsoever

1 12/15/04 - COMMERCE - RES.040977, 041014

2 since then.

3 I'm sorry. I'm wrong. Actually,
4 you brought up the issue at a budget hearing,
5 I guess, 18 months ago with Jim Cuorato, the
6 Commerce Director at the time, and Mr. Cuorato
7 and I went out to survey the situation. We
8 went with some of the residents and tried to
9 address some of their issues. At the time Mr.
10 Cuorato was going to talk to the lawyer and
11 see if some of the issues could be addressed.

12 COUNCILWOMAN TASCO: Where is the
13 City's responsibility to these neighbors?
14 That's what I want to know. That's what we
15 haven't been able to get, is anybody from the
16 Administration to accept the responsibility
17 for the quality of life in the community for
18 these neighbors. You all helped them expand.
19 There was a meeting held and your staff went
20 to the meeting. You might not have been
21 there. My staff person came back and said,
22 well, the City is representing them. Because
23 it was a contentious meeting. You brought
24 them there.

25 Yes, we want businesses to remain in

1 12/15/04 - COMMERCE - RES.040977, 041014
2 the City and, yes, we want them to expand, but
3 at what cost to the quality of life to the
4 people in the neighborhood? What effort was
5 made to move them to another site?

6 These people are here. They have
7 been in court. We have been in community
8 meeting after community meeting. I want to
9 know what is the City going to do to enforce
10 this company to stop some of the illegal
11 behavior that they're doing. L&I will come
12 back and tell us, oh, they're in compliance,
13 and they're not. You know that. But where is
14 the City's responsibility to these neighbors?

15 MR. DOUGHERTY: Councilwoman, I
16 can't address that specifically. I'm
17 certainly not an expert in L&I.

18 COUNCILWOMAN TASC0: What is your
19 interaction with other agencies in the City?
20 You should not be acting alone. If you're
21 going to bring a business or help a business,
22 is there any effort to look to see if they owe
23 any taxes? Do you look to see if they have
24 any Code violation? Do you do any of that
25 before you proceed to help them?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MR. DOUGHERTY: We do not have the
3 authority to pick and choose necessarily, who
4 we serve and who we do not.

5 With that having been said, we do
6 that research. There's a lot of pressure
7 points as to where we can use those things.
8 L&I needs to violate them. As far as back
9 taxes are concerned, if they're doing public
10 financing, they need a revenue check.

11 COUNCILWOMAN TASC0: But who does
12 that? Who is coordinating all of that? If
13 your job is to help businesses in the
14 neighborhood, what is your responsibility in
15 coordinating the City services to bring bear
16 on whether or not you help them, or how you
17 help them or if they pay their back taxes or
18 if they meet the zoning requirements?

19 MR. DOUGHERTY: Again, a lot of this
20 is processes in the sense, like I said, if
21 they're getting public financing, part of the
22 process itself requires a revenue clearance
23 from the unit before the public financing will
24 be finally approved and authorized. That's my
25 understanding about PCDC and PIDC.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 As I said, Councilwoman we are not
3 an enforcement agency.

4 COUNCILWOMAN TASC0: You say here
5 the Mayor's Business Action Team is the
6 division of the Department of Commerce that
7 provides Philadelphia businesses with a source
8 of reliable and comprehensive business
9 assistance.

10 MBAT is the primary point of contact
11 between the Department of Commerce and the
12 business community. MBAT account executives
13 are familiar with a wide range of
14 business-related information, such as start-up
15 requirements, licensing and permit issuance.
16 You also bring together City departments and
17 agencies to resolve business concern and
18 ensure full delivery of City services.

19 With Mutual Industries, why wasn't
20 all this stuff provided to them and to the
21 community?

22 MR. DOUGHERTY: Councilwoman, it
23 generally was. As you mentioned to before,
24 R9-A just jumped out at me so fast, that they
25 need to go through the zoning process. We

1 12/15/04 - COMMERCE - RES.040977, 041014

2 advise them how to go through the zoning
3 process.

4 COUNCILMAN GOODE: Mr. Dougherty,
5 there are several Members of the Committee who
6 want to question you.

7 I just want to note for the record
8 that Committee Member Councilman Juan Ramos is
9 also present.

10 I'll start off.

11 In your written testimony, which I
12 had a chance to read even before coming to the
13 hearing -- and I'm fairly familiar with the
14 Mayor's Business Action Team, having worked
15 with the Commerce Department -- you
16 specifically cite two things.

17 One, it says troubleshooting,
18 working with the operating departments,
19 agencies and facilities, as well as other
20 government and private organizations to cut
21 through red tape for businesses, which means
22 that you in fact serve some sort of
23 coordinating and enforcement role in terms of
24 cutting red tape for businesses; is that
25 correct?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 I believe you stated a couple
3 minutes ago that you don't decide which cases
4 you take on, which is not necessarily true.

5 MR. DOUGHERTY: No. I was saying
6 that officially we do not have that authority
7 to pick and choose.

8 COUNCILMAN GOODE: You absolutely
9 take on that authority at cutting red tape for
10 businesses. You say that in your testimony.

11 MR. DOUGHERTY: I'm not clear what
12 your question is, Councilman.

13 COUNCILMAN GOODE: You also say in
14 your testimony, a business services case
15 involving cutting through the red tape for a
16 business, the source of the red tape can be an
17 operating department, a utility, another
18 business or another level of government. It
19 sounds as if you take on a certain level of
20 authority there as well.

21 MR. DOUGHERTY: A certain amount of
22 authority in what we do is try to hook up the
23 two parties, L&I, in this particular case. I
24 guess a good example would be a building
25 permit. Someone is caught in government red

1 12/15/04 - COMMERCE - RES.040977, 041014

2 tape trying to get a building permit. What
3 our effort would be is to try to --

4 COUNCILMAN GOODE: Mr. Dougherty,
5 lastly you say in your testimony, the final
6 type of MBAT case is a project. A project is
7 a case that can be generally classified as
8 being of longer duration, complicated and
9 requiring significant coordination. The
10 client could be an individual business or, in
11 many cases, may be a collaboration involving a
12 business association, the Community
13 Development Corporation and the Councilperson.

14 MR. DOUGHERTY: Correct. In this
15 particular case I will tell you, quite
16 bluntly, probably the way it should have been
17 handled was first and foremost have a meeting
18 with the Councilwoman's office and address
19 these issues. Bring L&I perhaps to the table
20 and the appropriate players to the table with
21 this business to look at the project as a
22 whole.

23 COUNCILMAN GOODE: Let me ask you a
24 more pointed question. Do you have more
25 authority or was more authority vested in you

1 12/15/04 - COMMERCE - RES.040977, 041014

2 when in fact it is a case of aiding a business
3 as opposed to aiding a community?

4 Do you feel you're not authorized to
5 actually engage operating departments on
6 behalf of the community because your job is to
7 help businesses?

8 MR. DOUGHERTY: It's not our
9 specific job. We do not ignore the community.

10 COUNCILMAN GOODE: My question is,
11 do you feel you have the authority to cut red
12 tape for business, but not the same authority
13 with the same agencies to help the community?

14 MR. DOUGHERTY: To the extent I can,
15 I'm always happy to. Again, it's not our
16 primary role, but I am more than happy to.

17 COUNCILMAN GOODE: I'm asking what
18 you directives are. Since the Commerce
19 Director chose not to show up, though she was
20 invited, I'm asking what your directives are.

21 Do you feel a lack of authority when
22 it comes to resolving problems for the
23 community as opposed to being empowered to cut
24 red tape for businesses.

25 MR. DOUGHERTY: I feel empowered to

1 12/15/04 - COMMERCE - RES.040977, 041014

2 solve problems. And to the extent of the
3 community and a business's concern, I feel
4 empowered to help the community where I can.

5 To the extent I can mitigate any one
6 of these problems that were in this particular
7 case with Mutual Industries, I would be more
8 than happy to do so.

9 COUNCILMAN GOODE: The Chair
10 recognizes Councilman Rizzo.

11 COUNCILMAN RIZZO: Thank you, Mr.
12 Chairman.

13 You said something that has me
14 wondering. Earlier you said that this company
15 bought this additional parcel at a sheriff's
16 sale.

17 MR. DOUGHERTY: A lien sheriff's
18 sale.

19 COUNCILMAN RIZZO: A lien sheriff's
20 sale. Then you said that the City -- correct
21 me if I'm wrong -- paid for a phase one
22 environmental study?

23 MR. DOUGHERTY: Correct.

24 COUNCILMAN RIZZO: Why would we pay
25 and what did that cost us for a private

1 12/15/04 - COMMERCE - RES.040977, 041014

2 company? Why would we pay for an
3 environmental study? I don't get it.

4 MR. DOUGHERTY: We often have state
5 and federal grants.

6 One of the biggest impediments to
7 development in the City of Philadelphia is
8 brown fields, and to the extent we can take
9 that uncertainly off the table for businesses
10 by identifying what the environmental issues
11 may be with a parcel, then we do that
12 regularly. We have grants from DVP and the
13 EPA to do so.

14 COUNCILMAN RIZZO: I get a kick out
15 of people -- no disrespect to you -- that we
16 talk about federal and state money like it
17 comes from heaven. It's the people in this
18 room. It's mine. It's yours.

19 I just don't understand why we
20 subsidize a company that wants to expand their
21 business and we have to pay for an
22 environmental study. Could you provide to the
23 Chair what we spent in dollars, federal, state
24 or local money, on an environmental study for
25 a private company?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 I'd really like to know about that.

3 I think I know a little bit -- not as much as
4 Councilman Goode -- about MBAT, but you refer
5 to this title, account executive, that that
6 account executive saw this deteriorating, the
7 red flag should have come up immediately that
8 there's going to be a problem.

9 I think that that account executive
10 should have been on the case and watched very
11 carefully what was going on there. If they're
12 building temporary loading docks without
13 permits, the account executive should have
14 come to you as the Acting Director and said,
15 L&I needs to get out there to take a look at
16 what's going on. They went maverick. They're
17 out of control.

18 I think you have a responsibility
19 when you see someone not cooperating and
20 they're doing things that affect the
21 community, that you have a responsibility -- I
22 know you don't want to be tagged the dime
23 dropper -- but you must do that if you see a
24 company that has walked away from
25 negotiations, not cooperating and then

1 12/15/04 - COMMERCE - RES.040977, 041014
2 trashing the neighborhood.

3 MR. DOUGHERTY: Councilman, I agree
4 with you 100 percent.

5 In this particular case, again, when
6 I got involved in this, my understanding was
7 that we already had a zoning hearing on this,
8 and that was in the hands of the Zoning Board,
9 what they would allow and would not allow on
10 this particular parcel.

11 As far as whether this loading dock
12 was legal or not legal, again, that's an L&I
13 issue. That is a zoning issue. If the Zoning
14 Board says that they're allowed to put this
15 loading dock there, I have no authority to --

16 COUNCILMAN RIZZO: We're not
17 suggesting you're going to send inspectors
18 out, but I think your account executive needs
19 to jump in a car, go look at the various
20 projects that you're associated with, and when
21 you see things that are occurring that aren't
22 supposed to be occurring, come back to you.
23 You have the responsibility, in my opinion, to
24 pick up the phone, call the L&I Deputy
25 Commissioner, and say, we really would

1 12/15/04 - COMMERCE - RES.040977, 041014

2 appreciate you sending someone out there.

3 I'm not suggesting that you're going
4 to do the enforcement, but you certainly can
5 facilitate the enforcement.

6 MR. DOUGHERTY: Councilman, we do
7 this often. I have a file this thick with bad
8 businesses that will not comply.

9 Generally, this is a unique case
10 where lots of things went wrong. Policy
11 America Street, which I initiated, was what I
12 call an open-handed, clenched fist approach.
13 When businesses are not maintaining their
14 property and dragging down every other
15 business and the neighborhood, et cetera, I
16 will, depending on the level of -- if the
17 building falling, of course I take proactive
18 steps immediately.

19 I will send a letter to them and
20 say, business owner, this is a problem. Your
21 condition of your property is a detriment to
22 everything we're trying to accomplish in this
23 particular area. Please address this
24 promptly. I may do a second letter if he or
25 she does not take care of the issue. The

1 12/15/04 - COMMERCE - RES.040977, 041014

2 third, I will sick the appropriate authority
3 after them.

4 I'm trying to be business friendly
5 and not crush businesses, but get the problem
6 solved because they do have a negative impact
7 on every other business in that area.

8 COUNCILMAN RIZZO: Again, I'm going
9 to end it. There's a balance. I love to be
10 business friendly, but we need to be community
11 and neighborhood friendly.

12 MR. DOUGHERTY: I absolutely agree.

13 I'll say one thing to this
14 Committee. It's something that I fought for
15 quite often -- and Ms. Johnson at the Zoning
16 Board has heard me say this often --
17 residential and industrial do not mix. No one
18 wins in that situation. And we have a lot of
19 older neighborhoods where they're just right
20 next to each other.

21 COUNCILWOMAN TASCO: Then why did
22 you help them to expand?

23 COUNCILMAN RIZZO: I'll bet we're
24 going to be staggered by what it cost to do
25 this phase one. Why did we even allow the

1 12/15/04 - COMMERCE - RES.040977, 041014

2 acquisition of this property to occur and
3 expand if you know that it's going to be a
4 failure? I think your policies need to be
5 reviewed.

6 MR. DOUGHERTY: Councilman, we don't
7 have the authority to stop a private entity
8 from bidding at sheriff's sale.

9 COUNCILMAN RIZZO: You have the
10 authority to pay for a phase one environmental
11 study.

12 Thank you, Mr. Chairman.

13 COUNCILMAN GOODE: Councilwoman
14 Reynolds Brown and then Councilman Nutter.

15 COUNCILWOMAN BROWN: How long have
16 you been with the Commerce Department?

17 MR. DOUGHERTY: A little over 18
18 years now.

19 COUNCILWOMAN BROWN: How long have
20 you been serving as Acting Director?

21 MR. DOUGHERTY: A little over two
22 years now.

23 COUNCILWOMAN BROWN: I would like to
24 go back to Councilmember Tasco's initial
25 opening question.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 What is the standard operating
3 procedure at Commerce when it comes to
4 companies that want to do business in
5 residential areas with regards to the
6 interaction with the District Councilperson,
7 the standard operating procedure?

8 MR. DOUGHERTY: The standard
9 operating procedure would be to alert the
10 Councilperson's office to this potential
11 project.

12 COUNCILWOMAN BROWN: How is that
13 done; phone call, e-mail, formal letter, form?
14 How is that established?

15 MR. DOUGHERTY: It's generally not a
16 formal letter, but an e-mail to a staff person
17 who is the general contact, or a phone call to
18 the Councilperson.

19 COUNCILWOMAN BROWN: What happened
20 in this particular case?

21 MR. DOUGHERTY: Councilwoman, I
22 can't address that. As I said, I was not
23 involved in this case until I got into the
24 MBAT area, and that was after 99 percent of
25 this, I would suggest, had happened.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILWOMAN BROWN: How long ago
3 did you become involved in this case?

4 MR. DOUGHERTY: Just over two years
5 ago. Directly involved. And that was again
6 at the request of Councilwoman Tasco, who
7 brought this to my attention. So it was
8 immediately after I became Director of the
9 Mayor's Business Action Team.

10 COUNCILWOMAN BROWN: And you say,
11 and I quote, "When I got involved, I believe
12 that certain things had taken place." What
13 led you to those impressions; meetings,
14 documentation, a file? What led you to
15 believe that all of the prerequisite steps had
16 been covered?

17 MR. DOUGHERTY: Interviews with the
18 staff member that was handling it, notes in
19 the file, et cetera, is my recollection. I
20 think that's what you're talking about. How
21 do I know the background?

22 COUNCILWOMAN BROWN: Yes.

23 MR. DOUGHERTY: That's what it would
24 be from, discussions with the staff member who
25 was handling it, letters, et cetera.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILWOMAN BROWN: Again, to
3 Councilwoman Tasco's subsequent question,
4 where then is the City, the Commerce
5 Department, MBAT responsible for fiascos like
6 this place because, your quote was, "We walked
7 away from it"?

8 MR. DOUGHERTY: We walked away from
9 the interaction with the company. They were
10 not being responsive to us. They were not
11 taking the issues that we brought to them.
12 There's not much I can do for a company that
13 refuses to hear us. And so when I say, walked
14 away from them, I guess what I'm trying to say
15 is --

16 COUNCILWOMAN BROWN: So MBAT is in
17 the business of facilitating business and
18 creating business, but when they begin to
19 transgress with the community in a way that's
20 inappropriate and illegal, MBAT has no
21 responsibility or authority?

22 MR. DOUGHERTY: I'm not sure how to
23 answer that.

24 COUNCILWOMAN BROWN: It's two parts.
25 MBAT has a responsibility for, as your

1 12/15/04 - COMMERCE - RES.040977, 041014

2 testimony says, providing Philadelphia
3 businesses with a source of reliable and
4 comprehensive business assistance. At the
5 point that there is illegal, inappropriate
6 interface with the community, where does
7 MBAT's responsibility end or begin?

8 MR. DOUGHERTY: Again, I can't force
9 a business owner to do something they refuse
10 to do. We absolutely encourage them to meet
11 with the Councilwoman and the community
12 leaders --

13 COUNCILWOMAN BROWN: The word you
14 use is encourage versus require.

15 MR. DOUGHERTY: Correct. I have no
16 authority to require them to do so.

17 COUNCILWOMAN BROWN: Who does?

18 MR. DOUGHERTY: If it's an L&I
19 issue, the L&I inspector has. If it's a
20 zoning issue, if they needed certain permits
21 and they were approved by the Zoning Board --
22 and the one issue you bring up, Councilwoman
23 Tasco, is the trees, which seems to me to be a
24 no-brainer as a good faith effort to shield
25 that site from the community. It just seems a

1 12/15/04 - COMMERCE - RES.040977, 041014
2 no-brainer. If they refused to do so, I don't
3 have the authority to do so if the Zoning
4 Board approved it.

5 COUNCILWOMAN BROWN: Final question.
6 Were the agencies you just mentioned informed
7 of what was happening with the particular
8 company and advised to discontinue providing
9 them any kind of assistance that would further
10 move them to expanding their business? Were
11 they officially informed?

12 MR. DOUGHERTY: It is my
13 understanding from the Councilwoman that she
14 had L&I come out --

15 COUNCILWOMAN BROWN: Did MBAT
16 officially inform the agencies?

17 MR. DOUGHERTY: They did not, to my
18 knowledge. The Councilwoman was taking the
19 lead on this.

20 COUNCILMAN GOODE: Thank you,
21 Councilman Nutter, for yielding to
22 Councilwoman Tasco.

23 And then Councilman Nutter.

24 COUNCILWOMAN TASCO: There's a
25 weakness structure here in this whole ability

1 12/15/04 - COMMERCE - RES.040977, 041014

2 to bring businesses in and to work with them.

3 It seemed to me from the beginning
4 that this company was wired, because
5 everything went to their favor. So they don't
6 feel any responsibility for respecting these
7 neighbors or doing anything.

8 We opposed the expansion. They were
9 given the expansion. The neighbors came down
10 and opposed it. They were given the
11 expansion. We went to court on their
12 injunction. They were granted against the
13 City. Then we can't get any L&I enforcement
14 against this company for any of the complaints
15 that the neighbors bring. They don't have any
16 sense of responsibility because nobody has
17 done anything to them.

18 MR. DOUGHERTY: As to that
19 situation, Councilwoman, I just don't know.

20 COUNCILWOMAN TASC0: Well, that's
21 just an observation. You don't have to
22 comment.

23 MR. DOUGHERTY: No. You shared that
24 with me before and I certainly appreciate it.

25 COUNCILWOMAN TASC0: I told you that

1 12/15/04 - COMMERCE - RES.040977, 041014

2 before and I still believe it. These
3 neighbors are calling me every day about this
4 company and the Administration is not doing
5 anything, anything about it. I wrote to the
6 Managing Director. He writes me back, well,
7 they're in compliance. They are not.

8 MR. DOUGHERTY: Again, I don't know
9 the specifics. Are they in compliance with
10 everything? I'd be more than happy to go back
11 and review with you, Councilwoman Tasco.

12 COUNCILWOMAN TASCO: We'll let
13 Councilman Nutter make his comments because
14 it's his time for this, but what I want you
15 all to do is figure out how, before you bring
16 anything else in my district, what your role
17 is going to be from beginning to the end and
18 beyond in dealing with these companies,
19 because we're not going to have another fiasco
20 like this. Or we're going to have to find a
21 way that you don't even stay in business if
22 you're not going to be effective.

23 (Applause.)

24 MR. DOUGHERTY: Councilwoman, I'll
25 reconfirm the commitment I made to you and to

1 12/15/04 - COMMERCE - RES.040977, 041014
2 all the Councilpeople of my commitment to work
3 on projects such as this. I will absolutely
4 make sure that you are in the loop.

5 COUNCILWOMAN TASC0: I think, Mr.
6 Dougherty, with all due respect to you -- and
7 I do have respect for you and your commitment
8 -- but it's a systemic problem. What happens
9 when you leave?

10 You came in after the other people
11 left. They left no clear records. They
12 probably left some notes. They went and
13 helped this company to come into the City and
14 do what they had to do. They're no longer
15 there. So I'm sitting here talking to you
16 after the fact. The responsibility should
17 rest with the rules and procedures of the
18 department and not an individual.

19 MR. DOUGHERTY: I think that's a
20 very fair comment. I will bring it back.

21 COUNCILWOMAN TASC0: We'll bring it
22 back too.

23 MR. DOUGHERTY: Okay.

24 COUNCILMAN GOODE: Councilman
25 Nutter.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILMAN NUTTER: Thank you, Mr.
3 Chairman.

4 Mr. Dougherty, I have a series of
5 questions based on either testimony, news
6 stories or the discussion that's taken place
7 so far.

8 You and I've worked together on a
9 number of projects. We have one pending. Do
10 not take personally anything that I ask you.

11 MR. DOUGHERTY: I certainly won't.

12 COUNCILMAN NUTTER: The Chair of the
13 Committee asked, and I thought I saw on the
14 list, the witness list, that the Commerce
15 Director was going to be here? Do you know
16 the whereabouts of the Commerce Director? Her
17 name is on the list.

18 MR. DOUGHERTY: No. I don't know
19 how her name got on that list.

20 COUNCILMAN NUTTER: Mr. Bumb.

21 MR. BUMB: Duane Bumb, Deputy
22 Director of Commerce. I don't know where she
23 is.

24 COUNCILMAN NUTTER: But someone
25 asked you to be here?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MR. BUMB: This is legislation that
3 impacts our Department so I've been monitoring
4 it, and I was in touch with the Chair
5 yesterday on this hearing.

6 COUNCILMAN NUTTER: Let me ask some
7 background questions first.

8 What's the name of the owner of this
9 business?

10 MR. DOUGHERTY: Mutual Industries.
11 I understand it's incorporated.

12 COUNCILMAN NUTTER: Who is the
13 president? Who's in charge?

14 MR. DOUGHERTY: That I don't recall,
15 Councilman.

16 COUNCILMAN NUTTER: You're working
17 on this, right?

18 MR. DOUGHERTY: No, Councilman. I
19 have not been involved in this in 18 months.

20 COUNCILMAN NUTTER: When you were
21 involved 18 months ago, do you know who was in
22 charge?

23 MR. DOUGHERTY: I knew the name, but
24 I had never had any contact with that person.

25 COUNCILMAN NUTTER: What's the

1 12/15/04 - COMMERCE - RES.040977, 041014

2 address?

3 MR. DOUGHERTY: I believe it's 701

4 Grange.

5 COUNCILMAN NUTTER: G-R-A-N-G-E?

6 MR. DOUGHERTY: Correct.

7 COUNCILMAN NUTTER: Who handled this

8 project back at the time?

9 MR. DOUGHERTY: Who was the MBAT

10 representative?

11 COUNCILMAN NUTTER: Yes.

12 MR. DOUGHERTY: Dawn Summerville.

13 COUNCILMAN NUTTER: Does Dawn still

14 work for the City?

15 MR. DOUGHERTY: Yes.

16 COUNCILMAN NUTTER: What's her

17 position now?

18 MR. DOUGHERTY: She's still an MBAT

19 representative.

20 COUNCILMAN NUTTER: Why isn't she

21 here then?

22 MR. DOUGHERTY: I didn't know

23 necessarily that there was a need for her to

24 be here.

25 COUNCILMAN NUTTER: Well, Mr.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Dougherty, I think it's been made pretty clear
3 that you were not initially involved. It's
4 been very difficult at best for you to answer
5 any of the questions by the sponsor of the
6 resolution, the Chair and other Members of
7 this Committee. How are we ever going to get
8 to the bottom of all this if we don't have
9 access to the person who was actually
10 involved?

11 MR. DOUGHERTY: Councilman, if I may
12 -- and let me extend this to the entire
13 Committee -- no disrespect is certainly meant
14 by certain people being here or not being
15 here. I didn't know the full extent of this
16 Council hearing. I knew it involved --

17 COUNCILMAN NUTTER: You knew this
18 issue was going to come up, right?

19 MR. DOUGHERTY: I knew this issue,
20 but I didn't know the extent of this issue was
21 going to go into this much detail.

22 COUNCILMAN NUTTER: Is Ms.
23 Summerville at work today?

24 MR. DOUGHERTY: I did see her right
25 before I left.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILMAN NUTTER: Why don't you
3 get her over here.

4 MR. DOUGHERTY: Okay.

5 COUNCILMAN NUTTER: Let me ask this
6 question.

7 Is it true that the former Commerce
8 Director, Mr. Cuorato, worked with the
9 company, as a newspaper story indicates,
10 helped Mutual Industries arrange to buy the
11 land next door, an open triangular-shaped lot
12 that once housed deer as well as opossum at
13 sheriff's sale; is that correct?

14 MR. DOUGHERTY: I'm sorry,
15 Councilman. I was trying to get Dawn on the
16 line.

17 COUNCILMAN NUTTER: Did the former
18 Commerce Director help Mutual Industries buy
19 this property?

20 MR. DOUGHERTY: I don't believe so,
21 no. I don't remember his involvement in any
22 depth on this.

23 COUNCILMAN NUTTER: So the newspaper
24 account is not true?

25 MR. DOUGHERTY: I'm not saying it's

1 12/15/04 - COMMERCE - RES.040977, 041014

2 not true. I don't remember it being so.

3 COUNCILMAN NUTTER: Well, who did
4 help them buy the property?

5 MR. DOUGHERTY: I can tell you I was
6 involved in the very beginning, as I mentioned
7 in my testimony, in response to Councilwoman
8 Tasco's question, early on when the MBAT rep
9 was looking at this company and this
10 particular piece of land. I did some of the
11 basic research. To the extent I was involved
12 at that point, I knew who owned it. I knew
13 what the situation was, did the necessary
14 research on that with this person to try to
15 get this taken care of. And advising on the
16 zoning was a particular.

17 COUNCILMAN NUTTER: You advised them
18 on the zoning issue?

19 MR. DOUGHERTY: I advised the MBAT
20 representative at that time. Like I said, I
21 was not the MBAT Director.

22 COUNCILMAN NUTTER: Well, that was
23 18 months ago and this project started about
24 four years ago.

25 MR. DOUGHERTY: Yes. It's been a

1 12/15/04 - COMMERCE - RES.040977, 041014

2 long while.

3 COUNCILMAN NUTTER: Right. Well, it
4 would seem to me that when someone purchases a
5 piece of property, even at sheriff's sale, the
6 zoning classification is somewhat important as
7 a part of that process, right?

8 MR. DOUGHERTY: Not in the sale
9 itself. In the use, in the future use.

10 COUNCILMAN NUTTER: No. Some people
11 actually like to know the zoning before they
12 buy something.

13 MR. DOUGHERTY: Absolutely.

14 COUNCILMAN NUTTER: Did the
15 Department check, when they were helping
16 Mutual Industries purchased the property? Did
17 they check to see what the zoning was at that
18 time before the purchase?

19 MR. DOUGHERTY: Like I say, I did.
20 It was zoned R9-A residential.

21 COUNCILMAN NUTTER: It was already
22 purchased at the time you came on?

23 MR. DOUGHERTY: No. No. Before.
24 This is when they were looking to acquire this
25 property. I did the basic research on the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 property itself. Who owned it, what the tax
3 status was --

4 COUNCILMAN NUTTER: Wait a minute.
5 I thought you said you were involved 18 months
6 ago, and everything had already taken place by
7 the time you came on board. Now, wasn't that
8 your testimony earlier?

9 MR. DOUGHERTY: No. I'm sorry if I
10 wasn't clear. When I was MBAT Director I
11 became involved 18 months ago. Four years
12 prior to that, in a very peripheral way, they
13 came to me and asked -- the MBAT
14 representative who was working on this case,
15 who did not have a lot of knowledge on --

16 COUNCILMAN NUTTER: Would that be
17 Ms. Summerville?

18 MR. DOUGHERTY: That would be Ms.
19 Summerville.

20 COUNCILMAN NUTTER: This is prior to
21 the purchase?

22 MR. DOUGHERTY: This is prior to the
23 purchase.

24 COUNCILMAN NUTTER: You were
25 involved prior to the purchase?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MR. DOUGHERTY: Correct.

3 COUNCILMAN NUTTER: What was your
4 role?

5 MR. DOUGHERTY: My role was to do
6 the basic research on this particular
7 triangle.

8 COUNCILMAN NUTTER: What did you
9 find out at that time?

10 MR. DOUGHERTY: Who the owner was,
11 what the tax status was and what the zoning
12 was were the three basic things.

13 COUNCILMAN NUTTER: You knew at the
14 time prior to the purchase that it was zoned
15 residential?

16 MR. DOUGHERTY: Correct. And
17 looking at sand born maps, I not only knew it
18 was residential, I knew that the houses that
19 the neighbors are talking about abutted --

20 COUNCILMAN NUTTER: Just answer the
21 question. Did you tell the company at the
22 time prior to the purchase that it was zoned
23 residential?

24 MR. DOUGHERTY: After doing the
25 research I did nothing more on this case.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILMAN NUTTER: Wait a minute.

3 You did the research. What did you do with
4 the research?

5 MR. DOUGHERTY: I gave it to the
6 representative.

7 COUNCILMAN NUTTER: So the account
8 executive knew what the zoning was prior to
9 the purchase?

10 MR. DOUGHERTY: Correct.

11 COUNCILMAN NUTTER: Did anyone tell
12 the company prior to the purchase what the
13 zoning was, based on your research and your
14 turning the information over to the account
15 representative who walks people through the
16 process?

17 MR. DOUGHERTY: I was told yes.

18 COUNCILMAN NUTTER: So why would the
19 lawyer for the company -- this is a quote from
20 David Zalesne. "At the time of purchase
21 nobody realized it was zoned residential.
22 There was no bad intention. The company
23 thought it was doing the right thing by going
24 through the Mayor's Office."

25 Why would he say that if we already

1 12/15/04 - COMMERCE - RES.040977, 041014
2 knew it was residential prior to the purchase?
3 MR. DOUGHERTY: I can't address
4 that, Councilman. I don't know what he was
5 thinking or saying there.
6 COUNCILMAN NUTTER: Well, is he
7 right or is he wrong?
8 MR. DOUGHERTY: I can't speak to
9 that.
10 Like I say, I knew it was
11 residential, and that information, I
12 instructed our people to relay that because
13 that is a critical piece.
14 COUNCILMAN NUTTER: Your earlier
15 statement was -- with your hand up in the air
16 -- industrial and residential don't go
17 together. You said that.
18 MR. DOUGHERTY: Correct.
19 COUNCILMAN NUTTER: You knew the
20 property was zoned residential?
21 MR. DOUGHERTY: Correct.
22 COUNCILMAN NUTTER: Why did the
23 project move forward and why was there further
24 assistance provided by MBAT?
25 MR. DOUGHERTY: I was speaking there

1 12/15/04 - COMMERCE - RES.040977, 041014

2 from my experience.

3 COUNCILMAN NUTTER: Well, you had
4 the same experience four years ago, right?

5 MR. DOUGHERTY: Again, I was not
6 involved directly in that. If the community
7 and the Councilwoman or Councilperson in any
8 particular district are comfortable with some
9 of these things, then it's not my position to
10 give it a yea or nay as to whether the project
11 moves forward or not.

12 COUNCILMAN NUTTER: The Councilwoman
13 said she didn't know about it.

14 COUNCILWOMAN TASC0: We didn't know
15 about it until it got to zoning.

16 COUNCILMAN NUTTER: Secondly, beyond
17 all of that, the Department either has a view
18 or perspective or even a philosophy or a
19 policy with regard to these kinds of uses so
20 close to each other or not.

21 Now, it may be your personal opinion
22 or your personal view, but it would seem to me
23 as a serious public servant that I know you to
24 be, that someone would say, why are we helping
25 this industrial business go to a site across

1 12/15/04 - COMMERCE - RES.040977, 041014
2 from the residential. It's not so much a yea
3 or a nay, it's just a part of the deal. It's
4 what we do.

5 MR. DOUGHERTY: Again, Councilman, I
6 have never known in my 18 years of any such
7 policy. Again, perhaps the Councilperson --

8 COUNCILMAN NUTTER: At a minimum
9 it's a concern.

10 MR. DOUGHERTY: Absolutely. And I
11 will unequivocally state that the Councilwoman
12 should have been brought in this particular
13 case from the get go.

14 COUNCILMAN NUTTER: That's a given,
15 but it didn't happen.

16 MR. DOUGHERTY: Exactly.

17 COUNCILMAN NUTTER: Who was the
18 zoning lawyer on the case when it finally went
19 to zoning?

20 MR. DOUGHERTY: Councilman, I don't
21 remember.

22 Councilwoman, do you remember?

23 COUNCILMAN NUTTER: Does the City
24 have any money in this project? Do we provide
25 any financial assistance, any financing or

1 12/15/04 - COMMERCE - RES.040977, 041014

2 anything?

3 MR. DOUGHERTY: I do not believe so,
4 Councilman.

5 COUNCILMAN NUTTER: But you did do
6 the environmental?

7 MR. DOUGHERTY: We did, to the best
8 of my knowledge.

9 COUNCILMAN NUTTER: And the cost of
10 that was?

11 MR. DOUGHERTY: A phase one usually
12 costs a couple thousand dollars.

13 COUNCILMAN NUTTER: We're flushed
14 with cash, so what difference does it make?

15 MR. DOUGHERTY: Well, there's a pot
16 of money out there that can only be used for
17 such things.

18 COUNCILMAN NUTTER: Did you only do
19 a phase one or did you do a phase two also?

20 MR. DOUGHERTY: I don't believe a
21 phase two was done.

22 COUNCILMAN NUTTER: Councilwoman
23 Reynolds Brown raised this, and I was kind of
24 stunned by the comment, that you could not get
25 them to respond and so you then walked away.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 How is it possible that as
3 government servants that would be the response
4 as opposed to, they are not doing what we want
5 them to do and therefore I'm going to contact
6 L&I, the Law Department, the Commerce
7 Director, the Managing Director, if not the
8 Mayor's Office and say, we helped these people
9 get to a certain stage. They are now jerking
10 the folks in the neighborhood around and not
11 being responsive, and therefore, in the same
12 way that we tried to help them, now we will
13 bring the weight of the government down on
14 them to stop them from destroying this
15 community? Why wouldn't we do that?

16 MR. DOUGHERTY: Again, Councilman,
17 at that time I believe Councilwoman Tasco had
18 taken all of these steps.

19 COUNCILMAN NUTTER: I'm not asking
20 you what Councilwoman Tasco was doing. She's
21 going to do her job and she's going to do it
22 in the way that she can. We're all in the
23 same government.

24 MR. DOUGHERTY: I agree.

25 COUNCILMAN GOODE: Councilman?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILMAN NUTTER: Yes, Mr.

3 Chairman?

4 COUNCILMAN GOODE: Thank you,

5 Councilman.

6 Mr. Dougherty, of course at some
7 point we're going to recess this hearing and
8 continue again, probably at some point in
9 January. At that point I'm sure Councilwoman
10 Tasco and other Members of the Committee will
11 probably want the Commerce Director and anyone
12 else here who's going to respond more
13 directly.

14 You can just state for the record
15 whether you believe this statement is true or
16 not. The reason why you didn't pursue it is
17 because you considered the business to be your
18 client, and so you no longer had a client when
19 the client was not responsive. Is that not
20 the way the MBAT system works, that you take
21 on a client and you close a case on a client
22 when you're done with that client, and in fact
23 the business was your client?

24 MR. DOUGHERTY: Correct.

25 COUNCILMAN GOODE: The business was

1 12/15/04 - COMMERCE - RES.040977, 041014

2 your client?

3 MR. DOUGHERTY: Yes. The business
4 no longer wanted our services.

5 COUNCILMAN GOODE: There was nothing
6 more you could do for the business, the
7 business was not responsive to you, so you no
8 longer had a client at that point?

9 MR. DOUGHERTY: Correct.

10 COUNCILMAN GOODE: Thank you.

11 Any other questions of this witness?

12 COUNCILWOMAN TASCO: Yes. I think
13 because we do have the other hearing schedule
14 and we will come back with this issue in
15 January, we will recess this.

16 As I look at the article in the
17 paper -- because we were not involved from the
18 very beginning. It says, "The company
19 operated two years before even going to the
20 Zoning Board to get permission to use it for
21 industrial purposes, and then they faced no
22 penalties."

23 So what we're going to do when we
24 come back, we will bring in some other forces
25 also. I think what we'll do is ask the Chair

1 12/15/04 - COMMERCE - RES.040977, 041014
2 to recess this hearing so that we can move
3 forward with the MBEC hearing. But we will be
4 prepared to come back to further have
5 discussion with this.

6 In the meantime, what I suggest you
7 do is that you go back to your office and you
8 all figure out what you're going to do about
9 relieving the problems of these communities
10 over there and helping those neighbors,
11 because they're clients also. Because they
12 pay your salary.

13 I want some action taken to deal
14 with this issue with Mutual Industries and the
15 neighbors. We're not having any more
16 meetings. You know what all the problems are.
17 You heard what the people have said the
18 problems are. You and I have met about these
19 problems. When you come back, I want some
20 action to have been taken against Mutual
21 Industries for what they're doing. They're
22 illegal. And also a plan for helping restore
23 this neighborhood to what it might have been.

24 (Applause.)

25 COUNCILWOMAN TASC0: I'd like to

1 12/15/04 - COMMERCE - RES.040977, 041014

2 recognize that Mr. Nicholas Brown came in.

3 Mr. Brown, we'll have you testify at
4 the next time. Thank you very much.

5 COUNCILMAN GOODE: Thank you, Mr.
6 Dougherty.

7 We will now consider Resolution No.
8 040977.

9 I'll ask the primary sponsor,
10 Councilwoman Tasco, if she has some opening
11 remarks before calling her first witness.

12 COUNCILWOMAN TASCO: Good morning.
13 We would certainly like to thank the witnesses
14 who have come here today for this hearing on
15 MBEC, the Minority Business Enterprise
16 Council. Thank you for your patience in
17 waiting.

18 We did need to get that issue on the
19 record so that we could get some action taken
20 for the neighbors that we represent in the 9th
21 District.

22 Today we're here to discuss the
23 Minority Business Enterprise Council and the
24 City's effort to improve participation levels
25 and utilization goals for minority, women and

1 12/15/04 - COMMERCE - RES.040977, 041014
2 disadvantaged businesses in City contracting
3 and procurement. We're here to discuss these
4 issues because these businesses are woefully
5 and severely unrepresented in City contracts.

6 According to the recent disparity
7 study completed by D.J. Miller and Associates,
8 minority-owned and women-owned businesses only
9 receive 2.3 percent and 1.8 percent
10 respectively of the nearly \$3 billion in
11 contracts awarded by the City between 1998 and
12 2003. In a City where people of color
13 represent 55 percent of the population and 24
14 percent of the businesses, this is
15 unacceptable.

16 Considering this information, we can
17 no longer be content with the status quo, but
18 must take action to address this problem.

19 In 1969 we had the Secretary of
20 Labor, Art Fleischer introduce the
21 Philadelphia Plan. That plan was used to some
22 measure to enforce equal opportunity and
23 business opportunities for minority businesses
24 pursuing government-funded contracts.

25 I have been working since 1972 --

1 12/15/04 - COMMERCE - RES.040977, 041014
2 and I say this all the time when there's a
3 hearing -- the Philadelphia Urban Coalition,
4 now the Greater Philadelphia Urban Affairs
5 Coalition, to engage more minorities in
6 participating in the business in the City of
7 Philadelphia. It wasn't any good then, and
8 it's no better now. We look at the leadership
9 in this City, including the Council and the
10 Administration, and we have not done
11 significantly any better in this City.

12 At this point we have no plan here.
13 Considering the current status of the City
14 ordinance and the executive ordinance
15 pertaining to minority participation, we have
16 gone from the Philadelphia Plan to no plan for
17 Philadelphia. At this point no plan is no
18 longer acceptable.

19 Accordingly, we will use this
20 opportunity and subsequent hearings as a means
21 to develop a plan to resolve this problem so
22 that all Philadelphians have a fair and equal
23 opportunity to do business in the City.

24 We'll call these three panels.
25 We'll call John Macklin and the National

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Association of Minority Contractors.

3 Then we'll call Bruce Crawley and
4 Anthony Fullard of the African American
5 Chamber of Commerce.

6 I saw Ms. Wong -- she may have left
7 -- and Nick Shenoy from the Asian Chamber of
8 Commerce.

9 Then the other people who are here,
10 individuals, we'll call them as panels of three
11 or four.

12 First we'll have John Macklin and
13 Roscoe Murphy come forth with their testimony.

14 We have Councilman Ortiz here who
15 would like come forward now.

16 Councilman Ortiz, would you approach
17 the witness table?

18 Good morning. Identify yourself for
19 the record, please.

20 MR. ORTIZ: Good morning. My name
21 is Angel Luis Ortiz, citizen. I'm grateful
22 that you allow me to speak. My son gets out
23 of school at 12:30 and I have to pick him up.
24 It's an early day.

25 This is a subject that we've been

1 12/15/04 - COMMERCE - RES.040977, 041014
2 talking about now for eons and eons and eons
3 in this Council. It's a pity that the highest
4 percentage of contracts that the City has ever
5 given out to minorities came during the tenure
6 of Wilson Goode.

7 Under the directorship of Wilson
8 Goode, this City reached a high percentage of
9 36 percent at one point in terms of the dollar
10 amounts that were given out to minority
11 contractors. Compare that to the disparity
12 report in 1998 that said less than 3 percent,
13 really a very shameful decline that has taken
14 place.

15 Over 10 years this Council dedicated
16 itself to really look into the functioning of
17 MBEC, because we knew that MBEC really wasn't
18 functioning.

19 In the '90s and early parts of the
20 21st century we have seen that minority
21 participation and contracts and employment in
22 the construction trades in the City has really
23 not improved significantly from the numbers
24 that we had in 1968 when the Philadelphia Plan
25 was instituted.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 In 2001 we published and this
3 Council approved the report, The Illusion of
4 Inclusion, that detailed the participation of
5 minorities in four construction projects in
6 the City, and found that either the
7 participation in the skilled trades,
8 minorities were not participating at all or
9 the percentage was really insignificant.

10 We passed an -- I thought -- in
11 April 2003, I thought -- and Wilson smiles
12 because he thought and I thought -- that we
13 had passed legislation that really reorganized
14 MBEC.

15 The Daily News the other day had a
16 column in which they had 10 suggestions about
17 what to do in the City of Philadelphia. And
18 number 10 was, they suggested that we scrap
19 MBEC.

20 Well, as Councilman Goode and
21 Councilwoman Miller and Blondel Reynolds and
22 Michael Nutter and Councilwoman Tasco and
23 Councilman Rizzo understand, we thought we had
24 scrapped MBEC.

25 Is that so, Councilman Goode?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILMAN GOODE: That's correct.

3 MR. ORTIZ: We scrapped MBEC. So we
4 achieved the 10th recommendation of the Daily
5 News.

6 The only time I was ever invited to
7 a bill signing ceremony on the second floor --
8 and I still have the pen that the Mayor signed
9 the bill with -- we were invited and we had a
10 very extensive ceremony in which over 150
11 people, black contractors, attended. We
12 signed a bill into law. We thought we were on
13 the way at least to giving MBEC the necessary
14 powers and authority to be able to perform its
15 duties and begin increasing the percentage of
16 minority contracts that are given in the City
17 of Philadelphia. To find ourselves in this
18 position in which we have no executive order
19 and no bill really befuddles one in terms of,
20 are we living in the reality of the 21st
21 century or not.

22 I wonder if you remember this,
23 Councilman Goode. Owen Thompkins was the
24 executive director of the MBEC in Baltimore.
25 He sat here at this table and he said, if

1 12/15/04 - COMMERCE - RES.040977, 041014

2 there is a Mayor that has the political will
3 and supports the director of MBEC in terms of
4 the goals that are established, you don't
5 really need legislation.

6 Maynard Jackson did not need it in
7 Atlanta. Harold Washington did not need it in
8 Chicago. Wilson Goode achieved it under the
9 threat of continuous lawsuits in federal
10 court. He achieved under great duress a high
11 level of 36 percent.

12 Because we had another legal opinion
13 admitted when we were discussing our bill,
14 these opinions were not given to us at that
15 time. But it says what usually the City
16 always says, whoever the City Solicitor is,
17 that Council overextended its authority.

18 Well, the issue is, if Council does
19 not set the parameters when there are no
20 parameters that have been set, someone has to
21 set them. Someone has to take the lead.
22 Someone has to say to the building trades, to
23 the contractors in the City, it is no longer
24 tolerable in the City of Philadelphia that a
25 construction project, the convention center,

1 12/15/04 - COMMERCE - RES.040977, 041014

2 be it the new hotels that are going to be
3 built on Delaware Avenue if gambling comes up,
4 it is no longer tolerable that minorities,
5 blacks, Puerto Ricans, Latinos, women, do not
6 make up a high percentage, not only of the
7 workforce, but of the contracting companies
8 that create and build these edifices.

9 So I implore you, Mr. Chairman. I
10 think we have a bill. It has to be
11 implemented. If necessary, I think you should
12 sit down and negotiate. But the political
13 will is what's missing. The time for excuses
14 really is over. There should be no excuses
15 about implementing goals that are really
16 acceptable. The excuses that they used to
17 have 20 years ago, that we don't have
18 qualified companies and contracted
19 individuals, that's over. We have those. We
20 have law firms that are owned by Latino and
21 blacks and women. We have consulting firms.
22 We have carpenters and electricians.

23 I think what Mr. Williams has to be
24 given, really, is the autonomy and the power
25 to be able to make decisions without the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 politics of the City of Philadelphia
3 interfering with those decisions. I think if
4 this Committee finds out why that has not
5 occurred, I think that's the issue here. One
6 of the interferences and political
7 maneuverings that take place that are not
8 permitting this from happening, I don't
9 understand it. I don't understand it. We
10 work very hard. We took a lot of shots to be
11 able to pass and really investigate these
12 bills.

13 I remember when Councilman Nutter
14 spoke to the issue of that we had over a 100
15 trainees -- because Ernie Jones was sitting
16 here -- and over 100 trainees had gone through
17 the aspect of getting trained to go into the
18 building trades as apprentices. None of them
19 had gotten hired. Councilman Nutter asked,
20 are there no phones? People were not being
21 called. We have to find out.

22 I think we need to have a census. I
23 think we need to be able to demand and I think
24 this Council is in that position to be able to
25 do that. I think the bills that we passed,

1 12/15/04 - COMMERCE - RES.040977, 041014

2 the hearings that we had are sufficient
3 because I think the data is there. It's
4 recent enough. The year is 2003, all of that
5 data is available. I think with that data
6 that we have on the record we should be able
7 to go ahead and implement a policy that really
8 begins increasing the contracting from 2 and 3
9 percent hopefully to the 36 and above that we
10 had under Wilson Goode. 36 percent today
11 looks huge.

12 The Board of Education seems to be
13 doing a good job of it, so I don't see why the
14 City of Philadelphia cannot do the same. I
15 think part of it is political will, and I
16 think that's where it resides.

17 Thank you, Mr. Chairman.

18 COUNCILMAN GOODE: Thank you for
19 your testimony, Councilman.

20 (Applause.)

21 COUNCILMAN GOODE: You're right.
22 Part of the reason that we've been called here
23 today by Councilwoman Tasco is to review the
24 status of what was Bill No. 030125, which was
25 a very good bill and was signed ceremoniously

1 12/15/04 - COMMERCE - RES.040977, 041014

2 In preparation for this hearing,
3 Councilman Nutter actually requested an
4 opinion on it because we heard that the
5 Administration considered it to be unlawful.
6 I'm actually going to read part of that
7 opinion into the record.

8 It basically says that Bill 030125,
9 referred to as the MBEC Ordinance, "raises
10 significant issues under the Home Rule
11 Charter, namely whether City Council has the
12 power to direct the activities of MBEC and the
13 other City agencies that receive direction
14 under the ordinance. Consistent with
15 longstanding views of this office, in my view
16 City Council does not have such powers.
17 Decisions when, with whom and how to enter
18 contracts are generally part of the
19 Administrative and executive power of the City
20 vested in the Mayor."

21 So clearly if things are not being
22 done, they're not going to be done by the
23 Administration in this regard. The
24 Administration also says that Council has no
25 power, or powers not acknowledged in this

1 12/15/04 - COMMERCE - RES.040977, 041014
2 regard. We are seemingly stuck. I will just
3 ask you for a quick response to that.

4 MR. ORTIZ: In terms of contracting
5 and employment, I think we held hearings over
6 a seven-month period in which the bill was
7 given to the Administration. We did have a
8 City Solicitor opinion that did not -- or else
9 the Mayor would not have signed it, as you
10 well know, with all of the ceremony that went
11 into it. You know that if they had had those
12 issues at that time, this bill would not have
13 been signed.

14 The issue that has to be brought up
15 is why wasn't it brought up during the
16 hearings that we had. We had hearings here
17 until 9 o'clock in the evening in terms of
18 these issues.

19 So the fact that they're bringing it
20 now has to make you wonder, is there a will to
21 really implement a contracting policy that is
22 fair. Really, you always can find an excuse
23 to not do something.

24 The issue is we've been at this
25 thing now for 37 years, since 1968, '69 with

1 12/15/04 - COMMERCE - RES.040977, 041014
2 the Philadelphia Plan. The faces that used to
3 look at the witnesses from that were usually
4 white. The faces are now Latino and
5 African-American and some white. I don't
6 think there's any more excuses that the
7 citizens of this City, specifically the
8 minority members of the citizens, can accept
9 that this cannot be done.

10 It has been done in other
11 jurisdictions. In Atlanta they did it way
12 back under Maynard Jackson. Wilson Goode did
13 it, as I said before, 20 years ago. I don't
14 understand why in the year 2004, 21, we cannot
15 get minorities in the building trades. We
16 cannot get minorities under contract and give
17 them contracts in the City and go above 3
18 percent.

19 It is shameful, as Janice Davis
20 stated when she testified here last year. She
21 said she was ashamed of the record that had
22 been established. Well, it is shameful. The
23 record is shameful.

24 I think this Council has really done
25 the job that's needed to be done over the last

1 12/15/04 - COMMERCE - RES.040977, 041014
2 three years. I think now the ball is on the
3 other side of the court. Public policy is
4 implemented by the executive. The executive
5 has to implement it. You really don't need
6 legislation in order to do that.

7 Thank you.

8 COUNCILMAN GOODE: Thank you.

9 Are there questions or comments from
10 Members of the Committee?

11 (No response.)

12 COUNCILMAN GOODE: We'll have Roscoe
13 Murphy and John Macklin.

14 MR. MACKLIN: Good morning, Chairman
15 Goode, Councilwoman Tasco, Councilwoman
16 Miller, Councilman Rizzo, Councilman Ramos and
17 Councilwoman Brown. I appreciate you giving
18 me this opportunity to share with you what we
19 think needs to be done. My name is John
20 Macklin. I'm retired from this Council
21 President's office as a minority opportunity
22 officer from April 10, 2000 to November 30,
23 2003.

24 Prior to coming to Council I spent
25 18 years at the Minority Business Enterprise

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Council in various capacities, such as
3 minority business specialist, minority
4 business coordinator, special assistant to the
5 director and legislative regulatory affairs
6 monitor.

7 While at City Council I assisted
8 Councilman Ortiz in preparing new legislation
9 to address the disparity study findings. The
10 City and nine agencies paid D.J. Miller and
11 Associates \$1.6 million to complete this
12 study. The study began in 1996 and was
13 completed in 1998. The findings showed these
14 agencies lacked policy and procedures. They
15 arbitrarily awarded contracts with little or
16 no participation at all. This report was
17 suppressed from the public for five years.

18 In late 2003 the City awarded the
19 same firm over half a million dollars to
20 update this report. The findings were worse.
21 This report was also suppressed from the
22 public. This last report was found to
23 recommend goal setting, changes in procedures
24 and practices, enhancement to the MBE program,
25 non-discrimination policy and business

1 12/15/04 - COMMERCE - RES.040977, 041014
2 development assistance.

3 March 21st of 2003, City Council's
4 Economic and Development Committee held
5 hearings on Bill 020816, increasing the
6 Economic Opportunity Task Force. Bill 020827,
7 amending Title 17 of the Philadelphia Code to
8 improve compliance with certain participation,
9 affirmative action and reporting. Bill
10 030125, repealing Chapter 17-500, goals for
11 the participation of minority, female and
12 disabled-owned business in City contracts.

13 Also in 2003 many were especially
14 proud of the 13 members of City Council
15 signing a declaration of economic inclusion
16 which committed their support to a more
17 inclusive approach to development to ensure
18 that no project comes through this City ever
19 again unless there is a comprehensive plan for
20 minority, female and disabled business
21 inclusion.

22 This hearing is to examine efforts
23 agency officials are making to correct
24 widespread problems of inclusion. The more
25 things change, the more things stay the same.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Week after week we read the agencies are still
3 excluding what Council put in place for
4 inclusion.

5 An article in the Daily News on
6 December 8th of this year entitled, "Mayor's
7 Office Averts Clash Over Minority Hiring,"
8 states that agencies continue to willfully
9 ignore or intentionally circumvent rules
10 involving the goals of using minority and
11 women-owned businesses on contracts. This
12 Body must call these agencies in and ask the
13 question why.

14 Another article reads the School
15 District is implementing its MBE program and
16 has increased its participation of minority
17 and women business goals for the past two
18 years. If they can, why not the other
19 agencies?

20 Just before I retired, I was elected
21 president of the Philadelphia Chapter of The
22 National Association of Minority Contractors.
23 In June of this year we hosted the 35th annual
24 conference with the National Association of
25 Minority Contractors at the Lowes Hotel. The

1 12/15/04 - COMMERCE - RES.040977, 041014
2 theme was Building a New Alliance. Changing
3 the old mindset and working together, creating
4 a relationship, partnership, joint ventures
5 and mentoring. I hired an executive director,
6 and he will tell you what historical event has
7 taken place in the last three months.

8 I present to you Dr. Roscoe Murphy.

9 MR. MURPHY: Thank you, Mr.
10 President. Good morning, Members of the
11 Committee. My name is Roscoe Murphy. If the
12 Chairman will allow me 30 seconds to digress
13 briefly.

14 It's been 20 years since I've been
15 in this room during the Cable Awards, 1984,
16 and I must say this is a beautiful Chamber
17 compared to what it was then.

18 Additionally, and to just the ladies
19 on the Committee, Ms. Blondell and Ms. Tasco,
20 we have not had a conversation since the San
21 Francisco National Democratic Committee in
22 1984.

23 Also, Mr. Goode, your father was
24 there when he was mayor. I'd like to say he's
25 also my neighbor across the street.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 But it's been 20 years since I've
3 been here. I was looking for Fran Rafferty
4 because I haven't had a good fist fight in 20
5 years. But I see he's not here.

6 Thank you for that 30 seconds.

7 My name is Roscoe Murphy. I'm the
8 Executive Director of the National Association
9 of Minority Contractors, Philadelphia Chapter.
10 I recently returned from a 10-year
11 humanitarian stay in South Africa wherein I
12 built 15,000 houses for President Nelson
13 Mandela, among various development improvement
14 projects since I left Philadelphia in 1994. I
15 just got back.

16 Upon my return in June of this year,
17 I was immediately confronted with the same
18 problems from 30 years ago regarding inclusion
19 or the lack thereof involving minority
20 exclusion in the participation of City
21 contracts. For 30 plus years, we have been
22 fighting in the federal, state and City courts
23 for remedies that have led to various levels
24 of stalemates and little, slow or no progress.
25 I believe the time has come that to formally

1 12/15/04 - COMMERCE - RES.040977, 041014

2 realize that if you can't beat them, then you
3 must join them.

4 In other words, all sides must come
5 together and participate in areas of things we
6 have in common, such as, but not limited to,
7 capacity and resources. I have handed out a
8 news article that states the essence of new
9 thinking and directions. Please allow me to
10 illustrate a scenario that is self
11 explanatory.

12 A visitor comes into your office and
13 states that you have just been awarded a \$10
14 million City contract, which you, the company
15 owners, acknowledge as being true. The
16 visitor then proceeds to demand that you, the
17 owners, share at least 30 percent, or \$3
18 million, with them in the performance of that
19 contract.

20 Of course, the company owners
21 inquire as to who are you and why should they
22 share anything with you. The visitor's reply
23 is, because I'm a white and I am poor and I
24 have the law on my side. How do you think a
25 minority owner should respond?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Consequently the visitor is shown
3 the door and the law is challenged in court.
4 Meanwhile, the contract is stalemated and/or
5 the visitor is excluded from meaningful
6 participation.

7 Notwithstanding the good intentions
8 of affirmative action goals, set asides, good
9 faith, best efforts, non-discrimination
10 ordinances, policies, regulations politics and
11 the law, this scenario has now created
12 adversary positions for all concerned.
13 Therefore, the question begs for admirable
14 solutions, and I affirmatively personally
15 believe capacity and resources is the first
16 and only answer.

17 Mr. Mike Stefanoski, former chairman
18 of the General Building Contracts Association
19 states, "It does not matter who you are as
20 long as you have the capacity and the
21 resources to do the job." The General
22 Building Contracts Association represents 300
23 construction firms and others in Philadelphia.

24 Mr. James Ross, president of
25 Associate General Contractors of America

1 12/15/04 - COMMERCE - RES.040977, 041014
2 states, "We have much in common and must work
3 together for the advancement of mutual goals."
4 The Associates of General Contractors
5 represents 33,000 construction firms and other
6 in America.

7 In order for our benefits'
8 feasibility, the National Association of
9 Minority Contractors, the Philadelphia
10 Chapter, is seeking the cream of the crop, so
11 to speak, of minorities, women and
12 disadvantaged businesses to be included in a
13 minimum of 10 percent participation regarding
14 100 percent of City contracts.

15 The National Association of Minority
16 Contractors, Philadelphia Chapter, believes
17 that the level of 30 percent and above
18 participation is too high and not realistic in
19 most contracts. The results can lead to scams
20 and fronts that may not get paid at the end of
21 the day. The process should be based on the
22 capacity and resources for all businesses to
23 perform with skills, integrity and
24 responsibility. The minorities must match
25 this criterion to their level of

1 12/15/04 - COMMERCE - RES.040977, 041014

2 participation, meaning, to borrow a phrase,
3 just because you have a pick and shovel does
4 not make you a demolition expert.

5 In the event of new, small,
6 flowering businesses who cannot demonstrate
7 the criteria required to perform within the
8 ranges as determined by the Minority Business
9 Enterprise Council, the National Association
10 of Minority Contractor's recent partner
11 agreement with the Association of General
12 Contractors and its new membership in the GBCA
13 is in a position to provide education,
14 training apprenticeship, mentor prodigy
15 programs and consulting service to its
16 members.

17 In conclusion, the National
18 Association of Minority Contractors is about
19 building bridges and crossing barriers in a
20 pragmatic approach for a new day in
21 Philadelphia.

22 In conclusion, all these years since
23 1966 when I was first involved in minority
24 participation with the federal government and
25 then the City of Philadelphia, we have been

1 12/15/04 - COMMERCE - RES.040977, 041014
2 complaining and complaining and complaining,
3 as Mr. Ortiz did today, and I'm sure many of
4 the witnesses who followed, about what has not
5 been done and why not. Well, we have created
6 adversaries, in my view, of why it can't be
7 done.

8 When you walk into a guy's office
9 and say you got a \$10 million contract, I want
10 a million bucks of that because I'm black or
11 I'm a woman or I'm disabled, you could say,
12 get out of my office. What are you talking
13 about? But the law is on my side. But do you
14 qualify? Do you have the capacity and
15 resources like we did when we came up? Like,
16 we had to go to apprentice schools. We had to
17 get education. We had to get training.
18 That's what we should doing. That's what the
19 minorities should be doing also.

20 I'm not speaking about the ones that
21 qualify and don't get the contract. That's a
22 different fight. I'm talking about the people
23 that are making the most noise. The people
24 that are excluded today. Let's bring them up
25 to speed at the same level as the other

1 12/15/04 - COMMERCE - RES.040977, 041014
2 people. Then you have a genuine fight of not
3 creating problems where there doesn't have to
4 be a problem.

5 We are members of this GBCA, the
6 General Builders Contracts in Philadelphia
7 here. We agree with them that it doesn't
8 matter what color you are. It doesn't matter
9 what gender you are. If we're building a
10 skyscraper and we have to get bonding, then
11 let's bring you up to speed on that. You
12 can't come in brand new and say, give me a
13 piece of that job because of who I am. You
14 must go through the process. That's what we
15 must really consider if we're going to change
16 this thing around.

17 How can the Mayor or the
18 Administration or this panel support the
19 minority program if you're dealing with people
20 that don't want to do the same things as the
21 people that have those jobs are doing? We
22 need new thinking and we need new direction
23 because we have been losing the fight or we've
24 been stalemated all these years because we
25 have not changed our way of thinking about how

1 12/15/04 - COMMERCE - RES.040977, 041014

2 to do this.

3 Both sides that I'm associated with
4 have agreed to change their thinking. The
5 black people on my side have agreed to change
6 their thinking that's plausible and palatable
7 to the minority guys and majority guys that
8 can make it work. Thank you.

9 COUNCILMAN GOODE: Thank you. I
10 actually have a few questions. First to Mr.
11 Macklin.

12 Mr. Macklin, the bill you helped
13 Councilman Ortiz draft, 030125, was based on
14 the Baltimore model, I believe.

15 MR. MACKLIN: Somewhat.

16 COUNCILMAN GOODE: And the Baltimore
17 model was working?

18 MR. MACKLIN: Yes, it was. It was
19 working because the Mayor had the commitment
20 to make sure the agencies made it work.
21 That's why it was working.

22 COUNCILMAN GOODE: In our bill that
23 was drafted, it refers to annual participation
24 goals. Do you believe that there should still
25 be annual participation goals established on

1 12/15/04 - COMMERCE - RES.040977, 041014

2 an annual basis?

3 MR. MACKLIN: Sure.

4 COUNCILMAN GOODE: You believe it
5 should be by industry?

6 MR. MACKLIN: Sure.

7 COUNCILMAN GOODE: I ask this
8 question to Mr. Murphy too, because you stated
9 that you believe 30 percent is too high and
10 you reduced it to a number of 10 percent. But
11 isn't it true that that number actually should
12 vary based upon capacity?

13 I think this new thinking you're
14 talking about is to have our work based upon
15 capacity, so I would take issue with the fact
16 that it shouldn't necessarily be 10 percent or
17 30 percent, but based upon capacity, which
18 means that in certain industries it may be
19 above 30 percent and in other industries it
20 may be below 30 percent, above or below 10
21 percent.

22 But I'm curious about your new
23 thinking beyond what you've stated so far in
24 terms of how we should actually set these
25 participation goals.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MR. MURPHY: Yes, sir. The
3 operative word is a minimum of 10 percent
4 across the board in all City contracts. Of
5 course they would use best efforts and good
6 faith in order to increase that.

7 Also, where there might be a sole
8 proprietor, wherein you cannot get that
9 participation, it can be parlayed with another
10 contract that would be higher, but it would
11 balance out to at least that.

12 COUNCILMAN GOODE: I will accept
13 that to the extent that I think we need to
14 move to some other witnesses.

15 But I will also say that your
16 characterization of a minority business
17 walking into a majority business asking for a
18 piece of the contract, I believe is somewhat
19 flawed and excuses MBEC, excuses the role of
20 the Mayor and everyone else. It is in fact
21 our role to the extent that we can legislate,
22 and the Administration's role to the extent it
23 should be creating policy, supporting
24 legislation, enforcing that legislation,
25 annual policy, to walk into that majority

1 12/15/04 - COMMERCE - RES.040977, 041014
2 business on behalf of that minority business.
3 So it should not just be a matter of
4 someone trying to get that participation on
5 their own, although I support community-based
6 efforts and organizations, such that you
7 represent. But what we're here to discuss is
8 also what role we can play in terms of policy
9 and legislation.

10 I hope we're going to have some
11 discussion about basically that bill that you
12 helped draft, Mr. Macklin. I believe it did
13 actually lay out a process that was workable,
14 that was based upon capacity. It was based
15 upon studying previous utilization. It was
16 based upon setting goals for which is pretty
17 much a data driven process.

18 MR. MACKLIN: It's also
19 participation on availability. Ready, willing
20 and able. If the agencies, if the agencies,
21 would adhere to your order as it relates to
22 the ordinance, and if the Mayor made sure that
23 those agencies adhere to your order, then we
24 wouldn't have the problems that we're in
25 today. It's a matter of educating those

1 12/15/04 - COMMERCE - RES.040977, 041014

2 agencies that want to do. We have some good
3 agencies, some of them want to do, but were
4 not allowed to do.

5 I've been in this Administration for
6 over 22 years. I know the phonies that we're
7 facing with and I know the ones that are
8 sincere. But they're limited because of the
9 fear of their job because of the orders from
10 up top. Nothing is going to work in this town
11 if it doesn't from the top. It has to come
12 from the top.

13 COUNCILMAN GOODE: Thank you.

14 MR. MURPHY: Mr. Chairman, if I may.

15 I agree with your comments on my
16 testimony here. I don't have a problem with
17 that. My purpose is to look at both sides of
18 the coin. Since my absence from the City in
19 10 years, I have matured a lot and meddled a
20 lot, as some people might have seen.

21 Mr. Ortiz stated earlier, why are we
22 still in this dilemma? Why is this still
23 happening? I say we must look at why they are
24 doing to us what they are doing to us. One of
25 the reasons is that we must have the same

1 12/15/04 - COMMERCE - RES.040977, 041014
2 resources and qualifications and capacity that
3 they did to get the job in the first place.
4 And if we don't, then we can be put in the
5 position where we can gain that.

6 COUNCILMAN GOODE: Well, the law
7 actually called for annual participation
8 goals, based on but not limited to the present
9 availability of quality DBEs, utilization of
10 quality DBEs on past contracts awarded by the
11 City, a forecast of eligible contracts to be
12 awarded within the fiscal year, and an update
13 of disparity analyses of businesses in the
14 Philadelphia area.

15 I think we want the same thing, but
16 the issue I'm actually raising is that what's
17 being rejected, not so much by majority
18 businesses or minority businesses, but by the
19 Administration, is a data driven process that
20 actually shows what is there.

21 MR. MURPHY: I understand. It's a
22 resistance to change we have to overcome, and
23 that is understanding all sides. That's my
24 purpose.

25 Thank you.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILMAN GOODE: Councilwoman

3 Tasco.

4 Thank you for your testimony.

5 COUNCILMAN RAMOS: Mr. Chairman, I
6 have a couple questions.

7 COUNCILMAN GOODE: Excuse me.

8 Councilman Ramos.

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

11 Mr. Macklin -- and I heard this from
12 the former witness -- are you implying that
13 the problem is that Mayor Street does not have
14 the political will to make this work?

15 MR. MACKLIN: Well, he's been saying
16 this for the last eight years almost. He came
17 to our association's conference stating that
18 he was going to give the director all the
19 necessary tools to make sure that this
20 happens. But what I'm reading is just lip
21 service, is what is really happening.

22 COUNCILMAN RAMOS: Are you saying
23 that Mayor Street has only given lip service
24 to this issue of minority inclusion?

25 MR. MACKLIN: Well, if you're

1 12/15/04 - COMMERCE - RES.040977, 041014
2 talking about certain individuals. I'm
3 talking about the masses that are out here
4 struggling that are trying to make this
5 happen, and the agencies that want it to
6 happen, but aren't given the direct order, or
7 they're given it, but they're still not given
8 the respect that they're supposed to be in
9 order to make this happen. They're not
10 respecting this Council. These agencies
11 aren't. And the Administration in some cases
12 is not respecting this Council.

13 COUNCILMAN RAMOS: Are you saying
14 that the African-American Mayor of this City,
15 John F. Street, does not have the political
16 will to make this happen so there will be
17 minority inclusion --

18 MR. MACKLIN: No. I'm not saying
19 that. He has the will. He has the power to
20 do it. I don't know if there's somebody else
21 that's keeping him from doing it. But he has
22 the power and the will. He's the Mayor.

23 COUNCILWOMAN TASC0: Didn't you say
24 that the will began at the top? You made that
25 earlier statement.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MR. MACKLIN: Yes, ma'am.

3 COUNCILMAN RAMOS: I agree with you,
4 Madam Tasco. Both you and the former witness
5 referred to the mayor, the late, great Maynard
6 Jackson, and the mayor of Baltimore, the late,
7 great Mayor Harold Washington from Chicago.
8 So you seem to be putting it in the Mayor's
9 office, putting it on the Mayor. So I just
10 wanted some clarity on whether you think this
11 African American Mayor is our problem. I
12 don't tend to agree with that.

13 MR. MACKLIN: I'm not saying that.
14 You're trying to put words in my mouth.

15 COUNCILMAN RAMOS: I'm just looking
16 for an answer.

17 COUNCILMAN GOODE: Councilman, if
18 he's not saying it, our next witness will.

19 MR. MACKLIN: I'm not saying that.

20 COUNCILMAN RAMOS: You're the
21 Chairman. I will always refer to you.

22 MR. MACKLIN: But he has the power
23 to do it.

24 COUNCILMAN RAMOS: Okay. Thank you.

25 COUNCILMAN GOODE: Councilwoman

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Miller.

3 COUNCILWOMAN MILLER: Thank you.

4 Good afternoon, Mr. Macklin. How
5 are you? I was just wondering when we talk
6 about City agencies, are there any agencies
7 that do a better job than others? Were you
8 monitoring that?

9 Like last week there was an article
10 about PIDC. Is there any agencies that really
11 stand out?

12 MR. MACKLIN: Well, one agency that
13 I know is PCDC, not PIDC. PCDC. Curtis
14 Jones' shop. The report and the study. The
15 findings in the study showed that his agency
16 more so than any other agency in this City was
17 more in compliance than the rest.

18 COUNCILWOMAN MILLER: Okay.

19 MR. MACKLIN: His agency. PIDC.
20 RDA. The other eight were not so.

21 COUNCILMAN GOODE: Thank you,
22 Councilwoman.

23 Thank you for your testimony.

24 COUNCILWOMAN TASC0: Thank you very
25 much for your testimony.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Bruce Crawley and Anthony Fullard
3 from the African-American Chamber of Commerce.

4 MR. CRAWLEY: Good afternoon.

5 COUNCILWOMAN TASC0: Good afternoon.
6 Would you identify yourself, please, for the
7 record?

8 MR. CRAWLEY: My name is Bruce
9 Crawley, Chairman of the Board of the
10 African-American Chamber of Commerce.

11 MR. FULLARD: My name is Anthony
12 Fullard, the Director of Business Development
13 for the African American Chamber of Commerce.

14 COUNCILWOMAN TASC0: Thank you. You
15 may proceed.

16 MR. CRAWLEY: Thank you very much.

17 As an organization, the African
18 American Chamber of Commerce has, since its
19 inception, been committed to the concept that
20 the City cannot hope to expand its economy,
21 create jobs that are at a competitive level
22 with other municipalities or generate much
23 needed levels of tax revenue unless it
24 discovers a way to include all of its
25 potential businesses in the process.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 We opened our doors for business 10
3 years ago. We believe that Philadelphia has
4 for far too long toiled under the damaging
5 misconception that minority business inclusion
6 is something that only so-called minorities
7 have to be concerned about.

8 With the collective mindset that has
9 been stuck firmly in the 1970s and the 1980s,
10 Philadelphia's business and political
11 leadership have not made diversity or
12 inclusion the priority that has been assigned
13 at some of the country's most successful
14 corporations, in some of the major cities and
15 indeed in the global economy. Regrettably,
16 local mainstream media have also not
17 contributed significantly to curing this
18 problem.

19 Couching discussions about minority
20 business inclusion and language that recalls
21 affirmative action set asides, and at the same
22 time editorially pleading the case of
23 aggrieved mainstream business owners -- who,
24 by the way, have walked away year after year
25 with 98 percent of all City contract revenues.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 That of course leaves just 2 percent of City
3 contract revenues for businesses owned by
4 people of color.

5 Given that outrageously
6 disproportionate contract participation, our
7 Chamber of Commerce is dedicated to advocating
8 for full inclusion of African-American
9 businesses in that equation.

10 You have heard, I'm sure, that
11 African Americans constitute 43.2 of the
12 City's population, and own 14.8 of the City's
13 businesses. But those business share in just
14 0.7 percent of City contract revenue. Not 7
15 percent. 0.7 percent. Not even a full
16 percentage point.

17 As paltry as those numbers look on
18 the Municipal Procurement side, the story is
19 not much better in the private sector, where
20 the Census Bureau tells us that the black
21 firms share in just 0.9 percent of the \$88
22 billion in the City-wide gross receipts.

23 What Philadelphia has clearly been
24 doing in this entire area is shooting itself
25 in both of its economic feet. While the City

1 12/15/04 - COMMERCE - RES.040977, 041014
2 faces its own most recent fiscal crisis, how
3 in the name of God can we reasonably address
4 the problem if we continue to relieve 56
5 percent of the population that is comprised of
6 people of color, including 43 percent that is
7 comprised of African Americans, from the
8 responsibility to create jobs, the
9 responsibility to grow the economy and the
10 responsibility to contribute to the tax base?
11 That's been our premise. That's been the
12 basis of our mission.

13 The City's response to this critical
14 problem over all this time has been to offer
15 us MBEC, to structure it in such a way as to
16 guarantee its futility, to provide it a budget
17 that has never been sufficient, to move the
18 needle and to staff it with people who didn't
19 have the skills or the commitment to get the
20 job done.

21 In the private sector, where I come
22 from, that's what large corporations do to a
23 line of business that they think is
24 unimportant. That's what they do when they
25 don't expect any meaningful outcome from a

1 12/15/04 - COMMERCE - RES.040977, 041014
2 department or from a service that is lacking
3 in potential. And in MBEC we have gotten just
4 what we have paid for and just what the City
5 government has always expected, which is not
6 very much at all.

7 Indeed, the results that
8 Philadelphia has produced in the area of
9 minority business inclusion in City contracts
10 provides ample evidence of three things:

11 One, that MBEC has never been
12 effective in achieving the mission of minority
13 business inclusion; a lot of papers shuffled,
14 hundreds of long awaited certifications,
15 virtually no business.

16 Two, even when the numbers reported
17 by MBEC were greater than they are now, it was
18 simply because the minority inclusion number
19 was never really calculated as a percentage of
20 all the business done by the City, just that
21 small part of the overall procurement that was
22 always shown to the MBEC staff. That number
23 has always been misstated. That number has
24 always been inflated. It was always
25 absolutely wrong.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 I hear people comparing what is
3 happening in the Street Administration to what
4 happened during the Rendell Administration.
5 They've never shown the numbers from the
6 Rendell Administration. Those numbers were
7 falsely calculated. You can't even compare
8 whether any progress has been done. The only
9 numbers that we have that are viable are those
10 that came from the disparity study. I'm sure
11 that if we applied the same disparity study
12 techniques to the Rendell Administration, we'd
13 come up with the miserable response.

14 The third thing we learned is that
15 the Administration that has managed MBEC from
16 its inception, up to and including the Street
17 Administration, clearly have never made
18 minority business inclusion a high ranking
19 priority. The Finance Director, the
20 Procurement Director and the department heads
21 always knew it, and they responded
22 accordingly.

23 At this point, after more than 20
24 years of non-performance under three different
25 mayoral administrations, MBEC has proved

1 12/15/04 - COMMERCE - RES.040977, 041014

2 beyond a shadow of a doubt, that it should be
3 eliminated and replaced by a new agency or by
4 a comprehensive policy that will be designed
5 to produce the broad economic benefits this
6 City so sorely needs, all at the same time
7 nurturing and including all potential
8 businesses in the City, regardless of color,
9 regardless of gender.

10 We need a procurement policy that
11 recognizes the need for us as a City to both
12 acquire high quality goods and services and
13 grow the small and minority businesses that
14 are even now the largest job producers in this
15 country.

16 Even nine years ago we pointed that
17 out to Mayor Rendell. It was from a study
18 from Michael McGill at Southern Methodist
19 University. He reported that nearly 75
20 percent of new private sector jobs were being
21 created by firms with 50 or less employees,
22 and that 47 percent of those jobs were being
23 created by firms with 20 or less employees.
24 That's the profile of minority businesses.
25 We're not nurturing that sector of the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 business. We're not doing anything to develop
3 them or assist them.

4 Regrettably, MBEC is an acronym
5 (sic). It is outmoded. It has outlived its
6 usefulness as currently constituted. It's an
7 upright typewriter in a laptop economy, and we
8 shouldn't be surprised that it can't help us
9 get the job done.

10 You see, MBEC was designed on a
11 faulty premise, that is that all prime City
12 contracts should continue to be let to
13 businesses owned by white males, and that the
14 way we would achieve so-called minority
15 participation would be to attach a few small
16 businesses owned by people of color to the
17 white male's contract.

18 The assumptions, of course, were to
19 follow:

20 One, that only white males would
21 ever be qualified to win a prime contract with
22 the City of Philadelphia.

23 Two, that the process of ensuring
24 minority participation was fundamentally a
25 bureaucratic, government-enforced nightmare

1 12/15/04 - COMMERCE - RES.040977, 041014

2 that produced unfairness for the always
3 supremely qualified white firm.

4 Three, that firms owned by people of
5 color therefore were either less qualified
6 than whites or wholly unqualified and
7 undeserving of being prime and often times
8 undeserving of being subcontractors.

9 Four, that only certain City
10 contracts, a small percentage of them, should
11 ever be subject to even the flawed
12 MBEC-related procurement process.

13 For example, no professional
14 services contracts were ever processed in
15 conjunction with MBEC, never either did they
16 include an inclusion mandate.

17 Finally, it is constituted risky
18 politics for elected officials, especially
19 those with white constituencies, to advocate
20 for an inclusionary municipal economy. The
21 discussion that flowed out of the old MBEC
22 model never related to growing the City's
23 economic pie, but rather reflected a concern
24 about blacks and other so-called minorities
25 taking meager percentages of business away

1 12/15/04 - COMMERCE - RES.040977, 041014

2 from white companies, who clearly deserve to
3 have it all, every single dime of it.

4 If you only take away one key point
5 from my testimony this morning, please let it
6 be this: The outcome of your hearings should
7 not be how we save or restructure or refinance
8 MBEC, but rather how we achieve a series of
9 tangible improvements in a City-wide inclusion
10 strategy.

11 We offered a list of such types of
12 improvements to the Mayor on April 13th, 2004,
13 shortly after his announcement of the current
14 MBEC director.

15 They included, number one, working
16 with the private sector to achieve minority
17 business contract inclusion at large corporate
18 entities.

19 Number two, establishing 35 percent
20 minority participation goals for the City's
21 professional services contract.

22 Number three, unbundling City
23 contracts to facilitate small business
24 inclusion.

25 Number four, establishing goals for

1 12/15/04 - COMMERCE - RES.040977, 041014
2 minority inclusion in skilled trades unions as
3 a prerequisite for public works projects.

4 We know that the skilled trade
5 unions have systematically excluded African
6 American people, Hispanic people, Asian
7 people. We know that as a fact. Yet this
8 government says that there are public works
9 projects that are funded by public monies that
10 should be set aside and held for the private
11 inclusion of skilled trades members whose
12 memberships range from 90 to 95 percent white
13 in a City that's 43 percent black, 10 percent
14 Hispanic, 2 to 3 percent Asian.

15 Improving minority contract
16 participation report formats to make them more
17 timely, frequent and accurate.

18 Ensuring that neighborhood residents
19 have access to at least 25 percent of
20 construction jobs and public works projects in
21 their communities.

22 Establishing a City funded
23 initiative to support the development of
24 African American retailers and a firm policy
25 in support of black vendors.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Establishment of a City
3 government-related initiative to develop a
4 policy to minimize the impact of
5 gentrification on homeowners in
6 African-American and other historically ethnic
7 communities.

8 We never believed that MBEC itself
9 has been the root of the problem. No, in our
10 opinion, the true problem in addressing
11 minority business inclusion starts at the very
12 top of the government, from the Mayor's Office
13 and from those who make the laws by which the
14 City is governed. In fact, we believe that if
15 there is a solid commitment to a culture of
16 economic inclusion, then that will be a factor
17 in assessing the job performance of the
18 Finance Director and the Procurement Director.
19 We believe if the Mayor clearly sends a signal
20 that he will hold his direct reports and
21 department heads accountable, then we will
22 finally see action in this area, MBEC or no
23 MBEC.

24 In a letter to Mayor Rendell dated
25 October 30th, 1995, which we've made available

1 12/15/04 - COMMERCE - RES.040977, 041014
2 to the Members of Council, we acknowledge his
3 agreement to establish a joint African
4 American Chamber/City Procurement Task Force
5 to renew municipal procurement practices. I
6 quote from my letter to the Mayor back then as
7 we started that task force, "As we understand
8 it, the task force will have two primary
9 goals; one, to review the City's procurement
10 procedures to ensure that they do not restrict
11 by policy or by practice full contract
12 participation by small, African American and
13 other minority businesses; and to recommend
14 the most effective way to segment within major
15 contracts, small component that could be
16 reasonably managed by African American and
17 other minority business. The overall
18 objective, of course, will be to move to the
19 establishment of a new set of guidelines that
20 will position municipal procurement as a
21 critical, local economic development tool,
22 while maintaining fiscal accountability."
23 The process was finally launched
24 following an August 24th, 1996 letter to Mayor
25 Rendell, which was copied to then City Council

1 12/15/04 - COMMERCE - RES.040977, 041014
2 President Street. That letter also is
3 available in the packet of information we
4 provided. Following an 18-month task force
5 review, we submitted to Messrs. Rendell and
6 Street on July 22nd, 1998 the report of the
7 African American Chamber of Municipal Contract
8 Task Force. That 14-page report identified 10
9 major barriers to African American and other
10 minority business inclusion in municipal
11 contracts.

12 It went on to offer 15
13 recommendations to the City for addressing
14 those issues. They included reducing the
15 relegation of African American and minority
16 business subcontractors status a review of the
17 City's onerous, anti-small business insurance
18 and bonding requirements, leveraging banks and
19 City agencies to help with cash flow for
20 minority businesses.

21 A recommendation to extend
22 mobilization fees paid to prime contractors
23 under the City contracts so that minority
24 subcontractors could participate in those fees
25 to help them also to be mobilized, as a prime

1 12/15/04 - COMMERCE - RES.040977, 041014

2 contractor has always been.

3 A recommendation to have MBEC move
4 to universal certification process, which I
5 think has just occurred in the past year.

6 A recommendation to hold City
7 departments accountable for minority inclusion
8 on their contracts, which for the most part
9 were let without MBEC participation.

10 A greater inclusion mandate for City
11 contracts let to non-profit organizations,
12 which to my understanding, is still an issue
13 even to this day.

14 A wider circulation of municipal
15 RFPs was also recommended.

16 Most of these issues were ignored by
17 government until the African-American Chamber
18 became directly involved and advocated for
19 them.

20 As we mentioned earlier, however,
21 the gross under-utilization of minority
22 businesses can't be unilaterally addressed by
23 the public sector. The Chamber pointed that
24 out to Mayor Rendell on Page 2 in a letter
25 that was also copied to President Street on

1 12/15/04 - COMMERCE - RES.040977, 041014

2 August 29th, 1996. A copy of that letter is
3 also in your packet.

4 I quote -- this is to Mayor Rendell
5 -- "You agreed that a signal should be sent to
6 the private sector to encourage its component
7 businesses to proactively seek contract
8 opportunities with African American
9 businesses. That signal will take the form of
10 a public statement by you on the subject of
11 minority business growth, minority business
12 participation and the benefits they generate
13 for the local economy overall.

14 Accordingly, you suggested that a
15 small group of African American Chamber board
16 members accompany you during your scheduled
17 November meeting with the Greater Philadelphia
18 Chamber's executive meeting. During that
19 meeting, you will encourage business to
20 business contracts between local larger
21 corporate entities and black businesses."

22 You should know that we were never
23 actually invited to that November meeting by
24 Ed Rendell, that no such statement to the
25 Philadelphia private sector was ever made by

1 12/15/04 - COMMERCE - RES.040977, 041014

2 him, nor has there ever been a tone set by his
3 successor, John Street, that would move us as
4 a collective business community to inclusive
5 procurement practices.

6 In our opinion, you will find in
7 these hearings what we have always known about
8 this issue.

9 One, that MBEC has finally and
10 definitely proved its ineffectiveness and
11 should be eliminated.

12 Two, that inclusive procurement
13 practices are a function of the commitment at
14 the top of the corporation or at the top of
15 the government.

16 We have an expression in the public
17 relations profession that says, you can't have
18 good PR if the CEO doesn't want it. We at the
19 African American Chamber of Commerce believe
20 that statement also holds true for inclusion
21 and diversity programs.

22 Independence Blue Cross, one of the
23 region's most important businesses, has
24 included diversity practices in its
25 procurement policy because Fred DiBona, the

1 12/15/04 - COMMERCE - RES.040977, 041014

2 CEO of Blue Cross, wants it.

3 The Philadelphia School District has
4 clearly shown a dramatic improvement in its
5 minority procurement because Paul Vallas, the
6 CEO, wants it. People talk about having to
7 turn around a big ship here to get things done
8 in the City of Philadelphia. Paul Vallas went
9 from 9 percent minority participation to 25
10 percent minority participation in just one
11 year. We've been talking about all of this
12 dating as far back as 1995, and we've been at
13 1 percent all that time.

14 In closing, while you may know that
15 the African American Chamber of Commerce took
16 great exception to the appointment of the
17 current MBEC director, we did so because in
18 appointing a well-meaning person with no
19 qualifications to head a troubled agency
20 during a monumental crisis, the Street
21 Administration was sending the signal that the
22 City's CEO didn't want to have meaningful
23 progress in this area. We found that action
24 and the entire municipal government track
25 record on minority inclusion to be lacking in

1 12/15/04 - COMMERCE - RES.040977, 041014

2 merit, and we feel even more strongly about it
3 today.

4 On behalf of the 9,285 black-owned
5 businesses in the City, on behalf of the 9,000
6 employees they have in Philadelphia and the
7 15,400 black employees that black businesses
8 support in the regional area, I would point
9 out that if you aggregated those 15,400
10 employees at black-owned firms in the region,
11 they would constitute the second largest
12 private sector employer in the region behind
13 only the University of Pennsylvania. Comcast,
14 Aramark, all of them have a smaller employment
15 base. I think we get upset as a City, as a
16 government, when one of those large
17 corporations don't have an ability to maintain
18 their payroll in Philadelphia.

19 We have 15,400 jobs at risk in the
20 region from black businesses and 9,000 at risk
21 in Philadelphia, and we don't have meaningful
22 follow-up on any of this.

23 I think that you should look at this
24 information and the other input you received
25 today and begin to move Philadelphia finally

1 12/15/04 - COMMERCE - RES.040977, 041014

2 to being an inclusive economy and an
3 inclusive, less antagonistic society.

4 In closing, I would be remiss if I
5 also didn't encourage each of you to visit the
6 African American Ethnic Holiday Mall right
7 across the street. Even though this is not an
8 MBEC-related project, it is a project that
9 creates jobs for 40 primarily African American
10 vendors, and they're right across the street.
11 They'll be there until December 31st.

12 We have a reason to build retail
13 capacity in our community. Retail creates
14 jobs. It's an entry to wholesale, an entry to
15 ownership.

16 The person who started Bank of
17 America started out as a fruit vendor selling
18 fruit on the streets of San Francisco. So
19 much cash flow he had to lend money to his
20 friends in the Italian community. Leverage
21 that became a banker, and the rest is history.
22 Bank of America is right here in Philadelphia.
23 I think we would be remiss not to invite you.

24 Thank you very much for this
25 opportunity. I look forward to any questions

1 12/15/04 - COMMERCE - RES.040977, 041014

2 you might have.

3 COUNCILWOMAN TASCO: Thank you very
4 much. Thank you for your testimony.

5 I just want to ask, the
6 recommendations that you made back in 1998,
7 have any of those recommendations, through the
8 previous MBEC leadership now or even through
9 that Administration, the Rendell
10 Administration, this Administration, has any
11 action been taken to include any of your
12 recommendations or has anything changed in any
13 of the Departments relative to your
14 recommendations?

15 MR. CRAWLEY: It hasn't happened for
16 the most part. Most of it has not happened.

17 The only thing that really has
18 happened is that the Administration has begun,
19 I guess over the past year and a half, to look
20 at the role that the Department heads play
21 with procurement.

22 As we pointed out, most of the
23 procurement activity that goes through those
24 departments in the City do not go through
25 MBEC. All the private sector, all the

1 12/15/04 - COMMERCE - RES.040977, 041014

2 professional services procurement does not go
3 through MBEC. They started now to try to
4 build a system to capture that data so that
5 they would know, first of all, who is getting
6 those procurement contracts, and then they're
7 beginning to move, I think, to having a
8 mandate for inclusion in all of those.

9 We recommended at the Chamber that
10 there be a tech-related firm to go in and be
11 able to monitor that, because the City told us
12 they were incapable of tracking that
13 information. There was no IT-related system
14 in the City government that would allow them
15 to tell us whether minorities were getting
16 contracts or not with the Department, whether
17 they were getting contracts or not with
18 professional services.

19 If we had such a system, the company
20 that we recommended, the African
21 American-owned company that we recommended,
22 could do that, and they would obviate the need
23 to do the disparity study because we would
24 have the information on a day in, day out,
25 week in, week out, year to year basis at our

1 12/15/04 - COMMERCE - RES.040977, 041014
2 fingertips. We wouldn't have to spend \$1.6
3 million for disparity studies. We'd know as
4 we moved along.

5 So I know that piece is being done.
6 Relegation of African American and other
7 minority businesses of subcontractor status,
8 the Chamber came to the City about two years
9 ago and recommended the Emerging Contractor
10 Program to start to move minority contractors
11 from the perennial subcontractor status to
12 prime contractor status.

13 With the NTI program, you may recall
14 that the people at Hill International, who are
15 functioning as construction managers on NTI,
16 told the City that they couldn't find African
17 American prime contractors who could do
18 demolition contracting. So all the African
19 Americans who were working in that project up
20 to that point were working as subcontractors.

21 Our program has produced 21 black
22 prime contractors who are capable of doing
23 that. They have financing provided by banks
24 that we assembled and they are able now to go
25 out and compete for that work. We still don't

1 12/15/04 - COMMERCE - RES.040977, 041014

2 though, have a free flow of contract
3 opportunities to those African American
4 contractors.

5 Our last class was 44, the second
6 class of graduates from the Emerging
7 Contractors Program. Of those 44, three were
8 Hispanic, two were Asian-owned businesses and
9 the balance were African American, and we are
10 waiting still for the notification to proceed,
11 the order to proceed on the contracts in phase
12 three. We're being unduly delayed in that
13 process. And again, these are small business
14 owners who just want to be able to participate
15 in what has been thousands of demolition
16 projects and contracts that have been let by
17 the City since the initiation of NTI.

18 COUNCILMAN GOODE: Councilman Ramos.

19 COUNCILMAN RAMOS: Thank you, Mr.
20 Crawley and Mr. Fullard for again appearing
21 here.

22 Since I've been here, which has only
23 been almost a year now, you've been to many
24 committee hearings, and I sure appreciate your
25 insight and your commitment. I know that you

1 12/15/04 - COMMERCE - RES.040977, 041014

2 do in fact represent African American
3 businesses through the African American
4 Chamber.

5 The issue that we want to take a
6 look at here today, we have been taking a look
7 at for awhile, is the function of MBEC. It
8 seems as though at the beginning of your
9 statement, you left some room that maybe there
10 is something that can be done to save MBEC.
11 But towards the end, you sounded as though
12 you're emphatic that MBEC can no longer work.

13 I know you have been addressing this
14 issue for a while, particularly the bigger
15 issue, minority participation. You have
16 documented that very well for us. If you're
17 stressing that MBEC needs to be replaced, I
18 would want to see what you would replace it
19 with or how that structure would be.

20 I know that in principle you talk
21 about strategies and so forth, and I can
22 understand that part of it. So if you can
23 just talk to me a little bit about, is there
24 things that you could recommend that we can
25 listen to? I'm sure MBEC will be open to it,

1 12/15/04 - COMMERCE - RES.040977, 041014

2 for ways to make it better. If not, has the
3 Chamber determined this is not the way to go?
4 What do you recommend?

5 MR. CRAWLEY: One, MBEC hasn't done
6 it. We're not blaming the current Director of
7 MBEC. It has never done it. So we think this
8 process, the structure of MBEC is flawed.

9 Again, the premise that MBEC's role
10 is to ensure that white contractors get the
11 prime contract and that the role for minority
12 participation should be as a subcontractor on
13 a contract first let to whites. That's why we
14 get the ongoing antagonism.

15 That's why we get articles in the
16 Inquirer that talk about a man named Graham
17 who has an insurance company, who complains
18 that a minority insurance company has been
19 forced on him as a shotgun wedding every time
20 there's a contract let. Those kinds of things
21 are not what we think make sense.

22 We clearly have a generation of
23 African American and Hispanic businesses that
24 are qualified to serve as prime contractors.
25 That's not the way MBEC is structured. That's

1 12/15/04 - COMMERCE - RES.040977, 041014
2 not its role. That has to change. If MBEC
3 can't change that structural imperfection,
4 then we don't need it, because we're well past
5 the point when the only way that minority
6 firms, so-called minority firms, can
7 participate in doing business would be as a
8 subset to a prime contractor that's always
9 stripped of the profit margin out of the
10 contract. We can't do that anymore.

11 You just saw the crisis down at the
12 Lincoln Financial Field. One of the
13 contractors was Louie Cruz, who's walking
14 around the room right now. Louie Cruz was
15 involved in being a subcontractor at that site
16 and people didn't want to pay him.

17 What we get a lot is minorities who
18 are participating at the sub level, whether
19 it's in the construction trade or whether it's
20 in the delivery of goods and services. We get
21 forced together with a prime white contractor
22 who doesn't want to do business with us, who
23 assumes that he's being put upon by the
24 government, who's forcing this relationship,
25 who assumes that he has manifest right to

1 12/15/04 - COMMERCE - RES.040977, 041014
2 every contract that comes out of the City
3 government. Why? Because I'm a white male.
4 This is my contract and you shouldn't be in
5 and I don't like the fact that you're in it.
6 I'll pay you slowly. I'll pay you so slowly
7 that I hope you go out of business before I
8 have to pay you the balance of the contract.
9 I'll pay you so slowly that I hope your bank
10 will foreclose on you, before you're able to
11 finish the contract. I hope your crew will
12 quit before you're finished the contract.
13 This is what our people are faced with. And
14 so we would rather have them be not relegated
15 anymore with subcontractor status.

16 If that is the premise for MBEC's
17 founding, that's the premise for how they do
18 its business, we don't need that. That
19 doesn't work.

20 COUNCILMAN RAMOS: Can I proceed
21 just a little bit more, Mr. Chairman?

22 I know that your statement right now
23 is nowhere in writing in the MBEC guidelines
24 that only white contractors will be awarded
25 the status of prime contractors. But you're

1 12/15/04 - COMMERCE - RES.040977, 041014

2 saying --

3 MR. CRAWLEY: Did you see the
4 disparity study?

5 COUNCILMAN RAMOS: Yes.

6 MR. CRAWLEY: Did you see how many
7 black prime contractors there were in the City
8 of Philadelphia?

9 COUNCILMAN RAMOS: Yes.

10 MR. CRAWLEY: There were none.

11 COUNCILMAN RAMOS: Listen to me.
12 What you're saying is that in reality this is
13 what's going on; is that correct?

14 MR. CRAWLEY: Absolutely. Because
15 that's the way it's set up.

16 A contract comes up ready for being
17 drafted. An RFP process comes into play. And
18 they say, okay, do you have some small
19 minorities that we can attach to this contract
20 before we approve it. Not, let's let it to a
21 black prime. Not, let's unbundle these
22 contracts so black and Hispanic primes within
23 their size capacity can compete among
24 themselves for a reasonable size of that
25 contract. No. Let's bundle it real big so

1 12/15/04 - COMMERCE - RES.040977, 041014
2 that we leave out the prospect of any minority
3 being able to participate as a prime, and then
4 let's ensure that the only minority
5 participation is done at the level of the
6 subcontractor. We don't need that anymore.

7 COUNCILMAN RAMOS: What has been
8 your contact with MBEC and your discussion
9 along these lines since your letter that I
10 remember reading back in April?

11 COUNCILMAN GOODE: Councilman, let
12 me try to clarify the record. I can ask Mr.
13 Crawley a question.

14 You are in fact saying that we don't
15 need participation goals. You are saying that
16 essentially we don't need a minority business
17 program. What we need is a procurement policy
18 that removes barriers for people of color and
19 women.

20 MR. CRAWLEY: We also need goals.
21 We specify that goals are necessary.

22 I gave the example of Independence
23 Blue Cross. Independence Blue Cross at one
24 time -- and you can talk to G. Fred DiBona
25 about this. At one time Independence Blue

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Cross did \$700,000 a year minority
3 participation. Today their minority
4 participation contract dollars runs about \$30
5 million. They don't do it because of a
6 government mandate or because the City made
7 them do it. They did it because they found
8 competitive businesses to provide contract
9 opportunity to. They do it because G. Fred
10 DiBona is the CEO and his board supports that
11 initiative and that's the policy of that
12 company. That company has been very
13 profitable over the past several years. It
14 has not impeded their ability to find good
15 work, to provide good service to their
16 subscribers.

17 The same thing is apparently
18 happening with the Philadelphia School
19 District. I just saw an article in the front
20 of a magazine called Diversity, Inc., with a
21 profile on the CEO of Time Warner, Mr.
22 Parsons.

23 In that article -- I can send you a
24 copy of that article -- he points out that one
25 of the keys to the success of that company is

1 12/15/04 - COMMERCE - RES.040977, 041014
2 being able to provide contract opportunities
3 to the community that buys the cable service
4 that he provides.

5 We seem to think that there is
6 something fundamentally wrong with minorities
7 wanting to do business in this City. We've
8 got to first change that mindset. I think
9 that mindset starts at the top.

10 We have not talked directly with the
11 people at MBEC. We've been in meetings where
12 MBEC people have been, but we think MBEC is
13 not the problem in and of itself. We think
14 the structure of MBEC is outmoded. It needs
15 to be drastically changed or it needs to be
16 eliminated altogether.

17 We think the impotence for that will
18 come from the Mayor's Office. If the Mayor
19 says, we've got to do it, it will happen. If
20 he doesn't say it, if he doesn't put enough
21 emphasis behind it, nothing will change.
22 Nothing will change. After all, the person
23 who is the Director of MBEC works for the
24 Finance Director. The Finance Director works
25 for the Mayor.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILMAN RAMOS: So you're saying
3 that Mayor Street is not putting enough
4 emphasis right now on this matter?

5 MR. CRAWLEY: I'm saying that the
6 number was less than 1 percent when he got in
7 and it's less than 1 percent today. You tell
8 me what that means. I've heard a lot of
9 speeches.

10 COUNCILMAN RAMOS: I know you're
11 throwing the question back to me. That's what
12 I do on this side. But I know what you're
13 saying. I'm not going to belabor the point.

14 You've made a very good argument,
15 like you have before. I think that more
16 people in this City need to get more involved.

17 Mr. Roscoe made some very good
18 points in his testimony, that more people need
19 to get involved. This is a very serious
20 issue.

21 You and I both know, and probably
22 most of City Council that came here -- I think
23 those that are here right now came up as
24 activists. We started making the changes from
25 the outside and pushed. And this is one issue

1 12/15/04 - COMMERCE - RES.040977, 041014

2 that we still need more people from the
3 community to get more and more involved and
4 say, this is something that has to be
5 resolved.

6 There are many, many other means
7 besides the government, going through
8 government and forcing administrations and
9 elected officials. That's what I have
10 confidence in, that will continue to grow. We
11 have to make sure that this is addressed in a
12 much more steadfast way very, very soon.

13 MR. CRAWLEY: Councilman, that's why
14 we point out that the public sector alone is
15 not the solution to the problem. Once the
16 City is finished paying all of its various pay
17 rolls, providing for all of its benefits
18 packages, the City has about \$500 million a
19 year to spend to spend on goods and services.
20 As we pointed out, the private sector spends
21 about \$88 billion a year in the City of
22 Philadelphia.

23 If we spend all of our time just
24 focused on the City -- and we've got to focus
25 on the City -- without focusing commensurately

1 12/15/04 - COMMERCE - RES.040977, 041014
2 on the private sector, we've wasted a lot of
3 time and we've missed the ball. The real game
4 is in the private sector. But the public
5 sector has a responsibility and a role to play
6 in all of that. The tone that's set in the
7 City comes out of these halls, comes out of
8 the Mayor's Office.

9 If those people in the private
10 sector feel that it is what the government
11 wants them to do, and that it is good for the
12 economy overall, then I think we'll begin to
13 see some movement by the private sector. The
14 private sector has not seen that signal.
15 There is no sense that it is the right thing
16 to do, that it is good for business, that it
17 is good for the strength of the overall
18 economy to include minority businesses. The
19 attitude now is, if I include minority
20 businesses, it is an aggravation to me. Why
21 do I have to do this. How can avoid it and
22 evade it. It has not been put to them as a
23 thing that this City government would really
24 want to pursue. And until the City government
25 does that, we will be taking our eye off the

1 12/15/04 - COMMERCE - RES.040977, 041014

2 bigger ball.

3 If the City government wants to go
4 to the private sector and make its case, the
5 private sector is going to say, well, what
6 have you done first? What you are doing to
7 demonstrate that you have a commitment to what
8 you're saying yourself? We're already doing
9 what you're doing. We're already doing less
10 than 1 percent, is what the private sector
11 will say to the City.

12 COUNCILMAN RAMOS: Thank you, Mr.
13 Crawley.

14 Thank you, Mr. Chairman.

15 COUNCILMAN GOODE: Thank you,
16 Councilman.

17 Mr. Crawley, can you update us on
18 where your relationship with the Greater
19 Philadelphia Chamber of Commerce is?

20 I know at the last hearing we had
21 related to this matter in the spring, the
22 Chamber had sent testimony, but did not appear
23 and was not here to actually answer questions.

24 MR. CRAWLEY: We have continued to
25 have meetings with the Greater Philadelphia

1 12/15/04 - COMMERCE - RES.040977, 041014
2 Chamber of Commerce, especially around the
3 report that was produced by the African
4 American Chamber, the Hispanic Chamber and the
5 Asian American Chamber of Commerce in February
6 as a part of the 21st Century Review Process.

7 We, as you know, broke off a
8 minority business development subcommittee of
9 the overall Economic Development Committee.
10 In that report we suggested strongly that the
11 private sector and the public sector come
12 together to form a public/private economic
13 strategy council, not just for the City, but
14 for the five counties in Southeast
15 Pennsylvania. And we pointed out what the
16 advantages could be. We went over and
17 explained that to the people at the Greater
18 Philadelphia Chamber of Commerce, and they
19 said they wanted to work on that with us.

20 Mr. Fullard, do we have any upcoming
21 meetings on that?

22 MR. FULLARD: No, we do not. We did
23 meet with one of the representatives. His
24 name was Mr. Frye. We have been speaking with
25 Mr. Frye to work on some of those corporations

1 12/15/04 - COMMERCE - RES.040977, 041014

2 that they were going to identify to begin
3 building that coalition, and we're still
4 trying to get that done with them.

5 COUNCILMAN GOODE: One of the things
6 that came out of the report was that we've
7 simply established a policy, City and region
8 procurement first. The Greater Philadelphia
9 Chamber said that they agree with that, but
10 the action has not been taken. When Mr.
11 Williams from MBEC comes up we will question
12 him again about whether the City can and will
13 adopt a City and region procurement policy.

14 Any other questions from Members of
15 the Committee?

16 (No response.)

17 COUNCILMAN GOODE: Thank you very
18 much for your testimony.

19 Councilwoman.

20 COUNCILWOMAN TASC0: We'd like to
21 call on Mr. Nick Shenoy.

22 Thank you for coming. Would you
23 state your name for the record, please.

24 MR. SHENOY: Hello. Good afternoon.
25 I am Nick Shenoy, representing the Asian

1 12/15/04 - COMMERCE - RES.040977, 041014

2 American Chamber of Commerce. I am the
3 Executive Director. Unfortunately, Julie
4 Wong, the chairman, could not be here. She
5 had to leave.

6 COUNCILWOMAN TASCO: Yes, she was
7 here. We want the record to reflect that Ms.
8 Julie Wong was here.

9 MR. SHENOY: Yes, ma'am.

10 Ladies and gentlemen of the
11 Committee, thank you for inviting us to speak
12 a couple of words on this issue. I think
13 Bruce Crawley probably covered most of the
14 issues affecting the minority businesses. We
15 do want to make a couple of suggestions in
16 this regard.

17 The executive order, which was
18 written by the Mayor last year, basically
19 limits MBEC's power to that executive order.

20 Presently MBEC is responsible for
21 subcontracting work and monitoring and
22 certifying the agencies. But there is a gap
23 of the prime contracting, as Bruce mentioned.
24 In order for the program to be really
25 successful, we need to look at how do we

1 12/15/04 - COMMERCE - RES.040977, 041014
2 develop minority prime contractor. And the
3 present program basically focuses on the
4 subcontracting. We do not have a plan to take
5 one step ahead and provide the opportunity for
6 the subcontractors to be a prime contractor.
7 There are very few minority prime contractors.

8 If you look at the Federal
9 Government Small Business Program, it has a
10 good program, which it takes a minority
11 contractor from subcontractor and makes him a
12 prime contractor. It has been a very
13 successful program.

14 There are avenues available within
15 the City where small contracts, task order
16 contracts, can be set aside for the minorities
17 to participate. This way we can have a
18 minority prime contractors participate in the
19 main program.

20 Also, the Department of General
21 Services of Pennsylvania has a minority
22 business development agency program. So these
23 are the kind of programs we have to look at,
24 how do we take a minority contractor and make
25 him a prime contractor. I think that's the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 focal issue we would like to address. I'd
3 like to be brief.

4 If you have any questions, I'll be
5 glad to answer.

6 COUNCILWOMAN TASC0: Well, you don't
7 want to abandon the subcontractor either
8 because some small contractors will never
9 be --

10 MR. SHENOY: Of course not. I think
11 MBEC is doing a good job. I think that's
12 something we need.

13 There should be an awareness in the
14 community that there is right now not enough
15 participation. We are looking at beside MBEC.
16 MBEC needs more power. They have the
17 authority or they have the access to identify
18 the small contracts, but it could be converted
19 to a task order type of contract the City can
20 pre-qualify minority contractors to
21 participate in the program competitively.
22 It's something the federal government does and
23 it has worked very well. I have also
24 participated in the federal government
25 program, which has really helped me to become

1 12/15/04 - COMMERCE - RES.040977, 041014

2 a prime contractor.

3 COUNCILWOMAN TASCO: Thank you very
4 much. Thank you very much for coming.

5 Mr. Luis Cruz, Hispanic Chamber of
6 Commerce.

7 MR. CRUZ: Good afternoon,
8 Councilwoman. My name is Luis Cruz. I'm the
9 president of the Hispanic Chamber of Commerce,
10 and also the owner of Cruz Construction, a
11 Latino construction company here in the City
12 of Philadelphia who employs and empowers our
13 people from our community.

14 I'm here because I believe in my
15 colleague Bruce Crawley's statements about
16 MBEC, but also don't feel that we need to get
17 so drastic to the point of disbanding or
18 dissolving MBEC. I think we definitely have
19 to restructure it, though. I think we need to
20 go back to the foundation of it and get the
21 support of all of our Councilmembers to begin
22 with. And make sure that they're on board
23 about what MBEC's mission stands for, along
24 with, obviously, the Administration.

25 One of the reasons that they're

1 12/15/04 - COMMERCE - RES.040977, 041014
2 powerless is we have no executive order. That
3 is the number one problem. If someone chooses
4 to challenge it, we're done. The mission of
5 MBEC is -- and being involved with the City
6 structure -- to me it's the balance. Because
7 if it's a private entity, sometimes it gets
8 involved. We have a lot of agencies and a lot
9 of organizations that do monitoring, do
10 oversight, but unfortunately, they're
11 representatives of owners, they're
12 representatives of an agency, which that's who
13 they have to look out for. They're not
14 looking out for the businesses. That's what
15 my understanding of MBEC always has been. Do
16 they need to have things changed? Absolutely.

17 I am very disappointed in the way
18 things are happening with MBEC. I think
19 that's one of the reasons I find my company
20 personally and other companies like mine in
21 financial problems because they don't have the
22 teeth to be able to go and do things. They're
23 part of Finance. You know what? That's a
24 good a thing because they can hold people's
25 money up until they do the right thing. Funds

1 12/15/04 - COMMERCE - RES.040977, 041014
2 get stopped. Immediately. But that doesn't
3 happen. In fact, it has become a political
4 tennis game, and I have a problem with that, a
5 serious problem. I think Mr. Crawley from the
6 African-American Chamber touched upon these
7 things.

8 When MBEC had originally been
9 structured, it had been structured to have
10 representation from all the different
11 chambers, from different organizations, from
12 all the different alphabetical agencies we
13 have so we could come to a room, find out
14 what's going on and make the proper changes
15 and then move the process forward, so we
16 wouldn't have the situation that we're in now.
17 But after the challenge in the Supreme Court,
18 everything just fell to the wayside. There
19 has been nothing else, other than the Director
20 of MBEC and whoever their employees are have
21 any involvement or know what's going on.

22 COUNCILWOMAN TASC0: So you haven't
23 had any of the meetings of this Economic
24 Opportunity Task Force that was supposed to
25 have been part of the executive order?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MR. CRUZ: When Mr. Ruliens (ph),
3 the existing Director, came on board, we had a
4 couple of meetings about moving the
5 organization forward, but nothing to the
6 extent that the original order was for, that
7 all the organizations would be part of, the
8 different chambers would be part of, we would
9 have current dialog. The procurement process
10 is one of the most critical processes that we
11 need the involvement for and to be able to
12 have the representation from the different
13 chambers there so we could be able to funnel
14 that down to our membership.

15 Mr. Crawley's statement of us not
16 having the opportunity to have general
17 contractors that have participation in major
18 contracts is because we've been worrying about
19 just getting our people crumbs instead of a
20 slice of the pie. That's what builds
21 capacity. That's what will get us to the
22 point where we can be able to have contractors
23 that are general contractors, and evolve to
24 the point where we don't need to have to be
25 holding a baseball bat over a construction

1 12/15/04 - COMMERCE - RES.040977, 041014
2 manager's head to do the right thing. Because
3 that's what happens.

4 The construction managers, the
5 general contractors in our City don't do the
6 right thing. The little bit that they do is
7 because of whatever pressure is put on them.
8 So we do need to look at evolving our
9 businesses, not only in construction, in all
10 the other trades, in all the other business
11 sectors for us to have majority participants
12 in this multi-billion dollar City of ours.

13 All these beautiful things are
14 happening, the river front, the water front,
15 Center City, and there are not a lot of people
16 that look like us. We make up over 60 percent
17 of this City. So there is a big problem.

18 I think that it's very commendable
19 of the Chair having these hearings because I
20 think we need to start getting participation
21 from the City and from the different
22 organizations that represent minorities and
23 people of color because it's very important.

24 We're very proud to have Councilman
25 Ramos here. He's our Councilman.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 We need more Hispanics as part of
3 MBEC. For many, many, many years there were
4 no Hispanics that were a part of MBEC. Our
5 people are a touchy-feely kind of people.
6 When we go there and a misgiving statement is
7 said to them, we get excluded because of that.
8 So we need to educate our people as well. How
9 do you do that? By having someone there who
10 understands that generation, that ethnic group
11 and starts including them. That's basically
12 my statement to this.

13 I think it's important that everyone
14 also knows that there's a Hispanic Chamber of
15 Commerce out there. We're doing really great.
16 We have positive things that are happening.

17 We need this executive order signed.
18 We need to have all of Council participating
19 and involved in this and to believe that this
20 is very important for us. That's the only way
21 that we're going to be able to demonstrate and
22 show all the people that are coming out to
23 Council and saying, we like this incentive.
24 We like that incentive. Can you cut our taxes
25 if we do this? Can you give us this extra

1 12/15/04 - COMMERCE - RES.040977, 041014
2 funding? Can you have RDA give us this and
3 that? We do that every day, but yet we're
4 forgetting the businesses that could
5 participate because of our involvement there.

6 Thank you.

7 COUNCILWOMAN TASCO: Thank you very
8 much.

9 COUNCILMAN GOODE: Councilman Ramos.

10 COUNCILMAN RAMOS: I had stepped out
11 for a minute. Did anyone ask the question of
12 the money that's owed him?

13 We all read in the newspapers, and I
14 have been in direct contact with you. I know
15 all of my colleague were appalled by what they
16 were doing to you and other contractors. Some
17 of us got on the phone and started inquiring,
18 you know, why was this going on.

19 Have you gotten your money.

20 MR. CRUZ: Unfortunately not,
21 Councilman. I guess they're going to wait
22 until after the playoffs to then twist their
23 arms. Because it makes a lot of sense.

24 COUNCILMAN RAMOS: I had gotten
25 information that it was being worked out and

1 12/15/04 - COMMERCE - RES.040977, 041014

2 there was a commitment from the Eagles and
3 maybe one or two of the prime contractors --
4 two of them -- that they were going to make
5 good and pay their bills; is that correct?

6 MR. CRUZ: That's what was said to
7 us, but from your mouth to God's ears to
8 Turner Construction's checkbook.

9 COUNCILMAN RAMOS: Are you confident
10 you're going to get paid for the work that you
11 did, that you had to take out of your own
12 account to pay workers a more than fair wage?
13 Are you confident you're going to get paid?

14 MR. CRUZ: Like I said, from your
15 mouth to God's ears, Councilman.

16 The fact of the matter is that we
17 paid practically all of our suppliers. We
18 paid all our union benefits. We paid union
19 wages. Everyone has been paid. All of our
20 bills paid.

21 Unfortunately, the bank isn't very
22 happy with me because I used all that money to
23 pay them. Because of that I've gotten myself
24 in a financial crunch because of it. This is
25 where I go back to saying there's issues that

1 12/15/04 - COMMERCE - RES.040977, 041014

2 need to get dealt with with MBEC.

3 I went to MBEC's offices back in May
4 and said, hey guys, I need help. It got lost
5 in the shuffle. And until just a couple of
6 months ago -- we're in December already -- I
7 had to come out and go public and the
8 Councilman had to go out, and our district
9 Councilperson had to come out. Councilwoman
10 Blackwell had to come out. This isn't new.
11 I've been telling people back in May.

12 Since then I've been accruing all
13 this additional interests and penalties on my
14 loans and debts. So this is why I was saying
15 it's so important that we understand it is
16 broken. But we don't just throw it away. We
17 need to try to fix it.

18 COUNCILMAN GOODE: Thank you.

19 Councilman, there is a separate
20 hearing on that that will be rescheduled.
21 Although it encompasses this hearing, we
22 probably do want to question MBEC about it.
23 But there's a separate hearing to be scheduled
24 in that matter.

25 COUNCILMAN RAMOS: Yes. Thank you,

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Mr. Chairman, for reminding me of that.

3 Just this last point. I was very,
4 very disturbed and continue to be very
5 disturbed with your situation and all the
6 contractors because it sends a bad message to
7 minority contractors. They see your name out
8 there.

9 Those of us that are hearing your
10 testimony of the hardship you're going through
11 right now at this moment, other minority
12 contractors will look up and say, I don't want
13 to take a chance and get involved with that
14 and then get burned. I know for a fact that
15 this has happened, not only to you, but other
16 minority contractors that come into supposedly
17 the big game, they get in and down the stretch
18 they get screwed. That's a bad picture.

19 I'm quite sure there were minority
20 contractors out there after they read what had
21 happened to you, they said, well, I was going
22 to go over there, but now I'm not because I
23 sure can't afford to lose my business.

24 So this is something that I continue
25 to pledge my support to you and to the other

1 12/15/04 - COMMERCE - RES.040977, 041014
2 contractors to make sure of that and do
3 whatever it takes to make sure that the
4 responsible parties pay their bills. It's
5 just outrageous that the people that were
6 being targeted were minorities. I have a
7 bigger problem with that.

8 Thank you, Mr. Chairman, for bearing
9 with me.

10 COUNCILMAN GOODE: Thank you,
11 Councilman.

12 COUNCILWOMAN TASCO: Thank you very
13 much.

14 The reason we asked the contractors
15 to come forward first to present their
16 testimony -- Mr. Williams and his staff are
17 here -- was so they can hear the concerns that
18 are raised by the contractors as they move
19 forward to deal with many of these issues.

20 That's why we're having you come
21 first, rather than have Mr. Williams come
22 first and make his statement. He is here to
23 listen.

24 MR. CRUZ: Thank you, Councilwoman.

25 Just in finalizing out, that's the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 reason I had mentioned earlier that it's so
3 important for us to participate in that
4 oversight of MBEC, because then you're getting
5 this information monthly, quarterly, and not
6 waiting until Council convenes hearings to
7 deal with 10,000 issues. It gets brought to
8 the table and dealt with right away.

9 Thank you.

10 COUNCILWOMAN TASCO: Thank you very
11 much for your testimony and thank you for
12 coming down.

13 Mr. Eddie Chisom, Chisom Electrical
14 Contractors.

15 Are you here, Mr. Chisom? Come on
16 over.

17 Next is David Grace, Jerry Stein,
18 Ernest Best, in that order.

19 Good afternoon. Would you state
20 your name for the record, please?

21 MR. CHISOM: Good afternoon. My
22 name is Eddie Chisom, and I'm the CEO of
23 Chisom Electrical Contractors.

24 Our electrical business was
25 established in 1968. It's a business which I

1 12/15/04 - COMMERCE - RES.040977, 041014

2 established in 1968. I'm an electrical
3 contractor and I've been located in North
4 Philly all that while.

5 Basically, I agree with all the
6 testimony that I've heard and that I've
7 experienced as a contractor, as an electrical
8 contractor. Basically, I've been a
9 subcontractor. My one area of problems has
10 been getting paid and getting paid on time.

11 In fact, I have several contracts
12 that I have now, one has been two years and
13 I'm still doing retaining without contracts.
14 And whenever you call the general contractor,
15 he just basically tells you he hasn't been
16 paid yet.

17 COUNCILWOMAN TASC0: This was City
18 work you did?

19 MR. CHISOM: Yes. Philadelphia
20 Housing Authority, Redevelopment Authority
21 work. Pretty much I do a lot of residential
22 work, like new homes.

23 Whenever you submit a bid, 10
24 percent of your business is withheld. Even
25 though your work is complete and there has

1 12/15/04 - COMMERCE - RES.040977, 041014

2 been no complaint against you, you're still
3 not getting paid.

4 Also, I have five contracts now with
5 the Philadelphia Housing Authority. The work
6 is complete, and also again I get over
7 \$100,000 of retainage (sic). For the most
8 part that's over the year. And I'm
9 experiencing too much payments, 90-day
10 payments. Right now I'm unable to take on
11 another contract because of this. My hands
12 are tied. I'm not able to go to a bank
13 because they look at my receivables, so they
14 say, we can do nothing for you or we don't
15 know whether you're going to get this money or
16 not. So it stops me from working.

17 I'm a member of an electrical union,
18 which I've been for the last five years or
19 more. Since then I haven't been able to get
20 any work to amount to anything, just small
21 jobs. Before that, I'd get over \$3 million of
22 work before I joined the union.

23 Again, I see the union as a problem.
24 Basically, they just wanted my men. They took
25 my whole shop in. Now I only have one worker

1 12/15/04 - COMMERCE - RES.040977, 041014
2 that's with me right now of the men I came in
3 the union with. Because the union looked at
4 the residential work as being a source of work
5 that they were going to get involved with.
6 Before that, the union never bothered with
7 residential work. But now it's a big thing
8 with the City. A lot of houses are being
9 built. The union pretty much took that over.
10 Since I've been in the union I haven't done
11 that much work in that field, which I
12 specialize in. And they give you a lot of
13 promises.

14 So far, with no money, I cannot
15 work. If I was offered a contract today I
16 wouldn't be able to take it because of that.

17 COUNCILWOMAN TASCO: So what
18 recommendation do you have?

19 MR. CHISOM: Well, it seems to me if
20 someone is putting these contracts with PHA or
21 the Redevelopment Authority, the contractor
22 must pay you on a Thursday basis. It has to
23 be stated, whether they get paid or not.

24 For the most part they tell you,
25 well, we haven't been paid yet. If my work is

1 12/15/04 - COMMERCE - RES.040977, 041014

2 done and there are no complaints, to me it
3 shouldn't be over 90 days that I receive that
4 money unless they can show me a cause that my
5 work has been defective or something.

6 Two years ago I did the DMI project
7 in West Philly. Two years I'm still waiting
8 for some money. That job has been completed.
9 They are having some problems with their
10 basements, flooding and foundation work. That
11 doesn't have anything to do with electrical
12 work. But I'm also being penalized because
13 they are having problems.

14 I just talked with the general
15 contractor a couple of days ago. Again, he
16 said, we pay you when we get paid. This is
17 the problem I'm having, in addition to getting
18 work.

19 I mean, I don't know what is enough
20 for rules and regulations. I hear some good
21 testimony here today. If this was
22 implemented, I definitely would benefit
23 because our company has the experience to do
24 any work. I can be a prime contractor.

25 My best experience has been in the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 federal programs, in the ADA Program. In nine
3 years, that was the best program -- I made
4 money during those times. I had no problems.
5 I completed all my contracts. I got paid.

6 The problem that we hear here today,
7 I've been experiencing for 36 years.
8 Hopefully things will get better. I'm still
9 waiting.

10 COUNCILWOMAN TASC0: Thank you very
11 much for coming down. We appreciate it.

12 COUNCILMAN GOODE: Mr. Eddie Battle.

13 MR. BATTLE: Good afternoon. I have
14 copies of my testimony. I was told to say
15 that.

16 COUNCILMAN GOODE: Please state your
17 name for the record and proceed with your
18 testimony.

19 MR. BATTLE: My name is Eddie
20 Battle. I am president of Eddie R. Battle
21 Associates, Incorporated. Good afternoon to
22 you, Mr. Chairman, and you, Councilman Ramos.

23 The following recommendations are
24 offered to help increase participation levels
25 of MBEC registered businesses with City

1 12/15/04 - COMMERCE - RES.040977, 041014

2 contracting agencies. For purposes of my
3 testimony, the phrase "City agencies" refers
4 to those agencies that offer contracting
5 opportunities.

6 Staffs of some City agencies and
7 MBEC registered businesses routinely engage in
8 the City contracting process. Both groups
9 have firsthand experiences with what actually
10 occurs and barriers faced when businesses seek
11 City contracting opportunities. These
12 barriers must be removed before improvements
13 can be seen in the City contracting process.

14 First point of contact staff. All
15 City agencies must train and designate a first
16 point of contact staff to initiate the
17 contracting process for MBEC businesses. The
18 staff's responsibilities would include:

19 One, record the names of MBEC
20 businesses that contact the agency.

21 Two, provide businesses with
22 pertinent information about the contracting
23 needs of the agency and what procedures to
24 follow.

25 Three, track and record the final

1 12/15/04 - COMMERCE - RES.040977, 041014

2 disposition of businesses seeking
3 opportunities.

4 Four, submit the information to MBEC
5 for assessment.

6 The approve procedures will generate
7 a database. From the database, barriers can
8 be identified that impede participation levels
9 of MBEC businesses in City contracting. For
10 example, all discretionary contracting needs
11 of City agencies may not be communicated to
12 MBEC businesses. And the way contracting
13 opportunities are packaged or bundled may
14 limit business participation levels. Once the
15 barriers are identified, they must be removed.
16 Removing these barriers will improve
17 participation levels of MBEC businesses in
18 City contracting.

19 MBEC registered businesses. The
20 experiences of MBEC registered businesses with
21 City agencies must be told, recorded and
22 assessed. MBEC must conduct regular meetings
23 with its member businesses. Businesses would
24 report their experiences with City agencies at
25 these meetings. A facilitator will gather

1 12/15/04 - COMMERCE - RES.040977, 041014
2 information about barriers. MBEC will use its
3 resources to remove the barriers. MBEC can
4 encourage businesses to meet by notifying them
5 of the meetings, providing a facilitator and
6 meeting room. By drawing from these
7 experiences, MBEC can help businesses
8 strengthen their capacity to meet contracting
9 requirements of City agencies.

10 Telephone hotline. MBEC should
11 establish a telephone hotline to be used by
12 MBEC businesses that encounter barriers when
13 seeking contracting opportunities with the
14 City. The hotline is a quick response tool
15 that enables MBEC to use its resources to help
16 businesses resolve problems.

17 City Council. Barriers not removed
18 by MBEC must be part of its regular six-month
19 report to City Council. Council will then be
20 able to enact ordinances that remove these
21 barriers from the City contracting process.

22 Conclusion. To increase
23 participation levels of MBEC registered
24 businesses with City agencies, the following
25 recommendations must be established:

1 12/15/04 - COMMERCE - RES.040977, 041014

2 One, all City agencies must train
3 and designate a first of point of contract
4 staff to initiate the contracting process for
5 MBEC businesses.

6 Two, MBEC must conduct regular
7 meetings with its members by providing a
8 facilitator and meeting room. Businesses will
9 identify barriers they experience with City
10 agencies at these meetings.

11 Three, MBEC must establish a
12 telephone hotline to be used by MBEC
13 businesses that encounter problems when knew
14 seeking contracting opportunities with City
15 agencies.

16 Four, City Council must remove
17 barriers identified in MBEC's six-month
18 report. Barriers to the City's contracting
19 process must be identified and removed. Only
20 then will MBEC businesses be successful
21 participants in the City contracting process.

22 Thank you for the opportunity to
23 speak to you today.

24 COUNCILMAN GOODE: Thank you for
25 your testimony, Mr. Battle. Thank you.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Is David Grace here? Jerry Stein?
3 Ernest Best? James Willis? Barbara Wallace?
4 Ed Jordan? Philip Harris?

5 Please approach the witness table.

6 MR. HARRIS: Good afternoon Chairman
7 and Councilman Ramos. And also I want to
8 first say I do have copies of testimony that
9 I'd like to submit to the record.

10 Thank you, Councilwoman Tasco, for
11 requesting hearings to examine minority
12 inclusion in City contracts. My name is
13 Phillip Harris. I am President of Financial
14 Integrity Resources Management, a certified
15 disadvantaged business enterprise. I want to
16 share with you a brief history of my
17 experience seeking professional service
18 contracts in the financial and benefits
19 services area, which will include my
20 experience working for my previous company,
21 also a minority certified financial service
22 firm.

23 We became certified around 1995.
24 And back up to about 1997, we were able to
25 negotiate and partner with Prudential

1 12/15/04 - COMMERCE - RES.040977, 041014
2 insurance who listed our firm as their
3 minority subcontractor. Prudential was able
4 to cut the rates compared to the then
5 incumbent CIGNA. We thought this was a
6 win/win proposition for the City and the
7 taxpayers, but the City rejected our proposal.
8 And to our surprise and disappointment, the
9 incumbent was re-awarded the contract without
10 minority professional participation.

11 During that similar time, we were
12 successful to obtain contract at the Community
13 College of Philadelphia, AFSCME District
14 Council 47 hired us directly to help them shop
15 for their benefits. And the School District
16 awarded us a contract under the leadership of
17 Pedro Ramos back in 1998, which was our first
18 entity retirement plan contract.

19 Essentially, we had been shut off
20 from participation from the lucrative
21 City-sponsored, taxpayer-funded benefit
22 contracts until recently. I am pleased to
23 report some progress and that my company was
24 hired by the City Personnel Department in July
25 2003 to help identify a voluntary long-term

1 12/15/04 - COMMERCE - RES.040977, 041014
2 care plan for active employees. And we were
3 hired in September 2003 as a minority
4 subcontractor with the Hey Group for
5 City-administered benefit consulting services.
6 I have to give praise, thanks and credit to
7 Lynda Orfanelli, Personnel Director, for
8 recognizing our hard work and expertise and,
9 most importantly, opening the door. That is
10 the good news.

11 Next, I want to read an excerpt from
12 my October 8, 2004 letter to Honorable Mayor
13 Street.

14 "Dear Mayor Street, thank you for
15 the opportunity to speak with you after your
16 inspirational speech delivered at the Minority
17 Enterprise Week Luncheon on October 7 at the
18 Wyndham Franklin Plaza hotel. I share your
19 passion and interest to promote economic
20 development through small businesses to help
21 create jobs in Philadelphia and I remain very
22 enthusiastic about your stated goals to
23 quadruple the City's contracting opportunities
24 with Philadelphia-based minority-owned owned
25 businesses.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 "As discussed, my company has been
3 actively seeking business opportunities issued
4 by the Board of Pensions and Retirement and
5 Finance Department for many years. Most
6 recently, we submitted two proposals to the
7 Board, one as a subcontractor for deferred
8 compensation services and one as a prime for
9 the opportunity fund consulting services. We
10 came in second place for the deferred
11 compensation plan behind the incumbent Great
12 West who was rewarded the contract without
13 certified professional contract participation.
14 Our second proposal as prime for the
15 opportunity fund consulting services was
16 awarded to two different firms, one, a newly
17 established Connecticut-based firm and the
18 other PFM Advisors.

19 "As you know, PFM Advisors, a
20 majority-owned firm who acquired Spacnola and
21 Kozak, the original opportunity fund contract
22 awardee. Our opportunity fund proposal
23 offered 45 years of collective investment
24 experience, including a recent Wharton MBA
25 graduate with investment experience running

1 12/15/04 - COMMERCE - RES.040977, 041014
2 the Philippines \$4 billion social security
3 fund. Since we were denied this contract
4 opportunity, we have lost two of our local
5 graduates and their jobs. In addition, we
6 lost the opportunity for other
7 non-professional job creation as well."

8 That's the end of the letter.

9 As a Philadelphia native and current
10 resident and business owner and taxpayer, I do
11 not understand why this City hires so many
12 consultants and brokers located outside the
13 City over their own members of the
14 Philadelphia business community. This is a
15 missed opportunity to creat Philadelphia-based
16 professional jobs and stimulation of the local
17 economy.

18 Finally, I want to close my comments
19 and talk about community capital, a
20 fundamental core value of firms philosophy is
21 the collective wealth of a community should be
22 put to work for the benefit of that community.
23 The ultimate goal should be to uphold and
24 respect the dignity and diversity of all
25 people. I believe this civil society is the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 core of any democracy that the interaction
3 between society and government define the
4 quality of life of its community. The ability
5 of civil society and government to create
6 wealth and policy to generate local economic
7 development and opportunity for wealth
8 creation has a direct impact on that society's
9 pursuit of self-sufficiency and a higher
10 quality of life for the citizens in our
11 community. All aspects of civil society must
12 be engaged in this process, especially
13 government as well as private sector.

14 Why is local Philadelphia-based
15 minority business development important? I
16 believe the time is now to demand positive
17 change in the way our City government selects
18 its providers of professional services. It is
19 hard to believe that a major city with over 40
20 to 50 percent minority population has so
21 little contract participation. If we look
22 beyond the dollars and cents, if we all or
23 collectively successful, we will all help
24 create more positive role models for our youth,
25 creation of local jobs that will offer

1 12/15/04 - COMMERCE - RES.040977, 041014
2 alternative for our youth to look beyond the
3 corner hangout. Our communities will be safer
4 if our youth have a job to go to after school
5 instead of resorting the violence for after
6 school activities.

7 My recommendation if real change is
8 going to take place, the City needs to simply
9 reject all vendor broker and consultant bids
10 unless they have inclusion of real
11 professional services inclusion beyond the
12 paper or pencil and printing suppliers that
13 are often offered up as a smoke screen for
14 minority participation. Vendors interested in
15 doing business with the City will change and
16 become responsive if the City demands it.

17 I remain optimistic about Mayor
18 Street's passion enthusiasm and desire to make
19 a real difference during his second term as
20 Mayor. I hope other members of the City
21 administration can embrace his passion and
22 goals to build upon what Lynda Orfanelli was
23 able to do. I approached appreciate Michael
24 Williams and told him that he has his work cut
25 out for him. But I feel confident of the City

1 12/15/04 - COMMERCE - RES.040977, 041014
2 government pulls together, we can realize
3 positive change. Michael Williams has opened
4 his office up to me and has committed his help
5 to deliver better results.

6 Thank you for the time and
7 opportunity to share my thoughts, ideas, and
8 experience with you today. I would like to
9 thank all City Councilmembers that have
10 invited me into your offices and have
11 supported small Philadelphia-based minority
12 business development.

13 COUNCILMAN GOODE: Thank you, Mr.
14 Harris.

15 Are there questions or comments from
16 Members of the Committee?

17 (No response.)

18 COUNCILMAN GOODE: Thank you again.
19 Thomas Travick, Linda Chandler.

20 We are waiting for Mr. Travick who
21 is here. Counsel just checked to see if David
22 Esposito is here.

23 MR. ESPOSITO: I am here.

24 COUNCILMAN GOODE: Larry Mitchell.
25 Could all three of you just please

1 12/15/04 - COMMERCE - RES.040977, 041014

2 approach the witness table?

3 Could you state your name for the
4 record and please proceed with your testimony?

5 MR. MITCHELL: Larry Mitchell,
6 Interstate Demolition.

7 I'd just like to thank MBEC for
8 helping me in a very sensitive matter with the
9 African-American Chamber of Commerce in which
10 I tried to sit down and contact a bunch of
11 people far as the Councilman of that district
12 about a problem I was having with the Chamber.
13 After filing a lawsuit against the Chamber,
14 MBEC stepped in and sat down with me with Hill
15 International and it's become to the point
16 where, as Mr. Crawley stated his-self a few
17 minutes ago, I'll quote him as saying that the
18 white contractors don't want to pay the black
19 contractors. Well, now they're in their own
20 background because everything he's saying,
21 they want to pay somebody slow so they can go
22 out of business or whatever. Well, my sum is
23 up to almost \$21,000 ever since August. And
24 every other contractor that was in that
25 program was paid. I don't have my money. So

1 12/15/04 - COMMERCE - RES.040977, 041014
2 it's like what is he stating that MBEC has
3 stepped in now and through MBEC and Hill
4 International there's been some penalties
5 imposed against the Chamber, but without the
6 help of the Minority Business Council, I would
7 still be one who couldn't find a bonding
8 company to go against a bond. Nobody who I
9 talked to knew anything about how to get my
10 money from the Chamber. So it was like a big
11 mystery that I could have went out of
12 business. If I didn't have other money coming
13 from other jobs, I would have been out of
14 business waiting on them to pay me. But every
15 time you turn around, it's somebody from the
16 Chamber explaining how white people is not
17 paying the minorities. Well, they're a
18 minority and I'm in their own backyard and
19 they not paying me. So through the help of
20 MBEC, like I said, and Hill International, I'm
21 finally getting to the point where I'm
22 starting to see a little justice with the way
23 things are getting out of hand. So everything
24 they've done for me has been great.

25 COUNCILMAN GOODE: Mr. Mitchel, did

1 12/15/04 - COMMERCE - RES.040977, 041014

2 you state in your testimony that you were the
3 only one not paid?

4 MR. MITCHELL: The only one not paid
5 from a job that it must have been 15 different
6 contractors on. And I was on Ridge Avenue.
7 When I went Darrell Clarke office to talk
8 about it, they never returned a call or
9 anything else.

10 COUNCILMAN GOODE: Is there any
11 particular reason you think you were the only
12 one not paid?

13 MR. MITCHELL: I couldn't say. I
14 had a dispute over -- I had to obtain legal
15 counsel which cost me even more money to come
16 to numerous meetings to sit down with them and
17 everything became a speech for me about the
18 brothers sticking together. Well, I don't
19 have nothing to do with the brother sticking
20 together; I'm trying to run a company. So as
21 far as the brothers sticking together, I hope
22 they do stick together, but pay me first. I
23 don't have nothing to do with that. So it was
24 just -- I graduate from that place the
25 valedictorian. But I would never want

1 12/15/04 - COMMERCE - RES.040977, 041014

2 anything else to do with --

3 COUNCILMAN GOODE: But my question
4 is, is there any reason you know that you were
5 the only one not paid?

6 MR. MITCHELL: I couldn't tell you.
7 It might be financially. I don't know what
8 the reason I'm not paid. I had a dispute over
9 some fencing. MBEC invited Hill International
10 to come sit down and talk, at which time when
11 went over the figures, it was virtually
12 impossible the figures that they are were
13 trying charge me for doing something they say
14 I was supposed to do. But I was only a sub, I
15 wasn't a prime contractor.

16 COUNCILMAN GOODE: Thank you.

17 Any questions from Members of the
18 Committee?

19 (No response.)

20 COUNCILMAN GOODE: Thank you for
21 your testimony.

22 Mr. Esposito. Good afternoon.
23 Please state your name for the record and
24 proceed with your testimony.

25 MR. ESPOSITO: I'm David Esposito,

1 12/15/04 - COMMERCE - RES.040977, 041014
2 and I'm with a company called New Age
3 Distributors which is a female and also
4 disabled-owned company. We're housed in
5 Collingswood, New Jersey. We are suppliers of
6 lights and building maintenance, things such
7 his janitorial products.

8 Back in 1989, a group of disabled
9 people worked with Lucien Blackwell and Joan
10 Specter who at that time were in City Council,
11 and they spearheaded an effort of inclusion of
12 people who are disabled in the City's program.
13 At that that, the City program did not include
14 us, but now it does. And with the help also
15 with then Mayor Wilson Goode, which we were
16 very appreciative of.

17 We thought that this would be a good
18 opportunity for the City to become a role
19 model for the rest of the country since it is
20 one of three municipalities in the country
21 that acknowledges the social plight of people
22 who are disabled. And for that reason, we
23 attempted to work with MBEC. I became more
24 involved with MBEC personally back in 1996.
25 So I've been involved for eight years with

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MBEC in its efforts to find opportunities for
3 our company.

4 Prior to MBEC, our company has sold
5 products to casino industry and to apartment
6 complexes in the New Jersey area. And if one
7 just takes a look at our gross receipts which
8 certainly are available at MBEC and our
9 certification application, I think one would
10 be appalled to see the difference between an
11 organization and a municipality that claims to
12 be proactive toward helping people with
13 disabilities and the amount of gross receipts
14 we have in areas where there is no more formal
15 statutory affirmative action. Already that
16 would suggest to me some major problems with
17 the program and particularly with MBEC.

18 Rather than wasting a lot time with
19 redundancies, I think Mr. Crawley pretty much
20 gave a good overview and so did Mr. Macklin
21 the public policy landscape. But I'd like to
22 suggest is one incident which characterizes
23 the intervention of government and in an
24 ironic twist shows how pathetic MBEC is in
25 meeting its goals.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Last summer, a bid went out for the
3 City Hall Security Project. At that time, the
4 winner of that -- I promoted myself to some of
5 the companies, E.J. Electric, to some of the
6 other companies, and I've been selling lights
7 to US Facilities. The winner of that contract
8 or of that bid was E.J. Electric, but it was
9 challenged by Mulhern Electric on a
10 technicality that MBEC did not or hid us from
11 sight even though we had sold lights, which
12 they should have had a record of because we
13 sold to companies that they deal with, but
14 they had no record. And ironically they asked
15 me to give empirical evidence to show that I
16 had sold products. So I had to show them
17 purchasing orders. I had to show them
18 invoices, which they lost three times. I had
19 to show them a number of other kinds of proof
20 like what kind of lights we sell, et cetera,
21 which seemed to be a bit extravagant, but I
22 did comply.

23 The injunction that was filed by
24 Mulhern Electric was heard by Judge Shepherd
25 who, as I heard it, was a kind of appalled by

1 12/15/04 - COMMERCE - RES.040977, 041014
2 the behavior of MBEC, but nevertheless sided,
3 and fortunately sided with Mulhern Electric
4 because I had not been technically on the web
5 site for selling lights even though I had sold
6 lights.

7 Well, what was MBEC's solution to
8 this problem when their bid was put out again?
9 Well, it's puzzling to me. I'd say it's a bit
10 bizarre, but I'm sure there's some statutory
11 rationale for it which, if there is, raises
12 some question about the validity of the
13 statute. Well, MBEC's solution when the
14 contract was re-bid was to eliminate
15 disability goals, thereby eliminating me from
16 an opportunity.

17 Interesting enough, though, I went
18 to both companies, and they acknowledged that
19 MBEC did make a rather pathetic dismal
20 appearance at the hearings and that I should
21 feel sorry for MBEC but they would try to give
22 me some opportunity, regardless of which of
23 them won, maybe in some other areas. Mulhern
24 Electric particular now says that they will
25 give me an opportunity to quote on some of

1 12/15/04 - COMMERCE - RES.040977, 041014
2 their recreation centers that they're going to
3 be doing. And I thought that that was a
4 publically spirited good thing to do. And
5 again, ironically it's because of MBEC's
6 rather dismal example of advocacy.

7 When I tried to find out what the
8 rationale was for this very interesting piece
9 of public policy, I spoke to an attorney,
10 Wendy Staton, who told me I should ask Ms.
11 Hitchcock. That strikes me that a situation
12 like that -- well, then she referred me to the
13 Law Department for some resolution of this
14 matter. But the thing that strikes me as very
15 odd about all of this is that I had to ask Ms.
16 Hitchcock, which leads me to believe that at
17 this juncture, decisions at MBEC are made more
18 on the fickle decision-making of an individual
19 rather than something that is policy driven.

20 At this point, I have and I work
21 with a number of disabled folks in the
22 community who have successfully developed
23 contracts with other state agencies in New
24 Jersey and elsewhere. And we do have some
25 people who could have done a good job in a

1 12/15/04 - COMMERCE - RES.040977, 041014
2 number of areas. For example, in the NTI
3 Project, we were hoping to get someone who
4 happened to be both a woman and disabled, and
5 IT specialist, to set up the web site for Hill
6 International in the NTI Project. But that
7 was outsourced to some slick company in
8 Washington. So another opportunity to lose
9 employment.

10 I would have to say that right now
11 it a waste of our time and effort to deal with
12 MBEC, to deal with Mr. Williams. I don't see
13 any reason to believe he's hired a special
14 projects director. By the way, I even
15 proactively offered to help him develop an
16 outreach to the disabled community. That was
17 in May. I have not heard from him since,
18 although I understand he has hired a special
19 projects director.

20 I should also tell you that when I
21 complained about being taken off the list, I
22 called Mr. Williams and I asked him to discuss
23 this matter, and he told me that I could leave
24 the office now but call him at 4:30. And I
25 called him and he wasn't there. And then the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 next day he didn't answer my calls. When I
3 dared to mention that I might look for remedy
4 elsewhere, he and his staff called to tell me
5 that he would not respond to threats and work
6 with me as long as I had the attitude I did.
7 I guess I wasn't supposed to find remedy
8 elsewhere other than MBEC. Tried what I could
9 do from the Mayor's office, and I think it's
10 very revealing. The Mayor's office even
11 refused to listen to my concerns and said,
12 "Well, Mr. Williams knows what he's doing,"
13 and they just wanted to continue this
14 stonewalling process.

15 I really have nothing to lose by
16 showing my disdain for MBEC, because to me
17 MBEC is comprised of chronic entrenched
18 bureaucrats. And I think groups like ours,
19 organizations like ours, disabled folks like
20 ours really need and require the professional
21 commitment with skill, with know-how, with
22 knowledge of laws that protect people with
23 disabilities and with the capability of
24 performing the kind of in-service staff
25 development necessary to have a collective

1 12/15/04 - COMMERCE - RES.040977, 041014

2 quality service out of MBEC.

3 So I guess I'm saying if MBEC were
4 to disappear tomorrow, we'd never miss it.
5 And my hope is if you can find a solution to
6 MBEC, that it comes soon. But I don't share
7 the optimism of anybody who thinks that MBEC
8 is a solution. I really believe that what Mr.
9 Crawley had to say about an overall public
10 policy change through procurement and setting
11 goals with the appropriate CIVIL rights
12 organizations that deal with discrimination
13 being in place, that would serve the purpose.
14 But right now, I kind frankly am proudly
15 renouncing our MBEC citizenship which is
16 called euphemistically certification because I
17 don't believe we can do any worse by going out
18 into the community on our own.

19 So I think and hope that something
20 is done. If MBEC is going to continue, my
21 recommendation is that Mr. Williams and his
22 staff are really under a constant scrutiny of
23 the Council and not just leave it up to the
24 devices of the Mayor to stonewall the
25 community.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Thank you very much.

3 COUNCILMAN GOODE: Thank you for
4 your testimony, Mr. Esposito.

5 Any questions from the Committee?

6 (No response.)

7 COUNCILMAN GOODE: Mr. Travick.
8 Good afternoon, sir. Thank you for your
9 patience. Please state your name for the
10 record and proceed with your testimony.

11 MR. TRAVICK: My name is Thomas
12 Travick. I'm a former president of TRR
13 Construction. But I've been retired for some
14 years now. My main reason for being here to
15 testify is that in one of our local
16 newspapers, the article reads, "Councilmembers
17 deem MBEC useless. Tasco ready for change or
18 fresh start."

19 Going down a little further, this is
20 an excerpt from this newspaper. "Councilman
21 Michael Nutter says that MBEC should be
22 scrapped altogether. MBEC is broken and
23 cannot be fixed."

24 That's the excerpt from this local
25 newspaper.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 I have been a member of 542
3 Operating Engineers for 35 years and a former
4 member of MBEC for five years. I for one can
5 truly appreciate Ms. Tasco stepping up to the
6 plate on behalf of all MBE's here in the City
7 of Philadelphia. I read your article in the
8 Philadelphia Tribune on this issue. I thank
9 you and support you 100 percent. MBEC is not
10 dead but has been in the emergency room too
11 long. It will be up to you and all supporters
12 to this organization. Considering my
13 experience, I would like to recommend seven
14 steps to save the MBE organization. With
15 Council's permission, I'd like to run through
16 these seven steps briefly.

17 Number 1, to obtain a license, all
18 applications should have at least a high
19 school education and 200 hours of training.
20 That's step Number 1.

21 Before coming over to testify a few
22 days ago, I stopped into MBEC and picked up
23 the application. And in this six-page
24 application, MBEC put education and training
25 on the sixth page, the last page. I put

1 12/15/04 - COMMERCE - RES.040977, 041014

2 education and training on the first page.

3 Let's go down to Number 2. Number
4 2, MBEC director should know the
5 qualifications of each person applying for
6 MBEC.

7 Number 3, MBEC should change the P
8 bidding process for City contracts. My main
9 reason for saying that is because during the
10 five years while I was a MBEC contractor, I
11 presented my bids -- I had my name registered
12 with Conrail, SEPTA, every company that you
13 could think of. But in presenting my bid, my
14 bid was open to the general contractor. The
15 general contractor would pass this information
16 on to other contractors, therefore, the other
17 contractors through my open bid -- that's the
18 only way they could do it -- would bid a
19 dollar or two under my bid, therefore, I
20 didn't receive the bid.

21 Number 4, MBEC members should
22 receive some assistance from suppliers. My
23 reason for saying that is because while I was
24 an MBEC operator, you have -- let me back up a
25 minute so I can explain myself. This is for

1 12/15/04 - COMMERCE - RES.040977, 041014
2 highway and street construction. I don't want
3 to go into anything else other than highway
4 and street construction because that's where I
5 spent my 35 years as an operating engineer.

6 There are two major suppliers in the
7 Philadelphia area, two major suppliers for
8 material to build highways and streets. I
9 went to one of these suppliers while I was in
10 business because I needed 20 loads of sub-base
11 to complete a job on Woodland Avenue. The
12 supplier said to me he would give me one load;
13 once I paid for that one load, he would give
14 me two loads and so on. So that's the problem
15 I run into, the suppliers.

16 Let's go down to Number 5. Number
17 5, MBEC director must face Uncle Tom. Uncle
18 Tom is a name that maybe you don't use much
19 today. But my experience -- I'm 80 years old
20 now. And my experience, first, I met Uncle
21 Tom as a young boy down in Georgia. They
22 said, "The fellow that live over there by the
23 school, he's an Uncle Tom, he's a rat, he's a
24 thief, he can't be trusted." That's the first
25 time I heard of Uncle Tom.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Since I became an operator, I faced
3 Uncle Tom head-on. And anybody that take
4 bread off another man's table, I call him an
5 Uncle Tom. Any man that you can't depend on
6 to do anything, I call him an Uncle Tom.

7 Now, let me say for the record that
8 after I became MBE operator in my church, I
9 gained a contract on Woodland Avenue for
10 \$62,000 on 49th and Woodland Avenue to 52nd
11 and Woodland Avenue, \$62,000 for track renewal
12 job. I have a couple pictures here I was
13 hoping that I would show you.

14 So I was very proud of that
15 operation. But in my church -- that's track
16 renewal. In my church, I was telling a
17 gentleman in my church how proud I was of
18 this. So he out with a check for \$1500. This
19 is the truth, so help me God. And I'm here to
20 tell the truth and the whole truth. He
21 presented me with a check, he showed me a
22 check for \$1500. I said, "What's that if
23 for?"

24 He says, "This is a check that was
25 given to me from a guy doing a job on Hunting

1 12/15/04 - COMMERCE - RES.040977, 041014
2 Park Avenue. He was a roofer, this gentleman
3 was a roofer, knows nothing about highways,
4 knows nothing about street construction. So
5 this contractor that he rented his truck to,
6 he needed an MBE in order to do the work that
7 he was doing. Understand me clearly now. So
8 he gives him \$1500 to use his name as the MBE.
9 I call this man an Uncle Tom.

10 So I said to myself, if this is so
11 easy, I want to see for myself is this true.
12 No questions asked. So I put on my Uncle Tom
13 suit. There are three fire stations here in
14 Philadelphia. One is at 19th and Oxford
15 Street. The other one is at 26th and York.
16 Another on Rising Sun Avenue. A paving
17 contractor that I know, he says to me, "I need
18 an MBE." So I said, "Yes, glad to do the job.
19 Subcontractor."

20 "Yes, but I don't want you to do any
21 work. I just want to use TRR Construction as
22 my MBE."

23 So I said, okay, let's see how this
24 work. He gave me \$800. I had to visit him
25 about five time to get the \$800, but he gave

1 12/15/04 - COMMERCE - RES.040977, 041014
2 me \$800 to do this, I'd say in the
3 neighborhood of \$50,000 job. He gave me \$800.
4 So I said, no questions asked, all I had to do
5 was sign a piece of paper.

6 So I'm saying to you all here now,
7 regardless to what you do here and I know from
8 what I experienced you're doing a dynamite
9 job. But what you do here, when it reach out
10 there and highway and street construction,
11 it's lost. It's lost. I'm telling you it's
12 loss. I experienced it's a lost. While I was
13 in business, I received a telephone call.
14 This telephone call says, "Come up to my
15 office I want to talk to you."

16 I went to this office. The
17 gentleman says, "You're registered with
18 Conrail," because he saw my man.

19 I said, "Yes, I am's registered with
20 Conrail."

21 He said, "Well, we need an MBE from
22 here to Florida on Conrail."

23 Wow, that sounds. So I said, "Well,
24 what do I have to do?"

25 He said, "All I want you to do is

1 12/15/04 - COMMERCE - RES.040977, 041014
2 put on your suit. I'm going to give you \$800
3 a week to ride the rails."

4 Wow. So this is what I'm saying to
5 Council here. As Council said, make this
6 thing over with a fresh start, because you're
7 facing Uncle Tom out there. And I can tell
8 you as I sit here, in my 35 years, I guess I
9 must have come hand in glove with about 12
10 contractors. Again, in highway and street
11 construction. And these 12 contractors, only
12 2 that gave the minorities a fair truck. And
13 those two, one was Union Paving Company. I'm
14 sure you heard of Union Paving Company. The
15 other one was Colunaro (ph). That's Pat and
16 Dave Colunaro who did the Expressway, Market
17 street. I would have been the MBE on that
18 job, but I got sick. These are the only two
19 out of the 12 contractors that I had hand in
20 glove contract with that gave minorities a
21 fair shake.

22 So I'm saying to you, Council,
23 without doubt, you have to turn this whole
24 thing around, maybe under new leadership, and
25 head in another direction. I believe in the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 presidential debate, Senator Kerry was trying
3 to tell us about the loopholes. It's too many
4 loopholes. It's too many loopholes in highway
5 and street construction for it to be
6 successful as it is.

7 Now what, I propose is only a
8 Band-Aid. This is a serious, serious wound if
9 you expect the minorities to have the right to
10 participation here. You only putting a
11 Band-Aid on.

12 Finally, let me say to you, this
13 button on this lapel, it says NAACP. I'm very
14 proud to wear this NAACP button. Going back a
15 few years ago, over a hundred and something
16 years, NAACP found their-selves in a sad, bad
17 condition. They went to Washington, D.C., and
18 it was a gentleman down there called Fumo
19 doing well. He didn't need NAACP, but NAACP
20 needed him. He agreed to give up his job in
21 Washington to head up the NAACP. And for this
22 year, not six months ago, NAACP had their
23 national convention here in Philadelphia,
24 8,000 strong and they're back at the table.
25 And I'm saying to you, just like the NAACP did

1 12/15/04 - COMMERCE - RES.040977, 041014

2 it, MBEC can do it, but you must turn this
3 thing around under a new direction, and I
4 guarantee you you'll see a change.

5 COUNCILMAN GOODE: Thank you, Mr.
6 Travick.

7 MR. TRAVICK: Thank you for
8 listening.

9 COUNCILMAN GOODE: Thank you for
10 your testimony. This Committee will stand in
11 recess for 10 minutes for a break for the
12 stenographer and anyone else who needs it. We
13 will resume about 10 minutes.

14 (Brief recess.)

15 COUNCILMAN GOODE: We will now
16 resume the Committee on Commerce and Economic
17 Development.

18 Is Deborah Cobb here?

19 Please approach the witness table.
20 Good afternoon, Ms. Cobb. Thanks for your
21 patience. Please proceed with your testimony.

22 MS. COBB: Good afternoon, everyone,
23 especially to City Council. I do not how to
24 run a municipal corporation, and you do. We
25 need you. Thank for your time and your

1 12/15/04 - COMMERCE - RES.040977, 041014

2 patience and interest with us.

3 My name is Deborah Cobb. I need to
4 thank God. Professionals and intellectuals
5 say leave God out of it, but the sun is still
6 shining, we still have air to breathe, even
7 though the Delaware River is polluted with oil
8 and wildlife is dying and we have an unwanted
9 war, we still need to be grateful and do the
10 best we can with what we have.

11 I have been a volunteer and special
12 assignment assistant with the Pennsylvania
13 Prison Society, a volunteer for the Free
14 Library of Philadelphia, the Dixon House,
15 Mayor Street's 1999 and 2003 Mayoral
16 campaigns, and I have acquired a wealth of
17 experience volunteering. My interest and
18 concerns are law, public policy,
19 administration and environmental protection
20 and conservation. I am a political science
21 major at Temple University. I have acquired
22 meticulous status with the assistance of
23 Director Michael P. Williams of the Minority
24 Business Enterprise Council.

25 I am here to publicly thank Director

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Williams for his commitment, compassion, and
3 vital assistance in my pursuit of higher
4 education and environmental business affairs.

5 In the months I have grown to know Director
6 Williams, he has enhanced my life tremendously
7 with his professionalism and kindness. He
8 works 25 hours a day and 8 days a week. He is
9 a great mentor and inspiration to me and I am
10 sure to many others.

11 I would also like to thank Mayor
12 John F. Street for his commitment to public
13 service, his love for the City of
14 Philadelphia, and his wisdom to have appointed
15 such a gifted and compassionate citizen as
16 Director Michael P. Williams. Philadelphia is
17 truly blessed to have him here as a public
18 servant helping to direct our municipal
19 corporation. The director's life experiences
20 with humble beginnings and of victorious
21 future truly shows the power of God and what
22 he can do in someone's life.

23 Director Williams' initial
24 appointment to the Minority Business
25 Enterprise Council started out with confusion.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 However, Director Williams strong work ethics
3 and courage laid the foundation. Director
4 Williams is a multitask and talented
5 personality and I knew the endeavors he took
6 charge of would work out fine. I support
7 Director Williams and all his endeavors
8 because he cares about people. We have the
9 same goal and it is the common good.

10 Thank you.

11 Before I go, I'd like to say
12 especially to Councilman W. Wilson Goode, Jr.,
13 I've had to come to your office on two very
14 important occasions. One, I was able to get
15 my diploma in like four days when I had been
16 trying to getting it for almost two years.
17 And recently, I had sent a 9-page, 15-picture
18 proposal to the Minority Business Action Team.
19 And six weeks went by. I called, no one had
20 logged it in. I had to come to your community
21 director, Mr. Steven Bain and acquire within
22 maybe a week. The pictures were of plastic
23 going down in the sewer. I would like to
24 start a recycle business with plastic. What I
25 am saying is, after listening to the testimony

1 12/15/04 - COMMERCE - RES.040977, 041014
2 here with the Director Dougherty -- he may be
3 a fine man, however, he had files in front of
4 him and it kind of reinforced if you had to
5 restructure anything, don't do MBEC. Find out
6 what's going on at MBAT because I'm working
7 the poor and a student, the disenfranchised
8 and disadvantaged. The pictures that I had
9 were pictures of plastic going in the sewer.
10 I took these pictures before in my
11 neighborhood blight. About five months later
12 when people just had flooding, FIMA is funding
13 everyone because it's nothing but mostly
14 plastic and trash in our sewers backed up in
15 the pipes and everybody's pipes bust. So we
16 can have little business, big business, but if
17 we don't take care of our environment, we're
18 not going to have no business.

19 And I just love ya'll. I'm very
20 grateful to be here. I did not know what to
21 expect or what this hearing was about. But I
22 just acquired meticulous status with the help
23 of the Director and also some hard work
24 myself. You cannot do nothing without your
25 public officials, and God has blessed ya'll to

1 12/15/04 - COMMERCE - RES.040977, 041014

2 be here. And I wouldn't want to live with
3 ya'll, I really wouldn't. And thank you.

4 COUNCILMAN GOODE: Thank you for
5 your testimony.

6 Ms. King, please state your name for
7 the record and proceed with your testimony.

8 MS. KING: MY name is Tina King.
9 I'm with Lloyd's Moving Company, Inc. We are
10 one of the oldest black moving companies in
11 Philadelphia. We were featured in
12 Philadelphia Business and Entrepreneurs
13 Magazine as being three generations. The
14 percentage of that is like 1 percent in the
15 United States.

16 I'm here today because I am
17 certified with MBEC. I think you have the
18 letters in front of you. I have additional.
19 This is December 4, 2002. It was addressed to
20 Mr. James Roundtree, Minority Business
21 Enterprise Council. Subcontractor of City of
22 Philadelphia election machine transport.

23 "Dear Mr. Roundtree, since meeting
24 with you and Charles Thorp and the prime
25 contractor Father & Son and Storage on

1 12/15/04 - COMMERCE - RES.040977, 041014
2 September 13, 2002, our concern surrounding
3 this contract has not been resolved. We would
4 also like to take this opportunity to seek
5 clarity from you on the role of MBEC and
6 resolving such issues. More importantly, as
7 we have reviewed Executive Order 193
8 surrounding MBEC bids and contractual
9 requirement, it is our understanding that MBEC
10 as a rule in overseeing situations of MBEC
11 involvement in bidding, planning, staffing and
12 daily management, participation range A-5 and
13 MBEC deriving substantial benefits from an
14 arrangements same as above.

15 "We initially and continuously
16 continue to question the efficacy of a 30
17 percent administrative fee which was not
18 initially discussed or presented to us by the
19 prime in our planning meeting. Major
20 decisions involved hiring consultants which
21 impact the overall administrative cost from
22 the project. We were not discussed with us
23 prior to inquiring these cost.

24 "In August we were notified from the
25 prime that \$4,000 was being withheld because

1 12/15/04 - COMMERCE - RES.040977, 041014
2 payroll costa were not properly submitted.
3 When we contacted the prime, we learned that
4 we never received proper form to submit
5 payroll certification. Yet we were penalize
6 with the payroll withholding. We have not
7 been paid for this outstanding balance of
8 \$3,342.41 due on the contract for the election
9 machines transport. And the remaining
10 balance, see copy memo."

11 I just sent that to you.

12 "According to these terms of this
13 contract the prime is in now in default for
14 non-payment of our last invoice. Since these
15 issues remain unsolved following our meeting,
16 we choose not to continue with this contract
17 into the general election. The 30 percent
18 administrative fee along with the prime
19 unwillingness to raise the cost of each per
20 machine move essentially cost us out of the
21 primary election portion of this contract. We
22 have since learned that the subcontractor
23 replacing us was offered a lower
24 administrative fee and a higher rate per
25 machine for this move. It is our

1 12/15/04 - COMMERCE - RES.040977, 041014
2 understanding that the replacement of
3 subcontractor is not MBEC certified stipulated
4 as required in the RFP for contracts,
5 according to the Executive Order 193. We
6 understand that the prime was responsible to
7 maintain an MBEC firm throughout this contract
8 and that changes must be reviewed and approve
9 by MBEC C-2 responsibility.

10 "It seems we mistakenly believed
11 that MBEC would serve as an advocate for small
12 business in matters where unfair business
13 practices are suspected. If that is not the
14 case, we are now questioning the advantage, if
15 any, in seeking maintaining MBEC
16 certification. We are also receiving the
17 impression that you do not feel MBEC has a
18 role negotiating with these issue or enforcing
19 the terms of the order created by the agency.

20 "Please advise as to MBEC's role, if
21 any, in attempt to resolve this issue."

22 And on the other form we went to Mr.
23 Gamble.

24 COUNCILWOMAN TASCO: We have the
25 letter.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MS. KING: Well, just for the
3 record, you have the letters.

4 One of my concerns or
5 recommendations for MBEC -- I have worked with
6 MBEC, I think, since '95 when we had bid for
7 the PHA, which that's whole other order of not
8 getting paid. But anyhow, a suggestion would
9 be if you have a subcontractor, I feel that
10 the subcontractor should have a contract with
11 the prime stating that you'll get paid in 30
12 days, something should be in writing. So we
13 would have something legal to deal with the
14 prime contractor then plus MBEC should be or
15 be able to monitor this. So that's why I'm
16 here today. I know it's '02, but we still
17 haven't gotten paid our money.

18 COUNCILWOMAN TASC0: From the prime?

19 MS. KING: Yes.

20 COUNCILWOMAN TASC0: Have you talked
21 to THE MBEC office lately?

22 MS. KING: Not lately.

23 COUNCILWOMAN TASC0: Maybe you need
24 to talk to them now and see if you can get it
25 resolved. Mr. Roundtree is not there.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 But that comes through the
3 Procurement Department. Have you talked to
4 the Procurement Department?

5 MS. KING: Well, I had just -- if
6 you have that letter, that was addressed to
7 William Gamble.

8 MS. TASC0: Oh, I see it.

9 MS. KING: And that was in '02. And
10 I haven't heard anything from that since.

11 I got a little excited when I saw --
12 anytime I see anything about somebody moving,
13 antennas go up. I would love to be a part --
14 I understand Pennsylvania Barnes is moving. I
15 want to know how, as a moving company, is MBEC
16 going to be involved in that or
17 subcontractors, prime contractors is going to
18 be involved. And the same way with Comcast
19 towers, antennas go up. My father built this
20 business in 1929. Of course, antennas will go
21 up. So this is to the Council of how small
22 businesses can acquire bids for these big
23 projects that City Council have approved for
24 these different companies.

25 Thank you for hearing me. Thank you

1 12/15/04 - COMMERCE - RES.040977, 041014

2 very much.

3 COUNCILMAN GOODE: Thank you for
4 your testimony.

5 Any questions from the Committee?

6 (No response.)

7 COUNCILMAN GOODE: Thank you again.

8 Ms. Carol Robinson.

9 COUNCILWOMAN TASC0: Good afternoon,
10 Ms. Robinson. You may proceed.

11 MS. ROBINSON: Good afternoon,
12 Councilmembers. Thank you for the
13 opportunity. I did not think that I would be
14 able to get here today, but I'm going to take
15 a few moments.

16 I understand that each of you have
17 received my five or six points. During my
18 discussion on points, I'd like to see if there
19 are any questions you may have pertaining to
20 these points.

21 I'd like to just give a little
22 background.

23 COUNCILWOMAN TASC0: You might want
24 to give a copy of these points to MBEC.

25 MS. ROBINSON: I have.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 I am the founder and CEO of Robbins
3 Industrial Building Supplies, Incorporated.
4 In 1985, I formed this company with my then
5 76-year-old mother because I had the
6 understanding that African-American men cannot
7 bid well if they do not buy well. I come from
8 a very diverse background and a little unusual
9 for a woman that's an entrepreneur at the age
10 of 43, now 63, with a 95-year-old mother.

11 As I started with Reverend Leon
12 Sullivan in the little jailhouse where we were
13 training individuals for sheet metal, brick
14 masonry, carpentry, all of the areas that
15 historically, even today, are absent of people
16 of color. I have also been the systemic
17 director for the Governor's Office of Human
18 Relations where I look at class action
19 lawsuits. I interviewed and investigated
20 major corporations for systems of
21 discrimination.

22 When my mother and I first came to
23 Procurement for the City, we believed that the
24 City was truly, sincerely looking for
25 legitimate, creditable African-American

1 12/15/04 - COMMERCE - RES.040977, 041014
2 businesses that would stay in the community
3 and be models for our citizens and young
4 people coming up. I'm here to say after 20
5 years, 20 years of meeting every requirement
6 the City called for -- in the '80s you said
7 commercially acceptable function, you must
8 have a warehouse; we bought a warehouse. You
9 said you have this, we did that. The program
10 was challenged in '89 causing us to lose over
11 \$30,000 worth of materials that only the City
12 purchases because now it was open back to the
13 open market because AGC challenged the
14 set-aside program.

15 Here we are in 2005. There are very
16 few creditable legitimate suppliers. If you
17 look at the statistics of the major
18 corporations, they have not increased their
19 representation of African-Americans in their
20 workforce. We continue to give projects to
21 developers, construction managers, general
22 contractors who do not employ us in executive,
23 professional, and technical positions. We are
24 not looking at mentor protege programs that
25 will build the capacity. The City, through

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MBEC, unfortunately because of their weak
3 criteria, have allowed bogus minorities and
4 women to be certified and do business in this
5 City. Many of them aren't even based in the
6 City.

7 Robbins Industrial, after 20 years,
8 may have to close its doors. But we have
9 maintained our integrity, as we believed that
10 companies were looking to partner, team with,
11 credible firms. MBEC is not charged to look
12 at joint ventures, to look at the bottom line
13 of joint ventures, to look at teaming
14 agreements. There are Council sections of the
15 City where there are certified businesses that
16 had full-time jobs for the last 15 years,
17 full-time state jobs for the last 15 years,
18 and they're certified as minority businesses.
19 It didn't happen overnight. It doesn't change
20 overnight. But many of us know what we can
21 do.

22 One of my recommendations is that
23 there be a strong advisory committee to work
24 with MBEC to give them what is happening in
25 the field day-to-day. There is legislation

1 12/15/04 - COMMERCE - RES.040977, 041014
2 being passed. There is land being given to
3 developers of which there is no requirement
4 for local minority business. How dare you.
5 How dare you. I pay more taxes. I pay more
6 insurance. I pay a price to stay in the
7 ghetto. And I'm not leaving. I am not
8 leaving, but I charge you and I challenge you
9 to turn this around. We've been talking for
10 decades. Talk is cheap. Proof is in pudding.
11 There's going to be over 100 million
12 dollars worth of business in West Philadelphia
13 alone. What are we doing to build the
14 capacity for there to be contractors not just
15 for these jobs but for the future, for your
16 future, our future, and your daughter's
17 future. I stand ready. I have the knowledge.
18 I've been in the trenches. My daddy wasn't a
19 masonry contractor. My daddy wasn't a paving
20 contractor. Isn't it very interesting that
21 you will have a contractor who owns a supply
22 company, manufactures asphalt. Where are
23 there opportunities? You allow for
24 pre-qualifications on just bondability and
25 finance capability. That's it. If you show

1 12/15/04 - COMMERCE - RES.040977, 041014

2 that, you get it. Why don't you begin to ask
3 them is there diversity within your own
4 workforce. Reward people who have employees
5 on their workforce.

6 I will stop on that note. I will
7 ask to see if you have any questions. There
8 are experts that have been in the trenches
9 that know all the tricks of the GCs and CMs.
10 I can tell you many. I can tell you many. I
11 have not been paid for the Eagles stadium. I
12 have no not been paid for a state prison.
13 Those two jobs alone can close me because my
14 margin is so low because they can find other
15 members that will do it for one and a half
16 percent. You go to your bank and ask them for
17 a loan with a 92 percent cost of goods. And
18 what will you hear? "I'm very sorry."

19 We stand ready, Ms. King and there
20 are others of us. There are many who are
21 afraid to sit in front of you. I was told,
22 don't do it. I and a woman Retta Johnson
23 (ph), in 1989 we testified. We were the only
24 two black women in the City to testify. She's
25 out of business, and I'm almost behind her. I

1 12/15/04 - COMMERCE - RES.040977, 041014
2 am moving towards 64. I watched when the only
3 thing African-Americans did in this City was
4 protest Tastykake, and that's when OIC came
5 about because blacks stopped buying Tastykake.

6 I say to you politicals, stop
7 passing the buck. Give MBEC some teeth. Look
8 at the law and the Executive Order and make a
9 difference in '05.

10 Thank you very much. I'm open for
11 questions.

12 (Applause.)

13 COUNCILMAN GOODE: Thank you, Ms.
14 Robinson for your testimony. I will read you
15 part of opinion from the Administration in
16 terms of passing the buck. It says that the
17 bill that we passed last year, 030125, known
18 as the MBEC ordinance, "raises significant
19 issue in the Home Rule Charter, namely,
20 whether City Council has the power to direct
21 the activities of MBEC. The other city
22 agencies has received direction under the
23 ordinance. Consistent with the longstanding
24 office views of this office, in my view, City
25 Council does not such powers. Decisions when,

1 12/15/04 - COMMERCE - RES.040977, 041014
2 with whom, and how to enter contracts are
3 generally part of the administrative and
4 executive power the City vested in the Mayor."

5 So, in fact, the Administration has
6 said regardless of what it has or has not
7 done, City Council cannot even legislate on
8 this issue.

9 We have passed a law that will put a
10 number of things in place I think that would
11 change things. We look at the capacity that's
12 out there, we look at the contracts that have
13 been done in the past, we look at the
14 opportunities that are available on an annual
15 basis and set participation goals. It has not
16 been enforced. We've been told that the law
17 is unlawful and will not be enforced because
18 we don't have the power to do it.

19 MS. ROBINSON: I thank you for that.
20 I'd like to get a copy of your statement if I
21 might.

22 COUNCILMAN GOODE: I'll give you my
23 copy right here.

24 MS. ROBINSON: I believe that we may
25 have a vehicle to assist you.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILMAN GOODE: Thank you.

3 MS. ROBINSON: Thank you for the
4 opportunity.

5 COUNCILWOMAN TASC0: We would hope
6 that you -- you know I've known you for many,
7 many years. I hope you will stay.

8 We're going to have the
9 Administration come forth now. Many of the
10 issues raised, we want them to address. One
11 of the reasons we're having this hearing today
12 is to give Mr. Williams and his staff an
13 opportunity to see what will be different, and
14 also to discuss that opinion that you have
15 there because right now they seem to be
16 operating illegally or not IN existence at
17 all. Thank you.

18 Is there anyone else other than
19 Administration to testify on this Bill?

20 (No response.)

21 COUNCILWOMAN TASC0: Mr. Williams,
22 will you come forth, please?

23 Good afternoon. We certainly
24 appreciate the fact that you've been here all
25 day to hear the testimony from the people who

1 12/15/04 - COMMERCE - RES.040977, 041014
2 you serve who live and work in this City and
3 who we have heard from before last year when
4 we had hearings on the sixth floor -- or was
5 it the year before last? Year before last.
6 The room was full. The issues were the same;
7 haven't changed. We submitted and passed a
8 new piece of legislation, and we're told now
9 that it is not legally binding.

10 We have your testimony. We would
11 appreciate it if you would summarize. And if
12 you want to expound on any of the comments
13 made by the public here today, please feel
14 free to do so.

15 MR. WILLIAMS: Would it be okay if I
16 just read my introduction?

17 COUNCILWOMAN TASC0: Sure.

18 MR. WILLIAMS: Thank you very much,
19 Councilwoman.

20 Good afternoon, Councilpersons,
21 Members of the Administration, and all City
22 workers present and distinguished members of
23 the public. I thank you all for attending
24 this hearing.

25 Before I start, I'd like to thank

1 12/15/04 - COMMERCE - RES.040977, 041014
2 and recognize Councilwoman Tasco for calling
3 for this hearing for her tremendous leadership
4 and work and for the words and wisdom and
5 advice she's given me since I've been with
6 MBEC. I'd also like to thank all City
7 Councilmembers who have been kind enough and
8 interested in MBEC enough to have worked with
9 me, sat down with me and given me advice and
10 who have been generous with their time,
11 advice, contacts and encouragement. I
12 particularly would like to thank Councilwoman
13 Blackwell for her guidance as we sit together
14 on the University of Pennsylvania Economic
15 Inclusion Board, Councilwoman Reynolds Brown
16 for inviting MBEC to participate in PHA
17 Procurement seminar and for her unwavering
18 support for MBEC and for minority businesses,
19 and Councilwoman Reed Miller who worked with
20 me the most, particularly on issues of
21 workforce composition. A special thanks to
22 Councilwoman Verna's office, particularly Mr.
23 Howard Rye who has pretty much been right by
24 my side on all issues from the first day I
25 started working for the City, especially on

1 12/15/04 - COMMERCE - RES.040977, 041014

2 economic opportunity plan issues.

3 This is our time. This is the
4 mantra I have bought to MBEC, the mantra I
5 have spread throughout my department and the
6 mantra I have spread throughout our certified
7 vendors and to almost every person to whom I
8 speak. We need no more task forces, no more
9 surveys, no more excuses. What we need is for
10 people to do the right thing, period. City
11 department heads need to hear the Mayor loudly
12 and clearly when he demands that they adhere
13 to the City's minority, women, and disabled
14 business enterprise participation ranges and
15 goals. Private sector businesses need to hear
16 the Mayor loudly and clearly when he asks them
17 to utilize MBEC certified vendors and
18 minority, women, disabled-owned businesses.
19 And all Philadelphians need to hear the Mayor
20 loudly and clearly when he tells us that when
21 minority, women, and disabled-owned businesses
22 grow and prosper, it is a good thing for all
23 Philadelphians. Yes, there is much to be
24 done. However, to my mind, this is the
25 optimum time to address this issue.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Before I came to MBEC, the
3 organization, despite Jim Roundtree's staff
4 efforts, was stuck in a quagmire of
5 disorganization. Mayor Street brought me in
6 to put MBEC's ship back in order and to move
7 beyond its original mission of certification
8 and monitoring. My goal was move MBEC from a
9 certification-based department to a
10 constituent services-based department. My
11 view is that while certification is extremely
12 important and we should be extremely vigilant
13 processing certification applicants, that the
14 certification process was too burdensome for
15 applicants as well as MBEC staff, particularly
16 as MBEC has been historically understaffed for
17 years.

18 Therefore, we come to you today
19 ready to unveil a streamline certification
20 process, and it will be unveiled as soon as
21 the Mayor signs an Executive Order which will
22 allow us to legally implement this new
23 streamline process.

24 I have created an enforcement
25 compliance and monitoring unit as well as

1 12/15/04 - COMMERCE - RES.040977, 041014
2 special projects unit. Both these deputy
3 directors of each unit are here today to tell
4 you more about what they've done and what they
5 will do. I'm absolutely thrilled with their
6 work and MBEC's work and so are many of our
7 constituent vendors.

8 Let me make this very clear, and
9 hopefully once and for all. MBEC does not
10 make contracting decisions. City department
11 heads make contracting decisions. My
12 completely reorganized staff is here today to
13 let you know instead what MBEC does and what
14 MBEC is going to do in the future. I am here
15 with my staff for many purposes.

16 MBEC is not a faceless organization.
17 It is a department with folks who have served
18 the City admirably for years and who have just
19 started and who are off to a terrific start
20 indeed. We first and foremost and always are
21 a team. This team is dedicated to its mission
22 of serving to the very, very best of our
23 abilities to serve our certified constituent
24 vendors. All and all, it's been a great eight
25 months. Yes, I've only been MBEC's director

1 12/15/04 - COMMERCE - RES.040977, 041014
2 for eight months. For someone coming into
3 this MBEC quagmire when I did, I sit here
4 today and tell everyone here that I am proud
5 of what I've done so far and what this
6 department will do.

7 In that time, through my concerns
8 and Councilwoman Reed Miller's concerns, I
9 have become involved in a cooperative and
10 collaborative effort to remedy workforce
11 composition issues. I firmly believe that no
12 City contracting dollar directly or indirectly
13 should be spent on projects or contracts that
14 do not contain workforces that reflect
15 Philadelphia's diverse population.

16 Now, I'm sure there are those who
17 will jump up quickly and say that MBEC is no
18 authority to become involved in workforce
19 composition issues, and they have a point.
20 What's right, however, I feel is my response
21 to Councilwoman Reed Miller's call about a
22 construction project in her district that
23 clearly had no diversity in its workforce at
24 all. I could have responded by saying
25 employment and workforce composition issues

1 12/15/04 - COMMERCE - RES.040977, 041014
2 aren't MBEC's mission. I instead responded by
3 immediately meeting with her, and I've been
4 working with her since regarding this issue.

5 Again, all of this will not be easy.
6 MBEC can do, is doing, and will do its part.
7 However, we cannot do this alone. We need the
8 Administration. We need City Council. We
9 need majority-owned contracting entities and
10 private sector businesses to do their part as
11 well. Only then will minority, women, and
12 disabled-owned businesses be able to prosper
13 and grow.

14 Make to no mistake about this,
15 ladies and gentlemen, the changes I've made
16 and will make are meant to be systemic
17 changes. My hope is that others will follow
18 so that together we will move to, once and for
19 all, permanently ensuring that minority,
20 women, and disabled-owned businesses receive
21 their fair -- and truly and specifically mean
22 fair -- contracting dollars.

23 Now, to formally introduce you to
24 that staff who are seated with me, Wendy
25 Staton, Esquire, is my Deputy Director of

1 12/15/04 - COMMERCE - RES.040977, 041014
2 Enforcement Compliance and Monitoring; David
3 Calabraci is the newly hired Deputy Director
4 of MBEC's Special Projects Unit; Candace
5 Hitchcock, my Deputy Director for
6 Administration and Operation who have served
7 the City faithfully and honorably for over 20
8 years.

9 Thank you again, Councilwoman Tasco,
10 for allowing the new MBEC to come before this
11 Committee to tell you who we are, what we're
12 doing, and what we plan to do. Thank you very
13 much, and we're ready for questions.

14 COUNCILMAN GOODE: Thank you for
15 your testimony, Mr. Williams. Let me start
16 with the status of Bill 030125 and your
17 opinion. Is it lawful? Are you following it?
18 Has it been enforced by Administration?

19 MR. WILLIAMS: Well, sir, I can't
20 express a legal opinion to that. I have read
21 the ordinance, and I feel that the way that
22 I've restructured this department and the way
23 that --

24 COUNCILMAN GOODE: Why can't you
25 offer a legal opinion?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MR. WILLIAMS: I'm not in the Law
3 Department, sir.

4 COUNCILMAN GOODE: You are, in fact,
5 a lawyer who is head of MBEC; is that correct?

6 MR. WILLIAMS: That's correct. But
7 I don't serve in this purpose as an attorney,
8 sir.

9 COUNCILWOMAN BROWN: You don't serve
10 as?

11 MR. WILLIAMS: In this purpose as
12 the MBEC Director as an attorney.

13 COUNCILMAN GOODE: Any informal
14 legal opinion?

15 MR. WILLIAMS: I was informed by my
16 enforcement deputy that I'm under the City
17 Charter and I cannot express an opinion on
18 that. I am director of the this department.
19 Legal opinions have to come from the Law
20 Department. That's my understanding.

21 COUNCILMAN GOODE: Let me ask you
22 which provisions of Bill 030125, whether
23 lawful or not, you would agree with if
24 actually offered by the Administration?

25 In other words, what parts of the,

1 12/15/04 - COMMERCE - RES.040977, 041014

2 quote/unquote, Ortiz Bill or the MBEC

3 Ordinance should be incorporated into a new

4 Executive Order and into new legislation?

5 What is the status of a new Executive Order

6 and new legislation?

7 MR. WILLIAMS: I feel that the

8 spirit of the ordinance will be contained in

9 the new Executive Order. I am not privy to

10 what that Executive Order is at this point.

11 COUNCILMAN GOODE: How familiar are

12 you with the actual components of Bill 030125?

13 MR. WILLIAMS: I'm familiar, but I

14 don't know anything by heart.

15 COUNCILMAN GOODE: Are you familiar

16 with the portion that relates to annual

17 participation goals?

18 MR. WILLIAMS: I know it. I can't

19 tell you what code --

20 COUNCILMAN GOODE: At section 17-505

21 reads as follows: "Annual participation

22 goals. Council shall, by resolution,

23 establish annual City contract participation

24 goals for DBEs after solicitation and

25 recommendations of Minority Business

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Enterprise Council."

3 Is that something you would agree to
4 allowing Council through resolution to
5 establish annual participation goals after
6 consulting with MBEC?

7 MR. WILLIAMS: I would think that
8 would be appropriate.

9 COUNCILMAN GOODE: What steps will
10 you take to make that happen as part of the
11 Executive Order or as part of new legislation
12 by the Administration?

13 MR. WILLIAMS: The Executive Order
14 is being written by the Law Department
15 Administration. MBEC has no role at this
16 point in crafting that legislation.

17 COUNCILMAN GOODE: In the
18 establishment of these annual participation
19 goals, the legislation further reads,
20 "Criteria. The annual participation goals
21 must be based on but not limited to the
22 present availability of qualified DBEs; B, the
23 utilization of DBEs on past contracts awarded
24 by the City; C, a forecast of eligible
25 contracts to be awarded within the fiscal

1 12/15/04 - COMMERCE - RES.040977, 041014
2 year; and D, an undated disparity analysis of
3 businesses in the Philadelphia area."

4 Let me ask you at this time, is MBEC
5 in a position from a technical standpoint to
6 take that type of data-driven approach?

7 MR. WILLIAMS: Absolutely. In fact,
8 when I sent letters out to all the City
9 department heads in May, we sent ranges of
10 participation goals that were consistent with
11 the availability and all the other things you
12 mentioned.

13 COUNCILMAN GOODE: And in the
14 future, you would actually allow that to be
15 submitted to Council for adoption through
16 resolution?

17 MR. WILLIAMS: Absolutely.

18 COUNCILMAN GOODE: I have no further
19 questions.

20 Councilwoman Tasco.

21 COUNCILWOMAN TASCO: We received a
22 letter from the City Solicitor that said that
23 Bill 030125 is invalid. And if that is true
24 and that the Executive Order 1-93 was repealed
25 in 2003 and Executive Order 1-03 expired in

1 12/15/04 - COMMERCE - RES.040977, 041014

2 2003, under what legal authority do you
3 operate?

4 MR. WILLIAMS: Councilwoman, to
5 answer that question honestly, when I first
6 came to the department, I knew that the
7 Executive Order had expired October in 2003.
8 So my guide at that time was the ordinance
9 from Council. It wasn't until some months
10 into Council that the City Solicitor's opinion
11 came out. So at this point, technically,
12 we're under no legal authority. The actions
13 that we take, particularly in our monitoring
14 and enforcement, we're taking because we think
15 it's the right thing to do. We are certainly
16 hoping that an Executive Order is signed and
17 allows us not only to continue the work that
18 we're doing but to do work in the future.

19 For example, our certification
20 process, we have streamlined that down to
21 three pages. We've removed some of the, what
22 we think, burdensome, onerous restrictions
23 that were there in the certification process
24 before, but we can't do that without some sort
25 of legal authority.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 COUNCILWOMAN TASC0: Well, the Mayor
3 signed the ordinance. And we were not
4 notified. Normally, they would write us back
5 and tell us, "I can't sign the ordinance
6 because the Law Department tells me it's
7 illegal."

8 Do you have any knowledge whether or
9 not the Mayor was notified that there was an
10 ordinance.

11 MR. WILLIAMS: I apologize, I do not
12 have any knowledge of that. I wasn't here
13 when it was signed. And when I found out,
14 again, some months into my tenure here, that's
15 when I knew the opinion of the City Solicitor.
16 I had no privy to the communication between
17 the Solicitor and the Mayor.

18 COUNCILWOMAN TASC0: Well, in the
19 Executive Order 1-03, there was to be an
20 economic opportunity task force, and I think
21 Mr. Cruz mentioned that. Since you just found
22 out that the ordinance was illegal, what was
23 your understanding of the purpose of the
24 Resource Council and did you move to -- was a
25 Committee put together?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MR. WILLIAMS: Yes. Initially when
3 I came in and read the ordinance that expired,
4 my mind at that point was that even though it
5 had expired, there are still things that I
6 should be able to do. There should actually
7 be a task force. I initially had two meetings
8 with various folks. Many people didn't show
9 up. The African-American Chamber didn't show
10 up. The Hispanic Chamber showed up. The
11 Asian-American Chamber showed up. Mr.
12 Esposito who is here showed up. Various
13 people from the community showed up. I tried
14 to craft together some sort of Committee.

15 When we sent out notices for the
16 third meeting, we only had, I think, two
17 responses to that. And after that, there
18 seemed to be -- people just seemed not to be
19 interested in doing that. What people were
20 interested in was me going out and talking to
21 their membership and their constituency group,
22 something that I had been doing continuously
23 since I started working here.

24 COUNCILWOMAN TASCO: You said the
25 new Executive Order is being prepared by the

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Law Department?

3 MR. WILLIAMS: The Law Department
4 and Administration, my understanding, are
5 still working on it.

6 COUNCILWOMAN TASC0: Did you have
7 input?

8 MR. WILLIAMS: We had input we put
9 in maybe a month and a half ago. I don't know
10 where that stands, where our input stands,
11 frankly.

12 COUNCILWOMAN TASC0: Have you had
13 any input?

14 MR. WILLIAMS: I would say that we
15 had input. I haven't seen the product since I
16 put the input in there.

17 COUNCILWOMAN TASC0: What was the
18 extent of your input into the Executive Order?

19 MR. WILLIAMS: I put something in
20 about workforce composition directly. This
21 came out of my discussions with Councilwoman
22 Donna Reed Miller. I also looked at it to
23 make sure that some of the goals and -- the
24 goals that we wanted to take care of now were
25 in there, particularly with our monitoring and

1 12/15/04 - COMMERCE - RES.040977, 041014
2 with our special projects unit, our marketing
3 and with responsibility for City departments
4 to make sure that they are in this document,
5 because I do believe that it's -- I think it's
6 not in 1-93, but that in this document it
7 holds City departments responsible for
8 contracting.

9 COUNCILMAN GOODE: Mr. Williams, two
10 quick questions before I return to
11 Councilwoman Tasco.

12 One, from what you know about
13 legislation, the Mayor would not sign an
14 invalid ordinance if he believed and the Law
15 Department believed it to be invalid? In
16 other words, the Law Department reviews all
17 legislation before it is signed by the Mayor,
18 so when the Mayor ceremoniously signed it, the
19 Law Department obviously believed it to be
20 valid; is that your understanding?

21 MR. WILLIAMS: My understand of the
22 process, absolutely.

23 COUNCILMAN GOODE: And secondly,
24 there was significant disparity between what
25 was in that bill that became law and what was

1 12/15/04 - COMMERCE - RES.040977, 041014
2 in the Executive Order. So interestingly
3 enough, the Mayor ceremoniously signed a law
4 which was legal at the time, did what was
5 supposed to be a parallel Executive Order,
6 which is not parallel at all but, in fact,
7 very different, and then said the law is no
8 longer in effect or legal and for the sole
9 reason that Council does not have the
10 authority, not because anything was actually
11 in the legislation itself.

12 So I guess the question is,
13 following what Councilwoman Tasco said, were
14 your recommendations in terms of Executive
15 Order, aside from other things you came up
16 with in conversation with Councilwoman Miller
17 or whoever, were you recommending that this
18 bill that was passed by Council be
19 incorporated into the Executive Order on
20 behalf of the Administration?

21 MR. WILLIAMS: I did not recommend
22 that. It does not mean that I can't recommend
23 that now because the ordinance is still
24 floating around. But I certainly can.

25 COUNCILMAN GOODE: I'm going to try

1 12/15/04 - COMMERCE - RES.040977, 041014

2 to say this as politely as possible. Are you
3 actually familiar with how different the bill
4 is from the Executive Order?

5 MR. WILLIAMS: Yes, I am.

6 COUNCILMAN GOODE: And so you know
7 exactly what needs to go into the Executive
8 Order that was not in it before?

9 MR. WILLIAMS: Yes, I do.

10 COUNCILMAN GOODE: Are you stating
11 for the record that you will make a formal
12 recommendation to the Administration that the
13 components of the bill be incorporated into
14 the Executive Order?

15 MR. WILLIAMS: I will do that.

16 COUNCILMAN GOODE: And you can
17 forward that communication through the Chair?

18 MR. WILLIAMS: Absolutely.

19 COUNCILWOMAN TASC0: My concern is
20 that you've heard testimony from contractors
21 and vendors who have tried to do business with
22 the City and who look to the City to provide
23 them support and enforcement of situations
24 that come about, particularly when we're using
25 public funds. I would be interested to know

1 12/15/04 - COMMERCE - RES.040977, 041014
2 if any of those issues raised today you feel
3 should to be incorporated into the Executive
4 Order to give you the teeth to enforce some of
5 the many issues that have been raised here.
6 One particularly I talked about is the payment
7 to subcontractors from the majority
8 contractors to not pay them. What do they do?
9 Timely payment.

10 MR. WILLIAMS: Absolutely. This is
11 one of the issues that makes me the angriest
12 because when I came in the office here, for
13 whatever prep I got, no one prepared me for
14 non-payment issues. This has been a huge
15 burden. To me, this is the burden that cuts
16 off any type of participation goals and ranges
17 at all because if people aren't getting paid,
18 it doesn't matter how many people are on the
19 contract.

20 One of the reasons I brought Ms.
21 Staton in and the enforcement unit in and the
22 compliance officers who are sitting back here,
23 is to vigorously track down these issues and
24 to solve them.

25 As you will see later on in the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 testimony, we've been pretty successful in
3 doing that without an Executive Order or an
4 ordinance. And I'm not saying that because we
5 don't need it; I'm saying that because I keep
6 thinking that at some point someone's going to
7 come back to us and challenge us because we
8 don't have anything. We took one firm who
9 didn't pay two African-American female vendors
10 their money. What happened is that these
11 vendors contracted with the prime contractor
12 who then contracted with the City. The City
13 did not like their work and at one quarter
14 didn't pay the subcontractors. And we said,
15 "Well, you have to pay them because they did
16 the work. Nothing was wrong with their work."

17 They held a contract out to us and
18 said, "Well, we have this in the contract.
19 They don't get paid until we get paid."

20 We think that is absolutely wrong.
21 We asked the Administration, we asked City
22 Council, we asked anyone to look at these
23 issues and to make this thing right. What we
24 were able to do was to threaten these folks
25 with debarment. Now, we did not have any

1 12/15/04 - COMMERCE - RES.040977, 041014
2 legal authority, I don't think, but we did it
3 anyway. I didn't know what was going to
4 happen, but I did it anyway. I thought that
5 was the right thing to do. They eventually
6 paid these vendors under the threat of
7 debarment. So we'll use that anytime we can.

8 My point is that some of this stuff
9 is systemic. You have to go into contracts.
10 You have to look at how we're contracting.

11 On the other hand, inside the City,
12 when I was at the Economic Development Summit,
13 I kept pressing in all these little groups and
14 focus groups, I kept pressing that there
15 should be a 30-day guaranteed payment from the
16 City. Why should people out in the private
17 sector -- why should they pay their folks on
18 time if we can't pay them on time? That has
19 just been a very frustrating issue. I have
20 personal stories about vendors of ours who
21 have come to us in the last minute and said,
22 "Our business is going to close down today
23 unless we get paid." And we've had to work
24 through the day through various City
25 departments just to get their payment moved

1 12/15/04 - COMMERCE - RES.040977, 041014
2 just to get them paid. And that is
3 ridiculous. People have to be accountable for
4 that.

5 My frustration is that going after
6 City departments and having people tell me one
7 thing and tell me another thing, talking about
8 invoice issues -- MBEC is going to put
9 together seminars to tell people about invoice
10 issues. We still have to have the City
11 departments paying people. That's the only
12 way we can force and we can actually go to the
13 private sector people telling them we can get
14 paid.

15 I apologize, I get a little bit
16 emotional about this because this is the issue
17 more than -- I mean, everything is important
18 about what we're doing over there and what
19 we're trying to do, but the non-payment issue
20 has been sticking in our craw for a while
21 because it seems to be there's no way to move
22 this, no way for anything to go. And I think
23 the only way that it can happen is either in
24 an Executive Order and an ordinance.

25 COUNCILMAN GOODE: It was in Bill

1 12/15/04 - COMMERCE - RES.040977, 041014
2 030125. It would have been if the
3 Administration acknowledges the ordinance as
4 being legal, which it is. It would be Section
5 17-507 which deals specifically with contract
6 payments to subcontractors. And the only
7 reason the Administration gives us for why
8 this ordinance is not being implemented as it
9 should be is because they claim that Council
10 does not have the right to pass legislation on
11 City contracting, which is ridiculous.

12 Councilwoman Reynolds Brown.

13 COUNCILWOMAN BROWN: With regard to
14 the issue of timely payment, which I heard ad
15 nauseam since I've been here, please tell us
16 how does MBEC reward good performance around
17 timely payment and other factors and how does
18 MBEC treat poor performance when it comes to
19 contractors who don't honor up.

20 MR. WILLIAMS: Councilwoman, I wish
21 there was a way I could tell you that we could
22 reward or punish. I would wish there was. I
23 would like to have a system instituted where
24 people who actually make payment on time, that
25 factors into responsible and responsiveness.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 That's part of the contracting. That's in the
3 City Charter. You have to give the lowest bid
4 to the most responsible and responsive bidder.
5 I think -- my wish is that responsible and
6 responsiveness also includes paying people on
7 time. And if you don't pay people on time,
8 you shouldn't be considered for a bid. I
9 think that should be instituted.

10 Right now, MBEC does not have the
11 tools to do that. It doesn't have the
12 authority to do that. I wish that we could.
13 I wish that we could find a way to do that.

14 COUNCILWOMAN BROWN: Is that to
15 suggest then that no one in government has the
16 tools or authority to not reward prime
17 contractors who are not paying people? What
18 is at the government's disposal then?

19 MR. WILLIAMS: You're absolutely
20 right, government should be able to do it.
21 MBEC doesn't have the tools itself to do it.
22 But somewhere, the Administration, the Law
23 Department working together with Council,
24 someone should come up with a method so that
25 we can do this. Even if it's a Charter

1 12/15/04 - COMMERCE - RES.040977, 041014
2 change, if we have to write something about
3 responsibleness and responsiveness and define
4 that in the Charter so we can reward people
5 who pay and punish people who can't, then that
6 should happen. So you're right, government
7 can do something about this.

8 COUNCILWOMAN BROWN: To your remarks
9 regarding workforce composition, what impact
10 does MBEC have on those majority prime
11 contractors that do not engage in MBE/WBE
12 contractors?

13 MR. WILLIAMS: For workforce
14 compensation employment issues, MBEC has no
15 authority whatsoever to deal with that. I
16 think that's unfortunate, which is why I made
17 a suggestion to the Executive Order to put
18 that in there so that we can start monitoring
19 workforce composition with anything that has a
20 City dollar on it.

21 COUNCILMAN RIZZO: Point of
22 information.

23 COUNCILMAN GOODE: The Chair
24 recognizes Councilman Rizzo.

25 COUNCILMAN RIZZO: So I understand,

1 12/15/04 - COMMERCE - RES.040977, 041014

2 I'm trying to follow the Councilwoman. Are we
3 entirely talking about prime contractors? Or
4 are you also suggesting the City is a slow pay
5 too?

6 MR. WILLIAMS: I think the City is a
7 slow pay as well.

8 COUNCILMAN RIZZO: So are we talking
9 both prime contractors and our own government?

10 MR. WILLIAMS: Absolutely. Prime
11 contractors and our government.

12 COUNCILMAN RIZZO: I just wanted
13 make sure, because you threw me off there for
14 a second. I'm thinking I wasn't
15 understanding. Okay, you have concerns about
16 both.

17 MR. WILLIAMS: Yes.

18 COUNCILMAN RIZZO: We should be able
19 to fix internally easier than external.

20 MR. WILLIAMS: We should,
21 Councilman, absolutely. We should. Even with
22 the different agencies, we've heard that some
23 folks have not been paid by PHA. Our
24 enforcement and compliance teams continually
25 work with PHA to get payment. So far we have

1 12/15/04 - COMMERCE - RES.040977, 041014

2 not been successful. We've been more
3 successful with prime contractors than with
4 internally in the City.

5 COUNCILMAN RIZZO: Thank you.

6 COUNCILWOMAN BROWN: Just a couple
7 more questions.

8 Philosophically, should MBEC's role
9 be that of certification or building
10 infrastructure?

11 MR. WILLIAMS: I think that
12 philosophically there's some basic tenets that
13 we can't ignore. We can't ignore
14 certification because there are people out
15 there who want to get certified and are not
16 legitimate minority, women, or disabled-owned
17 businesses.

18 COUNCILWOMAN BROWN: That's a
19 necessary first step.

20 MR. WILLIAMS: Exactly. MBEC has to
21 do monitoring clients. It did not happen. Or
22 if it did, rarely happened and not successful
23 when I got there. We at this point in our
24 history watch what City departments are doing
25 to prod the enforcement deputy to meet with --

1 12/15/04 - COMMERCE - RES.040977, 041014
2 she's already had her first meeting. She's
3 having her second meeting to talk about the
4 goals that we set for them and how they're
5 reaching it. We still need the function and
6 do that. I feel that helping with
7 infrastructure is something -- not all of it,
8 but something that our special projects unit
9 will be taking care of. They're charged with
10 marketing our firms and selling our firms not
11 only to City departments but to prime vendors
12 outside so that situations like "We don't have
13 any qualified minorities," that can't happen.

14 The way that I saw it when I first
15 walked in was to put City departments on
16 notice that we're going to get you people,
17 we're going to do outreach, bring people in,
18 we're going to bring in certified vendors who
19 are ready, willing, able and have a capacity
20 to do the work. We're going to set these
21 goals for you so you have to get these goals
22 based on the availability and other factors.
23 After these two goals, the numbers of City
24 contractors should go up. To me, it's not
25 rocket science. They should be able to do it.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 What I'd like is more support from
3 folks in City government going behind us; I
4 would absolutely love that. I think I'm
5 getting some sectors. Frankly, some sectors I
6 think I'm not getting, but that's still not
7 stopping us from doing it.

8 COUNCILWOMAN BROWN: Now, you know
9 we can not ignore that without a follow-up
10 question, right?

11 MR. WILLIAMS: Yes, ma'am.

12 COUNCILWOMAN BROWN: So let's be a
13 bit more specific, recognizing the sensitivity
14 of the world you're in. What I hear you
15 saying is there are some Commissioners in City
16 government who get it and recognize the
17 expectation of standards you've put on them
18 with regard to the role of MBEC, and there are
19 some in City government, Commissioner level,
20 who don't get it?

21 MR. WILLIAMS: Absolutely.

22 COUNCILWOMAN BROWN: Do you believe
23 -- I'll leave that there. We'll have a
24 sidebar off the record.

25 One final question. To this issue

1 12/15/04 - COMMERCE - RES.040977, 041014
2 of building infrastructure, timely payment
3 when it doesn't happen ultimately impacts a
4 company's ability to build infrastructure,
5 would you agree?

6 MR. WILLIAMS: Absolutely.

7 COUNCILWOMAN BROWN: I'll pause and
8 come back around.

9 COUNCILMAN GOODE: Councilwoman
10 Miller.

11 COUNCILWOMAN MILLER: Good
12 afternoon.

13 MR. WILLIAMS: Good afternoon.

14 COUNCILWOMAN MILLER: I just
15 actually want to thank you for all your help
16 and assistance that you've been providing to
17 me on the problem that I was presented with,
18 which is something I just want to put on the
19 record.

20 One of the barriers to just a whole
21 workforce composition issue and diversity
22 issue is the language in the contracts. See,
23 I think as far as I was concerned that if we
24 met MBE goals and percentages around subs,
25 then we thought everything would be okay. But

1 12/15/04 - COMMERCE - RES.040977, 041014
2 then I was presented with an issue where under
3 a Commerce Department contract that compliance
4 was monitored by RDA -- which is a second
5 question I have later when you talk about
6 monitoring. And when I kept driving by the
7 project, I never saw a diverse workforce,
8 which said something is not right here, and I
9 knew we had two minority subs. So what I
10 realized once I called you -- and I called you
11 because remember I said, "Can they sue me if I
12 shut the job down?" But anyway, what we
13 realized was that it's the language that
14 includes the workforce diversity issues that's
15 not included in many of the contracts.
16 However, the contracts that have been written
17 that dealt with our NTI projects sort of have
18 a better wording and does include workforce
19 diversity issues, people that live in a
20 certain zip code, et cetera, et cetera.
21 So I know that that's something that
22 we've been working on, and we're not finished
23 yet. I don't know whether the Executive Order
24 that will eventually come out will deal with
25 how contracts and the language is written,

1 12/15/04 - COMMERCE - RES.040977, 041014
2 because people -- I believe contractors can
3 still get around the workforce composition and
4 diversity issue if that language is not
5 included in the actual contract. And I know
6 that that's what happened in my case, which
7 means that now we have to stay on top of
8 exactly how these contracts are coming out.

9 And I don't know that that's been
10 actually settled yet. Now, I do know that
11 those coming out of RDA or through NTI does
12 have that inclusive language, but I'm still
13 not sure whether coming out of other City
14 departments that that issue is being
15 addressed. Because you just can't have a
16 whole workforce working in a neighborhood that
17 doesn't include people that look like those
18 people that live in that neighborhood. It
19 just causes a whole big problem and another
20 whole headache. And it takes good jobs,
21 something that you thought was working really
22 well and it would be good for the neighborhood
23 and it causes all kinds of problems because
24 it's not inclusive. So I think that that's
25 something that the City has to work on.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 And there's one other thing that
3 concerns me with City contracts, and that is
4 when the contractors ask for a waiver as it
5 relates to the MBE goals. I have a real
6 problem with that. You know, we just had a
7 meeting about a week and a half ago to discuss
8 that whole issue.

9 So those are issues that I think
10 prevent inclusion. And I think we -- I as a
11 Councilmember and I'm sure other Members are
12 very interested in helping to close those
13 loopholes because this is public money, and
14 public means everybody. And I don't think
15 there should be any way that people are
16 excluded from acquiring a part of a contract.
17 And I know that this is a problem that we
18 continue to work on. So I just need you to
19 let us know what we need to do to help you
20 address that issue.

21 MR. WILLIAMS: Thank you very much.
22 You know, Councilwoman, the waiver issue, as I
23 related to you, blew me away. I did not
24 believe that this was here. The Law
25 Department sent out an opinion that the way

1 12/15/04 - COMMERCE - RES.040977, 041014
2 our Charter is constructed that we have to
3 have this here. I said, we have to find some
4 way to get rid of it. This makes no sense at
5 all. This is bad policy. I think it's bad
6 for the City to do it. And we have to do
7 better than just make that response. We have
8 to put people on notice that that is
9 unacceptable and we have to find some way out
10 of that.

11 The same thing with workforce
12 composition. One of on my concerns is
13 contracts and the way that contracts are
14 geared so that a prime can pay a sub and then
15 pay another sub and this sub, and these
16 tertiary subs don't get paid at all. There
17 has to be some way -- if we're doing City
18 dollars, I don't see -- and the Law Department
19 may come in here next week and correct me and
20 say, "He didn't know what the heck he was
21 talking about." But in my mind, to me, it's
22 perfectly reasonable to hold that prime to
23 say, "Look, you have to make sure that these
24 people get paid, these people who are minority
25 subcontractors by and large, they need to get

1 12/15/04 - COMMERCE - RES.040977, 041014
2 paid. They can't float. A prime contractor
3 is a prime contractor because it has the
4 money. That's why they're a prime contractor.
5 If someone withholds payment from them, they
6 can go to another job and they've got reserve.
7 Minority, women and disabled-owned businesses
8 don't have that luxury. They could go out of
9 business if they don't get paid on this job.
10 The fact that the Eagles situation and
11 Phillies situation, which are absolutely
12 outrageous in my view, absolutely outrageous,
13 and should not happen at all.

14 One of my frustrations being over at
15 MBEC is when I first came here, no one took
16 the time to talk to me about the Economic
17 Opportunity Plan Committee until Howard Rye
18 explained it to me. At that time, the Eagles
19 Committee didn't meet anymore. I just have to
20 say when Mr. Cruz did come to me, we did
21 contact that Committee who said they would
22 take care of this, that it's a Committee
23 function. It's the same thing that happened
24 when Mr. Rye and I contacted the Phillies, as
25 we said on the Oversight Committee because we

1 12/15/04 - COMMERCE - RES.040977, 041014
2 had some board meetings and that they would
3 take care of it. MBEC was frustrated because
4 when MBEC tried to make a move, we were told
5 it was not the proper protocol, that we
6 shouldn't be involved in this. We sat on that
7 a little while and said, "Well, that's okay,
8 we're still going to go after this, we're
9 still going to put pressure on folks to get
10 these people paid.

11 COUNCILMAN GOODE: Let me read you
12 part of the bill that deals with contract
13 payments to subcontractors. "Number One, a
14 contractor must pay his DBE subcontractors in
15 a timely fashion for satisfactory work.

16 "Two, a payment is timely if it is
17 mailed, delivered or transferred to a
18 subcontractor no later than seven days after
19 the contractor receives payment from the City.

20 "Three, evidence of compliance.
21 Beginning with the second pay request from a
22 contractor to the City, the contractor must
23 provide the City with evidence that all DBE
24 subcontractors have been paid out of the
25 proceeds of the prior payment unless a bona

1 12/15/04 - COMMERCE - RES.040977, 041014

2 fide dispute documented in writing exists
3 between the contractor and unpaid DBE
4 subcontractor.

5 "Four, when the City has paid at
6 least 80 percent of the contract price to the
7 prime contractor, the prime contractor shall
8 be required to return to MBEC a sworn
9 affidavit attesting to the amount of the
10 contract proceeds which have been paid to the
11 subcontracting DBE. If such affidavit is not
12 so returned, Director of Finance shall
13 withhold further payment to said contractor."

14 That was in the bill, signed into
15 law, and deemed illegal just because Council
16 supposedly doesn't have the authority to deal
17 with City contracting issues.

18 Your response?

19 MR. WILLIAMS: My response is that I
20 would hope that the Administration would
21 accept this, that provision. My frustration
22 is that people need to get paid. I don't care
23 how they get that, I don't care where it comes
24 from --

25 COUNCILMAN GOODE: This is not a new

1 12/15/04 - COMMERCE - RES.040977, 041014
2 issue. This is a bill that was passed in
3 April of 2003, signed into law, once again,
4 ceremoniously and assumed to be law when you
5 became Director of MBEC.

6 MR. WILLIAMS: Yes.

7 COUNCILMAN GOODE: So this is a
8 provision in terms of contract payments to
9 subcontractors that was assumed to be law when
10 you became Director of MBEC.

11 Councilwoman Tasco.

12 COUNCILWOMAN TASCO: Have you been
13 officially notified that you're not to operate
14 under Bill 030125?

15 MR. WILLIAMS: I think we had been.
16 We had some communication with the Law
17 Department. They didn't send us an official
18 notice that we weren't.

19 COUNCILWOMAN TASCO: So until you
20 are officially notified, you can officially
21 still follow the ordinance?

22 MR. WILLIAMS: Yes, ma'am.

23 COUNCILWOMAN TASCO: So you can
24 officially follow that section of the bill or
25 any sections of the bill as you see necessary

1 12/15/04 - COMMERCE - RES.040977, 041014

2 to protect the interest of the contractors?

3 MR. WILLIAMS: Yes, ma'am.

4 COUNCILWOMAN TASC0: Councilman
5 Rizzo said, "For the rest of the afternoon."

6 (Laughter.)

7 COUNCILWOMAN TASC0: So until you
8 get the official letter saying you can't
9 follow that ordinance, you can hopefully go
10 ahead and continue to use the ordinance, which
11 took a lot of time by the Council to draft
12 because of the problems that had been brought
13 to us by contractors and vendors, as they have
14 done today, by Councilman Ortiz. I mean, it
15 just took in every aspect of what we believed
16 would protect the people we represent. So
17 it's going to be interesting to see what the
18 Executive Order has in it to provide that
19 protection.

20 One of the -- we were talking about
21 the quasi-agencies and your effort to try to
22 get the agencies be more proactive in using
23 disadvantaged businesses. Is there new boiler
24 plate language put into the bid documents for
25 personal and professional services, public

1 12/15/04 - COMMERCE - RES.040977, 041014

2 works contracts and/or service supply and
3 equipment contracts?

4 MR. WILLIAMS: There's no new
5 language on that.

6 COUNCILWOMAN TASC0: Do you see the
7 need for that?

8 MR. WILLIAMS: Absolutely. I think
9 that we need to look at everything.

10 COUNCILWOMAN TASC0: Have you had a
11 conversation with the Law Department as they
12 craft the new Executive Order to let them know
13 in the small time that you've been there that
14 there are issues that you care about and are
15 concerned just working on a day-to-day basis
16 to see that they include these issues in the
17 Executive Order?

18 MR. WILLIAMS: My counsel has -- at
19 this point I am advised to assert privilege --
20 excuse me for a second, please.

21 MS. STATON: Basically, when you
22 mentioned "Did you have a conversation with
23 the Law Department," there is a privilege
24 because they represent us. But he has made
25 these issues known to the Administration in

1 12/15/04 - COMMERCE - RES.040977, 041014

2 crafting the Executive Order.

3 COUNCILWOMAN TASCO: You don't seem
4 pleased with that answer.

5 MR. WILLIAMS: Well, it is an
6 answer. My frustrations are that there are --
7 this is not rocket science. There's basic
8 things that you can do, basic steps that you
9 can take. And the fact that way before I even
10 got here that these steps weren't taken, the
11 fact that I've been here and have been pushing
12 at these -- you know, we're still under the
13 FBI probe and our folks are still being
14 interviewed by them. That's kind of
15 destructive to our department, reorganizing
16 it, putting it together, creating these two
17 units, trying to do that. There's a lot of
18 stuff to be done there. But I know I think
19 we're doing our part. I want everyone else to
20 come in to help do their parts too because I
21 don't think that it takes too much to do that.
22 I mean, I appreciate this opportunity to come
23 say this publicly because there's a lot of
24 times I can't. A lot things get put in the
25 newspaper and some things come out and some

1 12/15/04 - COMMERCE - RES.040977, 041014

2 things don't. But I'm glad I'm here to talk
3 to folks publicly again to express that this
4 should not be such a huge issue for us to
5 rectify. The City should be able to do this.

6 It makes me absolutely crazy to find
7 out that, well, there's Procurement decisions
8 being made, not by Department heads but by
9 people below them and they're the ones and the
10 department heads really don't know. Well,
11 people, now you know. I've been here. I've
12 been out in the public. I've sent letters to
13 these folks. We have met with these folks.
14 She's met with these folks. Our special
15 projects unit is going to meet with them soon
16 again on a quarterly basis. We're doing what
17 we're supposed to be doing. We have to pull
18 people in. If Council can help us do that,
19 that would be very much appreciated.

20 When you're trying your best -- at
21 some point, I don't feel like I'm spinning my
22 wheels over there because we are getting
23 people paid and the numbers for 2004 were from
24 my MBEs 10.65 and for WBE around 7 percent.
25 So we see that the numbers are going up, but

1 12/15/04 - COMMERCE - RES.040977, 041014
2 that's just 10 and 7. In a way, that's more
3 than the 2 percent and the less than 1
4 percent, but for me that doesn't cut it. The
5 ranges and goals that we set for the
6 department are much higher than that. I'm
7 looking for increment growth. I'm looking for
8 growth, period. I figure if we can't do that,
9 then what good are we as public servants.
10 This is for the entire City to get behind. We
11 have to work together on this.

12 I can't answer any questions about
13 the ordinance, I wasn't here; about the Law
14 Department's decision to say that it was
15 illegal, I wasn't here; about the fact that
16 the Executive Order expired in 2003. But what
17 I can say is that I am going to do whatever I
18 can with the tools that I have to push this
19 agenda forward. I'll keep speaking. I'll
20 keep yelling. I'll keep getting yelled at by
21 people who probably don't want me to say this
22 much, but I can't help it. This is what we
23 should be doing.

24 COUNCILWOMAN TASCO: Well, we've
25 tried to help you. We gave you an ordinance

1 12/15/04 - COMMERCE - RES.040977, 041014
2 which the Law Department has said we don't
3 have the power to do. But that won't stop us,
4 we'll keep doing it.

5 MR. WILLIAMS: I have looked at that
6 ordinance, and clearly when you look at some
7 of the testimony, some of the things that we
8 have in there consistent with what the
9 ordinance's goals are. And I am definitely
10 willing to work with Council, particularly on
11 issues in people's districts. I think that's
12 very key.

13 When Councilwoman Reed Miller came
14 through her district and saw what was
15 happening there, I wanted to do that. I am
16 concerned that construction projects are
17 happening and Councilpeople don't know about
18 it in their own districts. That again makes
19 no sense. Somewhere communication has to
20 happen. There have to be systems to let
21 Councilpeople know what's going on in their
22 districts to the extent that they can call us
23 and say, "Hey, look, there's something going
24 on down there, we don't think there's
25 participation," so we can go down and

1 12/15/04 - COMMERCE - RES.040977, 041014

2 investigate it. That kind of thing has to
3 happen. There has to be more cooperation.

4 COUNCILMAN RIZZO: Just to jest for
5 a second, how I find out about construction
6 projects since I'm at-large, I look for all
7 the little yellow and blue painted lines in
8 sidewalk, then I ask something must be going
9 on here.

10 COUNCILMAN GOODE: Mr. Williams, we
11 understand your frustration, but this is a
12 very strange relationship to even try to
13 approach with you when, in fact, not only did
14 we pass an ordinance, but the only reason
15 several Members of this Council didn't draft a
16 bill earlier was because there was disparity
17 studies that were not released to this Council
18 and the fact that the latest disparity study
19 still has not been released to this Council.
20 So while we can appreciate maybe on a personal
21 level your frustration, you're not here on a
22 personal level; you're here in a professional
23 capacity. And we pass a law because somehow
24 someone acquires a disparity study. The
25 law's, in fact, probably best practices in

1 12/15/04 - COMMERCE - RES.040977, 041014
2 terms of being based upon a Baltimore model.
3 We then, in fact, find out the Law Department
4 decides to render it illegal simply because we
5 supposedly aren't supposed to be involved in
6 establishing policy about City contracting
7 decisions.

8 Maybe there isn't any other way to
9 approach you on this. Maybe we need whoever
10 the new Finance Director is going to be to
11 come here. Maybe we need the Mayor's Office
12 to come here. I mean, a couple years ago the
13 Finance Director came here and she said that
14 she was ashamed what was happening. I guess
15 that's why she went to Atlanta where they're
16 doing it right.

17 MR. WILLIAMS: I'm here in a
18 personal and professional capacity, sir. And
19 I understand what you're saying. My
20 understanding is these hearings were about
21 MBEC and what we're doing and what we're going
22 to do.

23 May I finish please?

24 COUNCILMAN GOODE: I'll let you
25 finish. I will clarify in terms of

1 12/15/04 - COMMERCE - RES.040977, 041014
2 legislation. The resolution specifically says
3 that you're here to address the ordinance and
4 the Executive Order, not what you think you've
5 done in the last eight months, but the
6 ordinance and the Executive Order. That is,
7 in fact, why you are here.

8 MR. WILLIAMS: My apologies. I
9 stand corrected.

10 My extent of knowing about the
11 ordinance is that the Law Department deemed it
12 illegal. That's my extent, that's all I can
13 answer about that. I can't do anything else,
14 but I certainly can talk about MBEC.

15 COUNCILWOMAN TASC0: Did I see you
16 bring the disparity study across the street
17 one winter night?

18 MR. WILLIAMS: Councilwoman, yes,
19 you did. It was my second day working here.
20 I brought over the disparity studies and some
21 other reports, like a mid-year report, brought
22 them over, got clipped by a car, they fell in
23 the mud, wiped some of them off, and brought
24 them and delivered them to the Administration.

25 COUNCILWOMAN TASC0: Let me just say

1 12/15/04 - COMMERCE - RES.040977, 041014

2 this. We could go on and on and on, and other
3 people might have questions or conversations.
4 I think that your heart is in the right place
5 and you do want to do the right thing. We
6 would hope that today, as you sat and listened
7 to a number of concerns raised by contractors
8 and vendors about some of the problems they
9 encounter in doing business with the City or
10 not doing with the City, would be part of your
11 looking at how you can make those encounters
12 better, much more productive results for the
13 contractors. You don't have to eat the whole
14 cow to know it's beef. You get the sense of
15 what people are saying.

16 One of the things I would hope you
17 would look at is the ability to make sure that
18 a contractor has a contract with the
19 subcontractor, that you can interject yourself
20 in that, that could be part of the requirement
21 from the contractor.

22 The other issue -- the issue about
23 how the federal government deals to create and
24 foster general contractors between
25 disadvantaged businesses and not just sticking

1 12/15/04 - COMMERCE - RES.040977, 041014

2 to the subcontractor, how can you we look at
3 growing minority businesses into general
4 contractors.

5 MR. WILLIAMS: One of the ways that
6 we address that even now -- one of the
7 suggestions we made to the Executive Order
8 that we hope is still there when we see it at
9 the end is remove the \$700,000 limit on
10 certification. We think that that limit --
11 and we agree with the African-American Chamber
12 of Commerce, that would prohibit and stop
13 businesses from growing. It didn't make any
14 sense to not certify a minority, woman or
15 disabled business owner, particularly
16 African-American businesses, for people who
17 reach a certain threshold. It acted as a
18 barrier for them to grow. And we just thought
19 that was not called for, so we wanted to move
20 out of that and change our certification
21 process and to make it just minority, women,
22 and disabled-owned. We think that will help
23 foster growth. It's a big step, and we
24 attempt to make more steps.

25 COUNCILMAN GOODE: Councilwoman

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Reynolds Brown.

3 COUNCILWOMAN BROWN: Following up on
4 your remarks regarding prime contractors, does
5 MBEC advocate for a contracting process which
6 promotes joint venturing among MBE/WBE so that
7 they can receive prime contracts?

8 MR. WILLIAMS: We actually can and
9 we actually do, and we want to see more
10 success in that area.

11 COUNCILWOMAN BROWN: Is that a
12 relatively new practice?

13 MR. WILLIAMS: No.

14 COUNCILWOMAN BROWN: So at this
15 hour, given what we've been informed of by the
16 Administration, what do you believe currently
17 are MBEC's most pressing staff and resource
18 needs, number one? And what would you
19 identify as MBEC's most critical program
20 priorities; one, two, and three program
21 priorities, given the restrictions as been
22 discussed at this hearing?

23 MR. WILLIAMS: MBEC has always been
24 understaffed and underfunded, and everyone, I
25 think, is aware of that or should be aware of

1 12/15/04 - COMMERCE - RES.040977, 041014
2 that. There was a commitment to increase the
3 staffing, which happened. The reason staffing
4 didn't fall into place right when I was there
5 is because there are some arcane policies
6 about hiring in the City government which
7 delayed hiring most of these folks that you
8 see here. That was very frustrating because
9 the issues came to us when I went out to the
10 public and when I went out to the constituent
11 groups. People came in, they wanted to be
12 certified, they wanted their non-payment
13 issues taken care of, but we didn't have the
14 folks. Now that we do have some of those
15 folks -- and I understand that the City is
16 having financial crisis and there are layoffs
17 there, but we frankly don't have enough folks
18 to even work with. We haven't filled in our
19 vacancies yet. We still don't have enough
20 folks, particularly in monitoring and
21 enforcement. We have my deputy and her two
22 compliance officers. If we're going to do
23 this job effectively, we need more.
24 We also need more people for
25 certification. Even with streamlining the

1 12/15/04 - COMMERCE - RES.040977, 041014
2 process, it's not just doing that, it's
3 working with these vendors in specific areas
4 to move them along, and we need to get through
5 our backlog.

6 What we're doing right now is we
7 hired some temporary folks to start vetting
8 our files to make sure our files are okay.

9 COUNCILWOMAN BROWN: Okay, meaning
10 current?

11 MR. WILLIAMS: Being current and
12 being correct.

13 I wasn't here when -- I was only
14 here eight months and I don't know what
15 happened before, but I want to find out what
16 happened and I certainly want to make sure
17 that all of our files are correct. I think
18 that's just very important, given what the
19 atmosphere is around the probe that we have
20 that. So we pulled some temporary staff into
21 that. And for six months, we're trying to get
22 this accomplished in six months. We need some
23 more -- again, more certification staff and
24 more compliance officers.

25 As far as MBEC's goals, one, clearly

1 12/15/04 - COMMERCE - RES.040977, 041014
2 to push participation rates up, percentages up
3 in the City. One of the things that gets lost
4 in the mix when talking about prime
5 contractors and subcontractors is the City
6 Charter. The City Charter for at least \$250
7 million of the \$500 million approximately
8 that's spent, the City Charter says that you
9 have to go to the lowest responsible,
10 responsive bidder. We encourage and we push
11 our folks, the MBEC folks, to be prime
12 contractors. We want them to get in there and
13 to bid, but if they're not getting the lowest
14 bid, then we want to make sure there's
15 participation rates there. We don't want to
16 miss out on that at all. So I think it's an
17 incorrect characterization to say that we're
18 just working for subcontractors. We're trying
19 to get people to be prime contractors. We
20 want to put them out there. We've been able
21 to do some of that with the NTI Program, but
22 we want to do it on a larger scale.

23 But there are barriers, again, to
24 some folks becoming prime contractors.
25 Bonding is a huge issue for people to get a

1 12/15/04 - COMMERCE - RES.040977, 041014
2 bond to be able to do the stuff, particularly
3 on a large contracting issues. And that's
4 something that -- I've met with the
5 Administration, with some members of Council
6 staff about this, and we're continuing to work
7 on this issue.

8 COUNCILWOMAN BROWN: Okay. Now,
9 what does that mean?

10 This is why I raise the question. I
11 clearly remember in Janice Davis' early tenure
12 here, she actually sat down with business
13 people in the business of providing bonding
14 for MBE/WBES. So help me understand what you
15 mean when you say, "We're working on it."

16 MR. WILLIAMS: We need another
17 sit-down with those folks. That's what I want
18 to work on. Apparently, that hasn't happen.
19 We hear people coming in and still dealing
20 with bonding issues. One of the things that
21 the City had was a pilot bonding program. I
22 don't understand the entire capacity of it.
23 It was run out of Risk Management but funded
24 by Commerce.

25 COUNCILWOMAN BROWN: Really?

1 12/15/04 - COMMERCE - RES.040977, 041014

2 MR. WILLIAMS: Yes. Commerce had
3 some issue with it and they dropped the
4 program.

5 I sent a letter to the
6 Administration saying I think we need to look
7 at this and to bring this pilot program on.
8 It's a pilot program; take out the things that
9 aren't working and continue working. I
10 haven't had any response yet from the
11 Administration or the Law Department from that
12 letter.

13 COUNCILWOMAN BROWN: But
14 particularly when bonding remains a deterrent
15 and a handicap to help businesses grow to
16 capacity, so that conversation or discussion
17 was with -- when you say the Administration,
18 are we talking about Stephanie Naidoff or the
19 Second Floor?

20 MR. WILLIAMS: The Second Floor.

21 COUNCILWOMAN BROWN: Okay.

22 I cut you off. You mentioned two.
23 Is there a third program priority for --

24 MR. WILLIAMS: One was just
25 participation rates here. To me, again, I

1 12/15/04 - COMMERCE - RES.040977, 041014

2 think it is very simple to have City
3 departments raise their percentages just by
4 having the will to do it. There is no excuse
5 for them not to raise that. So I think that's
6 the first priority.

7 Secondly is getting people paid. We
8 have to do that. When you read down in the
9 testimony about my staff and what they're
10 doing with non-payment issues, you'll see that
11 this takes an inordinate amount of time, which
12 it should. It is very difficult when some of
13 the processes that should be there in the City
14 and in the way the City contracts out, as what
15 the Councilman read there, that kind of system
16 should be put in place. Absolutely. That
17 would be very helpful to us. Chasing people
18 down is what we do and we need to do that. We
19 probably in our enforcement and monitoring --
20 we're stretched thin, but if we have pick some
21 priority, people have to be paid. Yes, we
22 still monitor; yes, we still do enforcement,
23 but we have to get people their money. And
24 that's like an immediate situation, "I need my
25 money now. We haven't been paid."

1 12/15/04 - COMMERCE - RES.040977, 041014

2 When Mrs. King came up here, it was
3 first I had met her or heard about the
4 situation. And hopefully, she'll be meeting
5 soon with my staff here. But that kind of
6 situation is ridiculous. That's the kind of
7 thing we run into a lot and the people haven't
8 been a lot, particularly from the City or from
9 a City's agency and we have to put our
10 processes into that.

11 I think our third priority is to
12 make sure that there are no excuses from City
13 departments or from people in the private
14 sector that they're not enough certified
15 minority, women, or disabled-owned businesses.
16 To that extent, we're doing extensive outreach
17 to pull people in.

18 I meet people on a week-to-week
19 basis that said, "Well, MBEC was terrible. We
20 don't want to go through that. We don't want
21 to go through your certification process."
22 And those are the kinds of people we're trying
23 to bring into this so that we can have them
24 there so when we go to the City departments,
25 when we talk to private industry, we'll say,

1 12/15/04 - COMMERCE - RES.040977, 041014

2 "We've got people here. You look at our
3 database. There's no excuse for not using our
4 folks."

5 So those are my three priorities.

6 COUNCILWOMAN BROWN: Thank you.

7 MR. WILLIAMS: You're welcome.

8 COUNCILMAN GOODE: Councilman Rizzo.

9 COUNCILMAN RIZZO: Thank you, Mr.
10 Chairman. Were you here when someone
11 testified he was given \$800 a week just to use
12 his company name?

13 MR. WILLIAMS: Yes.

14 COUNCILMAN RIZZO: Obviously, he's
15 referring back a few years. And it suggested
16 that that happens a lot, that there are people
17 who front a company and it's a scam.

18 How confident are you in our City
19 and your compliance and all of the things that
20 you described, your staffing, do you think
21 that we still have an issue that you believe
22 that there are issues like you heard here
23 today existing in this decade?

24 MR. WILLIAMS: I think we'll always
25 have issues with that. I think that there are

1 12/15/04 - COMMERCE - RES.040977, 041014
2 people out there who we either run into or
3 uncover who will try to come through our
4 agency and will try to be a front for other
5 folks. We have to stand vigilant of that.
6 I'm very confident that since I've been there
7 for my eight months that that hasn't happened,
8 that people haven't come through that have
9 been fronts. What I am not assured of is what
10 happened before I got there, which is why
11 we're going through a file vetting process now
12 to ensure that the people we have there are
13 actually legitimate certified minority, women,
14 and disabled-own businesses.

15 COUNCILMAN RIZZO: I talked to the
16 Procurement Commissioner just a few weeks ago
17 about the issues of bonding in general, from
18 buying police vehicles to whatever. I
19 understood that that's going to require a
20 Charter change to adjust the way we do. And
21 from what I've learned, the bonding process
22 that's in place now really is passed on to us.
23 We're paying for it. Everything that we buy,
24 a person that has to go get a bond that we
25 require, they're basically passing that right

1 12/15/04 - COMMERCE - RES.040977, 041014

2 down to us. I was staggered to see what
3 increase in just a police vehicle is based on
4 the requirement that we have.

5 Now, I would hope -- and you're
6 aware this must be on ballot, this issue. I
7 would hope that you're pushing the Procurement
8 Commissioner to get that over here because in
9 this age, there are certain things we don't
10 need bonds. I mean, if we're buying 10 police
11 cars every few months and something goes
12 wrong, it really isn't catastrophic to the
13 City. And to have hundreds of dollars per
14 unit to be passed on to us unnecessarily is
15 not a good situation, and I think we really
16 need to freshen that up.

17 The ballot was crowded last time
18 around and that didn't make it there. I would
19 hope in the next few months that we can
20 address this and get that overhaul because it
21 obviously affects you too, correct?

22 MR. WILLIAMS: Absolutely. And I
23 think the problem is worse than that. When
24 you have a construction job -- let's say
25 you're doing like a million-dollar job and

1 12/15/04 - COMMERCE - RES.040977, 041014
2 there's a five-million-dollar job that you
3 could do. You've increased capacity, but the
4 bonding company still says, "Well, you've only
5 done a million-dollar job; you can't do that."
6 But then how can you grow and do these
7 five-million-dollar jobs if the bonding
8 companies aren't allowing you to do that?
9 It's a horrible situation. I think that it
10 really does call for a Charter change.
11 COUNCILMAN RIZZO: Would you agree
12 that that money is just passed on to the deal?
13 MR. WILLIAMS: Yes.
14 COUNCILMAN RIZZO: That's a
15 significant amount of money. You're talking
16 about -- what did you say, a
17 five-million-dollar deal.
18 MR. WILLIAMS: I'm just giving an
19 example.
20 COUNCILMAN RIZZO: I understand.
21 But we're talking big bucks here.
22 MR. WILLIAMS: We're talking very
23 big bucks. We're talking big bucks and we're
24 also talking the fact that this yet is another
25 barrier to MBEC certified vendors,

1 12/15/04 - COMMERCE - RES.040977, 041014
2 particularly when they want to grow. If we
3 want to grow folks from subcontractors to
4 prime contractors, there has to be a shift
5 someplace. And the bonding -- and this goes
6 back to even why we have things like 17-500
7 because there's been historical discrimination
8 keeping legitimate minority and disabled
9 businesses out of all these industries, and
10 bonding is just one of these issues and it's
11 an issue that should be addressed.

12 COUNCILMAN RIZZO: Let's hope we can
13 do that.

14 Thank you, Mr. Chairman.

15 COUNCILMAN GOODE: Thank you,
16 Councilman.

17 Let me beat a dead horse two more
18 times. Subsection 17-508 of the bill passed
19 by Council last year, "Contract reports and
20 documentation. As a condition of each
21 contract, the contractor must submit the
22 following when requested by the MBEC: One,
23 copies of signed agreements with the DBE's
24 being utilized to achieve the contract goals.
25 Two, reports and documentation verifying

1 12/15/04 - COMMERCE - RES.040977, 041014
2 payments to the DBEs being used to achieve the
3 contract goals. And three, reports and
4 documentation on the extent to which the
5 contractor awarded subcontracts to DBEs under
6 contract not affected by this chapter.

7 "Subsection 17-512. Penalties.
8 One, a contractor who fails to comply with any
9 provision of this chapter is subject to any or
10 all of the following penalties: A, suspension
11 of contract; B, withholding of funds; C,
12 decision on contract based on material breach;
13 D, refusal to accept a bid; E,
14 disqualification of bidder, contract or other
15 business from eligibility to providing goods
16 and services to the City for a period not to
17 exceed two years; F, payment of liquidated
18 damages; and/or G, a fine of \$300 per day for
19 each day of non-compliance."

20 That's a fairly strong law, isn't
21 it?

22 MR. WILLIAMS: Yes, sir.

23 COUNCILMAN GOODE: But deemed
24 illegal simply because Council doesn't have
25 the power to deal with City contracting.

1 12/15/04 - COMMERCE - RES.040977, 041014

2 Any other response?

3 MR. WILLIAMS: No, sir.

4 COUNCILMAN GOODE: Any other
5 questions from Members of the Committee?

6 COUNCILWOMAN TASC0: I just want to
7 make a statement that the original legislation
8 that created MBEC, they operated under that
9 for years. It's amazing that this legislation
10 was deemed illegal because we didn't have the
11 power, because if we didn't the power, MBEC
12 wouldn't exist. Thank you.

13 Any further questions?

14 (No response.)

15 COUNCILWOMAN TASC0: Thank you so
16 much.

17 COUNCILMAN GOODE: Furthermore, it
18 seems strange that a bill would be deemed
19 illegal after signed by the Mayor with a
20 parallel Executive Order. It's very hard to
21 exceed the power of Council when something's
22 actually signed by the Mayor and a parallel
23 Executive Order is actually issued. But we
24 will revisit this issue.

25 This hearing on all the resolutions

1 12/15/04 - COMMERCE - RES.040977, 041014
2 today is recessed to Thursday, January 27,
3 2005 at 10:00 a.m. Thank you for coming.
4 MR. WILLIAMS: Thank you.
5 (Council adjourned at 4:10 p.m.)
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C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Wednesday, December 15, 2004,
were reported fully and accurately by me, and
that this is a correct transcript of the same.

RE: COMMITTEE ON COMMERCE AND
ECONOMIC DEVELOPMENT

Lisa C. Bradley, RPR