

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

LAND USE SUBCOMMITTEE ON LANDMARKS, PUBLIC
SITING AND MARITIME USES

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March 18, 2009
Start: 11:26 am
Recess: 1:10 pm

HELD AT: Council Chambers
City Hall

B E F O R E: JESSICA S. LAPPIN
Chairperson

COUNCIL MEMBERS:

Council Member Maria del Carmen
Arroyo
Council Member Charles Barron
Council Member Julissa Ferreras
Council Member John C. Liu
Council Member Miguel Martinez
Council Member Annabel Palma
Council Member Diana Reyna

A P P E A R A N C E S [CONTINUED]

William Hilton
Counsel to the Committee
Subcommittee on Landmarks, Public Sitings
And Maritime Uses

Gregory P. Shaw
Principal Attorney for Real Estate
School Construction Authority

Kendrick Ou
Director for Real Estate
School Construction Authority

Lori Ardito
First Deputy Commissioner
Department of Transportation

Joseph Cannisi
Deputy Commissioner
Roadway Repair and Maintenance
Department of Transportation

Galileo Orlando
Assistant Commissioner
Roadway Repair and Maintenance
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Helen M. Marshall
Borough President
Borough of Queens

Daniel Scully
Willets Point Asphalt Company

Richard Davidson, P.E.
Canal Asphalt, Inc.

James A. Horan
Flushing Asphalt Company

A P P E A R A N C E S [CONTINUED]

Kenneth Tully
Willets Point Asphalt Company
Tully Construction Company

Anastasia Song
Chief Executive Officer
Hoagland Holdings

James Greilsheimer
Attorney for Hoagland Holdings

Patrick Wheely

Ms. Benjamin

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2 CHAIRPERSON LAPPIN: Good morning.

3 [Gavel banging]

4 CHAIRPERSON LAPPIN: Welcome to the
5 Land Use Subcommittee on Landmarks, Public Siting
6 and Maritime Uses. I'm Jessica Lappin, the Chair,
7 joined today by Council Member John Liu of Queens;
8 Councilwoman Maria del Carmen Arroyo of the Bronx;
9 Council Member Charles Barron of Brooklyn;
10 Councilwoman Annabel Palma of the Bronx.

11 We have a number of items on the
12 agenda today. Let's start with the schools.
13 First of all I wanted to note we're going to lay
14 over PSAC II, both of the related items, 993 and
15 994.

16 Let's start with--and we're also
17 laying over in Queens, Community Board 5, the
18 1,100 seat high school that's in Councilwoman
19 Crowley's District in the Maspeth section of
20 Queens.

21 So let's go to the 1,200 seat
22 intermediate and high school in Brooklyn,
23 Community Board 5 which is located in Council
24 Member Barron's District. And Mr. Shaw would you
25 like to come and testify please.

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[Pause]

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CHAIRPERSON LAPPIN: Is anybody
else signed up to--

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[Pause]

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[Witness getting settled]

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MR. GREGORY P. SHAW: Good morning
Chairperson Lappin and Council Members. My name
is Gregory Shaw, I'm principal attorney for real
estate for the New York School Construction
Authority, and to my immediate right is Director
Kendrick Ou for Real Estate for the School
Construction Authority.

14

The New York City School
Construction Authority has undertaken the site
selection process for the proposed 1,200 seat
intermediate and high school facility on a block
bounded by Flatlands Avenue, Elton Street, Linwood
Street and Vandalia Street in the Spring Creek
section of Brooklyn in Tax Block 49--4449, the
proposed school is also located in Community
School District number 19 and Brooklyn Community
Board number 5.

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The proposed site is owned by the
City of New York and is currently under the

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2 management and jurisdiction of the New York City
3 Department of Housing, Preservation and
4 Development, under the Fresh Creek Urban Renewal
5 Plan. The proposed project has been designated as
6 site 14A in the Fresh Creek Urban Renewal Plan.
7 The remainder of the block is currently being
8 developed with new housing.

9 The Notice of Filing for the site
10 plan was published in The New York Post and in the
11 City Record on September 22nd, 2008. And Brooklyn
12 Community Board number 5 was also notified of the
13 site plan on September 22nd and was asked to hold a
14 public hearing. The Community Board held its
15 public hearing on November 12th, 2008 and
16 subsequently sent written comments in support of
17 the site plan. The City Planning Commission was
18 also notified of the site plan on that date and
19 also recommended in favor of the proposed site.

20 The SCA has considered all comments
21 received on the proposed plan and affirms the site
22 plan, pursuant to Section 1731 of the Public
23 Authorities Law. In accordance with Section 1732
24 of the Public Authorities Law, the SCA submitted
25 the proposed site plan to the Mayor and City

1
2 Council on March 13th, 2009. We look forward to
3 your Subcommittee's favorable consideration of the
4 proposed site plan. And we are prepared to answer
5 any questions that you might ask.

6 CHAIRPERSON LAPPIN: This is part
7 of the Gateway Estates II project--

8 MR. SHAW: [Interposing] That's
9 correct.

10 CHAIRPERSON LAPPIN: --correct?

11 MR. KENDRICK OU: This is located,
12 yes, within the boundaries of Gateway Estates II.

13 CHAIRPERSON LAPPIN: Which is a
14 mixed use plan to develop that vacant area? Is
15 that correct with residential and commercial and
16 infrastructure?

17 MR. OU: Yes. HPD has advanced a
18 proposal for; I think it's a substantial number of
19 residential units and additional commercial
20 development. The school project is--had been
21 envisioned under the previous Urban Renewal Plan
22 and we would continue--that particular site was
23 designed in the 1996 Amendment to the Fresh Creek
24 Urban Renewal Plan and we would continue with
25 development of a school on that site. Under--

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CHAIRPERSON LAPPIN: [Interposing]

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So.

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MR. OU: --HPD's current proposal.

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CHAIRPERSON LAPPIN: It'll serve

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families that are already in the area in addition

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to the new families that will come?

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MR. OU: Well this is a--this would

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be a middle and high school facility. So it would

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serve, typically the enrollment is, you know,

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opened beyond just the immediate surroundings for

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secondary school programs.

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CHAIRPERSON LAPPIN: But I'm sure

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you would assume it would mostly be people who

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are--

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MR. OU: [Interposing] Yes.

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CHAIRPERSON LAPPIN: Council Member

18

Barron, I know you're a supporter of this project

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would you like to ask any questions?

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COUNCIL MEMBER BARRON: Why does it

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have to catch me as soon as I call?

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CHAIRPERSON LAPPIN: [Chuckling]

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COUNCIL MEMBER BARRON: First of

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all I want to recommend a yes vote for this

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project. It's a part of a larger project--

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CHAIRPERSON LAPPIN: [Interposing]

Would you like some water?

COUNCIL MEMBER BARRON: Yes,

'cause, why you see me suffering? You know--

[Crosstalk, off mic]

COUNCIL MEMBER BARRON: --letting

me to choke--

CHAIRPERSON LAPPIN: [Interposing]

[Chuckling] It's so hard for you to..

[Off mic]

COUNCIL MEMBER BARRON: Hit me. Go

ahead. It's a part of a larger project, mixed

use, where they'll be expanding the mall out

there. And also bringing in over 2,300 units of

housing which almost 50%, 60% of it will be very

affordable. So this school is a part of that and

in addition to that there will be three parks.

There'll be a supermarket, a daycare center. So a

whole new community is coming out there. And we

support this school as an additional part of that

because of the overcrowdedness in our District and

because of a new community coming in.

We want to recommend this project

100%.

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CHAIRPERSON LAPPIN: Thank you.

Any questions from my colleagues? Seeing nobody else signed up to testify on this item, the hearing is closed.

And I wanted to open the hearing on the PS... 264; I wanted to get that right in Council Member Gentile's District. Council Member Gentile wanted to be here this morning but he is with a member of his family who is ill. And so he did send a letter that he asked be read into the record.

I'm not going to read the whole letter but just say that he's strongly in support of the proposed site selected for a new primary school at this location as they--we expect the number of young families in our neighborhood to continue to increase steadily. PS 264 will provide much needed seats for young students in our neighborhood and will offer some relief to overcrowded primary schools nearby.

With that I wanted to ask Mr. Ou and Mr. Shaw to testify on this item.

MR. SHAW: Thanks. Thanks again Chairperson Lappin. The New York City School

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2 Construction has undertaken the site selection
3 process for the proposed 475 seat primary school
4 that would be located on Tax Block 6062, Lots 31,
5 40, 41, 45 and 48, located on a block bounded by
6 4th Avenue, 89th Street and 3rd Avenue in the Bay
7 Ridge section of Brooklyn. The proposed school
8 site is also located in Community School District
9 number 20 and Brooklyn Community Board number 10.

10 The project site contains a total
11 of approximately 22,000 square feet of lot area.
12 The site has two vacant structures as well as an
13 open parking lot. Under the proposed plan the SCA
14 would acquire the five privately owned lots,
15 demolish the existing structures and construct a
16 new 475 seat public school facility serving
17 students in the Community District number 20. The
18 new facility would, excuse me; provide relief from
19 overcrowding at other primary schools in the
20 District.

21 The Notice of Filing for the site
22 plan was published in The New York Post and in the
23 City Record on November 7th, 2008. And Brooklyn
24 Community Board number 10 was also notified of the
25 site plan on that date and was asked to hold a

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2 public hearing. The Comm--excuse me, Community
3 Board number 10 held its hearing on the site plan
4 on November 17th, 2008 and sent written comments in
5 support of the proposed site plan. The City
6 Planning Commission was also notified of the site
7 plan on November 7th and it also recommended in
8 favor of the site.

9 The SCA has considered all comments
10 received on the proposed plan and affirms the site
11 plan, pursuant to Section Public, excuse me
12 Section 1731 of the Public Authorities Law. In
13 accordance with Section 1732 of the Public
14 Authorities Law, the SCA submitted the proposed
15 site plan to the Mayor and City Council on Mar--
16 excuse me, March 13th, 2009.

17 We look forward to your
18 Subcommittee's favorable consideration of the
19 proposed siteplan. We are prepared to answer any
20 questions that you might ask. Thank you.

21 CHAIRPERSON LAPPIN: You--how many
22 seats do you still have to site in District 20?
23 Are there still 5,448 seats that you need to site
24 to be in accordance with the Capital Plan?

25 MR. OU: No. We've actually made a

1
2 very good progress under the current Capital Plan
3 which had identified over 5,000 seats of need in
4 the District. This will--this project would, I
5 think, bring us under, in terms of the un-sited
6 seats, under 2,000. And we also have additional
7 projects that are going through the public review
8 process that would bring that number down further.

9 CHAIRPERSON LAPPIN: And this will
10 obviously be a locally zoned school, green school
11 like the last application, right?

12 MR. OU: Yes.

13 CHAIRPERSON LAPPIN: Do any of my
14 colleagues have any questions about this?

15 [Pause]

16 CHAIRPERSON LAPPIN: Okay. Great.

17 MR. OU: Thank you--

18 CHAIRPERSON LAPPIN: [Interposing]
19 Thank you very much.

20 MR. SHAW: Thank you.

21 CHAIRPERSON LAPPIN: And we'll
22 close the hearing on this item. At this point I'm
23 going to ask for the Council to call for a vote on
24 these two schools before we open the public
25 hearing on the Grace Asphalt Plant and would

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2 recommend a favorable vote.

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MR. CHRISTIAN MR. HILTON:

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Christian Hilton, counsel to the Landmarks

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Committee. Chair Lappin.

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CHAIRPERSON LAPPIN: Aye.

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MR. HILTON: Council Member Barron.

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COUNCIL MEMBER BARRON: [Off mic]

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MR. HILTON: Council Member Liu.

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COUNCIL MEMBER LIU: Yes.

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MR. HILTON: Council Member Palma.

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COUNCIL MEMBER PALMA: Yes.

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MR. HILTON: Council Member Arroyo.

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COUNCIL MEMBER ARROYO: [Off mic]

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MR. HILTON: By a vote of five in

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the affirmative, none in the negative, no

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abstentions, both items are approved and referred

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to the full Land Use Committee.

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CHAIRPERSON LAPPIN: Okay. We'll

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keep the vote open, certainly through the duration

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of the meeting. And I wanted to open the hearing

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on the Grace Asphalt Plant which is located in

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newly elected Councilwoman Julissa Ferreras'

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District and invite the Department of

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Transportation to come and testify. I think the

1
2 Councilwoman is being sworn in this morning. So
3 she may or may not make it although she knows that
4 the hearing is taking place.

5 And we have from DOT, Lou (sic)
6 Ardito, First Deputy Commissioner, Galileo
7 Orlando, Assistant Commissioner for Roadway Repair
8 and Maintenance, Joseph Cannisi, Deputy
9 Commissioner for Roadway Repair and Maintenance.

10 So please...

11 [Pause]

12 CHAIRPERSON LAPPIN: State your
13 name for the record and begin.

14 MS. LORI ARDITO: Good morning
15 Chairman Lappin and member of the Subcommittee. I
16 am Lori Ardito, First Deputy Commissioner for the
17 Department of Transportation and with me today is
18 Joseph Cannisi, Deputy Commissioner of DOT's
19 division of Roadway Repair and Maintenance and
20 Assistant Commissioner Galileo Orlando. Thank you
21 for inviting us to discuss DOT's interest in
22 acquiring an asphalt plant in Queens.

23 I would like to start by outlining
24 DOT's roadway resurfacing program. With the
25 Mayor's support, DOT began increasing its annual

1
2 Citywide resurfacing program from 700 lane miles a
3 few years ago to the current level of 1,000 lane
4 miles. This 40% increase in paving requires an
5 increase in asphalt usage because each lane mile
6 of paving translates into the usage of
7 approximately 1,000 tons of asphalt. This puts
8 DOT's annual usage at approximately 1,000,000 tons
9 of asphalt.

10 Underlying the resurfacing program
11 is PlaNYC, which strives to bring City streets
12 into a good state of repair and to do so in a
13 sustainable, green fashion. You may be asking
14 yourselves how asphalt can be green. You might be
15 surprised to learn that asphalt is the most
16 recycled product in the United States, with over
17 80 million tons recycled each year into new
18 pavement.

19 DOT has been a leader in this
20 effort and I would like to highlight some of the
21 extraordinary successes achieved at our Hamilton
22 Avenue Plant in Brooklyn. We began by first
23 incorporating glass into asphalt over 20 years
24 ago; and a few years later we determined that the
25 best material for recycling is milled asphalt

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2 pavement. Over the last 20 years, we have
3 developed a deep knowledge base in asphalt
4 recycling. Today, the asphalt produced at the
5 Hamilton Avenue plant is made of high quality
6 materials and contains 40% reclaimed asphalt
7 pavement or as we call it rap. This results in
8 the re-use of nearly 200,000 tons of milled
9 pavement that would otherwise be trucked to
10 landfills.

11 Here is what this means for New
12 York City. What we refer to as asphalt is really
13 a mix where stone aggregates are combined with
14 asphalt cement, a petroleum-based binder. The
15 asphalt cement portion reclaimed from our Hamilton
16 Avenue asphalt plant offsets the need of refining
17 840,000 barrels of crude oil annually. By
18 reclaiming this asphalt cement, we lessen our
19 dependence on imported oil, reduce greenhouse gas
20 emissions and save the City money.

21 The economic and environmental
22 savings from recycling at Hamilton Avenue does not
23 end there. By reclaiming the aggregates in rap,
24 we also reduce the need to mine and transport
25 materials from Upstate New York and Canada;

1
2 further reducing energy use, emissions, as well as
3 costs. In fact, as reported in the Mayor's
4 Management Report, our in-house produced asphalt
5 costs consistently less than vendor procured
6 asphalt, largely due to these recycling efforts.

7 This brings me to the final
8 benefit: cost savings. Our aggressive approach of
9 recycling rap into new asphalt, rather than
10 trucking and depositing it into land fills, adds
11 up to a \$10 million annual saving to the City.
12 Unfortunately, Hamilton Avenue produces less than
13 half of what DOT requires, with five private
14 vendors supplying the rest of our asphalt needs.

15 The past performance by private
16 vendors on recycling has not been as impressive as
17 DOT's. In Fiscal Year 2008, the most recent year
18 for which we have complete records, DOT's vendors
19 only averaged 15% rap in the asphalt they sold to
20 the City; and at a cost of nearly \$14 more per ton
21 than City-produced asphalt at Hamilton Avenue.

22 This brings us to the ULURP action
23 we are here to discuss, the City acquisition of
24 the Grace Asphalt plant in Queens. The two
25 largest Boroughs in terms of land mass are

1
2 Brooklyn and Queens. Each of these Boroughs makes
3 up approximately 30% of the City's road surface
4 and correspondingly is allocated 30% of DOT's
5 annual resurfacing program which equals 310 lane
6 miles per year.

7 Brooklyn asphalt needs are covered
8 by our Hamilton Avenue plant; so let's discuss
9 Queens. DOT has always employed two or more
10 private vendor plants to meet asphalt needs in
11 Queens. This is because sufficient quantities of
12 asphalt cannot be obtained from a single privately
13 owned plant and because private plants have time-
14 capacity constraints serving two sectors, both the
15 public and private, which results in alternate
16 loading service.

17 Over the years, the contracting
18 process, including review of vendor responsibility
19 issues, has produced delays in contract awards to
20 Queens vendors. In the most recent asphalt
21 contract proceedings, only two Queens-based plants
22 submitted bids, Grace and Tully. One of those,
23 Grace, went into bankruptcy and ultimately the
24 plant was sold to its present owner. That owner
25 has indicated to DOT that he is not interested in

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2 staying in the asphalt business long-term, a
3 development of great concern to DOT.

4 As stated earlier, Queens needs
5 310,000 tons of asphalt to resurface the allocated
6 310 lane miles in the Borough. The paving season
7 consists of 150 work days, so almost 2,100 tons of
8 asphalt is needed each and every day to meet the
9 Queens need. We also know from our experience
10 running the Hamilton Avenue plant that about 2,400
11 tons of asphalt can be processed and delivered
12 into trucks in an 8 hour day, providing no delays
13 and breakdowns occur.

14 If a single vendor plant is all
15 that is available to DOT and that plant must be
16 shared with private party purchasing asphalt, a
17 shortfall of about 900 tons per day, or 135,000
18 tons per year would result. As a consequence, the
19 Queens resurfacing allocation would necessarily be
20 reduced by 135 lane miles and asphalt costs would
21 likely rise due to the lack of competition.

22 There are other factors that add to
23 the benefits of acquiring the Grace plant beyond
24 concerns for a stable, adequate supply of asphalt.
25 For example, the proximity of the Grace plant to

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2 the DOT-owned Harper Street facility is
3 beneficial. Harper Street yard is the neighboring
4 property to the west of the Grace Asphalt Plant.
5 Joined together, the two properties will allow DOT
6 to: first) stockpile sufficient rap supplies to
7 maximize recycling, while reducing truck trips
8 from our Kew Loop yard; 2) store Queens equipment
9 and trucks; 3) begin daily operations with little
10 mobilization time and expense; and 4) turn back a
11 piece of land to the Department of Parks and
12 Recreation, all resulting in increased
13 efficiencies, as well as benefits to the City.

14 We have also considered the impact
15 our action would have on the private asphalt
16 industry as a whole. When last studied, the Grace
17 plant's annual production of asphalt was
18 essentially split between the City and private
19 asphalt purchasers. City business is now, more or
20 less, split between two Queens' vendors. It is
21 our opinion that the loss of City business by
22 Tully, or any other potential future vendors, will
23 be offset by the need from the private sector
24 business currently serviced by Grace to be
25 serviced by the remaining private vendors.

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2 In other words, this one-for-one
3 swap of public and private business should result
4 in a net-zero impact on the asphalt industry as
5 the overall production capacity and demand for
6 asphalt remains the same--unchanged. It should
7 also be pointed out that our acquisition of the
8 Grace Asphalt plant does not mean that DOT will no
9 longer purchase asphalt privately. Even with this
10 acquisition, a little more than one quarter of
11 DOT's total need will continue to be contracted
12 out to privately owned asphalt plants.

13 In pure land use terms, the ULURP
14 action makes sense. Zoning and Land Use are
15 unaffected; the location is zoned for, currently
16 used as and will continue to be used as an asphalt
17 plant. I would also like to point out that this
18 action has received unanimous approval from the
19 Community Board and City Planning Commission and
20 is supported by the Queens Borough President.

21 Given the need for asphalt in
22 Queens, a past and continuing history of supply
23 uncertainty, a logistical balance to DOT's
24 Hamilton Avenue plant, a proven track record of
25 plant management, cost savings and environmental

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2 benefits through recycling, now is the time to
3 acquire this property. Again, thank you for
4 inviting us here today and at this time we would
5 be happy to answer any questions.

6 CHAIRPERSON LAPPIN: I certainly
7 have questions and I know some of my colleagues do
8 as well. I just wanted to mention that Council
9 Member Miguel Martinez has joined us and give him
10 the opportunity to vote on the agenda.

11 MR. HILTON: Council Member
12 Martinez.

13 COUNCIL MEMBER MARTINEZ: I vote
14 aye.

15 CHAIRPERSON LAPPIN: Thank you.

16 So I have a number of questions
17 starting with just in terms of historical
18 perspective. In the past the City made a decision
19 to get out of this business. And then, I guess,
20 more recently, in Brooklyn, got back into
21 producing asphalt. So I guess my first question
22 is why do we want to go back into this business in
23 the first place?

24 MR. JOSEPH CANNISI: Well the City
25 got out of the business of producing asphalt

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2 during the fiscal crisis of the 70's. An active
3 asphalt plant was at Harper Street Year up until I
4 believe the mid-1970's. Financial situation in
5 the City where it obviously was in distress. We
6 decided to privately purchase asphalt. And the
7 program wasn't exactly set the way it is right
8 now. Paving was done as resources permitted.

9 In the 1980's the Hamilton Plant
10 came online so it's not that recent. And we've
11 been trying for quite some time to get a second
12 asphalt plant in Queens.

13 CHAIRPERSON LAPPIN: I guess my
14 question being we're in a fiscal crisis now. So
15 what's really different between now and the
16 1970's?

17 MR. CANNISI: This project is
18 funded to go forward. The cost savings actually
19 make it more advantageous to do this project now
20 than it would be normally. There's this
21 substantial savings that come with this.

22 CHAIRPERSON LAPPIN: You testified
23 that there's a certain--certainly a possibility
24 that the Grace Asphalt Plant would no longer be
25 continuing to produce asphalt over the long term.

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2 And I don't think there's anybody here signed up
3 to testify from the owners of that plant.

4 [Pause]

5 CHAIRPERSON LAPPIN: Okay. So
6 we'll hear from them a little bit later. Is that
7 James Horan?

8 [Pause]

9 CHAIRPERSON LAPPIN: Richard--

10 [Pause]

11 CHAIRPERSON LAPPIN: Anastasia
12 Song? Okay. So we'll go to that later then. I
13 guess the heart of the testimony and the heart of,
14 I think, the discussion really centers around
15 cost. And that's where there seems to be some
16 dispute between--and I see our Queens Borough
17 President is here. Hello. That there is some
18 dispute over the numbers.

19 So I guess that's what I would
20 really like to go to. You say in the MMR, and I
21 have my chart here, on paper, that you produce
22 roughly at \$41 a ton versus the privates at
23 roughly \$61 a ton. And I wanted to get some more
24 specific breakdown as to how you get to that
25 number. Because certainly they say that it's not

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2 really possible to do, and so I wanted to ask you
3 if you could go through, kind of line by line,
4 what you pay for raw materials, what you pay for
5 labor, what you pay for equipment, what you pay
6 for utilities and how that's all factored into
7 your cost.

8 MR. CANNISI: We certainly can give
9 you a breakdown after this. But as you said, what
10 we factor into the cost of asphalt is the raw
11 materials which are barged in or trucked in, in
12 the case of stone and aggregates are barged in,
13 asphalt cement which is the largest component and
14 cost is trucked in. Labor at the plant, overhead,
15 energy costs to run the plant and amortization of
16 the plant. And all of that figured on an annual
17 basis is divided by the total output of the plant.

18 So essentially we add up all of our
19 costs in the production of asphalt and then divide
20 it by how much asphalt was produced for the year.
21 And we can get you the numbers of the last Fiscal
22 Year.

23 CHAIRPERSON LAPPIN: I--and when we
24 met I asked you for that. And it would have been
25 really helpful if you had that at the hearing

1
2 today. That's the whole point of this discussion-
3 -

4 MR. CANNISI: [Interposing] Um-hum.

5 CHAIRPERSON LAPPIN: --is so that
6 we can, with facts in front of us, compare and
7 contrast. So I'm very disappointed that you don't
8 have that information today 'cause I thought I was
9 pretty specific in our meeting that we were going
10 to discuss that today. So maybe you could at
11 least give me a sense 'cause here's what I don't
12 understand. I would think that the raw material
13 costs would be fairly fixed and certainly
14 fluctuate over time because it's somewhat based on
15 petroleum. The labor costs would be fairly fixed.
16 And the equipment, the amortization, so I guess I
17 want to understand how you get to a cheaper cost.

18 MR. CANNISI: Well 40% of the
19 material used there is recycled pavement. So
20 we're not purchasing asphalt cement and we're not
21 purchasing aggregates for that location. Of
22 course the City doesn't have a profit margin to
23 deal with. And all of those add up to savings
24 that come out in the difference between the two
25 costs.

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2 CHAIRPERSON LAPPIN: But aren't
3 they recycling too? I mean you provide them with
4 rap.

5 MR. CANNISI: Well right, we do.
6 And as I said in the last Fiscal--as the First
7 Deputy had mentioned in the testimony, that on
8 average that's only 15% versus 40%. And don't
9 forget that asphalt cement being a petroleum
10 product is the largest component in the cost of
11 making asphalt.

12 CHAIRPERSON LAPPIN: Is the Grace
13 Plant technologically able to produce or to use
14 40% recycled rap?

15 MR. CANNISI: We don't know that
16 right now. They've added some new equipment in
17 the past year or so that helps them recycle more.
18 We would have to evaluate that.

19 CHAIRPERSON LAPPIN: And you would,
20 I know the Borough President's recommendation,
21 discussed in five years' time, upgrading the
22 facility to make it environmentally friendly. Is
23 that rolled into your costs savings?

24 MR. CANNISI: It's rolled into cost
25 savings moving forward, yes.

1
2 CHAIRPERSON LAPPIN: What does that
3 mean?

4 MR. CANNISI: That we believe in
5 the first couple of years the cost savings will be
6 smaller and then in about the third or fifth year,
7 when the plant is completely converted, over to a
8 new modern technology 'cause we're hoping to go
9 actually higher than our Hamilton Plan which is
10 40% and actually put a plant in that will do 50%.

11 CHAIRPERSON LAPPIN: How much do
12 you say you're going to save each year of the
13 first five years?

14 MR. CANNISI: In the first--in each
15 of the first five years, we should be able to save
16 a couple of million dollars, \$2 million to \$3
17 million.

18 CHAIRPERSON LAPPIN: Per year.

19 MR. CANNISI: Per year.

20 CHAIRPERSON LAPPIN: And I guess my
21 question to you is you say you're going to save \$2
22 million to \$3 million a year, so over 5 years, you
23 would save, conservatively, \$10 million. So that,
24 however, is not taking into account the purchase
25 price of the property.

1
2 MR. CANNISI: Well the--to figure
3 out your cost savings, you--like any other piece
4 of property you'd have to amortize it over a
5 longer period, like 10 to 15 years. So that if
6 you factor in the cost of purchasing the plant,
7 the savings that will come over that time period
8 we believe will break even and actually come out
9 ahead in less than 10 years.

10 CHAIRPERSON LAPPIN: But that's
11 different from saving \$10 million in 5 years. So
12 I, I just want--

13 MR. CANNISI: [Interposing] We're
14 saving \$10 million a year in Hamilton Plant which
15 is producing about half of our asphalt needs. The
16 savings obviously would be different 'cause the
17 amortizations and the production levels will be
18 slightly different.

19 CHAIRPERSON LAPPIN: Right. So.
20 Here's what I want to understand and I still don't
21 have from you guys It's an older plant than
22 Hamilton. Yes?

23 MR. CANNISI: Correct.

24 CHAIRPERSON LAPPIN: Okay. So one-

25 -

1
2 MR. CANNISI: [Interposing] With
3 some modern equipment in it.

4 CHAIRPERSON LAPPIN: We don't know
5 how much it's really going to be able to recycle.
6 That's what you said. You don't know--

7 MR. CANNISI: [Interposing] We
8 believe comfortably we can expect about 20%.

9 CHAIRPERSON LAPPIN: Okay. So
10 recycling 20%, not 40%, paying for the plant,
11 losing the real estate tax revenue, how much are
12 we going to save? That's what I really want to
13 know. And I haven't heard that number from you.

14 MR. CANNISI: As I said, I believe
15 that we will be able to recoup the costs of doing
16 this project in less than ten years. That we will
17 actually be making money for the City in less than
18 ten years.

19 CHAIRPERSON LAPPIN: So in ten
20 years' time, incorporating in that we're not going
21 to be receiving real estate taxes, that you're
22 going to have to upgrade the plant, and I'd like
23 to hear--are you committing that you would upgrade
24 the plant--

25 MR. CANNISI: [Interposing] Yes.

1
2 CHAIRPERSON LAPPIN: --in five
3 years?

4 MR. CANNISI: We've committed that
5 to the Borough President. We're committing it
6 here again today.

7 CHAIRPERSON LAPPIN: Okay. And
8 what would that mean for the environment?

9 MR. CANNISI: It will mean that we
10 will be able to take several hundred thousand
11 truck miles a year off the road because we won't
12 have to landfill rap at that point. It will mean
13 that emissions will be lower at the plant itself.
14 It will mean that we will also in that upgrade be
15 able to put technology in that will be--allow us
16 to make more mixed asphalt. You may have seen
17 that we recently tested that and rather than
18 producing asphalt at high temperatures of 300
19 degrees and above, you can make them about 70 to
20 100 degrees lower than that. And that all of
21 those benefits for the environment will be
22 substantial.

23 CHAIRPERSON LAPPIN: Okay.
24 Councilwoman Arroyo.

25 COUNCIL MEMBER ARROYO: Thank you

1
2 Madam Chair. Good morning, yeah, it's still
3 morning. I'm trying to understand, how many
4 private vendors are there in the City or where are
5 the private vendors that you're contracting?

6 MR. CANNISI: We contract with five
7 private vendors.

8 COUNCIL MEMBER ARROYO: Where are
9 they located?

10 MR. CANNISI: Two are on the Bronx-
11 Westchester County line, two are in Queens and one
12 is in Staten Island, of our current contracts.

13 COUNCIL MEMBER ARROYO: Okay. So
14 I'm confused. Where, in the testimony, on page,
15 it starts on page 2 and then rolls over to the top
16 of page 3, it gets reduced to only one private
17 vendor. Is that in relation to only one of the
18 plants--?

19 MR. CANNISI: [Interposing] Only in
20 Queens?

21 COUNCIL MEMBER ARROYO: Only in
22 Queens--

23 MR. CANNISI: [Interposing] Queens
24 we're talking about. We believe that as we said
25 in the testimony that we will still have to

1
2 purchase slightly more than a quarter of our
3 asphalt privately--

4 COUNCIL MEMBER ARROYO:

5 [Interposing] Okay and so why are we discussing
6 these plants separately if the City is the City is
7 the City and you contract for this, do you do
8 separate contracts for each plant? I don't
9 understand.

10 MR. CANNISI: Yes we do.

11 COUNCIL MEMBER ARROYO: Why?

12 MR. GALILEO ORLANDO: The plants,
13 this material is a time-sensitive material--so the
14 plant--

15 CHAIRPERSON LAPPIN: [Interposing]
16 Hi can you just introduce yourself for the record,
17 thank you.

18 MR. ORLANDO: I'm sorry. I'm
19 Galileo Orlando, Assistant Commissioner of DOT.
20 The material is time sensitive. The plants are
21 spread out geographically across the City to try
22 to meet the needs of pretty much individual
23 Boroughs. We have two in the Bronx, two in
24 Queens, one in Staten Island. We're now focusing
25 on Queens and our issues in Queens--

1

COUNCIL MEMBER ARROYO:

2

[Interposing] Um-hum.

3

4

MR. ORLAND: --Queens being the largest allocation of lane miles in the City.

5

6

COUNCIL MEMBER ARROYO: I still don't understand why you contract separately for each plant.

7

8

9

MR. CANNISI: We do that as the Assistant Commissioner said, asphalt is a live product which means that you can't transport it very, very long distances, depending on temperature and such. You wouldn't do a contract for Staten Island with a Westchester County asphalt plant for example.

10

11

12

13

14

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16

COUNCIL MEMBER ARROYO:

17

[Interposing] Okay--

18

MR. CANNISI: [Interposing] So we--

19

COUNCIL MEMBER ARROYO: --let's

20

assume I don't have a clue what you're talking about--

21

22

MR. CANNISI: [Interposing] Okay

23

what we do is this--

24

COUNCIL MEMBER ARROYO: --and make

25

it a little simple for me to understand--

1

2

MR. CANNISI: --I'll make it

3

simple. What we do is we break down the City into

4

five separate zones--

5

COUNCIL MEMBER ARROYO:

6

[Interposing] No, no, the--

7

MR. CANNISI: --and each contract--

8

COUNCIL MEMBER ARROYO: --the

9

comment about it being a live product. I don't

10

understand what you mean by that.

11

MR. CANNISI: It--what it means it

12

that it has a shelf life in terms of transit,

13

similar to concrete or something like that.

14

COUNCIL MEMBER ARROYO: So before

15

it's poured it can't sit for longer than a certain

16

period?

17

MR. CANNISI: Correct. If you sat

18

it for a long time and traveled it a long time,

19

let's say that you got stuck at toll plazas, you

20

bounce it around, you could end up with not a

21

useful product at the end--

22

COUNCIL MEMBER ARROYO:

23

[Interposing] Got it, okay.

24

MR. CANNISI: --correct.

25

COUNCIL MEMBER ARROYO: That helps.

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Okay. So. I want to focus a couple of questions and then I'll end after that Madam Chair. When we look at the potential loss of business for the private vendors, what are we talking about in terms of impacts on loss of jobs? Where are those jobs located? How many jobs will be impacted? Are they union positions versus the City positions? And how many jobs does the City have to create in order to pick up the additional work?

MR. CANNISI: The net difference between what's working at the plant and what would work at the plant under DOT is approximately 2 positions. There are 10 people working at the asphalt plant now, there would be 12 people working at the asphalt plant once the City took it over.

COUNCIL MEMBER ARROYO: So--

MR. CANNISI: [Interposing] These are union positions on both sides.

COUNCIL MEMBER ARROYO: Okay so what's the loss of jobs on the private vendor side? How many jobs are we looking at potentially being impacted by the City shifting its business? So for once I'm hearing the City's better at

1
2 something that private industry. That's really
3 interesting a concept for me 'cause I don't think
4 I've ever heard that before but... it makes me
5 happy. I'm glad to hear that. But what's the
6 impact on job loss on the private sector side?

7 MR. CANNISI: As I said there are
8 ten people working at that asphalt plant now.

9 COUNCIL MEMBER ARROYO: At the one
10 that's feeding--

11 MR. CANNISI: [Interposing] That
12 we're looking to acquire.

13 COUNCIL MEMBER ARROYO: No, no.
14 But you're pulling business away from private
15 contractors.

16 MR. CANNISI: Well I, let me go
17 back to the testimony. As we said that we make up
18 approximately half of the business at the plant
19 that we're looking at now. Half of--the other
20 half of the business there is private purchases of
21 asphalt.

22 COUNCIL MEMBER ARROYO: Um-hum.

23 MR. CANNISI: Those private
24 purchased would go back into the marketplace so we
25 don't believe that there would be any impact on

1

2 the reduced amount of asphalt that's left in the
3 vendors that remain. We won't be selling to the
4 folks that currently purchase at Grace Asphalt.

5 COUNCIL MEMBER ARROYO: No--

6 MR. CANNISI: [Interposing] They
7 would go back to the marketplace--

8 COUNCIL MEMBER ARROYO:

9 [Interposing] No, no, no, okay, let--maybe I'm not
10 clear. I--we'll go back to the notion that I
11 don't understand what you mean--

12 MR. CANNISI: [Interposing] Okay.

13 COUNCIL MEMBER ARROYO: --okay. So
14 there, right now, you get X amount from private
15 vendors. Expanding the plant in Queens would mean
16 you would have to rely less on private vendors--

17 MR. CANNISI: [Interposing]
18 Correct.

19 COUNCIL MEMBER ARROYO: --that is
20 going to have an impact on their workforce and
21 their profit margin. Have you been able to
22 analyze or have you analyzed what the potential
23 loss of jobs will be by not having to purchase
24 from the private vendors?

25 MR. CANNISI: Yes. And we believe

1
2 it will be no impact. And the reason we believe
3 that is what we're saying is we're releasing back
4 to the market--if we take one plant out of the
5 private industry side, we have five there now and
6 we take it down to--

7 COUNCIL MEMBER ARROYO:

8 [Interposing] You stop contracting with--

9 MR. CANNISI: [Interposing] Right--

10 COUNCIL MEMBER ARROYO: --okay.

11 MR. CANNISI: --if we take one of
12 the plants out and acquire it ourselves--

13 COUNCIL MEMBER ARROYO:

14 [Interposing] Okay.

15 MR. CANNISI: --that that leaves
16 four remaining plants. The amount of business
17 that that one plant is doing privately is equal to
18 the amount of business we would take away from
19 those four vendors so it would be replaced by the
20 private business.

21 COUNCIL MEMBER ARROYO: Okay. I'm
22 more confused than when I asked the question--

23 CHAIRPERSON LAPPIN: [Interposing]
24 I--

25 COUNCIL MEMBER ARROYO: --so I'm

1

going to stop. I'm going to stop.

2

3

CHAIRPERSON LAPPIN: I understand what he's saying--

4

5

COUNCIL MEMBER ARROYO:

6

[Interposing] Okay.

7

CHAIRPERSON LAPPIN: --and that the

8

demand isn't going to change, it's just who's

9

going to be filling the demand.

10

MR. ORLANDO: [Interposing]

11

Correct.

12

MR. CANNISI: [Interposing] Right

13

while--

14

CHAIRPERSON LAPPIN: --so

15

MR. CANNISI: --while we--

16

COUNCIL MEMBER ARROYO:

17

[Interposing] That's not what he said.

18

MR. CANNISI: --take some of the--

19

Mr. ORLANDO: [Interposing] It--it-

20

-

21

COUNCIL MEMBER ARROYO:

22

[Interposing] We need to talk about how you

23

communicate. It's not very clear. [Laughing]

24

MR. ORLANDO: [Interposing] Okay.

25

COUNCIL MEMBER ARROYO: Thank you--

1

MR. ORLANDO: I'm sorry.

2

3

CHAIRPERSON LAPPIN: Okay. I guess

4

I just wanted to go back to--and we're not going

5

to vote on this today but we're not going to vote

6

on it until we really understand how you guys are

7

saving money. So dragging your feet on providing

8

that information isn't going to help you at all.

9

And I really don't understand if you put a number

10

in the MMR, I'm sure you didn't pull it out of

11

thin air. I'm sure you know exactly what you're

12

paying for all these different things. And I'm

13

very disappointed that you didn't come here today.

14

And I would really like--and I mean

15

we're going to hear from other folks today who are

16

going to say it's absolutely not possible and

17

they're recycling more than 15% and we're not

18

going to be able to really go back and forth. So

19

we're going to have to continue this discussion.

20

MS. ARDITO: We will have it to you

21

right after this, literally, in your hands right

22

after this--

23

CHAIRPERSON LAPPIN: [Interposing]

24

Okay.

25

MS. ARDITO: --session.

1

2

CHAIRPERSON LAPPIN: Thank you.

3

Thank you very much. So let's move to our next

4

panel. Kenneth Tully, Daniel Scully, Richard

5

Davidson and James Horan. Are you--you're all on

6

one team.

7

[Pause]

8

[Witnesses getting settled]

9

[Pause]

10

MR. DAN SCULLY: Thank you

11

Chairwoman--is this on? Thank you Chairwoman

12

Lappin and Committee members. My name is Dan

13

Scully. I represent Willets Point Asphalt. I'd

14

like to just read a brief joint letter from the

15

Asphalt businesses who are in opposition of this--

16

CHAIRPERSON LAPPIN: [Interposing]

17

You know what? I would ask you not to read it

18

because we do have a copy of it. If you could

19

just summarize the key points that would be

20

helpful and it will be entered into the record.

21

And we do have a copy of it.

22

MR. SCULLY: Sure. You know, we're

23

all here basically to dispute a lot of the claims

24

that the DOT has made in reference to the purchase

25

of this plant. We feel that there are three major

1
2 issues that we need to discuss. The first of
3 that, of those is the cost savings to the City;
4 the capacity that's available to the City; and of
5 course, the recycling that occurs in the private
6 industry.

7 You know, as we've seen today the
8 DOT's not been able to prove, at least to our
9 satisfaction and apparently not to the Committee's
10 satisfaction that it, this is going to present a
11 cost savings to the City. You know, they're--
12 they've made a claim that they're going to save \$4
13 million annually.

14 The current price from the four
15 area vendors, the average price for the four area
16 vendors for Queens is \$57.35. On the 200,000 tons
17 that they produce in Queens or that they have a
18 demand for in Queens each year, that means they'd
19 have to save \$20 a ton to realize that savings.
20 That means that their cost per ton would have to
21 be somewhere on the order of \$37 a ton. And what
22 we've provided to the City Council is an economic
23 breakdown which is based in reality of this basic
24 project and based on our experience operating in
25 the asphalt industry.

1
2 You can see very clearly that the
3 raw material alone to create one ton of asphalt
4 and that considers recycling asphalt as well is
5 \$39 a ton. Add on top of that the cost of labor,
6 add on top of that the cost for the equipment and
7 maintenance, utilities, and then also the
8 acquisition cost and you're looking at a cost to
9 the City of about \$66.77 a ton. And, you know,
10 this is a real breakdown. And this is what we
11 believe the DOT should be required to show to this
12 Committee, something along this order, to prove
13 that there is actually a cost savings here.

14 In terms of the green product I
15 think some of my other panel members will get into
16 it in more detail but, you know, there really is
17 no incentive for the private industry not to use
18 recycled material. And to our knowledge, you
19 know, one of the cost savings here that's being
20 claimed is that rap is not going to be land
21 filled. To our knowledge not a ton of rap has
22 been land filled anytime in the recent past. This
23 material is stockpiled and it's a valuable
24 commodity to the asphalt industry.

25 You know, the private vendors take

1
2 this product at no cost to the City and
3 incorporate it into the same product that is--that
4 we manufacture. As a matter of fact the Willets
5 Point Plant is a brand new plant that's
6 specifically designed to incorporate rap. And
7 it's capable of doing up to 40% with great ease.

8 And the last issue is the capacity.
9 And in Queens alone there's 1.6 million tons of
10 capacity in private plants. And that's excluding
11 the capacity that's available from the Grace
12 plant. The total usage in Queens right now is
13 about 1 million tons including the DOT's 200,000
14 and then that that is used in privates.

15 So that means that there's an
16 excess capacity out there and, you know, there's
17 certainly the ability to fill the needs of the
18 City DOT even if the Grace Asphalt plant were not
19 there.

20 So in summary, you know, our
21 feeling is that the business--the City has no
22 business being in business. You know, this is
23 what the private industry does. We've shown that
24 we sell product to the City, generally at \$10 to
25 \$15 per on less than the private market. You

1
2 know, if you were a private company coming to
3 purchase, you're going to pay a lot more than the
4 City pay. And that's because this volume is
5 critical to the private industry to keep volume so
6 that we can spread our fixed costs over that
7 volume.

8 So we ask that the City, the
9 Committee vote against this proposal from the City
10 and leave the production to the privates.

11 [Pause]

12 MR. RICHARD DAVIDSON: Hello?
13 Yeah, my name is Richard Davidson. I'm here
14 representing Canal Asphalt, Inc. We are one of
15 the five vendors that the City has contracts with.
16 And I put together a little summary that you have
17 on our letterhead. It's just again challenging
18 two of the reason why the City feels it's
19 necessary to purchase or take over this plant in
20 Queens.

21 We are one of the two plants
22 approved by New York City to supply asphalt
23 material with 40% rap. The bids that are put out
24 by the City annually don't even allow you to do
25 40%, they allow up to 30% but we did receive a

1
2 call in the last year to see if we would bump up
3 our recycled product up to 40%. And it took about
4 a two weeks' time and then we did so. We're
5 always looking for ways to, you know, lessen our
6 costs and also have a good impact on the
7 environment. So we're, you know, we look forward
8 to the day we can do 50% rap.

9 And as far as the capacity
10 situation with the City goes, we're very
11 disappointed in what they've taken. Our zone is
12 southern Bronx, northern Queens. In all of 2008
13 the City only asked for 5,000 tons to Queens. We
14 can give them 200,000 tons. They just haven't
15 come in.

16 And getting back to what Dan was
17 saying about pricing, for 15 years the City has
18 been \$10 to \$12 below our lowest customer. And
19 they continue to be so because they do have that
20 promise of volume where we can spread our fixed
21 costs. And we would welcome a lot more tonnage.
22 And we are certainly open and waiting to get--
23 receive that at a much cheaper price that the City
24 would be able to do it.

25 And getting back to Dan's analysis

1
2 of the costs on that sheet, that excluded some of
3 the items that you addressed which was the
4 acquisition of the property, the upgrade, and I
5 think by testimony earlier, it sounds like they
6 need 2 more people to run the plant. So I don't
7 know how they'd be doing it cheaper. You know, 10
8 versus 12, etcetera.

9 And that's pretty much all I have
10 to say. I welcome any questions.

11 MR. JAMES A. HORAN: Good morning.
12 Good morning. My name is Jim Horan and I'm with
13 Flushing Asphalt and I have an asphalt plant in
14 Queens, the Borough of Queens. First of all it's
15 an honor to be here, first time I was ever in City
16 Hall and I, I am very happy that I am here.

17 But I'm not happy what I hear with
18 the City. We are a vendor for other agencies, for
19 the Port Authority of New York. We haven't done
20 any City work. I got phone calls this month and
21 they said would you be interested in bidding the
22 City work and I said yes to two of the people in
23 the City.

24 So our plan this year, okay, is to
25 bid the City's Queen Supply Contract which we have

1
2 never done. That facility where I am has never
3 done. So in response to if Grace Asphalt Plant
4 ever was to go out of business for any reason,
5 there would be another asphalt plant, Flushing
6 Asphalt, and there's Tully, Willets Point and
7 there's also a plant I think the City, which
8 nobody mentioned, Rayson [phonetic] Asphalt which
9 is down in Cedarhurst which has supplied the City
10 at one year or another with City asphalt.

11 In reference to your answer--I'm
12 going to skip over 'cause we can't, you know,
13 we're going to read parts of the things and you
14 have--in reference to your live product, okay, let
15 me try to make that clear. Live product, okay,
16 live product, asphalt, you make it at a
17 temperature and you transport it. The City is
18 making it--DOT is making it sound like after a
19 certain amount of time it's going to be a waste.
20 It will be. It has to be very cold and a very,
21 very long time to do that.

22 The City on the other hand, in the
23 early morning hours will contract with Tully or
24 the Bronx, they'll take product from their asphalt
25 plant in New York City, in Brooklyn, drive it up

1
2 to the Queens operation, dump the asphalt which is
3 good, into the City asphalt hopper and lay it
4 down. And then the second load will go over to
5 Tully and so their response--my response to that
6 is you're doing it now. There's nothing wrong
7 with it. You can't come out here and say that
8 it's a problem because you're doing it every
9 morning or every night.

10 Your question was are you going to
11 take away any asphalt from the other competing
12 asphalt plants. Yes. If the City of New York
13 goes over to that asphalt plant, it's going to
14 take material away from Willets Point, 200,000
15 tons; Willets Point probably does about 100,000,
16 120,000 tons.

17 My--what would happen to me is
18 Willets Point now would be looking for more vendor
19 work. It would compete against me a lot harder.
20 Okay, I would have to probably come down with my
21 numbers and you start going down with numbers, you
22 know, somebody's going to go out of business.
23 There's not enough volume.

24 I think they mentioned it before.
25 There's not enough volume in the City of New York,

1
2 private and with the City, to keep three asphalt
3 plants going here. I mean the City goes over
4 there, buys asphalt every single day and I don't
5 think I ever heard one problem with the City
6 saying that they were refused asphalt plant at the
7 Grace location or at the Willets Point location.

8 And as with the cost, yes, Madam,
9 you said that the City is still in distress. It
10 is. There's a lot of people getting laid off,
11 okay. Hospitals, City hospitals are closing,
12 okay. City Fire Departments are closing at nights
13 over in City Island. Okay. They close the Fire
14 House at night. Policemen are not getting hired.

15 They have the money appropriated
16 for this project which they don't need. They
17 should take the money and put it back in where
18 it's really needed at City hospitals, with the
19 City Fire Department and the City Police
20 Department. I think that would be a much better
21 use now than an asphalt plant where there's not
22 enough asphalt for my plant.

23 I ran 1,000 tons today. I could
24 run 4,000 tons. I think I'm going on and on and
25 on but if anybody has a question, they could ask,

1
2 anybody who wants to come down to Flushing Asphalt
3 Plant, give them a call. And we'll have you over
4 there.

5 CHAIRPERSON LAPPIN: Did you want
6 to testify as well?

7 MR. KENNETH TULLY: Good morning--

8 CHAIRPERSON LAPPIN: [Interposing]
9 And--

10 MR. TULLY: --Council Members. I'm
11 speaking on behalf of Willets Point Asphalt and
12 Tully Construction, two family-owned third
13 generation construction companies. I've been
14 involved for 30 years, and 20 plus years have been
15 involved in our paving and plant division and I
16 currently oversee day to day operations.

17 When I first began to learn of the
18 New York City Asphalt Industry I was told by my
19 father that the New York City-owned asphalt plant
20 was there in agreement with New York City's
21 General Contractor Association to keep
22 construction plants in check with pricing, and has
23 been demonstrated through the low bid process for
24 years, and that would be the extent of New York
25 City operation as long as pricing was competitive.

1
2 Well, as we know this is the third
3 attempt in 15 years to seek a plant in Queens by
4 DOT. All these attempts without providing an open
5 accurate cost of accounting at the Brooklyn plant.
6 In the current marketplace, there is not a New
7 York City contractor that has enough work to
8 employ a full time paving crew. Yet, the City
9 employs five to eight paving crews throughout the
10 Boroughs, all this without providing to industry
11 that they can substantially do this cheaper.

12 For the last 15 years at our
13 Asphalt Plant, New York City DOT has been 20% to
14 40% of annual sales. An important customer to
15 lose this volume in a challenged marketplace would
16 raise our costs to uncompetitive levels adversely
17 affecting our business. Two years ago our company
18 spent a lot of time and money upgrading to a new
19 plant to better serve DOT's needs and to keep up
20 with technology improvements in the industry.

21 I deal with New York City's Asphalt
22 Coordinator on a daily basis and time after time
23 adjust to their daily needs of supply whether it
24 be night work, extra supply that day, or special
25 mix needs. I have no knowledge of any time that

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2 New York City DOT could not have adequate supply
3 from this or other vendors to meet requirements.

4 The City has a concern for
5 recycling of its rap. This vendor took from the
6 city in excess of 50,000 tons a year, well above
7 contract requirements and at this writing to my
8 knowledge both storage facilities that the City
9 stores uses their rap after milling are depleted
10 and this is accomplished by coordinating with the
11 area plants that serve New York City.

12 In closing, I ask the Council to
13 require DOT to provide that they can substantially
14 make asphalt at this facility before acquiring it
15 for less than they currently pay in the
16 marketplace. We ask this so our plant does not
17 lose an important customer to our viability of
18 providing New York City with asphalt like we've
19 done since 1952.

20 CHAIRPERSON LAPPIN: Thank you. I
21 do have a couple of questions. And I wanted to
22 welcome our newest Councilwoman, Councilwoman
23 Julissa Ferreras, who I think deserves a round of
24 applause.

25 [Applause]

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2 CHAIRPERSON LAPPIN: I'm impressed
3 that you're here, not out having lunch with your
4 family celebrating being sworn in.

5 There was one point the City made
6 which I wanted to bring back which is you guys
7 presumably are trying to make a profit 'cause you
8 are for-profit businesses.

9 MR. TULLY: Yes.

10 CHAIRPERSON LAPPIN: So how much
11 does that impact your pricing? I mean you're
12 businesses, I'm not like you shouldn't be making a
13 profit but I'm sure that that adds to what you're
14 charging the City to produce the asphalt, right?

15 MR. TULLY: Correct. Well in
16 reality we look at the City's volume as a--as we
17 had said in testimony, spreading out our--

18 MR. HORAN: [Interposing] Fixed
19 costs.

20 MR. TULLY: --fixed costs on an
21 annual basis. So we actually sell at a less than
22 profit level at that pricing.

23 CHAIRPERSON LAPPIN: Meaning when
24 you sell to the City, you're not taking any profit
25 or you're taking less of a profit than you would

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2 from what you charge private vendors--

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MR. TULLY: [Interposing] If we took that volume out of our plant, our profit would have to be--our pricing would have to be much higher. So we include that volume at basically cost to spread that out.

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CHAIRPERSON LAPPIN: So you're saying that you do not make any profit from your contracts with the City, you break even.

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MR. TULLY: That's correct.

CHAIRPERSON LAPPIN: Each of you going to say that?

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MR. HORAN: No what I'm going to say is, I mean you'll learn a little bit here, where - - , I'm his competitor, okay, when it comes down, we're here for one purpose, but I'm his competitor. And I don't have the City work, and my price, okay, a lot, even--what he could do, he gets the City bid, he puts that in at minimum, pays the fixed costs and everything else, the lighting, the real estate taxes. But on the other hand he's selling cheaper to some of the vendors I try--private individuals because he has a fixed cost in there. And his is lower.

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2 So sometimes if I don't use my rap
3 which I forgot to say, I use 40% rap and 45% in my
4 binder, on commercial work, I can't compete with
5 somebody like him if he's in the month of March
6 where I'm slow, a lot of work is not happening
7 right now and the City's coming in in March and
8 April. So his costs will be a lot cheaper than
9 mine in March and April and then in November and
10 December. In the middle of the summer and towards
11 the, you know, or September, October, we're all
12 kind of busier so--

13 CHAIRPERSON LAPPIN: [Interposing]
14 I guess I don't understand. Because you would
15 think it would be the opposite. If you're not
16 making any money from your contract with the City
17 how are you subsidizing your other work?

18 MR. HORAN: It costs, it costs X
19 dollars to start the plant, to turn on the lights.

20 CHAIRPERSON LAPPIN: Um-hum.

21 MR. HORAN: And if you have the
22 lights covered, okay, let's say if I was going to
23 take the City bid and here goes all my trade
24 secrets now, if I was going to bid the City--

25 CHAIRPERSON LAPPIN: [Interposing]

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Don't give away any trade secrets.

MR. HORAN: --work this year--no if I was going to bid the City work this year, I, okay, we're going to figure the City at a cost, okay, below my private, but it's going to cover my taxes. It's going to cover my lights. It's going to cover my labor. It's going to cover--you could do a lot cheaper costing and then I would have to do, if I didn't have the City in there every single day taking 1,000 tons or 2,000 tons.

CHAIRPERSON LAPPIN: Okay. And--

MR. DAVIDSON: [Interposing] I would like to add something to that.

CHAIRPERSON LAPPIN: (Interposing) Sure, sure.

MR. DAVIDSON: --'cause, you know, across the board we bid the City project around this time of year. And I know, 'cause I'm intimately involved in putting the bids together and the pricing for our plant and our costs and everything, and there have been years because of the expected volume falling way short where it's cost us money every time the City comes in because it's that marginal a profit we put on it, to cover

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2 our fixed costs.

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If my zone that I win is expected to take anywhere from 75,000 to 100,000 tons and throughout the year the City comes in and takes 45,000 like they did this year, I lost money. Every ton that they took I technically lost money.

And it sounds hard to believe that you wouldn't mark up, oh well it's the City, it's our volume to cover our fixed costs, counting on-- and it's a gamble to say they'll come in for 75,000 tons. If they don't hit that mark, not only didn't you cover your costs, you lost money every time they pick up.

CHAIRPERSON LAPPIN: I mean I guess the other question I wanted to ask, just from the City's perspective, if Grace goes out, then we are somewhat more at your mercy. So it's in your best interests to have less competition to bid those contracts. Right?

MR. DAVIDSON: Well I'll answer that because there's a lot more vendors available that will bid the City contracts than there are awards. There's only five vendor awards and Staten Island's pretty much an island upon itself.

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2 So you have, I would say, half a dozen to ten
3 plants who can still bid against each other and
4 the missing of Grace Plant is not going to keep
5 the City at its mercy by any means.

6 CHAIRPERSON LAPPIN: Okay. The
7 last question I wanted to ask was about your
8 numeric breakdown that you provided. Because you
9 mentioned \$39 a ton for raw material and I don't
10 know if you misspoke because the handout that you
11 gave me when we met, I don't know was that this
12 week, last week, they all kind of blend together,
13 was \$35.12.

14 MR. SCULLY: We actually just took
15 some of the raw materials, if you looked--what we
16 had given you, if you look down on the utilities,
17 the fuel was listed down there. And we actually
18 readjusted that to reflect the more current
19 pricing. So we took that fuel and we moved it up
20 under raw materials. So if you look, we actually,
21 I think, we had 450,000 gallons originally. We
22 reduced that to 400,000 gallons and we had a unit
23 cost, I think of \$3.20 and we reduced that to
24 \$2.00 to more reflect accurately the market.

25 CHAIRPERSON LAPPIN: Um-hum.

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2 MR. SCULLY: So those costs are
3 there. They've actually been reduced from what we
4 presented to you. And the fuel was just moved up
5 as a raw material cost.

6 CHAIRPERSON LAPPIN: So your
7 utilities number went down then.

8 MR. SCULLY: Correct.

9 CHAIRPERSON LAPPIN: Okay. Will
10 you make sure that the Sergeant has that revised
11 sheet? Just so I could have another copy--

12 MR. SCULLY: [Interposing] Yes we--

13 CHAIRPERSON LAPPIN: [Interposing]
14 Oh you know what?

15 MR. SCULLY: ---provided--

16 CHAIRPERSON LAPPIN: --here it is.
17 It's right here.

18 MR. SCULLY: --that. Yep.

19 CHAIRPERSON LAPPIN: --I've got it
20 right here. I wanted to make sure I had it.

21 Okay. Councilwoman Ferreras, would you like to
22 ask any questions or make any statements? You
23 don't have to. Okay. And I wanted to note we've
24 been joined by Councilman Diana Reyna. Okay.

25 Thank you very much--

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MR. SCULLY: [Interposing] Thank

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you.

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MR. TULLY: [Interposing] Thank

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you.

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CHAIRPERSON LAPPIN: --I wanted to

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bring up the last panel which is James

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Greilsheimer and Anastasia Song.

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[Pause]

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CHAIRPERSON LAPPIN: Unless--

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[Pause]

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[Witnesses getting settled]

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MS. ANASTASIA SONG: Good

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afternoon. My name is Anastasia Song. And I'm

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the Chief Executive Officer of the Hoagland Group

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which is an Investment Holding Company which is

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the owner of Grace Asphalt, LLC; Grace Industries,

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LLC; it's sister civil construction company. We

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also own a 54 megawatt power project in Greenport,

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New York. And we have a construction management

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company.

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We are in the business of

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infrastructure services management. I've heard a

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lot of very interesting things about my plant

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today. And I have a few corrections for the

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record I think on a few points.

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CHAIRPERSON LAPPIN: Bring the mic just a little bit closer. That would be great, thank you.

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MS. SONG: Sure. First of all I'd like to note that the communications throughout this interesting process have been few and far in between. So I actually did not know about this meeting today until this week and only retained my counsel yesterday afternoon who informed me that I should be here this afternoon--this morning. So. I do not have written testimony but I would like the opportunity to submit that into the record.

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Let me give you some chronology on some facts on the situation in front of us. We acquired the assets of the asphalt plant, Grace Asphalt out of bankruptcy in December of 2006. For that we paid the purchase price of about \$18 million and change. At that time we knew the sellers were by definition in distress, and had not adequately capitalized the plant. That's why they were in bankruptcy; they didn't have excess cash flow.

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We understood that we would have to

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2 substantially rehabilitate the facility as part of
3 acquiring the facility to make it a profitable,
4 productive plant. And over the last now 24, 27
5 months, we have invested directly \$5 million in
6 cash equity into the plant in major capital
7 upgrades. And I have a list I could give to you.
8 But they're the type of upgrades that happen for
9 capital rehabilitation, Terex, Pegs and impact
10 crusher [phonetic], power screen screener, Rap-
11 ins, Dillman Duo Drum, 40% recycled, Meeker Dryer.
12 We've rebuilt hoppers, new skids, calibration
13 tanks. We've upgraded exhaust fans and enlarged
14 ductwork. We have added new batch silos. We've--
15 new transfer conveyors, etcetera, etcetera. We
16 have done a lot of capital improvement. One of
17 which the significant effects is that we have now
18 environmentally enhanced this plant to perhaps one
19 of the most state of the art facilities in the
20 Metropolitan New York area.

21 We are fully capable of producing
22 40% recycled rap and in fact do. If you want to
23 come to our yard and see piles of millings that we
24 routinely do use in our mix every day. So this
25 notion that somehow we are environmentally

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challenged is completely erroneous and I'd like to correct the record on that.

In terms of our interaction with the City, we've had a very odd set of correspondences. In May of 2008 I received a phone call from the Department of something-something, Department of--DCAS?

MR. JAMES GREILSHEIMER: Department of Citywide Administrative Services.

MS. SONG: Thank you. A very nice gentleman called me and asked if we were interested in selling our asphalt plant. And I said well the plant wasn't for sale but I was willing to talk to them. He asked about the capital improvements and I sent the list I've just described to you, to him.

We had some discussion back and forth. I didn't hear anything back. In September he called me and said thank you, we're not interested in buying the plant. We continued on our business as usual. In November then, somewhat to my surprise, I received in the mail, a notice of a meeting that had been held the week before saying that a Community Board action had been

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taken regarding our plant which we knew nothing about.

In response to that the owner of our companies, Bill Hoagland, called the Department of Transportation, I believe he spoke to Mr. Orlando who spoke earlier, and inquired what was the nature of this meeting that we had no knowledge of. Mr. Orlando, to my knowledge, informed our owner that this was merely a purely procedural item that they wanted to discuss friendly negotiations with us and that this was only procedural paperwork, etcetera, etcetera. I believe our owner invited Mr. Orlando to come visit our plant and talk to him about this but that invitation was never accepted.

The next thing that we received in February of '08 (sic) last month, I received another call from the DCAS, indicating they wanted to make an offer of our plant for \$16.5 million. Now bear in mind, as I mentioned, we bought this plant out of bankruptcy for \$18 million, put \$5 million of equity infusion, plus several million dollars of working capital. So we're up to now the \$20--high \$20's in capital investment in the

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2 project. And now the City's coming to us with an
3 officer for \$16.5 million.

4 I thought there must be some sort
5 of mistake. This was followed up the following
6 week with another testimonial record of another
7 meeting that had happened without our knowledge.
8 I believe it was the City Planning Commission?
9 Might have met. And issued a very long memorandum
10 describing all sorts of facts and figures of which
11 I had no knowledge and now way to foot or compute
12 or make sense of.

13 And this has led to this very,
14 frankly Kafka-esque experience we've been having
15 about being a private business, a profitable
16 business, doing its business, and suddenly having
17 this Byzantine process descend upon us and this
18 Draconian power and authority of the City, you
19 know, threatened over our heads. This process
20 culminated in one of the more strange turns of
21 events last week when a squadron of City surveyors
22 descended on our plant without notice, without
23 invitation, without any communication whatsoever
24 and asked to kind of survey our plant. And the
25 staff on site had no knowledge of this, called the

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2 owner who was out of town, and we said no senior
3 management was in town. We said wait until we're
4 in town. We'll meet with you.

5

6 In direct contravention of this,
7 the staff, this survey crew returned on multiple
8 occasions including last Saturday, talked their
9 way past our security guards and proceeded to
10 enter our premises and mark out and survey and
11 disturb our piles. As of yesterday when I found
12 out about this, I went and met with one of these
13 surveyors and said excuse me Sir, who are you?
14 What are you doing here? And on what authority
15 are you acting?

16

17 And he indicated the New York City
18 Law Department had directed him to come survey our
19 facility. And I said we'd had no communication
20 about this. And we needed due procedure on this.
21 They can't just come in and disrupt a working
22 facility.

23

24 The gentleman was, of course,
25 unaware that this had happened. This
26 miscommunication. I said respectfully please get
27 off the property. And I gave him my card and said
28 when your folks want to talk to me, here's my

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2 number, here's my e-mail, contact me and we'll
3 talk about this.

4 But so we've had this kind of long
5 series of strange communications which have
6 culminated in my appearing before you today. But
7 I did want to correct, again, the miscommunication
8 about our investment in our plant. We don't buy a
9 plant of this size; invest millions and millions
10 of dollars with the intent of just junking it.
11 That's silly.

12 We're producing product. We sell
13 product every year. In fact in last September, we
14 undertook a 14 month gas hedge to hedge our fuel
15 supply for production of the facility--production
16 up through December of this year. And I don't--
17 can't speak to the numbers that have been bandied
18 about costs savings and frankly I'm not prepared
19 to discuss them today but all I'm saying is
20 perhaps the City savings were predicated on a
21 \$16.5 million purchase price which doesn't--makes
22 no sense in the context of the investment we've
23 made and the fact that we're a profitable ongoing
24 business. And in fact we do make profit on most
25 of the product we sell. That's what we're in the

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business for.

And I think it's a little bit disingenuous to engage into a discussion about frankly the merits or un-merits of a City versus a private enterprise undertaking any business. Municipalities can bond tax-exempt; they have low cost of capital by definition. I mean if you want to get into that, that's a whole separate debate of whether you think business should be socialized or be in private sector hands. And it's a legitimate debate. And we respectfully understand that the City has legitimate eminent domain authority for appropriate purposes.

But the concept of just coming into a small, profitable private business and saying that we're going to offer you some low-ball number and take over your business, not to put a school there, not to put a Police Station, but simply to take over your business and run it ourselves, it borders on the bizarre to me and is reminiscent of things that I can recall say Vladimir Putin and Hugo Chavez and other people have been doing around the world. We're in America saying goodness, that can't happen here. But here we are

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2 sitting in front of you saying what's happening to
3 our business. And I'll stop there.

4 CHAIRPERSON LAPPIN: Obviously and
5 I'm going to ask DOT to come back afterwards
6 because I have a couple of follow-up questions for
7 them. But certainly your chronology of lack of
8 communication is very troubling. And I guess my
9 real threshold question is are you interested in
10 selling to the City or not?

11 MS. SONG: We have invested a lot
12 of money in this business to run an infrastructure
13 asphalt business. This business supplies product
14 to its sister company which we also own, Grace
15 Industries, which is a road and bridge
16 construction company. In fact we've committed
17 80,000 tons of product for this year for a job
18 that the sister company is performing on JFK
19 taxiways for the Port Authority of New York and
20 New Jersey. It's a firm commitment we've made
21 intra-company to provide product.

22 So we're in this business. This is
23 what we do. To be perfectly blunt though, we're
24 business people. If someone wants to come and
25 talk to us about a legitimate viable offer for our

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2 business, factoring in the money we've put in--

3 CHAIRPERSON LAPPIN: [Interposing]

4 Right.

5 MS. SONG: --and the business
6 enterprise, we'll talk to anybody who wants to--
7 Donald Trump wants to come; we'll talk to Donald
8 Trump. But under the circumstances where we feel
9 coerced into a position of having to deal with
10 literally City Hall on this, this is a very
11 peculiar position and a very uncomfortable one.

12 CHAIRPERSON LAPPIN: Are you
13 engaged in discussions, I mean you mentioned
14 Donald Trump. Donald Trump aside, with other
15 potential purchasers of this property?

16 MS. SONG: No we're not.

17 CHAIRPERSON LAPPIN: Okay.

18 MS. SONG: We had no intention of
19 selling the plant. This all arose when the DCAS
20 contacted us last summer for the first time.

21 CHAIRPERSON LAPPIN: Do you intend,
22 if the City walked away tomorrow, to continue to
23 produce asphalt for 10, 20 years?

24 MS. SONG: We're in the asphalt
25 production business. We produce it for our own

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2 sister companies. We produce it for the Port
3 Authority. We have jobs for the State. We have a
4 number of private customers, pick-up customers
5 every day. That's the business we're in.

6 CHAIRPERSON LAPPIN: But that said,
7 if somebody came to you tomorrow and offered you
8 \$50 million you would probably walk away. I mean
9 you would say that's a great investment, return on
10 our investment and--

11 MS. SONG: [Interposing] I would
12 assess the terms and conditions of any sale of any
13 business I own. I own businesses to manage them,
14 to operate them profitably. We manage for the
15 long term. We take longer views of our
16 businesses. But it's a business.

17 CHAIRPERSON LAPPIN: Okay. Council
18 Member Liu had a question--oh there he is.

19 COUNCIL MEMBER LIU: Thank you very
20 much. I'm very happy to have you testify today.
21 I know this is a new process for you. Maybe the
22 first time you're at City Hall.

23 MS. SONG: Yes it..

24 COUNCIL MEMBER LIU: So these, this
25 hearing is recorded, video as well as audio so

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2 that a transcript will be developed for the City's
3 record. So it has been less than a year since
4 anybody contacted you about acquisition of your
5 property?

6 MS. SONG: May of last year, yes.

7 COUNCIL MEMBER LIU: And it came
8 out of the blue.

9 MS. SONG: Yes.

10 COUNCIL MEMBER LIU: There was no
11 warning whatsoever, no--

12 MS. SONG: [Interposing] Not to my
13 knowledge.

14 COUNCIL MEMBER LIU: And.

15 MS. SONG: It was a routine call,
16 it came in, I answered my phone.

17 COUNCIL MEMBER LIU: And has the
18 City talked to--has any representative or agent of
19 New York City talked to you about acquiring the
20 property with or without your consent?

21 MS. SONG: The only Department I've
22 spoken to is this DCAS. A very polite gentleman
23 there but that was the only communication I've
24 had. It was perhaps less than half a dozen phone
25 calls in total. I had sent him the information on

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the capital upgrades we did. What do I think what of--that was about the extent of our interaction.

COUNCIL MEMBER LIU: And what is your understanding of what's happening right now? What led you to, to come to today's hearing?

MS. SONG: Well we started reading with greater concern that--first of all you wouldn't believe [chuckling] that the City would come and priv--try to acquire and appropriate our business. It really didn't occur to us that was frankly a viable option. And as it became clear, as I indicated, I retained counsel yesterday. I just met him this morning for the first time. We started looking up some of the citations that were in some of these various memoranda that were coming mysteriously in our mailbox after the fact.

And that led to, I Googled this ULURP which I didn't really appreciate, prior to this last few weeks.

I mean I'm generally familiar with the powers of eminent domain. I mean anyone who's around and reading a newspaper understands that cities routinely need properties for legitimate business, City purposes. So I was sort of

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2 familiar with this process but how this has been
3 working procedurally has been quite an education.
4 And, and an odd one.

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COUNCIL MEMBER LIU: So you're
6 here, so you came here to hear what other people
7 had to say?

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MS. SONG: Well I came here because
9 my counsel indicated that, I explained the
10 situation, he said you ought to go and explain
11 your point of view on what's happened here. And
12 go on the record--

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COUNCIL MEMBER LIU: [Interposing]
14 Well--

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MS. SONG: --so that if other
16 procedures happen I guess I'm preserving or
17 reserving my rights or something like this--

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COUNCIL MEMBER LIU: [Interposing]
19 Right.

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MS. SONG: --so that I have some
21 standing in terms of what's going on as opposed to
22 having sort of missed the boat.

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COUNCIL MEMBER LIU: Well I'm not a
24 lawyer but I will, I will say to you that I think
25 you did the right thing to come to this hearing

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today because I think this is coming out of left field for a lot of us--

MS. SONG: [Interposing] No one called me--

COUNCIL MEMBER LIU: --and it does disturb me, personally, that, you know, I kind of thought from the testimony given by the City that, oh, this was something that the City was pretty far along and they were about to do. At no point did I ever get the sense that we had an unwilling seller, potentially unwilling seller. If the DOT representatives would come back as the Chairperson asked, that would be very helpful for us, for the DOT representatives to clarify. But as far as you know, this is not something you initiated. Well-- you definitely didn't initiate it.

MS. SONG: Um-hum.

COUNCIL MEMBER LIU: And is this something that's--is there anything that's about to happen imminently to the best of your knowledge in terms of a transaction?

MS. SONG: I mean in terms of--what you people are doing or? I--I don't? We run an asphalt business. We have--

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COUNCIL MEMBER LIU: [Interposing]

Is it--is there any sense on your part that the City is about to, to close a transaction or to acquire your property?

MS. SONG: Well we became concerned. We read all these various memoranda from committees that were, were appearing on our doorstep. We have, we use our business. We have property use. We run our business to maximize our asset value. In fact we've also been in discussions with our property in connection with possibly siting a power generation facility right next to the existing asphalt plant and it wouldn't compromise the asphalt production.

And we have a lot of business we engage in all, every day. And we could potentially site two Rolls Royce engines right there and interconnect into Con Edison and have even another use for the property to make a more valuable business enterprise for us so--

COUNCIL MEMBER LIU: [Interposing]

And when officials, claiming to be with the City landed on your property and, and started to take measurements, you did not know where they were

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2 coming from. You inquired. Did you ask them to
3 leave? Or did they--did you ask them to leave and
4 they stayed with some kind of a directive or Court
5 order? Or you just allowed them to stay there?

6 MS. SONG: This sort of all erupted
7 the last about seven days. And I only became
8 aware of it yesterday morning when I stepped in to
9 intervene. Again, we--they were dealing with our
10 junior plant staff that, you know, see
11 credentials, see City waving a badge and they,
12 they assume there's some legitimate purpose--

13 COUNCIL MEMBER LIU: [Interposing]
14 Okay.

15 MS. SONG: --again our staff
16 members had called one of the senior management,
17 not myself, and indicated that we have these
18 people here. And the owner's rep said please wait
19 until we're back in town. We'll meet with the
20 City. Direct them off the property. And that's
21 what happened. They repeatedly returned to the
22 property including on last Saturday--

23 COUNCIL MEMBER LIU: [Interposing]
24 Um-hum.

25 MS. SONG: --when the night guard

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was there. Talked their way past the night guard
and--

COUNCIL MEMBER LIU: [Interposing]

So officials--officials--

MS. SONG: --occupied the property.

COUNCIL MEMBER LIU: --claiming to
represent the City kept coming back to the
property wanting to take measurements without--

MS. SONG: [Interposing] DDS

[phonetic]--

COUNCIL MEMBER LIU: --ever

properly contacting you or any officers of your
company responsible for making these decisions.

MS. SONG: That's correct.

COUNCIL MEMBER LIU: Okay. Thank
you Madam Chair.

CHAIRPERSON LAPPIN: So I just want
to understand. I mean I know you said it but I
just want to confirm for the record--

MS. SONG: [Interposing] Sure.

CHAIRPERSON LAPPIN: Are you or a
representative from your company engaged in any
negotiations or discussions over a price for the
property?

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2 MS. SONG: You mean in terms--
3 except that you gave us a \$16.5 million offer, no,
4 not you, I'm sorry, but--

5 CHAIRPERSON LAPPIN: [Interposing]
6 Right.

7 MS. SONG: No.

8 CHAIRPERSON LAPPIN: Okay. Any
9 other questions? Council Member Reyna, who is not
10 a member of the Committee but welcome.

11 COUNCIL MEMBER REYNA: Thank you
12 very much. I'm just--I came by to say hello to my
13 new colleague, Julissa Ferreras, who got sworn in
14 this morning. And then just continued to listen
15 to this particular hearing. I'm just trying to
16 understand the complexity of whether or not you
17 want to sell or were ever in a discussion to sell,
18 because it feels like we're going through Willets
19 Point all over again. As far as your specific
20 plant is concerned, were you aware that there was
21 a shortage that the City needed that you were not
22 able to provide? Has the City expressed that you
23 need to produce more asphalt?

24 MS. SONG: We have always met the
25 City's requirements to the best of my knowledge.

1
2 Now I'm not the technical operator but we enter a
3 contract every year with the City and provide them
4 whatever they need. We're in the business of
5 selling as much asphalt as we can.

6 COUNCIL MEMBER REYNA: Has there
7 been a negotiation to increase the amount that's
8 being sold to the City to produce--for the City?

9 MS. SONG: The way they submit the
10 solicitations is they give us a series of probably
11 three-quarters of a dozen types of mixes they're
12 going to need for the year ahead, and volumetric
13 numbers associated with that. And then you bid on
14 those mixes. And that's the volume you assume
15 they want. And that's the volume you bid to.

16 Now in my discussions with DCAS I
17 had clearly indicated that we were very flexible
18 to any of our number arrangements the City may
19 want to engage with us, if they wanted any kind of
20 long term off-take contract, we would sit and
21 discuss that. Fixed price, variable price, five
22 years, 24 months, we offered every option we could
23 do to be flexible to be a reliable supplier of
24 asphalt to the City. And we've made that clear
25 every single time we could to anyone who would

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talk to us about this.

COUNCIL MEMBER REYNA: Um-hum.

MS. SONG: There's no shortage to my knowledge in Queens or--certainly from our plant, we have more capacity than we're producing now. We can increase our capacity substantially. It's a matter of demand.

COUNCIL MEMBER REYNA: And so if tomorrow it was presented to you, because I'm reading--I was reading the testimony given by the Department of Transportation concerning the 40-plus % increase in paving demand that therefore creates a demand for asphalt to say that you, as an asphalt plant, would be--have the capacity to increase your production to provide to the City the 40% increase that they are currently in.

MS. SONG: Well the City doesn't take exclusively from our plant--

COUNCIL MEMBER REYNA:

[Interposing] Um-hum.

MS. SONG: --they bid to a number of plants. But we could certainly increase our capacity to the City. That's no problem.

COUNCIL MEMBER REYNA: Um-hum.

1
2 MS. SONG: And have--we'd welcome
3 the opportunity to do that.

4 COUNCIL MEMBER REYNA: But up until
5 this hearing you have not been asked to produce
6 further than what you have been producing.

7 MS. SONG: That's correct.

8 COUNCIL MEMBER REYNA: So you,
9 right now, are meeting all the demands that have
10 been communicated.

11 MS. SONG: That's correct.

12 COUNCIL MEMBER REYNA: And as far
13 as the green industry of asphalt, or in the
14 business of asphalt, are you, your company,
15 introducing any type of capacity for green asphalt
16 production?

17 MS. SONG: Well as I mentioned
18 earlier, we, a lot of this capital investment
19 we've done in the last 24 months, 27 months, has
20 been geared to being able to increase our ability
21 to recycle what's called rap, it's the torn up
22 road beds that millings from the streets.

23 The City brings to our yard, and if
24 in fact you look at our yard now we have a big
25 pile of them, and we put them back into the mix.

1
2 And what with the capital upgrade that we've done,
3 enables us to use a higher percentage of that
4 milling mix into the recycled mix. So it's an
5 environmentally friendly thing and that's one of
6 the reasons we undertook the investment.

7 COUNCIL MEMBER REYNA: So right
8 now--

9 MS. SONG: [Interposing] We do 40%
10 recycled rap right now.

11 COUNCIL MEMBER REYNA: In the last
12 two years, with this investment, you never, as you
13 have been trying to meet a 21st Century green
14 environmentally friendly business, you've in fact
15 moved forward in trying to sustain business for
16 the next at least 10, 20 years.

17 MS. SONG: We've made a lot--puts a
18 lot of money on the table if we're not interested
19 in a long term business model. I think

20 COUNCIL MEMBER REYNA:
21 [Interposing] I--

22 MS. SONG: --the dollars speak for
23 themselves.

24 COUNCIL MEMBER REYNA: I just want
25 to echo the sentiments of my colleague John Liu

1
2 who applauded your appearance at this particular
3 hearing because hearing from you as the business
4 principal changes the dynamics of dialog. And so
5 your presence here and your testimony shares
6 information that we perhaps were not privy to and
7 before a vote, we have to make sure that we're
8 understanding all the elements.

9 And this is clearly a bigger
10 component of the dialog that had not been shared.
11 So I am just as disturbed to hear that we're
12 taking away, or attempting to take away, a
13 business opportunity that has been in perhaps what
14 would be a double investment of trying to make
15 sure that you're turning a green leaf, so to
16 speak, to provide a demand for the City of New
17 York, and be an environmentally friendly business
18 in the City of New York.

19 So I applaud your efforts.
20 Continue to, you know, make sure that you fight
21 this off. Because the business you're in is
22 something that provides the job opportunities that
23 we're looking for, for New Yorkers. And stay in
24 communication with us because this is just the
25 beginning.

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2 MS. SONG: I.

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3 COUNCIL MEMBER REYNA: Thank you.

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4 MS. SONG: Thank you very much.

4

5 CHAIRPERSON LAPPIN: I just want to

5

6 be clear. You're not the owner--you referred to

6

7 the owner. You're the Chief Financial Officer or

7

8 the Chief Operating Officer--

8

9 MS. SONG: [Interposing] I'm the

9

10 Chief Executive Officer.

10

11 CHAIRPERSON LAPPIN: CEO of the

11

12 parent company that owns the plant.

12

13 MS. SONG: I'm the Chief Executive

13

14 Officer of a company called the Hoagland Group

14

15 which is an investment holding company of William

15

16 J. Hoagland who is the owner of all these

16

17 enterprises. I largely manage the businesses on a

17

18 day to day--he's busy, he does a lot of things.

18

19 He stays very much in touch with many of the

19

20 operations but I oversee sort of the general

20

21 commercial daily--

21

22 CHAIRPERSON LAPPIN: [Interposing]

22

23 Right.

23

24 MS. SONG: --matters that come up.

24

25 CHAIRPERSON LAPPIN: So when you--

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1
2 MS. SONG: [Interposing] For all
3 these businesses.

4 CHAIRPERSON LAPPIN: --when you
5 said owner before, who did you mean? You said the
6 owners of the plant--

7 MS. SONG: [Interposing] Our owner,
8 Bill Hoagland.

9 CHAIRPERSON LAPPIN: Okay. Thank
10 you. I want to ask DO--did you want to? Just
11 state your name for the record for the transcript
12 please--

13 [Off mic]

14 CHAIRPERSON LAPPIN: --into the
15 microphone please. Thanks.

16 [Off mic]

17 MR. GREILSHEIMER: I'm James
18 Greilsheimer from the law firm of Kramer, Levin,
19 Noftalis [phonetic] and Frankle [phonetic]. As
20 you heard I was retained yesterday to serve as
21 counsel, particularly as condemnation counsel for
22 the client here.

23 I just wanted to mention that the
24 City's offer in its letter of February 5, 2009
25 from DCAS seems to me to be highly suspect because

1
2 in a condemnation you normally pay for the value
3 of the land and the value of the equipment. Here,
4 as you've heard from Mrs. Song, \$18 million
5 purchase price, \$5 million for upgrade and working
6 capital.

7 MS. SONG: Another \$3 million or so
8 working capital.

9 MR. GREILSHEIMER: And at least
10 that amount becomes the minimum in a condemnation,
11 one is suspect maybe of buying a property out of
12 foreclosure or in bankruptcy because the price may
13 be lower than what a normal arms length price.

14 But the main point that I want to
15 make here is in addition to that value, the City,
16 by taking over an asphalt plant and operating the
17 plant, is paying for something else as well. And
18 that's the going concern value of an operating
19 business. And that will add millions of dollars
20 as well.

21 It's a clear type of case. The
22 United States Park Service acquires the souvenir
23 shop outside of a national park and continues to
24 operate that facility as a souvenir shop. The
25 courts consistently hold that government must pay

1
2 not only for the land and the equipment but also
3 for the going concern value. It's unlike other
4 type of condemnation cases--

5 CHAIRPERSON LAPPIN: [Interposing]
6 Okay.

7 MR. GREILSHEIMER: The second point
8 that I'd just like to underscore is a concern at
9 the lack of due process in the sense that we never
10 received notices as we should have about this
11 matter. And concern as a violation of Article 4
12 of the Eminent Domain Procedure Law--

13 CHAIRPERSON LAPPIN: [Interposing]
14 I don't--I mean I guess I just want to--

15 MR. GREILSHEIMER: --about--about
16 City representatives entering the land without
17 permission or without a Court order. There's an
18 express provision, I think it's Section 406, that
19 provides how the City or any condemnor can do some
20 pre-vesting examination of the property, even
21 environmental testing, for example, and do the
22 borings. That is a procedure that should have
23 been followed here.

24 CHAIRPERSON LAPPIN: Okay. I'm
25 just going to stop you. One, because we're

1
2 running out of time. But two, because that's not
3 what we're--while it's a very important point to
4 make, not what we're discussing today. And in
5 fact I had never heard the words condemnation or
6 eminent domain until you two came and testified.
7 I'm glad that you did. We're going to bring DOT
8 back. I just wanted to ask Councilman Liu if you
9 had a brief follow-up question 'cause we have to
10 be out of here in ten minutes.

11 COUNCIL MEMBER LIU: Well I mean
12 just so we make--so we keep everything kosher, I
13 just want to ask our attorney here, that based on
14 you coming on the case just yesterday, are you
15 sure all of those things that you describe
16 happening actually did happen?

17 MR. GREILSHEIMER: I said it
18 appears to me to be highly suspect. I've heard
19 from Mrs. Song. I have not called the Law
20 Department to find out why they did not follow or
21 appear not to follow--

22 COUNCIL MEMBER LIU: [Interposing]
23 Okay so you're not actually--

24 MR. GREILSHEIMER: --Article 4.

25 COUNCIL MEMBER LIU: --in fact,

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certain that a condemnation proceeding is under way.

MR. GREILSHEIMER: Oh condemnation could not be underway until the ULURP process is completed--

COUNCIL MEMBER LIU: (Interposing)
Um-hum.

Mr. GREILSHEIMER: --I mean in terms of the City cannot take the property here unless it goes through a ULURP process and you're the final stage, most likely, in the ULURP process. And then after that occurs, then the City could either move to condemn the property--

COUNCIL MEMBER LIU: [Interposing]
Okay.

MR. GREILSHEIMER: --the--or it could begin a whole Article 2 Eminent Domain Procedure Law public hearing process--

COUNCIL MEMBER LIU: [Interposing]
Okay. So the--

MR. GREILSHEIMER: [Interposing]
Condemnation is not happening tomorrow.

COUNCIL MEMBER LIU: Right.
Getting back to Mrs. Song.

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MS. SONG: Song, S-O-N-G.

COUNCIL MEMBER LIU: The Deputy Commissioner on behalf of the City DOT talked about--they do mention Grace. They said that Grace went into bankruptcy and you are the present owner or you're representing the present owner.

MS. SONG: That's correct.

COUNCIL MEMBER LIU: How long ago was that actually, did--

MS. SONG: [Interposing] We acquired the facility out of the bankruptcy court in December of 2006.

COUNCIL MEMBER LIU: Okay. So that was just a couple of years ago.

MS. SONG: Um-hum.

COUNCIL MEMBER LIU: And they do express concern whether, concern about the ability or the willingness to stay in the asphalt production business.

MS. SONG: Perhaps they could clarify. We've had very limited communication with anybody, frankly, in this entire process. And by the way, I was just informed, our owner actually has arrived. He was in flight. Could I

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introduce William J. Hoagland.

COUNCIL MEMBER LIU: Um-hum. Okay.

MS. SONG: Who's the owner of the facilities we've been describing.

COUNCIL MEMBER LIU: Okay. But before you talked about how you're in the business of making asphalt--

MS. SONG: [Interposing] That's correct.

COUNCIL MEMBER LIU: --and you'll make as much asphalt as the city will buy.

MS. SONG: That's right.

COUNCIL MEMBER LIU: So is that your--is that the company's intent?

MS. SONG: Yes.

COUNCIL MEMBER LIU: Okay.

MS. SONG: We wouldn't have invested \$5 million of capital and \$3 million in working capital and a lot of time--

COUNCIL MEMBER LIU: [Interposing] You mentioned that you--you supply asphalt to other businesses--

MS. SONG: [Interposing] Yes.

COUNCIL MEMBER LIU: --owned by the

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2 same person. What kinds of other businesses are
3 there?

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MS. SONG: We have a sister
5 company, Grace Asphalt, LLC is the asphalt
6 producing plant. We also have a business called
7 Grace Industries, LLC which is a civil
8 construction company that does roads and bridges--

9

10

COUNCIL MEMBER LIU: [Interposing]
I see.

11

MS. SONG: --and--

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COUNCIL MEMBER LIU: [Interposing]

13

Okay.

14

MS. SONG: --as an interfamily, we-

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COUNCIL MEMBER LIU: [Interposing]

17

Got it.

18

MS. SONG: --sell asphalt for--

19

COUNCIL MEMBER LIU: [Interposing]

20

So it made sense to acquire an asphalt--

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MS. SONG: [Interposing] It's--

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COUNCIL MEMBER LIU: --you didn't

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acquire that--you didn't acquire the Grace that

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had gone bankrupt for the purposes of just taking

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the land and perhaps selling it off at some future

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2 point.

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MS. SONG: We wouldn't have put all this money into that because it's only--the only value of the capital improvements that we've done is for asphalt production. Rap hoppers and other things have no value except in asphalt production--

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COUNCIL MEMBER LIU: [Interposing]

Okay. And then Grace went into bankruptcy but... okay. I--thank you very much. I'll contact you with additional questions--

MS. SONG: [Interposing] Certainly

Sir--definitely.

COUNCIL MEMBER LIU: --thank you

Madam Chair.

CHAIRPERSON LAPPIN: Thank you very

much. I just want to get DOT up here before we run out of time.

[Pause]

CHAIRPERSON LAPPIN: So. When we

met and discussed this project you never once mentioned the possibility of eminent domain or condemnation of the property. In fact we discussed potential purchase price of the

1
2 property. And you also indicated that--or you
3 gave me the impression, I don't want to say you
4 said, you gave me the impression that you were
5 negotiating with the owner. So what's the truth?

6 MR. CANNISI: The acquisition, the
7 ULURP action permits acquisition through
8 negotiation or through condemnation, eminent
9 domain. As was mentioned here, that can't even
10 happen until the ULURP is finalized.

11 However I want to say something
12 right up front. I'm very, very surprised at the
13 testimony we just heard. In late 2006 the current
14 owner, Mr. Hoagland who's sitting back there, had
15 extensive conversations following that with
16 Assistant Commissioner Galileo with the
17 discussions were around DOT purchasing this plant.

18 We've had extensive conversations,
19 in fact we did two appraisals on the property
20 where his representative allowed us in, and we're
21 talking about over--about a year ago, not--not
22 within the last seven days. And what we--what
23 happened over the last seven days is we recognized
24 that a specialty appraisal will be necessary to
25 have full negotiations so we can factor in all of

1
2 the elements that were just discussed here
3 including the ongoing concern so that a fair price
4 can be reached for all parties and that everyone
5 can be satisfied at the end of it.

6 So there was notification that was
7 give out about a year ago at least, prior to the
8 ULURP application even being filed. Where folks
9 from DCAS and then later from a contractor that we
10 had hired 'cause there were two separate
11 appraisals that had gone on that only looked at
12 property and equipment.

13 MR. ORLANDO: I'd like--I'm sorry,
14 I'd also like to add to that, there was also an
15 environmental assessment, several surveys, several
16 site visits by our consultant, all coordinated
17 through the owner and the owner's representative,
18 namely his son, who is at the site. And I believe
19 the ULURP process also sends the notification to
20 the business address. So there's apparently some
21 disconnect between Ms. Song and the rest of the
22 company from what was apparent today.

23 CHAIRPERSON LAPPIN: Yeah I'm very
24 disturbed. Because this is a hearing for the
25 record and I'm hearing different stories from

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2 different sides that are sort of dramatically
3 different. So.

4

5 I want to go through again, what,
6 from your perspective, the communication has been
7 with the owner of this property. So I know you
8 just mentioned it. I just want to go through it
9 again. Very clearly for the transcript and for my
own edification.

10

11 What exactly did you do, and I
12 assume that you have--what do you have records to
13 show? And what did you do in terms of
14 communication with the owner? Separate from the
15 ULURP process. I want to come to that in a
16 minute. Just in terms of assessing the property
and having negotiations over a purchase price.

17

18 MR. CANNISI: As I said, we had two
19 appraisers enter the property with the owner's
permission.

20

CHAIRPERSON LAPPIN: When?

21

22 MR. CANNISI: I believe it was last
year some time.

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24 CHAIRPERSON LAPPIN: Let's take a
25 step back. From DOT's perspective. When did you
first notify the owner of an interest in the

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2 property?

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MR. ORLANDO: First, the communications were phone calls. We were initially contacted by the owner of the property after the--they were bought at bankruptcy, asking if we had an interest in procuring that plant. The owner contacted us. We did not contact the owner. At that point we started looking and starting up the ULURP process.

CHAIRPERSON LAPPIN: When you say the owner--

MR. ORLANDO: [Interposing] We, DOT never had negotiations on acquisitions with the owner, we never discussed a price. That would be DCAS' role. And only after the ULURP approval. There was several appraisals, in part of trying to set up the funding to, to get this. And we have copies of those appraisals. At least--one was done by DOT the other one was done by DCAS. We certainly could readily provide the DOT version and possible the DCAS one which has details of dates and visits and things like that.

There was also, like I said, an environmental assessment done on the site.

1
2 Several surveys, visits by a consultant. And
3 numerous occasions where we needed access to the
4 property and we were granted access to the
5 property.

6 CHAIRPERSON LAPPIN: In writing.

7 MR. ORLANDO: No. Through a phone
8 call, that we're coming on this day, can--would
9 you have a problem. And we came there. And in
10 fact we toured the property on two occasions with
11 the owner and the owner's son and our consultant.

12 CHAIRPERSON LAPPIN: When were
13 those tours?

14 MR. ORLANDO: We would have to dig
15 up the actual date. I, I hesitate to give you the
16 specific date now. But those records could be
17 presented.

18 CHAIRPERSON LAPPIN: I would like
19 to see those records. And that's in the last
20 year--I mean just ballpark. Last year, this year--
21 -

22 Mr. ORLANDO: [Interposing] Within
23 the last two years.

24 CHAIRPERSON LAPPIN: --the last.

25 MR. ORLANDO: [Interposing] Within

1

2 the last two years.

3

4 CHAIRPERSON LAPPIN: Within the
5 last couple of years, prior to the ULURP process
6 beginning?

6

7 MR. ORLANDO: Some prior and most
8 during the ULURP process.

8

9 CHAIRPERSON LAPPIN: Is anybody
10 here from DCAS?

10

11 MS. ARDITO: I don't believe so
12 Chairman.

12

13 CHAIRPERSON LAPPIN: Okay. So.
14 [Pause]

14

15 CHAIRPERSON LAPPIN: In terms of
16 the ULURP process itself, DOT is the lead agency,
17 the applicant? Or DCAS?

17

18 MR. CANNISI: I believe that we're
19 co-applicants.

19

20 CHAIRPERSON LAPPIN: Okay. Has DOT
21 notified the owner about the Community Board
22 meeting, the City Planning Committee meeting? I
23 understand legally there is not a requirement to
24 do that but I would think it would be the
25 appropriate thing to do. And I'm wondering if you
had.

1
2 MR. ORLANDO: There's no written
3 notification, no.

4 CHAIRPERSON LAPPIN: Okay. And
5 that's a little troubling. You know, I would
6 think at a minimum even if you don't have the
7 legal requirement if you're trying to negotiate
8 with this owner you would keep them posted about
9 the ULURP process.

10 I think what would be very helpful
11 for me, because it's sort of disturbing to hear
12 two very different accounts of these events, is to
13 get in writing from DOT a letter providing for the
14 chronology of which events have transpired. What
15 you testified to today, what you may not have
16 thought of today. But if you could detail your
17 version of events. Both what happened over the
18 phone, what happened in person, what happened in
19 writing, who--when you say the owner spoke to us,
20 you know, who spoke to who. And when.

21 And if you could give us that in a
22 very detailed manner, that would be very helpful
23 in terms of trying to get a clear and actual
24 account of what transpired.

25 MR. CANNISI: We will do our best.

1
2 As Assistant Commissioner Orlando said, we do have
3 the--our own appraisal that was dated, I believe,
4 we also may have the DCAS one that was dated as
5 well. So that we know when--we know the access to
6 the property took place before that.

7 CHAIRPERSON LAPPIN: Well I guess
8 that--and counsel made a good suggestion and I see
9 Patrick Wheely [phonetic] here, even if DCAS is
10 not present, I would like to have a compiled, you
11 know, one letter, it could be from DCAS and DOT,
12 it can be just from DOT, but one letter that
13 clearly lays out what each agency did and whom
14 they spoke with and how we got to where we are
15 from your point of view. Council Member Liu.

16 COUNCIL MEMBER LIU: Thank you
17 Madam Chair. So a couple of you, Commissioner
18 Cannisi and I'm sorry but--

19 MR. ORLANDO: [Interposing]
20 Orlando.

21 COUNCIL MEMBER LIU: [Interposing]
22 Right. Orlando, both of you stated that you had
23 accompanied the owner and had been in direct
24 conversations with the owner of the property.

25 MR. ORLANDO: Yes.

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COUNCIL MEMBER LIU: Okay.

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Mr. ORLAND: We've actually toured

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the property--

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COUNCIL MEMBER LIU: [Interposing]

6

Okay--

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MR. ORLANDO: --with the owner, his

8

son and our consultant--

9

COUNCIL MEMBER LIU: --would that

10

be the gentleman in this room right now?

11

MR. ORLANDO: Yes.

12

COUNCIL MEMBER LIU: Okay. And

13

what is your--the earliest date that you recall

14

having a face to face conversation?

15

MR. ORLANDO: I would say it would

16

be the spring of 2007.

17

COUNCIL MEMBER LIU: 2007. So two

18

years ago.

19

MR. ORLANDO: Correct.

20

COUNCIL MEMBER LIU: Okay.

21

MR. ORLANDO: The recollection is--

22

COUNCIL MEMBER LIU: [Interposing]

23

So--

24

MR. ORLANDO: --that after they

25

bought the property at bankruptcy, they reached

1
2 out to us and asked us if we had an interest in
3 procuring their property.

4 COUNCIL MEMBER LIU: They reached
5 out to you.

6 MR. ORLANDO: Correct. Correct.
7 The owner--

8 COUNCIL MEMBER LIU: [Interposing]
9 Okay.

10 MR. ORLANDO: --the owner reached
11 out to us in a phone call saying I bought this
12 property. I'm not interested in staying in the
13 asphalt business for the long term, would you be
14 interested in buying it.

15 COUNCIL MEMBER LIU: Um-hum.

16 Mr. ORLANDO: That's how all this--

17 COUNCIL MEMBER LIU: [Interposing]
18 And that was in--

19 MR. ORLANDO: --go initiated.

20 COUNCIL MEMBER LIU: --a face to
21 face conversation, you, Orlando, had with Mr.
22 Hoagland--

23 MR. ORLANDO: [Interposing] That
24 was on a phone call. That was on a phone call.
25 And it was subsequently followed up, after hiring

1
2 a consultant, and starting--securing funds, hiring
3 a consultant, to do the ULURP process. And our
4 consultant with myself, several representatives of
5 DOT, and the owner and his son, toured the
6 property. And sort of discussed the ULURP process
7 and had a tour of the property.

8 COUNCIL MEMBER LIU: Okay. Well
9 [chuckling] The--this is... at worst the--

10 MR. ORLANDO: [Interposing] We did
11 not--

12 COUNCIL MEMBER LIU: --the left
13 hand totally does not know what the right hand is
14 doing at the, the current owner of this site or
15 this is a huge comedy of errors. Madam Chair I
16 think you've done the right thing in requesting
17 written records of the proceedings. Thank you.

18 CHAIRPERSON LAPPIN: Thank you.
19 And I'd like to have that by Friday. And we're
20 going to adjourn this meeting, this hearing and
21 this meeting until 9:30 A.M. Tuesday morning.

22 MR. CANNISI: I'd like to add one
23 thing. You should already have the cost breakdown
24 on asphalt. It was sent to you during this
25 meeting.

1

CHAIRPERSON LAPPIN: Okay.

2

3

MR. ORLANDO: Just one last thing,

4

Madam Chair?

5

CHAIRPERSON LAPPIN: Yes.

6

MR. ORLANDO: Here, we have a

7

printed copy of our cost breakdown for the \$47 as

8

published in the MMR.

9

CHAIRPERSON LAPPIN: Great.

10

MR. ORLANDO: And we'd like to

11

enter that as a matter of record.

12

CHAIRPERSON LAPPIN: Great.

13

[Background noise]

14

CHAIRPERSON LAPPIN: Okay before I

15

adjourn the hearing, I'm going to allow Bill

16

Hogan--I'm not pronouncing your name, right, I'm

17

sorry, to come and testify.

18

[Pause]

19

[Background noise]

20

CHAIRPERSON LAPPIN: Go ahead.

21

Introduce yourself for the record and begin.

22

MR. WILLIAM J. HOAGLAND: Hi. My

23

name is Bill Hoagland and I'm the owner of Grace

24

Asphalt.

25

CHAIRPERSON LAPPIN: Did you want

1

2 to testify? I only called you up because you'd
3 filled out a slip indicating that you wanted to
4 testify. I don't--

5 Mr. HOAGLAND: [Interposing] No I--

6 CHAIRPERSON LAPPIN: --have any
7 questions for you.

8 MR. HOAGLAND: --oh, okay. I'm
9 just saying I was asked by the City if I was
10 interested in--not the other way around. I just
11 want to make that clear. And buying an asset,
12 when I bought that, that asset, I did have
13 envisions of putting a power plant and still do,
14 on that property.

15 And when it was brought up to me,
16 never owning an asphalt plant before, would you be
17 interested in selling it, I said it's an asset and
18 if--at the right price I'd be interested in
19 selling it. That--that's the extent of where I
20 went with that.

21 So I wouldn't invest \$20-some odd
22 million into something to take \$16 million for it.
23 You know, I said I'd--in fact when I spoke to
24 Galileo on the phone a couple of weeks ago, I said
25 rather than allow you to come in and do eminent

1
2 domain which he brought up to me could happen, I
3 said I would shut the asphalt plant down before I
4 would allow you to do that. So. That's--you
5 know--I--

6 CHAIRPERSON LAPPIN: [Interposing]
7 Are you planning--is your intention, I'm going to
8 ask you the same question I asked Ms. Song
9 earlier, is your intention over the long term to
10 use this as an asphalt plant or to sell the
11 property to whomever will pay the most money for
12 it?

13 MR. HOAGLAND: The long term plan
14 was to use it as an asphalt plant, okay, and
15 utilize the rest of the property, possibly to put
16 a peak generation plant in, a very small plant,
17 which I happen to own one on the East End of Long
18 Island. I thought that that would be a, you know,
19 duplicate what I have out in Green Port, put it in
20 Queens. And I've had many discussions and spent
21 some soft money with engineering and having many
22 discussions with the New York Power Authority and
23 Con Edison on it.

24 MS. SONG: They would coexist. The
25 asphalt plant--

1

CHAIRPERSON LAPPIN: [Interposing]

2

You have to speak into the microphone--

3

MR. HOAGLAND: [Interposing] They

4

would coexist, yes.

5

CHAIRPERSON LAPPIN: And did you,

6

were you or your son present at these meetings

7

that DOT discussed today?

8

MR. HOAGLAND: Yes I was present

9

with Galileo one time, we walked around the

10

property. And like anything else, if they would

11

have come in and offer a premium for what I paid

12

for it, I would have to take it under

13

consideration just like I've sold other businesses

14

before that were not for sale. So. I did not buy

15

the plant to sell it to the City of New York. It

16

was never--that was never the intention.

17

CHAIRPERSON LAPPIN: Okay. Thank

18

you. All right. We're going to adjourn--

19

MR. GREILSHEIMER: [Interposing] We

20

would ask that the City--

21

CHAIRPERSON LAPPIN: [Interposing]

22

You have to speak into the microphone.

23

MR. GREILSHEIMER: Thank you.

24

CHAIRPERSON LAPPIN: Um-hum.

25

1
2 MR. GREILSHEIMER: The City's--the
3 DOT letter to the Committee, be made available to
4 us as a copy on Friday, so that we can respond to
5 it before you resume hearings on Tuesday.

6 [Pause]

7 CHAIRPERSON LAPPIN: We'll take
8 that under advisement and if we can we will, but I
9 can't commit to that--

10 MR. GREILSHEIMER: [Interposing]
11 Thank you. I should communicate with Ms. Benjamin
12 then?

13 CHAIRPERSON LAPPIN: Sure.

14 MR. GREILSHEIMER: Thank you.

15 CHAIRPERSON LAPPIN: Okay. This
16 meeting is adjourned until Tuesday at 9:30 in the
17 morning.

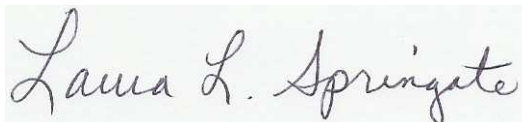
18 [Gavel banging]

19 CHAIRPERSON LAPPIN: Recessed, what
20 did I say?

21 [END TAPE 1004]

C E R T I F I C A T E

I, Laura L. Springate certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Laura L. Springate". The signature is written in black ink on a light-colored background.

Signature Laura L. Springate

Date April 10, 2009