

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FINANCE

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June 19, 2009  
Start: 02:02 pm  
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HELD AT: Committee Room  
City Hall

B E F O R E:  
DAVID I. WEPRIN  
Chairperson

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Diana Reyna  
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Gale A. Brewer  
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## A P P E A R A N C E S

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Darlene Mealy  
Peter F. Vallone, Jr.  
Kendall Stewart  
Charles Barron  
Jessica S. Lappin

## A P P E A R A N C E S (CONTINUED)

Preston Niblack  
Finance Director  
City Council of NYC

Stuart Klein  
Deputy Budget Director  
NYC Office of Budget and Management

Ross Holden  
VP/General Counsel  
NYC School Construction Authority

Elizabeth Bergin  
Senior Director of Capital Planning  
NYC School Construction Authority

Kathleen Grimm  
Deputy Chancellor  
NYC School Construction Authority

CHAIRPERSON WEPRIN: Good

afternoon. I could have said good evening, and I didn't say good morning. Welcome to this City Council Finance Committee hearing. My name is David Weprin. I chair the Finance Commission. Today we will take those actions necessary to recommend an expense and capital budget to the full City Council as well as those actions necessary to fix the property taxes and take action on budget-related Intros for Fiscal Year 2010. All of these actions will help us adopt the Fiscal Year 2010 budget. As you all know, this is the eighth and final City budget that I will be working on as Chair of the Finance Committee. I don't know if that applause is good or bad, but I'll take it in a good way. Over the years I've come to appreciate that the true story behind every budget is the tremendous leadership effort made by the entire City Council and the Mayor to balance the City's priorities and work together for the benefit of all New Yorkers. On a personal note, I want to say that I've truly enjoyed working with a very, very professional finance staff headed up by Preston Niblack and all of my

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2 colleagues on the Finance Committee who have  
3 really contributed individually and really been a  
4 very, very important part of the overall process.

5 MALE VOICE: What are you going to  
6 be doing next year?

7 CHAIRPERSON WEPRIN: I hope to be  
8 Controller of the City of New York if you must  
9 ask. Over the years we have made meaningful  
10 impacts on the lives of New Yorkers by reducing  
11 assessments on real property taxes to homeowners,  
12 reducing taxes on small businesses and adding \$2.6  
13 billion to the Health Care Trust Fund which will  
14 come in very handy over the next couple of years,  
15 avoiding cuts to the CUNY Community College  
16 system, enacting a historic City earned income tax  
17 credit and restoring HIV prevention and infant  
18 mortality funds among many other things. This  
19 year alone, we avoided closing 16 fire companies,  
20 saved the citywide six-day library service and  
21 made sure that we have enough ACS child welfare  
22 workers working to keep our children safe.  
23 Keeping in mind the serious economic crisis we are  
24 dealing with, I am proud that we can still keep  
25 our great city running. I am also proud to have

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2 spent these last eight years as Finance chair. I  
3 have truly enjoyed each and every year. Finally,  
4 our talented and hard-working finance staff will  
5 continue as we go through this year to iron out  
6 the differences but have really done a yeoman's  
7 job considering all of the issues that we had to  
8 confront. With that said, let's get down to  
9 business. Let's first start with an explanation  
10 of the packet documents that you should have. In  
11 your packet you will find the Executive Capital  
12 Budget for Fiscal Year 2010, particular Reso A  
13 which specifies rescindments in the Capital  
14 Budget. The Executive Capital Budget for Fiscal  
15 Year 2010, particularly Reso B, which reflects the  
16 Capital Budget as modified by Reso A. The  
17 Contract Budget for Fiscal Year 2010 that sets  
18 forth proposed appropriations for contractual  
19 services by agency category. The Expense Revenue  
20 and Contract Budget for Fiscal Year 2010, a  
21 Resolution on computing adjusted base proportion  
22 of each class of real property for Fiscal Year  
23 2010, a Resolution on computing and certifying the  
24 current base proportion of each class of real  
25 property for Fiscal Year 2010, Resolution fixing

1  
2 the property tax rates, a Resolution approving the  
3 community development program of Fiscal Year 2010,  
4 Schedule C for Fiscal Year 2010 and Expense Budget  
5 Modification MN 5 that wraps up Fiscal Year 2009,  
6 a revenue budget modification MN 6 that closes  
7 Fiscal Year 2009 and the Resolution adopting the  
8 Five Year Educational Capital Facilities plan.

9 This is kind of boring stuff, isn't it? Today we  
10 will consider items that are not included in your  
11 packet and are not directly budget-related.

12 Resolution 2013, which establishes that the  
13 discount percentage for early payment of real  
14 estate taxes is set at 1.5%, Resolution 2014 which  
15 establishes that the interest rate be set at 9%  
16 for Fiscal Year 2010 for non-payment of taxes on  
17 properties including co-ops with an assessed value  
18 of not more than \$250,000. Resolution 2015 which  
19 establishes that the interest rate be set at 18%  
20 for Fiscal Year 2010, for non-payment of taxes on  
21 properties including co-ops with an assessed value  
22 of over \$250,000. Resolution 2016 which  
23 establishes that the interest rate to be charged  
24 for Fiscal Year 2010 for non-payment of water rent  
25 and sewer rent be set at 18% for real property

1 including co-ops where the assessed value is over  
2 \$250,000. Next we have Intro 1009 which would  
3 increase the dollar amount of all fees charged by  
4 the Board of Standards and Appeals for zoning  
5 variances and special permits by 100%, 50% or 25%.  
6 These fees for class 1 and 2 family homes have not  
7 been increased since 1991. Proposed 1010-A, which  
8 would exempt entities that operate predominately  
9 for religious purpose or educational purposes from  
10 fire department fees for permits, inspections and  
11 performance tests. The average fire department  
12 inspection fee is about \$325. Intro 1011, which  
13 allows two or more agencies to share in the  
14 performance of specified administrative functions,  
15 personnel services, labor relations, facilities  
16 maintenance and management purchasing information  
17 technology and telecommunications, budget  
18 administration and internal auditing or designate  
19 one or more of such agencies to perform such  
20 functions. Intro 1026 which transfers the  
21 administration of the Senior Citizen Rent Increase  
22 Exemption program to the Department of Finance;  
23 the Department for the Aging previously handled  
24 the administration of the exemption but it is more  
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2 efficient for the Department of Finance to handle  
3 it. Intro 1012 which requires hotel taxes paid by  
4 hotel re-marketers, for example, online hotel  
5 retailers like Expedia and Orbitz to be based on  
6 the total fee charged to the occupant instead of  
7 just the wholesale rate charged by the hotel  
8 operator. As it stands today, online retailers  
9 book rooms and pay taxes on the wholesale room  
10 rates that they get directly from the hotels. But  
11 they do not pay taxes on the added surcharge they  
12 charge customers who book these rooms through  
13 their websites. This law requires that taxes get  
14 paid both on the wholesale room rate and the added  
15 surcharge. In other words, the taxes are paid on  
16 the final amount that is actually charged to the  
17 customers. The last document is a transparency  
18 reso to close out Fiscal Year 2009. Now, before  
19 we begin to focus on the upcoming Fiscal Year we  
20 must close out the current Fiscal Year with a  
21 revenue and expense budget modification. This  
22 modification, MN 5, implements the remainder of  
23 the expense budget changes which were reflected in  
24 the city's Executive Financial Plan modification  
25 as well as changes recognized as part of the

1  
2 Fiscal Year 2010 adoption process. Specific  
3 changes in MN 5 include the following: an  
4 advanced deposit of \$225 million to the Retiree's  
5 Health Benefits Trust Fund and an increase of  
6 \$278.9 million to the Budget Stabilization Account  
7 to prepay debt service. Moving to the revenue  
8 modification, MN 6, this modification recognizes  
9 \$438.8 million in new revenues and reduces the  
10 general fund by \$314.3 million. This will be used  
11 to make prepayments of \$264.4 million to the  
12 library systems, \$293.6 million to the MTA, \$110  
13 million to the Dormitory Authority of the State of  
14 New York and \$85 million to the Health and  
15 Hospitals Corporation for a total of \$753 million.  
16 Finally, as part of our continued effort to make  
17 the budget process more transparent, we will  
18 continue our disclosure procedures for member  
19 initiated non-capital discretionary funding. This  
20 process ensures that organizations receiving City  
21 Council funding serve a public purpose and are  
22 free of conflicts of interest. Finance staff will  
23 distribute disclosure forms to close out the  
24 Fiscal Year 2009 Expense Budget and to start the  
25 Fiscal Year 2010 Budget. If you have any

1 questions, please consult the Finance division  
2 staff or staff from the General Counsel's office.  
3 Moving on to the Fiscal Year 2010 Budget, the  
4 \$59.6 billion budget before us is being heralded  
5 as both a good and bad news budget. The good news  
6 is that this budget still makes good on promises  
7 the Council has made in the past couple of years  
8 to preserve essential core services, such as  
9 avoiding closure of 16 fire companies, maintaining  
10 citywide six day library service, and keeping  
11 current staff levels for child welfare workers at  
12 the Administration of Children's Services. The  
13 restoration will also preserve 31 classrooms at  
14 ACS childcare centers. Unfortunately, the bad  
15 news is that as a result of the current economic  
16 downturn, both locally and nationally, we had to  
17 do more with less and make difficult choices such  
18 as increasing the city's sales tax by half a  
19 percent. This will bring the total city sales tax  
20 rate to 8.875% after the increase, assuming the  
21 State Senate acts. On the capital side, we are  
22 approving a new five-year plan which unfortunately  
23 reflects the harsh economic times. The Council is  
24 currently seeking to introduce legislation in  
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1  
2 Albany that would amend the education law to allow  
3 the Council to have a greater and more meaningful  
4 role in the planning of the educational capital  
5 facilities plan and amendments thereto. By  
6 enhancing information sharing, creating a formal  
7 process for approval and disapproval of the plan  
8 and its amendments and requiring an annual  
9 amendment to reflect the evolving process of the  
10 capital planning process, this legislation will  
11 allow the Council the meaningful power needed to  
12 protect and serve our most vulnerable New Yorkers.  
13 Despite all of this, I can honestly say that in  
14 these tough times, even though both sides of City  
15 Hall had to make difficult choices, the Fiscal  
16 Year 2010 Budget reflects smart choices and for  
17 that and if only for that, I am particularly  
18 proud. Now, we have many items on our agenda  
19 today and we have representatives from the Office  
20 of Management and Budget, the Department of  
21 Finance, the School Construction Authority as well  
22 to discuss these items. We also have our Director  
23 of the Finance division, Preston Niblack to  
24 explain in detail the items that he will go over  
25 today. Let me just introduce our colleagues and

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2 it looks like we have a very good attendance here.  
3 We have Council Member Jim Gennaro from Queens,  
4 Council Member Helen Sears from Queens, Council  
5 Member Alan Gerson from Manhattan, Council Member  
6 Erik Martin Dilan from Brooklyn, Council Member  
7 Vincent Gentile from Brooklyn, Council Member  
8 Robert Jackson from Manhattan, Council Member  
9 Melinda and Carter Katz, Council Member Deputy  
10 Majority Leader Leroy Comrie from Queens, our  
11 Majority Leader Council Member Joel River from the  
12 Bronx, and not yet, but soon to be President Pro  
13 Tempore. We have Council Member Maria Baez from  
14 the Bronx, Council Member Diana Reyna from  
15 Brooklyn and Queens, Council Member Oliver Koppell  
16 from the Bronx, Council Member Gale Brewer from  
17 Manhattan, Council Member Albert Vann from  
18 Brooklyn, our Assistant Majority Leader Council  
19 Member Lou Fidler from Brooklyn, and Council  
20 Member Miguel Martinez from Manhattan. We have  
21 Tanisha Edwards, our Counsel to the Committee and  
22 Billy Martin, our Chief Clerk. With that, I'll  
23 call upon Preston Niblack to come in the hot seat.

24 PRESTON NIBLACK: We'll see if  
25 you're applauding when I'm done.

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CHAIRPERSON WEPRIN: We want to thank all the participants in the audience who we're happy to see in this room rather than on the steps. I think if we had to sit through another day of fliers we might not get this budget done. We also have Stuart Klein, our Deputy Budget Director to talk about the mods. We've also been joined by Council Member John Liu from Queens. Any questions for Mr. Niblack?

PRESTON NIBLACK: If I may, Mr. Chairman, I'll just take a moment to sort of walk through a little bit some of what you all have in front of you again. There is a lot. I'm Preston Niblack. I'm Director of the Finance Division. We'll see if you're applauding when I'm done. There are a lot of items you have before you today. The chairman just ran through the list. Let me kind of walk through again. As he said, we have representatives from the administration, OMB, DOE and other agencies to address your questions. So let's start with, first of all, the things that are actually not in your budget packet. Some of these are budget-related but they're not actually necessarily a part of the budget adoption vote

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2 itself. First you have four resolutions from the  
3 Banking Commission, including one which sets the  
4 discount percentage for early payment of property  
5 taxes at 1.5%. There is one which sets the  
6 interest rate for late payment of property taxes  
7 for properties with an assessed value of \$250,000  
8 or less at 9%. There is one which sets interest  
9 rate for late payment of property taxes for  
10 properties with an assessed value of more than  
11 \$250,000 at 18%. Then one which sets late  
12 payments for water and sewer charges at the same  
13 AV thresholds, 9% at 250 and below, and 15% for  
14 properties above that. You have five local laws.  
15 Intro 1009 is a law which authorizes the Board of  
16 Standard and Appeals to raise fees for permits and  
17 variances for zoning variances. There is a bill  
18 from the fire department, 1010-A, which narrows  
19 the exemption for fire inspection fees to apply  
20 only to religious institutions and educational  
21 institutions that provide education to grades k  
22 through 12 and for housing for clergy. Currently,  
23 the exemption also applies at entities that  
24 provide charitable services and the language says  
25 currently churches rather than religious

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2 institutions, so this changes that language. The  
3 average inspection fee is about \$325 across all  
4 categories of buildings right now. That would  
5 generate approximately \$3 million in Fiscal Year  
6 2010. Intro 1011 is a charter amendment. Under  
7 the charter, each agency is charged with certain  
8 functions. This bill would allow agencies  
9 pursuant to an agreement to share or to designate  
10 another agency for certain administrative  
11 functions, including personnel services, labor  
12 relations, facilities maintenance and management,  
13 purchasing, information technology and  
14 telecommunications, budget administration and  
15 internal auditing, so it's primarily  
16 administrative functions. Intro 1012 requires  
17 hotel re-marketers which are essentially online  
18 travel companies to pay the hotel tax on the  
19 difference between the tax paid at the wholesale  
20 rate and the tax that would have been paid at the  
21 retail rate. Currently the hotel re-marketers  
22 only pay tax on the wholesale rate and not on the  
23 amount that they charge customers. I will skip an  
24 example; I think that's clear enough. So there's  
25 a certain amount that remains untaxed for hotel



1 re-marketers and this would correct this problem  
2 by making clear that the hotel occupancy tax is  
3 owed to the city for the full amount of charges  
4 that customers pay for occupancy. This bill will  
5 generate about \$4 million starting in Fiscal Year  
6 2010. Intro 1026 transfers the administration of  
7 the Senior Citizens Rent Increase Exemption  
8 program to the Department of Finance. It's  
9 currently housed with the Department for the  
10 Aging. DOF has the technology and the capacity to  
11 simplify the application and eligibility process  
12 and for efficiency purposes it makes sense to have  
13 DOF be the agency that administers the program  
14 rather than DFTA. I'll just pause for a minute if  
15 there are any questions about any of those pieces.  
16 As the chairman noted, you also have the final  
17 2009 Transparency Resolution. I'll just remind  
18 you that disclosures should be made before your  
19 vote. This closes out Fiscal Year 2009 and it  
20 changes the designation of organizations that will  
21 receive funding as appropriated in the Fiscal 2009  
22 Expense Budget. Everybody should have seen a copy  
23 of that in the process of looking at your  
24 disclosure form. Items in your budget packet,

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2 there are several to say the least. There are  
3 quite a number. Schedule C is included in your  
4 budget documents. The expense revenue and  
5 contract budget for Fiscal Year 2010 which we  
6 refer to as the "budget document" and this is the  
7 actual budget for the city. The Executive Capital  
8 Budget for Fiscal Year 2010, known as Reso A,  
9 which contains rescindments of amounts from prior  
10 capital budgets as well and Reso B which is the  
11 Capital Budget as amended. The contract budget is  
12 included which sets forth by agency categories of  
13 contractual services for which appropriations have  
14 been made in the expense budget. You have, as you  
15 know, the Education Five Year Capital Plan which  
16 would approve the five-year plan for educational  
17 facilities for 2010-2014. Kathleen Grimm and  
18 Sharon Greenberger will be here to testify about  
19 this particular bill. You have three items  
20 relating to the property taxes, the adjusted base  
21 proportion, the current base proportion and then  
22 the actual tax fixing resolution itself. Don't  
23 ask me what any of this means. I'll bring Nadine  
24 up if you need to. You have the community  
25 development, the CDBG Budget and program in your

1 packet as well and a resolution approving that.  
2 The CDBG Budget is also for Fiscal Year 2010.  
3 Then you have two modifications, a revenue  
4 modification MN 6 and an expense modification MB5,  
5 which will close out Fiscal Year 2009. The Fiscal  
6 Year 2010 budget will be \$59.5 billion, down about  
7 2.4% from the Fiscal Year 2009 budget. The city  
8 funds budget is down about 2.6%. It's \$39.5  
9 billion as opposed to \$40.5 billion in this  
10 current year that we're ending. There is, as  
11 always, a tremendous amount of detail. I just  
12 want to thank all of you who were participated in  
13 our delegation process which I think was extremely  
14 useful to us and to the budget negotiating team.  
15 As you know, and as we've noted, there are several  
16 restorations that were made in the Schedule C,  
17 including the restoration of funding for the 16  
18 fire companies, a restoration to the public  
19 library systems to preserve six day service, a  
20 restoration of CUNY operating budget of \$21.4  
21 million. This is combined with \$15 million that  
22 the administration will put in to satisfy the CUNY  
23 MOE requirement which together will meet CUNY's  
24 operating needs for 2010. There is \$16 million  
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2 for cultural institutions, members of the Cultural  
3 Institutions Group and \$3.5 million for cultural  
4 programs. We put about \$19 million back into the  
5 budget of the Department for the Aging for senior  
6 centers and programs. We put \$8 million into ACS  
7 to preserve child care options for the 31  
8 classrooms that would have otherwise probably  
9 closed and \$1.5 million in the DOE to augment  
10 funding that they're carrying in their budget to  
11 provide universal pre-k at DOE. We also have \$3  
12 million for child welfare personnel that would  
13 otherwise have been cut and \$4 million into the  
14 custodians' budgets at the Department of Education  
15 to help maintain clean and sanitary school  
16 buildings. Council did a tremendous amount of  
17 work on this budget and I think it reflects a  
18 process that we thought was open and inclusive and  
19 I'm happy to be here to answer any questions that  
20 you might have at this point. As I say, if we  
21 have questions for administration officials, we'll  
22 have them here to answer your questions also.

23 CHAIRPERSON WEPRIN: Any questions  
24 for Mr. Niblack? We've been joined by Council  
25 Member Vincent Ignizio from Staten Island and also

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2 Council Member Eric Gioia from Queens and Council  
3 Member David Yassky from Brooklyn.

4 COUNCIL MEMBER: The overall  
5 capital budget excluding the five year capital  
6 plan for education is?

7 PRESTON NIBLACK: Do you know that  
8 number?

9 MALE VOICE: [off mic]

10 PRESTON NIBLACK: It seems like a  
11 number I ought to have in my head.

12 CHAIRPERSON WEPRIN: Any other  
13 questions? Thank you.

14 PRESTON NIBLACK: Thank you.

15 CHAIRPERSON WEPRIN: Preston, can  
16 you come back please? Council Member Gioia has a  
17 question.

18 COUNCIL MEMBER GIOIA: Thank you,  
19 Mr. Chair. I have a couple of technical  
20 questions. First of all, thank you for your hard  
21 work and the entire Finance staff. I know it was  
22 a late night last night and it's certainly  
23 appreciated.

24 PRESTON NIBLACK: Not just last  
25 night.

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3 COUNCIL MEMBER GIOIA: I want to  
4 ask about Schedule C. Last year there were  
5 important reforms made to make Schedule C  
6 available 24 hours before the vote. At what time  
7 was it made available last night?

8 PRESTON NIBLACK: The final version  
9 of Schedule C went up online at about 7 p.m. As  
10 you know, this is not a Council rule, this was  
11 sort of a practice that the Speaker set for this  
12 and so we work as hard as we can to achieve that  
13 goal. But we'll probably miss it by a couple of  
14 hours today. We did the best we could to get it  
15 up 24 hours in advance in the spirit of that  
16 practice that the Speaker proposed last year.

17 COUNCIL MEMBER GIOIA: I certainly  
18 appreciate your work and I know you all did the  
19 best you could. Is there a reason that we don't  
20 vote on this on Monday to just give more time to  
21 let it settle and to let these groups be vetted?

22 PRESTON NIBLACK: Other than the  
23 potential mutiny in the Finance Division staff,  
24 there are a couple of points. I should clarify  
25 that the practice regarding 24 hours is prior to

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2 the vote on the floor, which will probably happen  
3 around 4:30 or 5:00. Groups under \$10,000 have  
4 already been vetted by Council staff, including  
5 the General Counsel's office and the Finance  
6 Division staff. Groups over \$10,000 are vetted by  
7 the Mayor's Office of Contract Services. There  
8 are a fair number of asterisks still in Schedule  
9 C, which indicate that groups have not finished  
10 the prequalification process. I think a very  
11 large number of those are actually because we are  
12 waiting for the Attorney General's Office to  
13 confirm the status of charities registration.  
14 Last we began by looking online and realized that  
15 the online data was not updated frequently enough  
16 for us to be able to rely on it. We'll do a  
17 transparency resolution on the 30th to designate  
18 other organizations. The agencies and the  
19 Comptroller require us to send a list from the  
20 Finance Division and the Mayor's Office of  
21 Contract Services to indicate groups that have  
22 cleared the vetting process.

23 COUNCIL MEMBER GIOIA: I appreciate  
24 all of those steps. Those sound like very  
25 important steps and it does sound like a lot of

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2 work. I guess what I wonder is if there's not a  
3 technical reason to vote on something, wouldn't  
4 this process benefit by making it public and  
5 letting the public and the press and other Council  
6 Members take a look at it. The wiki budget, in  
7 other words, if you put it out publicly, if you  
8 put it online for everyone to take a look, isn't  
9 that type of transparency what goes a long way  
10 towards assuring more honesty? If there is not a  
11 technical reason, why are we voting today when it  
12 hasn't been out for 24 hours?

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PRESTON NIBLACK: Once we have an  
agreement with the Administration, I think we're  
always anxious to adopt the budget as soon  
possible. Given the limitations of the calendar  
to let it sit over the weekend I think we just  
felt would be time that wouldn't necessarily have  
much added value in terms of the groups that we  
cleared or other work. The Mayor's Office of  
Contract Services, Marla Simpson and her team work  
incredible numbers of hours on our behalf to get  
this process done and I could not in good  
conscience ask them to continue working through  
the weekend. I'm not sure they would actually



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2 make that much progress if they did.

3 COUNCIL MEMBER GIOIA: Fair enough.

4 Is there a way to separate out Schedule C then  
5 from the rest of the budget and vote on the budget  
6 and not vote on Schedule C technically?

7 PRESTON NIBLACK: No.

8 COUNCIL MEMBER GIOIA: It can't be  
9 severed or decoupled?

10 PRESTON NIBLACK: There is a legal  
11 question as to whether Schedule C is technically a  
12 part of the budget. You're actually voting on the  
13 appropriations. Schedule C is essentially a  
14 supporting schedule, so you're not actually  
15 necessarily approving Schedule C. It doesn't have  
16 legal standing in terms of the actually adopting  
17 of the budget. The documents that are then  
18 certified by the Comptroller tomorrow do not  
19 include Schedule C. They're just the actual  
20 budget document. I will just conclude by saying  
21 that these are obviously tough financial times  
22 when all of us are looking at our constituents who  
23 are tightening their belts in ways they should  
24 never have to. It's also times when we're opening  
25 the newspaper every day and reading about scandals

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2 both at Albany and here at home that are pretty  
3 appalling. I think it's the obligation of all of  
4 us to make sure that this is as honest as  
5 possible. A year ago I asked the Mayor's Budget  
6 Director if he could assure me that the groups  
7 that the city was funding were groups to begin  
8 with and that the money would be honestly spent.  
9 He told me couldn't. I asked who could give that  
10 answer on a budget I would vote on and he said to  
11 me very clearly, "Ask yourself who gives us the  
12 list" and he pointed at the City Council. So a  
13 year later I'm asking, here's the list and how can  
14 we look our constituents in the eye. Let me be  
15 clear, there are a lot of really good things in  
16 Schedule C. I have no doubt. There are good  
17 organizations that do fine work. Some of them do  
18 God's work. But I think all of us who have lived  
19 through this over the past few years have to admit  
20 that there have been groups that have been un-  
21 vetted, unchecked and have not done what they're  
22 supposed to. I would propose that we give it a  
23 few more days and let a real vetting of these  
24 groups happen. If you want me to make a motion,  
25 Mr. Chair, I will make a motion to table this and

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vote on this on Monday.

PRESTON NIBLACK: If I may respond. Starting with last year's Schedule C, no group has received funding that has not been vetted by either the Council and/or the Mayor's Office of Contract Services. Every single group that receives money was designated either in Schedule C or in a transparency resolution. When a group that was designated in one of those documents failed to pass, which we had a couple instances of that. There were a couple of for-profit companies that we identified. Then they were removed. You can see in the transparency resolution the entity coming out and something else replacing it. I think that I can say with as much confidence as any human being could have about the worthiness and status of these organizations that they've been thoroughly reviewed and members should be able to vote in good conscience knowing that. To the extent that the process is not complete today, it will be completed over the coming weeks and months.

COUNCIL MEMBER GIOIA: Again, I thank you for your hard work.

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PRESTON NIBLACK: Thank you.

CHAIRPERSON WEPRIN: Are you making a motion, Councilman?

COUNCIL MEMBER GIOIA: I motion that we lay this vote over until Monday?

CHAIRPERSON WEPRIN: Is there a second to the motion? It fails for lack of a second. Council Member Vann has questions.

COUNCIL MEMBER VANN: Good afternoon, Preston. When the City Council votes on this budget, does it include all of the distribution of the funds from the Recovery and Reinvestment Act, the so-called stimulus money?

PRESTON NIBLACK: Not all of the funds that the city expects to receive in its budget this coming year are reflected this budget. What is reflected in the budget for 2010 is the benefit of the federal government in picking up a greater share of our Medicaid costs, which lowers our costs and the community develop block grant extra funding, about \$48 million that was provided and a couple of other grant programs. We have several applications for funding that are pending, including our application with the state to use

1  
2 community services block grant money for instance.  
3 I'll take this opportunity to note for committee  
4 members who were members of the budget negotiating  
5 team, we're adopting what we referred to as Plan A  
6 in which we assumed that that plan would not be  
7 approved as it was submitted to the state. We  
8 don't know what the answer is yet from the  
9 Secretary of State regarding that proposal. We  
10 have spoken with the Office of Management and  
11 Budget and told them that if that proposal as  
12 submitted is approved then we will come back and  
13 modify our plan accordingly. There are a couple  
14 of other pots of money that are sitting out there,  
15 justice assistance grants and a few others that  
16 will be recognized in the budget as we go forward.

17 COUNCIL MEMBER VANN: Is it  
18 accurate to say that the so-called stimulus money  
19 in this budget is primarily used to supplant as  
20 opposed to create additional or new programs.

21 PRESTON NIBLACK: There is a mix.  
22 There are funding that was used to restore PEGs,  
23 restore cuts to the budget, which in the absence  
24 of the stimulus money there would not have been  
25 city money available to fund. There were some

1  
2 funds, including some of the Workforce Investment  
3 Act money that will pay for some new or expanded  
4 existing programs. It's a mix of replacing PEGs,  
5 expanding existing programs or new programming.

6 COUNCIL MEMBER VANN: So our vote  
7 suggests that the Council is in agreement with how  
8 the stimulus money was in fact used and so forth.  
9 Were we involved in it? Are we adopting what the  
10 administration did or were we in involved in the  
11 allocation and distribution?

12 PRESTON NIBLACK: I failed to  
13 mention one obviously very large item, which is  
14 about 970 some million dollars that was put into  
15 the Department of Education budget, which is  
16 reflected in the budget.

17 COUNCIL MEMBER VANN: On that  
18 point, had we not used that stimulus money, are we  
19 saying that teachers would have been laid off and  
20 so forth?

21 PRESTON NIBLACK: That was a very,  
22 very large gap that the Mayor sort of left on the  
23 table in the January preliminary budget. In the  
24 absence of that stimulus money we would have had  
25 that large of a hole, almost a billion dollar hole

1  
2 and then we would have had to decide what were  
3 going to do with the funds that we had. We have  
4 had discussions with the Administration. They've  
5 briefed us on their plans. We've made comments on  
6 their plans. Whether we were full partners in  
7 shaping it, I wouldn't say that that was always  
8 the case. But I think they were pretty  
9 forthcoming about telling us what they proposed to  
10 do and listen to the comments that we gave them,  
11 for the most part.

12 COUNCIL MEMBER VANN: Thank you.

13 CHAIRPERSON WEPRIN: Thank you,  
14 Council Member. Council Member Martinez has  
15 questions.

16 COUNCIL MEMBER MARTINEZ: Thank  
17 you, Mr. Chair. Hi, Preston. I just have a quick  
18 question regarding the community development block  
19 grant. I know we have a document here.

20 PRESTON NIBLACK: You've probably  
21 read it more than I have at this point.

22 COUNCIL MEMBER MARTINEZ: I'll just  
23 be brief then. We're going to be voting as part  
24 of this budget also the monies that would be  
25 allocated to the different community develop block

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2 grant, which is about \$256 million.

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4 PRESTON NIBLACK: Yes, plus the  
5 additional stimulus funds are reflected also in  
6 what you have in front of you.

6

7 COUNCIL MEMBER MARTINEZ: The  
8 recovery that Council Member Vann was referring  
9 to?

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10 PRESTON NIBLACK: Yes.

10

11 COUNCIL MEMBER MARTINEZ: We could  
12 go over this later on, but I'm somewhat confused  
13 because it states that there are no new projects  
14 because of reduction in revenues to the community  
15 block grants, but yet I see that it's more money  
16 than what it was in '08 and '09 when we assumed  
17 the amount. But yet there are no new projects  
18 being designated.

18

19 PRESTON NIBLACK: I'd have to look  
20 at it more closely and get back to you.

20

21 COUNCIL MEMBER MARTINEZ: Thank  
22 you.

22

23 CHAIRPERSON WEPRIN: Council Member  
24 Brewer has questions.

24

25 COUNCIL MEMBER BREWER: Thank you,  
Preston Niblack for all of your awesome work. The



1  
2 Manhattan delegation always takes twice as long  
3 and you're willing to stick with us, you and  
4 Jonathan Rosenberg and many others. I guess what  
5 we're doing with Albany is just assuming that  
6 things will go according to what has passed the  
7 Assembly will pass the Senate. Is that the  
8 assumption?

9                   PRESTON NIBLACK: The Senate  
10 ultimately has in front of it a number of bills  
11 that will provide not just revenues to New York  
12 City but also to a number of other counties and  
13 localities in the state. I think, yes, we  
14 anticipate that the Senate will step up and do its  
15 job and pass the tax package so that we will have  
16 those revenues in 2010.

17                   COUNCIL MEMBER BREWER: And in  
18 terms of budget modifications, if there is a  
19 change in CSBG or if there is a change, we always  
20 hope for more support for education beyond the  
21 stimulus, et cetera. How does the budget mod work  
22 during the summer because this would be somewhat  
23 unusual? Or, would we have to do a budget mod in  
24 order to address the justice grants and so on?  
25 How does that work?

1  
2 PRESTON NIBLACK: Categorical  
3 grants money that comes into the city budget does  
4 not usually require or doesn't require a budget  
5 modification. Changes in the uses of city funds  
6 between agencies or between units of appropriation  
7 would require a budget modification which is  
8 initiated by the Administration.

9 COUNCIL MEMBER BREWER: Thank you.

10 CHAIRPERSON WEPRIN: Thank you,  
11 Council Member. Any other questions? Council  
12 Member Vann has questions.

13 COUNCIL MEMBER VANN: I wish to  
14 register my strong disagreement with the fact that  
15 the Administration did not take seriously  
16 recommendations that came from the Committee on  
17 Community Development which I chair relative to  
18 the stimulus funds in the Community Development  
19 Block Grant. I think they took the path of least  
20 resistance, that is to take the money and just put  
21 it in the regular programs that they whether or  
22 not it would create new jobs. It showed a lack of  
23 creativity. I do not think it's really within the  
24 spirit of the federal law. So I want to express  
25 strongly my disagreement with it. I thought that

1  
2 we could have done a lot better, have created more  
3 jobs and been more in spirit with the legislation  
4 than they did by just putting the money into  
5 existing programs, pretty much supplanting what  
6 was already there. I want to express that for the  
7 record.

8 CHAIRPERSON WEPRIN: Any more  
9 questions? We're going to hear from Stu Klein.  
10 While we're here, I've been corrected by counsel.  
11 Our rules actually are more liberal than Robert's  
12 rules of order. So I was told that motions do not  
13 require a second. I'm going to allow Councilman  
14 Gioia to reapply his motion.

15 COUNCIL MEMBER GIOIA: That's a  
16 surprise. What I motioned, Council Member, was  
17 that we lay this vote over until Monday. I motion  
18 that we lay this over to Monday for the simple  
19 reason that there as a rule passed last year.  
20 Pardon me, it was not a rule. I don't know what  
21 to call it. What was it called? A best practice?

22 PRESTON NIBLACK: It was practice  
23 that the Speaker articulated last year.

24 COUNCIL MEMBER GIOIA: There was a  
25 best practice proposed by the Speaker last year

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which I though we had implemented to give 24 hours for this City Council and for the city to take a look at items, to correct if there are errors, to vet it publicly, to give not only the public but to give the people they send to represent them a chance to look at it. Not only is that not passed, but we have ten days before by law we have to pass this budget so I see no rush other than that we are all here right now and that the Finance staff has worked hard on it. I recommend and propose and now motion that we vote on this after we've had time to vet this Schedule C on Monday.

CHAIRPERSON WEPRIN: Can we have a voice vote? All in favor?

MALE VOICE: Aye.

CHAIRPERSON WEPRIN: All against.  
Nay.

GROUP: Nay.

CHAIRPERSON WEPRIN: Motion doesn't carry. Thank you. Mr. Klein will be next.

PRESTON NIBLACK: Mr. Chairman, if I may. It dawned on me that this is the last time you and I will adopt a budget together. It's been

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a pleasure working with you. I also want to acknowledge publicly all the work of the Finance Division staff, most of whom are sleep-deprived at this point. Any of them who are not sleep-deprived should see me after the meeting. I also want to acknowledge that the Office of Management and Budget, although we go at it hammer and tongs as we're negotiating the budget, always is unbelievably cooperative in helping us get the actual budget put together and before you as efficiently and accurately as we can. Thanks.

CHAIRPERSON WEPRIN: Mr. Klein, do you want to say anything on the mods or just answer questions?

STUART KLEIN: Just questions.

CHAIRPERSON WEPRIN: Are there any questions for Mr. Klein on the budget modifications? Council Member Fidler has a question.

COUNCIL MEMBER FIDLER: Since we can wait until 7:00 so we can do the 24 hours, I have several. I'm looking at the budget modification and these may be entirely innocent things but I really have some serious questions,

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2 Mr. Klein. First, I noticed once again and we had  
3 this colloquy last year, that we are recognizing  
4 almost \$15 million in additional fine revenue. Is  
5 there a particular reason why every year at this  
6 time we're finding out that New Yorkers have been  
7 fined far in excess of what the budget has  
8 anticipated?

9                   STUART KLEIN: I think that when  
10 developing our estimates we're generally  
11 conservative. It's impossible to predict how much  
12 we're going to collect in fine revenues other than  
13 to look at past performance and the amount of  
14 money we're investing in certain programs. We do  
15 not go out and say we have to collect the amount  
16 of money that's in the budget. It's an estimate  
17 and I think we're generally conservative.

18                   COUNCIL MEMBER FIDLER: As I would  
19 recall, it's a number of years in a row that we've  
20 been under by well over \$10 million. Other than  
21 your tendency and I know this is certainly your  
22 natural tendency to be conservative in your  
23 estimates, is there any particular reason?

24                   STUART KLEIN: No.

25                   CHAIRPERSON WEPRIN: Should I

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2 anticipate right now that there'll be \$15-20  
3 million in additional fine revenue in the 2010  
4 Fiscal Year budget because there has been  
5 historically?

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STUART KLEIN: I wouldn't  
7 anticipate it. If I thought that was the right  
8 number, I would have budgeted it. You can always  
9 be a little bit more aggressive in your estimates.  
10 What's in the budget reflects our estimate. I  
11 think when you look at--

12

COUNCIL MEMBER FIDLER: Mr. Klein,  
13 I think OMB deliberately understates the fine  
14 revenue in every budget, but that's just my  
15 opinion. I'm puzzled by the revenue reduction  
16 from the Water Board. Why is that?

17

STUART KLEIN: That reflects  
18 reimbursement to the city for actual expenses. So  
19 if DEP, who runs the system, has fewer expenses or  
20 they spend less in their budget, we reimburse the  
21 city less money.

22

COUNCIL MEMBER FIDLER: So the city  
23 is being reimbursed less from the water board.

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STUART KLEIN: Because the  
25 operating expenses are less.

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2 COUNCIL MEMBER FIDLER: Because we  
3 spent less. Would you know whether or not the  
4 Water Board considered the fact that they would be  
5 reimbursing the city to the tune of about \$11.5  
6 million less when they raised water rates this  
7 year?

8 STUART KLEIN: I don't know.

9 COUNCIL MEMBER FIDLER: Could you  
10 tell me under charges for services, there is one  
11 number that kind of jumps off the page at HPD  
12 there's an additional \$15 million and change. Can  
13 you tell me what that's about?

14 STUART KLEIN: What are you looking  
15 at? I'm sorry.

16 COUNCIL MEMBER FIDLER: Charges for  
17 services.

18 STUART KLEIN: In the mod itself?

19 COUNCIL MEMBER FIDLER: Code 470,  
20 HPD, \$15,463,000--

21 STUART KLEIN: I can get you more  
22 detail but my guess is that it's some sort of sale  
23 of an asset. Which one are you looking at? I'm  
24 sorry.

25 COUNCIL MEMBER FIDLER: I'm looking



1  
2 at charges for services, other services and fees,  
3 HPD, \$15,463,000.

4 STUART KLEIN: I'll provide you  
5 with the detail. I don't know.

6 COUNCIL MEMBER FIDLER: Also, on  
7 tax and audit revenue changes.

8 STUART KLEIN: Yes?

9 COUNCIL MEMBER FIDLER: Tax audit  
10 revenue, \$300 million unanticipated revenue. Can  
11 you tell me what that's about? That's a pretty  
12 large number.

13 STUART KLEIN: Those were audits.  
14 Yes, that's a very large number. Those are audits  
15 that the Department of Finance work is sort of  
16 downstream of the state and feds when they do tax  
17 audits. Those were the result of tax audits that  
18 were completed. Those numbers are very hard to  
19 budget every year and predict what they are, they  
20 sort of fall on you. We do have a baseline number  
21 in the budget for audits.

22 COUNCIL MEMBER FIDLER: Do you know  
23 if it was one audit in particular that generated a  
24 really large amount of money? I'll send a letter  
25 to the Department of Finance.

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2                   STUART KLEIN: I think there were  
3 two or three rather large audits.

4                   COUNCIL MEMBER FIDLER: And I'm  
5 also a little confused by the fact that third  
6 quarter real estate tax, real property tax revenue  
7 was down \$136 million, despite the fact that we  
8 raised property tax rates in this Council with the  
9 Mayor in November and then jumped up by double  
10 that in the fourth quarter, double the amount that  
11 went down. Is there a logical explanation for  
12 that?

13                   STUART KLEIN: It's just a timing  
14 issue. If you'll look, you'll see the fourth  
15 quarter collections are up.

16                   COUNCIL MEMBER FIDLER: Right.

17                   STUART KLEIN: So that's a timing  
18 issue. It was just forecast initially to come in  
19 and it could be a few days' difference in terms of  
20 the end of the month, or when people pay their  
21 taxes.

22                   COUNCIL MEMBER FIDLER: My last  
23 question has to do with a category that you've got  
24 me stumped on her call sundries. What are  
25 sundries? Right at the end of the budget mod.

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2 MALE VOICE: [off mic] There was a  
3 big settlement and some stuff that we don't know  
4 yet.

5 STUART KLEIN: There are a couple  
6 of very large settlements that the DAs had in  
7 terms of restitution that they received from cases  
8 they've settled. In addition to that, there was  
9 money that we were due as part of the overall  
10 administration of health insurance that shows up  
11 in that code.

12  
13 COUNCIL MEMBER FIDLER: I want to  
14 call particular attention to the one that's listed  
15 for mayoral which is \$284,546,880. That's more  
16 than a quarter of a billion dollars. Can you tell  
17 me where that's coming from?

18 STUART KLEIN: 220 of that was an  
19 amount that was due us from a reevaluation of the  
20 city's health insurance. Every year we spend over  
21 \$4 billion a year on health insurance. Every year  
22 we settle up with the carriers. We were due some  
23 back payments for a number of years and that's the  
24 settlement. It's included as a resource that's  
25 funding this budget.

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COUNCIL MEMBER FIDLER: So I

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understand what a sundry is, it's like anything

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that doesn't fit into anything else.

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STUART KLEIN: Yes. That's

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actually the Comptroller's category, not ours.

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COUNCIL MEMBER FIDLER: I wasn't

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faulting you; I just was telling you I didn't

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understand it. There just seems to be a lot of

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underestimation of revenues and that is something

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that we're always concerned about. It's always

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nice to find extra money in your pocket at the end

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of the year. But at a time when we're going into

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a budget that is going to be frankly very, very

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tough for very, very many people and very many

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agencies, at a time when we're looking for \$388

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million which against this sundry list looks like

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pocket change. We're looking for \$388 million so

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we're not laying off paraprofessionals, so that

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we're not cutting the classrooms in education.

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Estimating this correctly so that we might

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actually spend it and budget it with some

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forethought I think would be appropriate. I know

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that it is difficult and I am not being overly

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snide in saying to you that I expect you to get it

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right. We underestimate the penalty revenue every single year. It would stand to reason and stand to be that we've underestimated the audit revenue from the Department of Finance every single year. So when we fight with the mayor over an extra few million dollars for this or that, having that money available, knowing that money is available would maybe save some jobs. I really wish that we could do a better job of doing that, Mr. Klein. That's all.

CHAIRPERSON WEPRIN: Council Member Brewer has questions.

COUNCIL MEMBER BREWER: Thank you. Why is the E911 surcharge down? Is that because there is less hard wire and it's not part of the cell phone surcharge?

STUART KLEIN: I'll have to get back to you on that.

COUNCIL MEMBER BREWER: I'm wondering if we're taxing the wrong thing, if we're taxing hard wire and not cell phone. Not to say that we need more on the cell phone.

STUART KLEIN: We've raised cell phone fees quite a bit.

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COUNCIL MEMBER BREWER: I know.

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I'm not saying we should. I'm just wondering if

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that's why.

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STUART KLEIN: My guess is that's

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probably it. We've more than made up for that on

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the cell phone side.

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COUNCIL MEMBER BREWER: There are a

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lot of uncollectible fines and fees. People move,

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you can't find them, et cetera. Is there some

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overall number? Obviously you still try to

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collect them, it applies to different agencies and

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so on, but is there some kind of general number

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that separates it into what we can collect and

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we're trying and this is the number we'll never be

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able to collect, et cetera?

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STUART KLEIN: There is a very

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large number that appears in the Comptroller's

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annual report as to the amount of uncollected

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fines and fees. I don't know what it is off the

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top of my head. We also started a collections

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initiative. I think we put it in last January's

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plan to go out and collect \$30 million from this

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pool of money.

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COUNCIL MEMBER BREWER: Have you

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2 collected that?

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STUART KLEIN: They're going through it now. My guess is it hasn't been collected but I know finance has been working rather diligently on this.

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COUNCIL MEMBER BREWER: And that's \$30 million you said?

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STUART KLEIN: Yes, it's in the budget already.

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COUNCIL MEMBER BREWER: Thank you.

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CHAIRPERSON WEPRIN: Thank you, Council Member. Council Member Gerson has questions.

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COUNCIL MEMBER GERSON: Thank you very much, Mr. Chair. Mr. Chair, do we expect to hear testimony from officials of the School Construction Authority and DOE or should we address those questions to this witness?

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CHAIRPERSON WEPRIN: Is the School Construction Authority in the house?

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MALE VOICE: They're coming next. They're on next.

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CHAIRPERSON WEPRIN: They're on next.

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COUNCIL MEMBER GERSON: And

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similarly with DOE on expense?

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FEMALE VOICE: Yes.

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CHAIRPERSON WEPRIN: SCA, School

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Construction Authority. Do you want to wait for

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them?

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COUNCIL MEMBER GERSON: I'm told

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Deputy Chancellor Grimm is here.

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CHAIRPERSON WEPRIN: Do you want to

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wait?

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COUNCIL MEMBER GERSON: I'll defer

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those questions. I see a smile. I do have a few

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follow up questions. In particular, I think the

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points raised by Council Member Fidler are right

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on target. Council Member, I think we all

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appreciate you raising those points. I just want

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to ask you about that large sundry number. Is

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that something that you expect, or you would

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anticipate the possibility of a reoccurrence in

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the upcoming fiscal year or does that reflect a

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settlement unique to the current fiscal year

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that's ending?

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STUART KLEIN: If I expected it, it

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would be in the budget. It's a one-time event. I



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2 think that we've reduced our health insurance  
3 expenses to the appropriate level in the out years  
4 so that that 220 wouldn't occur. The settlements  
5 with the DAs, I think those were rather large one-  
6 time settlements.

7 COUNCIL MEMBER GERSON: The line  
8 item for the NYFD fees, does that refer to the  
9 ambulance collection fees that came in over what  
10 was originally anticipated or is that something  
11 else?

12 STUART KLEIN: I believe those are  
13 inspection fees.

14 COUNCIL MEMBER GERSON: Those were  
15 inspection fees?

16 STUART KLEIN: I believe. I'm not  
17 certain but I believe they are. I could get back  
18 to you with more information on that.

19 COUNCIL MEMBER GERSON: I know for  
20 Fiscal Year 2010 the fire department does project,  
21 and correct me if I'm wrong, an increase in  
22 revenue due to collection practice reforms for use  
23 of the EMS service. And I had thought for the  
24 same reason that there was an increase from what  
25 was originally projected for the current fiscal

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year. Does that show up anywhere in another category?

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STUART KLEIN: Like I said, I'll have to get back to you. I don't know.

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COUNCIL MEMBER GERSON: I ask this question in part because I believe the proposed budget anticipates the elimination of 30 FDNY ambulance tours from the current level. I understand that just today and I don't understand why just today, but I've been informed that just today the fire department has taken the first step in assessing whether or not any voluntary hospitals will assume any of those tours. Does the department have a Plan B in the event some of those tours are not picked up by any of the hospitals? Do we have the assurance that the FDNY will assure that the hospitals will provide the same level of service as the tours that are being proposed to be eliminated? Do you have any update information as to the distribution? That's something we have requested throughout the budget process and I believe were told would be forthcoming but we have yet to receive it. It's the distribution of the geography for where those

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2 reductions will take place.

3 STUART KLEIN: I don't have any  
4 updated information.

5 COUNCIL MEMBER GERSON: You are  
6 familiar with what I'm addressing though?

7 STUART KLEIN: I've heard it  
8 discussed. I'm not terribly familiar with it. I  
9 think your questions are more appropriately  
10 directed to the department.

11 COUNCIL MEMBER GERSON: The problem  
12 is we have addressed those questions and here we  
13 are adopting a budget and the day of the adoption  
14 the fire department sends out letters and  
15 therefore we have no information as the  
16 legislative body as to what the expectation as to  
17 replacement and where the reductions might take  
18 place. In effect, we are being asked to vote on  
19 this portion of the budget with incomplete  
20 information. Do you know of any reason why this  
21 was not done two or three weeks before now so we  
22 can have the additional information as of the  
23 vote?

24 STUART KLEIN: No.

25 COUNCIL MEMBER GERSON: I would

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2 note, Mr. Chair, this is not a new item. This is  
3 analogous to the request for information as to how  
4 the school base budgets will be applied. This is  
5 an item which this Council and I in particular  
6 have requested throughout the budget process. To  
7 not have it and not have any explanation as to why  
8 we don't have it is just an unacceptable part of  
9 the process from the administration. Part of the  
10 same proposed EMS budget modification anticipated  
11 a possible reduction in the level of service  
12 within advance life support ambulances. That  
13 required state approval from the oversight state  
14 agency. Again, as of the time of the last budget  
15 hearing on this matter, that approval had not been  
16 received. Do you have any update on that as to  
17 whether or not that approval had been received?

18 STUART KLEIN: No.

19 COUNCIL MEMBER GERSON: No? Now,  
20 with respect to the police department, as you  
21 know, the estimate is the current budget would  
22 leave the police force approximately 2,000 uniform  
23 personnel positions short of the original plan and  
24 short of where we were for most of this year.  
25 There was anticipation that some if not all of

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that may be covered by money received through the federal stimulus program. Do you have any update on the status of that and whether or not we have as of today any reason to be more optimistic as to whether or not the federal stimulus funds will be able to keep us at the same or close to the same uniform headcount?

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STUART KLEIN: I don't believe that we'll be able to stay at the same uniform head count. I know there was some announcement recently about federal stimulus money for police and I'll try and get you some more details. I'm not familiar with it. Any changes are reflected in this budget.

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COUNCIL MEMBER GERSON: These were negotiations that were ongoing currently.

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STUART KLEIN: Like I said, I'm not familiar with the details. Was the number I cited correct in terms of the estimated NYPD uniform head count reduction?

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STUART KLEIN: If you got that number out of the Executive Budget it's correct.

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COUNCIL MEMBER GERSON: No change?

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STUART KLEIN: No.

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2 COUNCIL MEMBER GERSON: Let me  
3 reiterate the question that was posed to Mr.  
4 Niblack. Maybe you have the answer. What is the  
5 total capital budget without the upcoming fiscal  
6 year's portion of the five year education capital  
7 plan?

8 STUART KLEIN: The total budget is  
9 \$10.2 billion.

10 COUNCIL MEMBER GERSON: That  
11 includes the educational capital plan?

12 STUART KLEIN: Yes. I don't have  
13 the number in front of me on education, but I  
14 could get it to you.

15 COUNCIL MEMBER GERSON: My final  
16 question as it relates to the capital plan, given  
17 the deferral of the overall capital plan proposed  
18 by the mayor and reflected in the current budget,  
19 was any priority to your knowledge given to  
20 capital improvements to city-owned structures or  
21 properties that are currently in a state of  
22 disrepair? Or, does the plan anticipate no such  
23 priority in leaving the disrepair in its current  
24 status quo?

25 STUART KLEIN: I think that the

1  
2 Executive Budget addressed the state of good  
3 repair changes. The only changes that are  
4 included in the adoption are those negotiated with  
5 the Council.

6 COUNCIL MEMBER GERSON: I'll just  
7 conclude by pointing out that we have pointed out  
8 to the administration properties certainly within  
9 my district and elsewhere owned by the City of New  
10 York on city residential blocks in a state of  
11 disrepair and I don't understand how the  
12 administration can propose the capital budget  
13 which does not assure that the properties it owns  
14 are upgraded and kept safely. But we'll certainly  
15 continue to have a further conversation on that.

16 STUART KLEIN: I think that there's  
17 a level of affordability in terms of the size of  
18 the overall program.

19 COUNCIL MEMBER GERSON: Well that's  
20 why I asked you about prioritization, if there was  
21 a priority given to that.

22 STUART KLEIN: I think the  
23 Executive Budget reflected the priorities that we  
24 have.

25 COUNCIL MEMBER GERSON: But is that

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one of the priorities?

STUART KLEIN: It's certainly a thing that we look at is the state of good repair. On the other hand, there are other priorities within the plan.

COUNCIL MEMBER GERSON: I think the answer speaks for itself. Mr. Chair, thank you very much. I defer questioning on education to the follow up witnesses.

CHAIRPERSON WEPRIN: Any further questions? Council Member Vann has questions.

COUNCIL MEMBER VANN: Good afternoon.

STUART KLEIN: Good afternoon.

COUNCIL MEMBER VANN: Do you recall how much money New York City received in the Community Development Block Grant last year?

STUART KLEIN: You cited a number before.

COUNCIL MEMBER VANN: That was the Recovery and Reinvestment Act money. I mean the normal number.

STUART KLEIN: I might be able to get you a number, just one second.



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COUNCIL MEMBER VANN: I want to know if last year's grant was the same as this year's grant.

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STUART KLEIN: No, I believe it's been decreased.

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COUNCIL MEMBER VANN: It was decreased?

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STUART KLEIN: Uh-huh.

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COUNCIL MEMBER VANN: By the amount of the Recovery and Reinvestment Act, by \$48 million?

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STUART KLEIN: No. The money was an increase and then there was also some program income we get. Where in the past we've sold assets or land sites within community develop areas and we get income from that that supports the program and goes back to the program over the years. That's budgeted within this budget now.

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COUNCIL MEMBER VANN: If we had not received the stimulus money, the \$48 million, would you have had to reduce programs and lay off? What would have been the impact if you did not receive it?

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STUART KLEIN: I think the program

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2 revenue that I just described would have enabled  
3 us to keep it about the same size.

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COUNCIL MEMBER VANN: So do you  
5 know how many jobs were created as a result? Or  
6 were any jobs created?

7

STUART KLEIN: I don't have a  
8 number. I can get you one.

9

COUNCIL MEMBER VANN: Jobs were  
10 created?

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STUART KLEIN: I think it is jobs  
12 were maintained.

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COUNCIL MEMBER VANN: So we  
14 preserved jobs but didn't create any additional.

15

STUART KLEIN: That's in certain  
16 areas. I know the money that was budgeted is in  
17 accordance with the requirements of the grants.  
18 Off the top of my head, I don't know if they were  
19 directly job-related or not.

20

COUNCIL MEMBER VANN: I guess those  
21 requirements allow you to use it in existing  
22 programs to preserve jobs as opposed to creating  
23 new jobs.

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STUART KLEIN: I'm certain that  
25 what we did is in conformance with the guidelines

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of that grant.

COUNCIL MEMBER VANN: All right,  
thank you.

CHAIRPERSON WEPRIN: Council Member  
Liu.

COUNCIL MEMBER LIU: Thank you, Mr.  
Chairman. Thanks for joining us, Mr. Klein. So  
the budget you're asking us to approve is \$59.5  
billion for Fiscal Year 2010?

STUART KLEIN: Uh-huh.

COUNCIL MEMBER LIU: Does that mean  
that we expect to spend \$59.5 billion in Fiscal  
Year 2010?

STUART KLEIN: That's the budget.

COUNCIL MEMBER LIU: I'm sorry?

STUART KLEIN: That's our forecast  
for what we'll spend.

COUNCIL MEMBER LIU: Of course, we  
won't know until we actually spend it. The \$314.3  
million, you're calling that a reduction in the  
general reserve. What does that mean? Is that  
the money left over?

STUART KLEIN: Every year we budget  
\$300 million in the general reserve. In a \$60

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2 billion budget we feel that's a minimum reserve.

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COUNCIL MEMBER LIU: So essentially that's the money that's left over that hasn't been used.

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STUART KLEIN: That we did not need. So what we did was we rolled that money into the following year to ease the burden on the following year. Or you could look at it and say it assisted in funding the \$300 million that we have as a general reserve in the following year.

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COUNCIL MEMBER LIU: That's fine. I'm not trying to get you on what you call it. The \$314 million is basically what's left over for Fiscal Year 2009 that has not been spent. Well actually it's the \$314 million plus the \$438.8 million, right? That's the total amount that's being rolled over Fiscal Year 2009 to Fiscal Year 2010.

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STUART KLEIN: The total amount that's being rolled from Fiscal 2009 to 2010 is \$2.8 billion. It's a piece of that money.

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COUNCIL MEMBER LIU: So the \$753 million is kind of the additional amount from the executive budget.

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STUART KLEIN: Yes.

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COUNCIL MEMBER LIU: So at the executive budget we were expecting just a little over \$2 billion to be rolled over.

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STUART KLEIN: No, actually you need to look at the review amend and the expense amend together. We're actually rolling over about \$200 million less than we expected to roll at the executive budget.

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COUNCIL MEMBER LIU: So overall, in this budget, we are rolling over \$2.8 billion.

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STUART KLEIN: Yes.

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COUNCIL MEMBER LIU: And that is essentially what we call the prepayments.

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STUART KLEIN: Yes.

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COUNCIL MEMBER LIU: I think in Mr. Page's testimony he had also referred to it as the roll.

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STUART KLEIN: Yes.

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COUNCIL MEMBER LIU: In May last month Mr. Page had also testified that there was a small amount that's being taken out of the Health Case Reserve Fund.

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STUART KLEIN: I'm not familiar.

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2 COUNCIL MEMBER LIU: I think he  
3 said something like \$82 million.

4 STUART KLEIN: Oh, yes. That's  
5 being used to offset some of the asset losses that  
6 the pension investments have suffered. This year,  
7 when we did the exec we were predicting--

8 COUNCIL MEMBER LIU: Are you saying  
9 that \$82 million is being used to directly offset  
10 the pension losses?

11 STUART KLEIN: A piece of it. The  
12 asset losses from the pension system--

13 COUNCIL MEMBER LIU: Isn't the \$82  
14 million just being used--

15 STUART KLEIN: Do you want me to  
16 answer the question?

17 COUNCIL MEMBER LIU: Go ahead.

18 STUART KLEIN: The pension systems  
19 going into this year were valued at about \$100  
20 billion in assets. Due to what's happened  
21 recently in the stock market, those assets are  
22 down to about \$80 billion. The way the actuary  
23 phase in losses from those assets is over a period  
24 of seven years. \$82 million is actually the  
25 Fiscal Year 2008 losses in the stock market. It's

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2 that portion of that loss that would be phased in  
3 I believe in Fiscal Year 2010. That number  
4 accelerates in the out years.

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COUNCIL MEMBER LIU: The  
6 administration set up a separate retiree health  
7 care fund. Is that correct?

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STUART KLEIN: Correct.

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COUNCIL MEMBER LIU: So \$82 million  
10 is being taken out of that fund and put straight  
11 into the pension fund, is that what you're  
12 suggesting?

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STUART KLEIN: No. I'm saying the  
14 way it works mechanically is that we will reduce  
15 our contribution. First of all, nothing is being  
16 taken out of the health care trust fund.

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COUNCIL MEMBER LIU: Really?

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STUART KLEIN: That would violate  
19 the terms of the trust.

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COUNCIL MEMBER LIU: Then where do  
21 you get the \$82 million from?

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STUART KLEIN: We're scheduled to  
23 put \$1.5 billion into the health care trust fund  
24 to pay for retirees health care expenses.

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COUNCIL MEMBER LIU: Well how much

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is in the fund right now?

STUART KLEIN: I think \$2.6 billion.

COUNCIL MEMBER LIU: It was \$2.5 billion of deposits plus some interest earnings.

STUART KLEIN: Some interest, right.

COUNCIL MEMBER LIU: And then there was still another plan to put in an additional \$1.6 billion?

STUART KLEIN: Every year we run the health care expenses for retirees through the fund. They pay the annual expenses for retirees' health insurance and that number, this year, is somewhere around \$1.5 billion. So that's in the budget. It's part of our health insurance budget. It gets paid through the retiree health care trust fund. So what we're doing is appropriating \$82 million less into the trust fund next year to cover retiree costs.

COUNCIL MEMBER LIU: But if not for that fund that started off with the \$2 billion and then the \$500 million the following year, you would actually have to pay the \$82 million



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regardless.

STUART KLEIN: Yes.

COUNCIL MEMBER LIU: So the \$82 million is in effect coming out of that health care retiree trust.

STUART KLEIN: It's not coming out of the fund; it's less money going into the fund.

COUNCIL MEMBER LIU: It's money that would have been paid if not for that fund. You would have to have paid that fund. I mean now we're talking about word games.

STUART KLEIN: If you're saying that we wouldn't have gotten \$82 million of budget benefit without the fund, you're correct.

COUNCIL MEMBER LIU: So that fund helped balance our budget this year by \$82 million.

STUART KLEIN: Yes, to help offset the losses that the pension systems encountered.

COUNCIL MEMBER LIU: How much are you projecting to take out of that fund next year?

STUART KLEIN: I don't have the number in front of me, but by 2012 I believe it gets to be like \$500 million. It grows quite a

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bit.

COUNCIL MEMBER LIU: So that fund that was set up for our retirees' security, that's actually being drawn down to balance the budget right now.

STUART KLEIN: The City of New York has an obligation to pay for retiree health insurance. If you take the value under the standard that's projected by the Governmental Accounting Standards Board, the city has a long term liability for that in excess of \$60 billion. We have an annual expense--

COUNCIL MEMBER LIU: That's precisely why this administration, to its great credit in the media a couple of years ago, decided before it was required to do so put money into this fund. But now that fund is being drawn to balance the budget.

STUART KLEIN: This was announced last year I believe. It was in our plan. Mr. Page has testified about it a number of times before the Council. If we didn't use that \$82 million we'd have to come up with 82 other million dollars.

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COUNCIL MEMBER LIU: I don't

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disagree with that. My question to you has to do

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with the legality of doing that.

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STUART KLEIN: The legality, like I

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said, we're not withdrawing any money from the

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fund.

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COUNCIL MEMBER LIU: You're paying

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less into the fund that you otherwise would have

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had to do if not for the fund itself.

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STUART KLEIN: yes.

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COUNCIL MEMBER LIU: It's the same

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thing as withdrawing.

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STUART KLEIN: No, it's not the

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same.

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COUNCIL MEMBER LIU: It absolutely

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is.

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STUART KLEIN: It's not the same

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thing.

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COUNCIL MEMBER LIU: So your

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position is that it's totally legal.

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STUART KLEIN: Yes.

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COUNCIL MEMBER LIU: And it'll be

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totally legal a couple of years from now to take

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\$500 million out.

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2           STUART KLEIN: We're not planning  
3 on taking anything out of the fund.

4           COUNCIL MEMBER LIU: It's in the  
5 budget projections. Is it not in the budget  
6 projections?

7           STUART KLEIN: It is not. What's  
8 in the budget projections is a reduction in the  
9 amount that we would be spending for retiree  
10 health insurance.

11          COUNCIL MEMBER LIU: An amount that  
12 the city would have had to pay for in the absence  
13 of that retiree health care fund.

14          STUART KLEIN: yes.

15          COUNCIL MEMBER LIU: You're mincing  
16 words here, but I thank you very much Mr.  
17 Chairman. Thank you for your responses, Mr.  
18 Klein.

19          STUART KLEIN: You're welcome.

20          COUNCIL MEMBER VANN: Any more  
21 questions for Mr. Klein? Mr. Gerson, I'll  
22 recognize you.

23          COUNCIL MEMBER GERSON: Yes, thank  
24 you, Mr. Vann. Unfortunately, I was informed that  
25 there would be no one from the Department of

1  
2 Education to address expense issues. So Mr.  
3 Klein, you're the lucky person as the overall  
4 oversight. I just have two areas of questioning  
5 and I will keep it brief. You are familiar of  
6 course with the reorganization of the department  
7 which disbanded the so-called regions, the  
8 education regions.

9                   STUART KLEIN: I've heard of it.  
10 I'm not intimately familiar with their budget.

11                   COUNCIL MEMBER GERSON: It wouldn't  
12 surprise you that while the regions were in  
13 existence they did the education planning for  
14 which they were charged, including assuming  
15 programmatic responsibilities, on the basis of  
16 which the City Council made capital allocations to  
17 support programming to which the region agreed to  
18 operate. As a matter of policy, after these  
19 capital investments and improvements were made and  
20 the regions were disbanded, would you expect the  
21 Department of Education to assume or to make the  
22 programming responsibilities committed to by the  
23 regions? In other words, to make good programming  
24 promises made by the regions for which capital  
25 expenditures were in fact incurred and capital

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improvements made.

STUART KLEIN: The departments appeared before you on a number of occasions.

COUNCIL MEMBER GERSON: Yes, and the departments have--

STUART KLEIN: I can't answer that question.

COUNCIL MEMBER GERSON: I mean in the City of New York, if there a reorganization, as a matter of general policy, if an agency reorganizes, do commitments made by the appropriate entity prior to the organization get assumed by the new entity?

STUART KLEIN: I think you'd have to look at it--

COUNCIL MEMBER GERSON: As a matter of financial organization can't you answer yes or no?

STUART KLEIN: No, I cannot answer.

COUNCIL MEMBER GERSON: That also speaks for itself. With respect to the overall department budget, am I missing something?

STUART KLEIN: No. Go ahead.

COUNCIL MEMBER GERSON: With

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2 respect to the overall department budget, you are  
3 aware that a \$300 million operating expense  
4 cutback will translate roughly into a 3.8  
5 reduction on the school base budget.

6 STUART KLEIN: I don't know the  
7 exact number.

8 COUNCIL MEMBER GERSON: But there  
9 will be a reduction in the school base budget?

10 STUART KLEIN: I don't know.

11 COUNCIL MEMBER GERSON: You don't  
12 know that?

13 STUART KLEIN: No.

14 COUNCIL MEMBER GERSON: Well let me  
15 ask you this--

16 STUART KLEIN: I didn't come  
17 prepared to speak about the department--

18 COUNCIL MEMBER GERSON: I'm only  
19 asking you this because the witness for the  
20 Department of Education we anticipated who could  
21 address that, which is a significant issue, for  
22 reasons I don't know will not be here. My final  
23 question on this is between now and the school  
24 year, will there be any effort by the  
25 administration to work with the Council as the

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Council leadership has expressed an interest in doing, to come up with sufficient revenue to avoid the school base budget cutback?

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STUART KLEIN: I don't know where you would assume this revenue would come from.

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COUNCIL MEMBER GERSON: I'm asking is there any commitment to try and identify? I mean I can sit here and take time and identify any number of loopholes which could be closed in the property tax system and in other places which could generate \$300 million or close to that. We are adopting a budget during dire economic times which translates to a school base budget cutback. Do we have a commitment from the administration over the summer to work together to see if we could reverse any of that by finding new revenue?

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STUART KLEIN: I think that anything we could do has been reflected in this budget.

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COUNCIL MEMBER GERSON: Thank you very much, Mr. Chair.

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CHAIRPERSON WEPRIN: Council Member Sears, did you have a question? Thank you. We're going to now hear from the School Construction

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2 Authority and the Department of Education, if they  
3 could come forward. Do you have prepared  
4 testimony, Mr. Holden? Please identify yourself  
5 and title for the record.

6 ROSS HOLDEN: Good afternoon. My  
7 name is Ross Holden. I'm the vice president and  
8 general counsel of the New York City School  
9 Construction Authority. With me is Elizabeth  
10 Bergin, who is the senior director of capital  
11 planning with the School Construction Authority.

12 CHAIRPERSON WEPRIN: Do you have a  
13 prepared statement?

14 ROSS HOLDEN: Do not have a  
15 prepared statement. We've appeared before the  
16 committee on two occasions and met with the  
17 delegations, presented the proposed five year  
18 capital plan in detail, but we would be happy to  
19 the extent we can this afternoon answer any  
20 additional questions or commit to you to research  
21 whatever we can't answer today and submit that to  
22 you in your offices.

23 CHAIRPERSON WEPRIN: Thank you. I  
24 know Council Member Jackson had questions.

25 COUNCIL MEMBER JACKSON: Thank you,

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2 Mr. Chair. Good afternoon. I just have a couple  
3 of quick questions. I think that you know my  
4 position on the proposed five year capital plan.  
5 I oppose it. I'm not going to have a long drawn  
6 out question and answer. You can be relieved that  
7 I'm not going to do that. I'm going to ask you a  
8 couple of simple questions and if you can just  
9 respond with simple responses that would be  
10 appropriate for me. But if you want to go into  
11 detail, then you can do that also. The first  
12 question I have is regarding the proposed five  
13 year capital plan is does the proposed five year  
14 capital plan as submitted by the Department of  
15 Education and by the Mayor, does it comply with  
16 the Contract or Excellence class size standards?

17 ROSS HOLDEN: I think at the last  
18 hearing Deputy Chancellor Grimm indicated that  
19 through construction of new capacity, as well as  
20 facilities realignment that the plan will achieve  
21 the Contract for Excellence.

22 ELIZABETH BERGIN: I think I'd just  
23 like to add the deputy chancellor also indicated  
24 the capital plan is one tool among several others  
25 that the Department of Education is going to use

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2 to meet the Contract for Excellence class size  
3 goals. So between the capacity and the  
4 realignment facilities initiatives, along with the  
5 other tools, we will be meeting the Contract for  
6 Excellence class size.

7 COUNCIL MEMBER JACKSON: I'm  
8 absolutely sure that the discussions on the  
9 proposed five year capital plan was that the  
10 proposed plan is based on 28 students in junior  
11 high school and 30 students in high school, with  
12 20 in grades k to 3. Those figures, in my  
13 understanding, are not what the Contract for  
14 Excellence call for. Isn't that correct?

15 KATHLEEN GRIMM: That is correct.

16 COUNCIL MEMBER JACKSON: The reason  
17 why I'm asking for verification is because the  
18 Contract for Excellence says that you must align  
19 the plan in accordance with those standards. The  
20 plan that you submitted, the plan itself which I  
21 have and which everyone else had or which is  
22 online, is not aligned with that. Now, you say  
23 that there are other things that will I guess  
24 bring it into compliance with the standard. One  
25 of the things that you indicated, Deputy

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2 Chancellor Grimm is that by putting another  
3 teacher in a classroom that is overcrowded is  
4 considered by the Department of Education, based  
5 on approval from the State Education Department as  
6 class size reduction. Isn't that correct?

7 KATHLEEN GRIMM: Yes, that is  
8 another tool.

9 COUNCIL MEMBER JACKSON: I've  
10 argued and I'm not going to get into this argument  
11 but I'm just stating from a factual point of view  
12 as far as the discussions that we've had on the  
13 record is that even if you add five teachers to  
14 the classroom, it doesn't reduce class size. I  
15 just wanted to clarify that. Now, one of the  
16 things I understand is that the Department of  
17 Education does not have, nor have you ever had a  
18 statement of full needs. Is that true or not  
19 true?

20 KATHLEEN GRIMM: I believe what we  
21 have is we look at our needs for seats out ten  
22 years and we craft a plan out five years.

23 COUNCIL MEMBER JACKSON: But do you  
24 have a full plan of needs that anyone can look at?  
25 So, for example, my understanding is MTA has a 20-

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2 year capital plan. Do you have a 10-year capital  
3 plan, a 15-year capital, or a 20-year capital  
4 plan?

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KATHLEEN GRIMM: No, we have a  
6 five-year capital plan. That is the plan that we  
7 like to think of as a living, breathing document,  
8 which is why each year, as you know, we issue an  
9 amendment in November and we go through a very  
10 public process and we come back to you each year  
11 for that amendment so that we can watch where the  
12 needs are in the city. As we've seen in the  
13 execution of this five-year capital plan, we've  
14 seen changes. We've seen increases and we've seen  
15 decreases. Given the scarcity of our dollars, I  
16 think it's really important that all of us working  
17 together monitor that need on an annual basis.

18

COUNCIL MEMBER JACKSON: I would  
19 agree that we need to monitor it on an ongoing  
20 basis. Do you have a full assessment of how much  
21 money it would cost to make sure that all of the  
22 schools in the City of New York comply with the  
23 Contract for Excellence and that all of the  
24 schools are in good repair? My understanding is  
25 that based on the testimony that you and others

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2 representing the School Construction Authority has  
3 given time and time at hearings is that the  
4 proposed five-year capital plan, as far as capital  
5 improvement projects, are going to take care of  
6 level five which are the worst of needs, with one  
7 being the lowest and five the highest. So you've  
8 already identified five levels of repairs that  
9 need to be done. Under the proposed five-year  
10 capital plan, only level fives are up for  
11 consideration. Isn't that correct?

12 KATHLEEN GRIMM: That is correct.

13 COUNCIL MEMBER JACKSON: So it  
14 doesn't even take into consideration level fours  
15 and threes, is that correct?

16 KATHLEEN GRIMM: That is correct.

17 COUNCIL MEMBER JACKSON: Do you  
18 think that that's a full assessment of the needs  
19 of our system?

20 KATHLEEN GRIMM: It's a full plan  
21 for how we're going to address the most serious  
22 needs that we see. We do not have the resources  
23 to address all of our needs.

24 COUNCIL MEMBER JACKSON: Deputy  
25 Chancellor, I have the highest respect for you,

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2 but we disagree on many issues concerning this  
3 particular matter.

4 KATHLEEN GRIMM: Yes.

5 COUNCIL MEMBER JACKSON: But it's  
6 my understanding that if the city invests another  
7 billion dollars into a proposed five-year capital  
8 plan, how much would the city get in addition from  
9 the state based on the capital formula of the  
10 state reimbursing the City of New York?

11 KATHLEEN GRIMM: Under our current  
12 operating scenario, the capital plan is basically  
13 funded 50% with city dollars and 50% with state  
14 dollars.

15 COUNCIL MEMBER JACKSON: So if  
16 that's the case, assuming that they continue to  
17 fund us at that level, if the City of New York put  
18 another billion dollars into the capital plan,  
19 basically we've parlayed that into \$2 billion  
20 more. Is that correct?

21 KATHLEEN GRIMM: That is possible.

22 COUNCIL MEMBER JACKSON: Thank you,  
23 Mr. Chair. I don't have any further questions.

24 CHAIRPERSON WEPRIN: Thank you,  
25 Council Member. Council Member Gerson has

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2 questions.

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COUNCIL MEMBER GERSON: Thank you, Mr. Chair. Just one real brief comment and one question. The comment I would be remiss if I did not make was to acknowledge Deputy Chancellor your leadership and the work of your department in really resolving the overcrowding crisis we immediately had in lower Manhattan. As I understand we're about to meet that challenge of resolving locating the Millennium Gym, something we've worked on together.

KATHLEEN GRIMM: And continue to work on.

COUNCIL MEMBER GERSON: With your continued leadership we'll solve that too, I am confident. I want to acknowledge and thank you for that. My question is going to come to no surprise to you. I have requested that the five-year capital plan be amended, clarified, elaborated, whatever you will, to include as a goal for the course of the capital plan the provision of a full fledged age-appropriate gym either in all school buildings or in proximity to all school buildings owned or leased by the



1  
2 department. Can we now say that that goal is  
3 incorporated within the capital plan?

4 KATHLEEN GRIMM: Unfortunately, we  
5 cannot. I laud your goal. We simply do not have  
6 the resources. I am a big proponent of physical  
7 education and our wellness policy and our good  
8 nutritional policies, but we just simply do not  
9 have the resources to provide every single  
10 building with a gym in this plan.

11 COUNCIL MEMBER GERSON: I  
12 appreciate your lauding of the goal. If we keep  
13 on lauding together, we will accomplish it.

14 KATHLEEN GRIMM: Good.

15 COUNCIL MEMBER GERSON: Thank you,  
16 Mr. Chair.

17 CHAIRPERSON WEPRIN: Thank you. We  
18 also have other members of the administration  
19 here. Who is it specifically? Are there any  
20 other questions from any members? I'm seeing  
21 none. Thank you.

22 KATHLEEN GRIMM: Thank you.

23 CHAIRPERSON WEPRIN: Before we  
24 vote, I want to remind everyone about the budget  
25 disclosures that were handed out earlier today.

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You may want to make an oral disclosure as well of any potential conflict of interest you might have with any family members regarding some of the groups that we will be funding. I'll start off with saying that my wife Ronni is a director of special event at Queensboro Community College and although I have not earmarked any money for Queensboro Community College in this budget, there is a Queens delegation capital project for Queensboro Community College. I will point out that she is not on city levy funds. She is an employee of the foundation. We are also in receipt of a communication from the borough presidents regarding their discretionary allocations which is something that was requested at budget negotiations. I'm also going to couple about 15 items and I'm going to quickly go through the items. A revenue modification and expense modification, an expense revenue in capital budget resolution, a contract budget resolution, four capital budget resolutions, a five year capital plan, a community development program resolution, tax fixing resolution, adjusted base in current base proportions, resolutions, transparency

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2 resolution for Fiscal Year 2009, four banking  
3 resolutions and five local laws, Intro 1009, 1026,  
4 1010, 1011 and 1012. I'm going to call the roll  
5 on all the coupled items.

6 WILLIAM MARTIN: William Martin,  
7 Committee Clerk, roll call on the Committee on  
8 Finance. Council Member Weprin?

9 CHAIRPERSON WEPRIN: Aye on all.

10 WILLIAM MARTIN: Jackson?

11 COUNCIL MEMBER JACKSON: Thank you,  
12 Mr. Chair. I'd like to be excused to explain my  
13 vote in detail.

14 CHAIRPERSON WEPRIN: Yes, you may.

15 COUNCIL MEMBER JACKSON: My  
16 colleagues, I sit here in front of you today to  
17 let you know where I stand on the proposed five-  
18 year capital plan of the City of New York that was  
19 submitted to us in February of 2009. When my wife  
20 volunteered me to serve in the Parents'  
21 Association at PSIIS 187 in 1980, I didn't know it  
22 would lead me to being Chair of the New York City  
23 Council Education Committee. But it's been a  
24 straight path, if you don't count the little 150  
25 mile detour I made when I walked from New York to

1  
2 Albany in 2003 on behalf of the children of New  
3 York City. I am sad today. And I am saddened to  
4 think that the City Council of New York is being  
5 manipulated by the administration in ways that  
6 reach far beyond the normal rough and tumble and  
7 disagreements of politics. It's sad because it's  
8 the students in New York City Schools who are  
9 going to pay the price if this capital plan passes  
10 as written. Of course the real truth is that  
11 society pays the price when we don't give our  
12 children the opportunity for a "sound, basic  
13 education." And facilities are where a "sound,  
14 basic education" starts. That's why this vote on  
15 the proposed capital plan is so important today.  
16 If we don't get this plan right, now, at its  
17 start, then no matter how much additional money  
18 gets added in or taken away, no matter how many  
19 individual projects get put in the plan or pulled  
20 out, the plan will still be wrong because the  
21 underlying assumptions are wrong. The kids pay  
22 the price every single day, particularly in  
23 districts that have been historically overcrowded  
24 where our families live because the Department of  
25 Education makes its data-driven decisions based on

1  
2 bad data. What does this bad data mean in the  
3 daily life of a student? For starters, it means  
4 that the Department of Education thinks that more  
5 kids can fit into the building than the build was  
6 intended for. When I was on the Community School  
7 Board 6 in northern Manhattan, we opened a bunch  
8 of schools, brand new schools. And when they  
9 opened, they were ready to roll. There weren't  
10 any unfurnished wings or anything like that. They  
11 were full to the brim from day one. So I want you  
12 to compare the then and now numbers and tell me  
13 how these building capacity numbers can go up and  
14 down like the stock market. P.S. 8 opened with a  
15 capacity of 547 students in 1994. It was listed  
16 at 785 in 2002, and now it is listed at 623 with a  
17 target capacity of 505 and an enrollment of right  
18 now of 612. The same building and the same square  
19 footage, nothing's changed. P.S. 4 opened in 1995  
20 and it was listed as holding 600, even though its  
21 layout is identical to P.S. 8. P.S. 4 magically  
22 expanded and it is listed in the 2002-2003 Blue  
23 Book with a capacity of 848, no annexes, no  
24 additions, no nothing. I.S. 90 opened in 1993  
25 with a capacity 1,350 students. Today, the

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2 targeted capacity of I.S. 90 is listed at 2,087.  
3 That's down from 2,975 in 2006. And I dare the  
4 chancellor and the mayor to take a CEC, our  
5 Community Education Council, take a tour of 218  
6 and see for themselves. Now I can cite many more  
7 examples but the point is our schools on paper are  
8 expanding and contracting like balloons and it  
9 comes back to the way capacity is counted. The  
10 really tricky thing is, my colleagues, you can't  
11 tell by looking at the numbers on paper; you have  
12 to know the buildings and walk the hallways in  
13 order to find out. And these paper numbers are  
14 the basis for the utilization rates, the  
15 percentages that everyone looks at on paper to see  
16 if their school is crowded. Well that one defines  
17 the need. So don't believe the hype. Now, let me  
18 go back and forth with the Department of  
19 Education. We have done that so many times  
20 without getting anywhere. Even today, at this  
21 hearing, they agreed on what the Contract for  
22 Excellence said and they know what the figures  
23 are, but they're not doing anything about it. But  
24 don't take my word for it because I'm just a City  
25 Council Member. I'm just an education advocate.

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2 Listen to what Justice Leland DeGrasse, the  
3 Supreme Court justice said. Excuse me. Listen to  
4 what he said. This is January 10th, 2001  
5 regarding the whole issue of capacity.

6 "Overcrowding is even worse than indicated above  
7 because the ECU, which is the enrollment capacity  
8 and utilization, formulas actually overstate  
9 schools' capacity. This inflation occurs because  
10 the formulas adjust for overcrowding by adding to  
11 schools' capacity non-classroom spaces if such  
12 space is in fact used for classrooms." And this  
13 is all quoting from him. "For example if a  
14 crowded school is forced to convert its gymnasiums  
15 or auditoriums into classroom space, the capacity  
16 formula indicates increased capacity." This is  
17 cited from Justice Leland DeGrasse on behalf of  
18 our children in the City of New York. The way  
19 that Department of Education gets information from  
20 the principals about utilization of space has not  
21 changed since Justice DeGrasse rendered the  
22 decision, even though they have said they will  
23 change the formula. They haven't. To be sure,  
24 it's now collected on the web rather than on  
25 paper, but there is still no way for a principal

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2 in your schools to indicate that Room 303,  
3 currently used as a 4th grade classroom, was  
4 designed to be a science lab. It doesn't matter  
5 if you can make demographic projections with laser  
6 like precision if you are projecting them on to a  
7 bad baseline number. That's what DOE does. Yes,  
8 I know that there is a formula that makes  
9 deductions for an entitlement number of specialty  
10 rooms based on enrollment. Do you know what  
11 specialty rooms are? They are science labs, math  
12 labs, computer labs, art rooms, all of the things  
13 that our children need. But look at the numbers.  
14 Citywide, only 57.6% of these cluster rooms and  
15 specialty rooms meet the minimum number required  
16 by the Department of Education. So they don't  
17 even meet the minimum requirement by law, by their  
18 own rules. Now, getting back to overcrowded  
19 schools and what it means students and teachers.  
20 It means starting lunch way too early in the  
21 morning, some as early as 10:00 in the morning.  
22 It means getting less gym than State law requires.  
23 It means art-on-a-cart and having to take hands-on  
24 State science standards exams or all of the kids  
25 must pass the Regents without even having been in



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a laboratory because now the science labs, they come on a cart instead of laboratories like many other schools outside of New York City have. It may even mean not being able to schedule classes that are required for graduation. Now that's a shame. And it certainly means less access to the school libraries. Last month, my colleagues, in your packet which all of you have right here, I gave each and every one of you a packet today. I sent each one of you an excerpt of one of the results of a citywide survey about facilities. And I skipped one person and that individual, only one single school had answered the survey in that Council District. But everyone else, it went into your mailboxes. Your office got it. I can't speak to the specific results of your particular district, but I know that, citywide, the results were pretty revealing. It was 38% percent of the principals representing 41% of the enrollment of children in New York City. Forty-one percent is not a small statistical sample. Eighteen percent of those responding said schools had at least one windowless classroom. No windowless classrooms are really allowed legally. So there are schools

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with classrooms that don't even have a window. And it's not legal to shortchange kids on gym either. Forty-seven percent of the respondents said their students get less than an hour of gym per week. Don't believe me, don't believe Justice Leland DeGrasse? What about Chief Judge Judith Kaye, the former judge of the Court of Appeals. She delivered this opinion. Let me quote from that opinion. It says, "Some facts that the trial court classified as purely "physical" facilities inputs are inseparable from overcrowding and excessive class size, conditions whose measurable effect on students plaintiffs have shown. One symptom of an overcrowded school system is the encroachment of ordinary classroom activities into what would otherwise be specialized spaces: libraries, laboratories, auditoriums and the like. There was considerable evidence of a shortage of such spaces." This is Chief Judge Judith Kaye talking about the New York City schools that our 1.1 million school children attend. Now most of you know that the Campaign for Fiscal Equity lawsuit, one in which I walked to Albany for, that eventually led to the Contracts for Excellence

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2 class size standards of no more than 20 in k to 3,  
3 no more than 23 in 4 to 12, that's the statewide  
4 standard. That is part of State law. In order to  
5 receive the C4E additional funding, the contract  
6 requires progress toward meeting certain class  
7 size reductions. The Department of Education has  
8 not moved towards that. And even in the proposed  
9 five-year capital plan, they do not even move  
10 towards those numbers. You've heard Kathleen  
11 Grimm said today that that five-year capital plan  
12 has 28 in junior high school and 30 in high  
13 school, not in compliance with state law. But go  
14 to page 20 and 21 of the Capital Plan, which is  
15 attached right here that I gave to each and every  
16 one of you. It spells out in black and white that  
17 the "targeted maximum" class size at the high  
18 school level is 30 and middle school is 28.  
19 That's the Department of Education. Then there  
20 is, to me, what is just a bunch of mumbo-jumbo by  
21 DOE about using space more efficiently. So that  
22 schools, and I'm quoting what they say, "may take  
23 advantage of lower utilization to create  
24 additional cluster rooms" or may "opt for lower  
25 class sizes." Well, I didn't think that lower

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2 class size was optional. It's mandated by state  
3 law. The courts were pretty darn clear in  
4 defining a sound, basic education which includes  
5 art, music, dance, drama, science, technology,  
6 gym, outdoor play, et cetera. So you may ask what  
7 you're missing. Advocates are saying we don't  
8 want the Blue Book, we want the true book. That's  
9 what they say. The Blue Book numbers that drive  
10 the capital plan is that when you reduce class  
11 size you will need fewer classrooms to hold  
12 students because you are going to give those  
13 classrooms more efficiency. That's fewer  
14 classrooms, not more. Now the plan doesn't put it  
15 quite so succinctly. It merely increases the  
16 number of students it claims each school can hold  
17 when class sizes are reduced. You heard me ask  
18 Kathleen Grimm about this, but one of their tools  
19 is to put another teacher or body in an  
20 overcrowded classroom. That in their opinion  
21 reduces class size. That's nonsense. There are  
22 still 35 or 36 students in the class, I don't care  
23 how many teachers you put in that classroom. I  
24 have a question for the Department of Education  
25 that never gets answered. My colleagues, it never

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2 gets answered. Why don't we just start using  
3 those facilities more efficiently right now and  
4 save ourselves and the taxpayers a whole bunch of  
5 money? Come on folks, it defies common sense and  
6 logic that class size is going to be reduced if  
7 you don't add new classrooms. Now, I said I was  
8 sad, and sometimes I get a little depressed in  
9 dealing with this issue, because I have worked  
10 damn hard, and many of you know it, on advancing  
11 equity in education and the harder I look, the  
12 more that I look at the details, the more that I  
13 see that it is wrong. It took me a long time to  
14 come to this detailed level of understanding  
15 because my role in CFE has been one of advocating  
16 and rallying people, walking to Albany, walking  
17 from Washington Heights to the courthouse here.  
18 Michael Rubel [phonetic] and the other attorneys  
19 were the legal minds. But you know one thing, I'm  
20 not just sad, I'm angry. I sat here at this  
21 hearing of the Capital Plan for Community School  
22 District 6 in Northern Manhattan where CFE started  
23 and it was like watching a rerun that I've seen  
24 more than twice. Same complaints from parent  
25 leaders, the same complaints from principals, the

1 same complaints from the CEC members about  
2 overcrowded conditions, even though the Department  
3 of Education would tell you that School District 6  
4 is not overcrowded. Thirteen years of litigation,  
5 \$16 billion supposed to be added more for  
6 education. Let me just finalize by saying that we  
7 need to rethink the way the plan is constructed  
8 from the ground up. Right now, my brothers and  
9 sisters, it's structurally flawed. But we have  
10 the power in our hands right here and now to say  
11 no and send it back to the Department of  
12 Education. And we can tell them in no uncertain  
13 terms what it would take to get it right. One is  
14 to fix the capacity formula. Nothing will ever be  
15 right until we have an accurate inventory of seats  
16 and what is needed in our school system. Number  
17 two is to align class size standards with the  
18 state law, not increased program efficiency  
19 ratios. That's nonsense. Give us a full  
20 statement of needs so that we, the Council of the  
21 City of New York, as stewards of public dollars,  
22 can compare what is in the plan and what is DOE's  
23 top priorities with what is not being addressed.  
24 That's the only way we can know that we are acting  
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in the best interest of the public and our constituents. Put more money into new capacity. You heard me ask her, if we put a billion dollars into the plan that will yield \$2 billion more for us. In this packet there is a letter that I sent to Mayor Bloomberg basically saying that he was ready to spend \$900 million on a prison in the Bronx and on expanding the house of detention in Brooklyn when all of the elected officials in the Bronx are against that prison being built. Many advocates in the community are against it and in downtown Brooklyn they're against it. The prison system in New York City is only 75% of capacity and everyone says crime is going down. Why are we spending \$900 million on prisons? I asked that question. I ask it of you to think about it. I asked it of the Mayor's Office when I met with them on this matter. So I asked them to put more money into the Department of Education. When I read the memo from Corporation Counsel, which every one of you received, and mind you, the Corporate Counsel of the City of New York does not work for the City Council of New York. They work for Mayor Bloomberg. Understand that. When I

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2 read that, do you know what it said? It basically  
3 said that if we did not pass the proposed five  
4 year capital plan, then no monies for the proposed  
5 five year capital plan can go forward.

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CHAIRPERSON WEPRIN: Council  
7 Member, can you just sum up? I think this is  
8 going to go down in the Guinness Book of World  
9 Records of explaining your vote.

10

COUNCIL MEMBER JACKSON: My  
11 brother, I'll be finished in about two or three  
12 minutes. On behalf of the 1.1 million children,  
13 someone has to stand up and tell the truth and  
14 that's what I'm doing.

15

CHAIRPERSON WEPRIN: That's fine.

16

COUNCIL MEMBER JACKSON: I'll be  
17 finished in two minutes.

18

CHAIRPERSON WEPRIN: Okay.

19

COUNCIL MEMBER JACKSON: The  
20 Corporate Counsel memo said if we don't approve  
21 that five year capital plan then no money can be  
22 spent on the proposed capital plan for 2010-2014.  
23 I agree with them. Don't let anybody tell you  
24 that things are going to stop right now. All of  
25 the projects that have been approved that are



1  
2 going to be built over the next two or three years  
3 are projects that are in this current plan that  
4 are already funded. So don't let anybody tell you  
5 to the contrary. Now I say to you, when we vote  
6 yes, we are enabling the administration to move  
7 ahead with something that is fundamentally wrong.  
8 A no vote in my opinion is a positive step on  
9 behalf of the children of New York City. Let me  
10 again quote from someone who knows better than all  
11 of us. Steven Sanders, the former Chair of the  
12 New York State Assembly's Education Committee and  
13 he sponsored the 2002 legislation that defined our  
14 current governance system and granted the Council  
15 oversight on the capital plan. This is in an  
16 email that he sent to a member of my staff, to me.  
17 I'm quoting him now. "I do not think that there  
18 is anything ambiguous about Section 2590 of the  
19 State Education Law as it relates to the adoption  
20 of a five year capital plan for the New York City  
21 School District. The plan must be submitted by  
22 the Chancellor to the City Board of Education for  
23 its approval. If the City Board votes in the  
24 affirmative then the plan must be approved by the  
25 City Council and signed into law by the Mayor.

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2 The City Board is not required to vote yes they  
3 can vote no if they so choose. The City Board is  
4 the PEP. If the City Board does not approve the  
5 plan then no plan may be submitted to the City  
6 Council until the City Board of Education does  
7 approve a plan. Similarly, if the City Council  
8 does not vote in the affirmative on a Plan that  
9 preaches the Council, then there can be no five  
10 year capital plan implemented, unless and until,  
11 the City Council approves. Under that  
12 circumstance, the Chancellor would have to revise  
13 his plan, resubmit it to the City Board for their  
14 approval and then have the City council approve it  
15 if they so choose." The choice is clearly ours.  
16 Let's make the right one. The children depend on  
17 us to create the opportunity for them to have  
18 access to an education that will allow them to  
19 become future leaders and good citizens. We need  
20 to do right by them my colleagues. Stand with me  
21 and send a united message. We cannot say yes to a  
22 plan that is structurally flawed and does not  
23 provide the things that our children rightfully  
24 deserve. Don't let anyone tell you it cannot be  
25 done. It can be done. It can be done if we stand

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2 together and demand on behalf of the children to  
3 fix the plan. Now, let's do the right thing  
4 together. I am voting no on M1429-2009 and Res  
5 2039-2009 which is the Mayor's proposed five year  
6 capital plan. I plead to you to do the right  
7 thing. Thank you.

8 CHAIRPERSON WEPRIN: How do you  
9 vote on the other items, Councilman?

10 COUNCIL MEMBER JACKSON: On all  
11 other items I vote yes, except M1429 and Res 2039  
12 of 2009.

13 CHAIRPERSON WEPRIN: Thank you.

14 COUNCIL MEMBER KOPPELL: Mr.  
15 Chairman?

16 CHAIRPERSON WEPRIN: Yes.

17 COUNCIL MEMBER KOPPELL: May I ask  
18 of you a question?

19 CHAIRPERSON WEPRIN: I hope you're  
20 not going to explain your vote as long as that.

21 COUNCIL MEMBER KOPPELL: He's  
22 raised some issues in this statement that he made  
23 and I guess he did it in a context of an  
24 explanation of his vote. I have a question to ask  
25 in relation.

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2 CHAIRPERSON WEPRIN: The only thing  
3 I can say Councilman is we're in the process of  
4 voting. Is it a point of information?

5 COUNCIL MEMBER KOPPELL: It is a  
6 point of information.

7 CHAIRPERSON WEPRIN: I'll allow a  
8 point of information.

9 COUNCIL MEMBER KOPPELL: Is the  
10 five year capital plan part of the negotiated  
11 budget between the Council and the Mayor?

12 CHAIRPERSON WEPRIN: Yes.

13 COUNCIL MEMBER KOPPELL: Thank you.

14 CHAIRPERSON WEPRIN: But it's a  
15 separate vote.

16 COUNCIL MEMBER KOPPELL: But it's  
17 part of the negotiated budget?

18 CHAIRPERSON WEPRIN: It's part of  
19 the negotiated budget but it's a separate vote.

20 COUNCIL MEMBER KOPPELL: Okay, I'll  
21 explain my vote.

22 WILLIAM MARTIN: Rivera?

23 COUNCIL MEMBER RIVERA: I vote aye.

24 WILLIAM MARTIN: Reyna?

25 COUNCIL MEMBER REYNA: [off mic]

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2 CHAIRPERSON WEPRIN: Only if it's  
3 significantly shorter than Council Member Jackson.

4 COUNCIL MEMBER REYNA: I will try  
5 to do my best. Thank you, Mr. Chair. I just  
6 wanted to accompany my sentiments alongside with  
7 our Chair of Education, Council Member Jackson.  
8 I'm also concerned that there was one additional  
9 layer that was not mentioned and that is the five  
10 year old policy that has been shifted from ACS to  
11 the Department of Education. There is no  
12 accounting of how many five-year-olds will now be  
13 entering the Department of Education school  
14 system. Therefore, the class size issue is  
15 further exacerbated. So, I want to vote aye on  
16 all matters except M1429 and Preconsidered  
17 Resolution 203-9 2009.

18 CHAIRPERSON WEPRIN: Council Member  
19 Koppell, I've been corrected by counsel that it is  
20 not part of the negotiations. We do only have an  
21 opportunity to vote yes or no on the capital plan.  
22 That is actually only as a result of the Mayoral  
23 Control legislation that went into effect, which  
24 actually will expire at the end of this month. So  
25 actually, if the Senate does not act and the

1  
2 Mayoral Control expires, we technically will not  
3 even have the opportunity to vote yes or no on the  
4 capital plan after June 30th if it's not extended.  
5 But it is a separate vote on the five year capital  
6 plan. We only have the opportunity to vote yes or  
7 no on the plan.

8 COUNCIL MEMBER KOPPELL: A point of  
9 information. That doesn't really go to the  
10 question I asked before. That is whether the five  
11 year capital plan is part of the negotiations. I  
12 realize it's a separate bill, but is it part of  
13 the budget negotiation with the mayor?

14 CHAIRPERSON WEPRIN: No. It's  
15 basically appropriation for a capital plan  
16 presented by the Department of Education that we  
17 can either vote yes or no on.

18 COUNCIL MEMBER KOPPELL: What are  
19 the implications of voting no? Let's assume we  
20 succeeded and defeated it.

21 CHAIRPERSON WEPRIN: I would assume  
22 there is no five year capital plan. In theory,  
23 what I assume Council Member Jackson was hoping is  
24 that they'd come back with another five year  
25 capital plan which is more acceptable to him or to

1  
2 the 1.1 million children in the City of New York.  
3 However, the problem with that is of course we  
4 only have two weeks and we have no reason to  
5 believe that the Department of Education will come  
6 up with an alternative plan in the next two weeks.

7 COUNCIL MEMBER JACKSON: They could  
8 come back in two or three months.

9 CHAIRPERSON WEPRIN: They could.

10 COUNCIL MEMBER JACKSON: So I don't  
11 know why you're putting June 30th on there.

12 CHAIRPERSON WEPRIN: Except that if  
13 the Senate does not act, the legislation expires  
14 June 30th and we don't have authority to vote on  
15 the budget.

16 COUNCIL MEMBER JACKSON: Not true.

17 CHAIRPERSON WEPRIN: I think it is  
18 true under the School Governance Law.

19 COUNCIL MEMBER KOPPELL: I hate to  
20 put you on the spot, Mr. Chairman, but is it the  
21 Speaker's recommendation that we should approve  
22 the capital plan?

23 CHAIRPERSON WEPRIN: It is the  
24 Speaker's recommendation that we should approve  
25 the capital plan. It's actually the

1

2 recommendation of leadership as well.

3

4 COUNCIL MEMBER KOPPELL: Having  
5 answered that question, I will make my comment. I  
6 think much of what Chairman Jackson has said is  
7 accurate. At the same time, we must act within  
8 fiscal constraints that are quite severe. Given  
9 those fiscal constraints, I am concerned over  
10 expanding the capital plan at this time. Under  
11 those circumstances, given the fact that while you  
12 have indicated, and I appreciate it, that this is  
13 not a part of the budget agreement; it seems to me  
14 part of the overall agreement between the Council  
15 leadership and the executive. Of course, the  
16 Department of Education is now part of the  
17 executive. It's not the Board of Ed anymore the  
18 way it was until recently.

18

CHAIRPERSON WEPRIN: That is true.

19

20 COUNCIL MEMBER KOPPELL: For that  
21 reason and given the constraints that we have with  
22 respect to spending money, I'm reluctant to say  
23 that I reject this capital plan because sitting  
24 where I sit, and I'm a member of the Education  
25 Committee, I don't have enough knowledge to say  
whether we can afford more. I think that given



1  
2 the fact, as Deputy Chancellor Grimm said, this is  
3 a moving target, and we will be reviewing this  
4 again in 12 months if not before, I'm willing to  
5 live with this at this time. On the other hand, I  
6 do want to move in the direction that Chairman  
7 Jackson points out. I hope that the fiscal  
8 situation will allow us to move closer in that  
9 direction. For the moment, however, given the  
10 fact that the leadership as part of the overall  
11 budget agreement with the mayor recommends a yes  
12 vote, I vote aye with the comments that I've just  
13 made.

14 CHAIRPERSON WEPRIN: Thank you,  
15 Council Member.

16 WILLIAM MARTIN: Baez?

17 COUNCIL MEMBER BAEZ: Aye.

18 WILLIAM MARTIN: Brewer?

19 COUNCIL MEMBER BREWER: I'm voting  
20 aye. Robert Jackson is our hero. He has made  
21 huge, huge gains in terms of us thinking very  
22 differently about material that is presented, as  
23 he did many years ago and he continues to be the  
24 advocate for the children of the City of New York.  
25 I sat in a meeting with the Speaker and Council

1  
2 Members Lapping and Garodnick because I share a  
3 portion of District 2, and in District 2 and  
4 District 3 and all districts, there is absolutely  
5 huge overcrowding, none of which is reflected at  
6 least in my area of any need whatsoever. There is  
7 no indication from the Department of Education  
8 that there is overcrowding in District 3 in the  
9 part that I represent and I think the folks from  
10 District 2 would feel the same way. The fact of  
11 the matter is I hope that this discussion leads to  
12 legislation in Albany that would give the City  
13 Council more than a yes and no vote and more than  
14 a memorandum of understanding that says we can  
15 work with DOE and make some changes. Much  
16 stronger language should state that we are able to  
17 add or delete the seats and define what a cluster  
18 room is versus a classroom so they're not  
19 obfuscated when we look at the plan itself. I  
20 look forward to working on that legislation. I  
21 look forward to changing the way that the DOE  
22 looks at what room count. I look forward to  
23 working with Council Member Jackson. He's  
24 certainly a hero to all of us.

25 CHAIRPERSON WEPRIN: How do you

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2 vote, Council Member?

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COUNCIL MEMBER BREWER: I vote aye.

4

I also have to say that I am including funding for

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Hunter College where I teach and I am including

6

funding for the New York Historical Society where

7

my husband is a lecturer.

8

WILLIAM MARTIN: Comrie?

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COUNCIL MEMBER COMRIE: No,

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Charles. I wanted to thank first of all the

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Finance staff. I want to thank the Speaker and

12

the leadership team for getting us to this point

13

in the budget. I think contrary to any individual

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that is trying to come in at the last minute to

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speak to an issue that really is pertaining to

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actually nothing that this is the most transparent

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budget process that we've ever had. The

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delegations actually had the first opportunity to

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make decisions on what they thought were most

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critical to be funded in the budget this year.

21

The Finance staff had hearings and budget

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presentations. I want to thank the Finance staff

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for all of the hours that they put in, for the

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budget presentations that they made or that were

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contextual in detail on every item and every

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2 aspect of this budget that any member that wanted  
3 to attend to find out exactly what agencies were  
4 being funded, what the impact of the Mayor's  
5 executive and preliminary budget cuts, you could  
6 have heard about it so that you could be informed  
7 to make decisions. I want to also point out the  
8 fact that where we had some difficult choices to  
9 make, I think that the Council made the best  
10 choices in a difficult time knowing that we're  
11 facing an even more precarious time unless our  
12 economy rectifies itself quickly. I must disclose  
13 that I'm voting in favor of the proposed budget,  
14 which includes funding for the York College  
15 Foundation. My wife is an administrator at York  
16 College, which has nothing to do with the  
17 foundation, but I wanted to disclose it for the  
18 record. Also, I wanted to point out today that  
19 the Finance staff and the Mayor's Office of  
20 Contracts and the Mayor's OMB have worked hard to  
21 make sure that every agency and every program  
22 that's being funded has been vetted. And that  
23 every program and every agency and every nonprofit  
24 that's on the list has been vetted as thoroughly  
25 as possible with a new system that has been put in

1  
2 place to protect the city's money, to protect our  
3 actions and to make sure that everything was done  
4 above board. I think that anybody that tries to  
5 make light of that situation needs to fully  
6 participate in the process and then you will see  
7 exactly what has to be done. But a lot of work  
8 has been done by a lot of people in this room to  
9 make sure that the groups that are in this budget  
10 are groups that belong in this budget. The groups  
11 that are in this budget that are doing work on  
12 behalf of the individuals in this city, trying to  
13 protect people, are groups that are worthy of  
14 being funded. I want to thank again the Finance  
15 staff for all of the work that they did to cull  
16 all of this information together, to put all this  
17 information out, to work with all of the different  
18 entities and the people that are now concerned  
19 about things at the last minute that don't want to  
20 attend meetings anymore, well God bless them.

21 Also, I want to talk about Council Member  
22 Jackson's issue with the education budget. Queens  
23 is being shortchanged in this five year capital  
24 plan because of the way that they are looking at  
25 space allocations, because of the way that they're

1  
2 looking at census demographics, because of the way  
3 that they're not attributing the fact that there  
4 are a lot of people that come from other areas to  
5 come to schools in Queens. So I agree with  
6 Council Member Jackson that there is a lot wrong  
7 with the way that the DOE is doing the education  
8 capital budget. I believe that there are many  
9 problems with it. We've had many discussions  
10 about it in leadership. We believe that there  
11 needs to be some legislation done, there needs to  
12 be some public pressure done, but the capital  
13 budget, as you know, is the budget that we can  
14 look at anytime and make the changes. There are  
15 programs and issues and capital projects that need  
16 to be built now because we can't afford to wait  
17 for our children. So I don't disagree with  
18 Council Member Jackson's assertions in here. I  
19 think that we need to move forward with the idea  
20 that we're all going to work as a body together to  
21 attack this capital budget as far as the education  
22 budget is concerned to make sure that the  
23 necessary changes are done without hurting the  
24 projects that need to move forward. I think that  
25 we can do both with the pressure and the uniform

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2 stance of this body and I think that we can get  
3 there quickly because our children are at stake.  
4 Queens is being shortchanged in this budget, but  
5 to stop it at this point, the city in their  
6 decisions will only shut everything down while  
7 they're trying to make a point and only hurt this  
8 process and hurt children that need to have  
9 science labs now, other projects now, computer  
10 systems now and I don't think we can afford to do  
11 that. So there is a consensus among leadership to  
12 work with Council Member Jackson to move forward  
13 on this. There is a consensus that we need to  
14 make sure that this body understands what's going  
15 on with the capital project with DOE to make sure  
16 that there is more transparency to hopefully get  
17 Albany involved so that we can get more authority  
18 and autonomy in this process. I will be voting  
19 aye on all today. Thank you.

20 CHAIRPERSON WEPRIN: Thank you,  
21 Council Member.

22 WILLIAM MARTIN: De Blasio?

23 COUNCIL MEMBER DEBLASIO: Very  
24 quickly. Mr. Chairman, I share many of the  
25 concerns of Chair Jackson. I think the capital

1  
2 budget process is broken, the Council's role is  
3 insufficient, and parents are being left out of  
4 the process. The Blue Book situation is  
5 inaccurate and we're not looking at real siting  
6 decisions in terms of where the need is greatest.  
7 There are a host of problems. I agree entirely  
8 with the notion of changing the Blue Book process  
9 and changing the law in Albany so that we can  
10 actually go into the capital budget and make the  
11 revisions we need. All of that makes sense to me.  
12 We should all work together to get that done. But  
13 right now I also believe it is important to move  
14 this capital budget forward. I don't think we  
15 want to go into the unknown of not going forward  
16 with it, especially with the situation in Albany.  
17 So I will vote aye on all. In favor of that I  
18 also want to mention in terms of this budget as a  
19 whole that my wife is an assistant vice president  
20 at Maimonides Medical Center and I want to mention  
21 that I am the ex officio board member of the  
22 Prospect Park Alliance. Thank you, Mr. Chair. I  
23 vote aye on all.

24 WILLIAM MARTIN: Fidler?

25 COUNCIL MEMBER FIDLER: First, I



1  
2 will rely on the disclosure statement that I  
3 submitted earlier today and signed for my conflict  
4 statement. Regarding the five year capital plan,  
5 I want to say this. It is extraordinarily  
6 difficult not to vote with a colleague who is so  
7 knowledgeable and has been so passionate and  
8 frankly on 95% of the facts is 100% right. I have  
9 the most incredible respect for Robert Jackson and  
10 I wouldn't have any other member of this body  
11 chair the Education Committee. Having said that,  
12 it is clear to me, that in the sense that he's  
13 right is that the Department of Education cooks  
14 the books. That is what they do best. They're  
15 clearly cooking the books on the capacity  
16 question. Yesterday, Chairman, you held a hearing  
17 on high school graduation requirements. I cannot  
18 believe the extent to which they are cooking the  
19 books on graduation rates. So I would honestly  
20 trust what you have to say more than any witness  
21 that's come into the well from the Department of  
22 Education during the entire time I've been in the  
23 Council. Now withstanding that, we have a  
24 different view of where we're at in the process.  
25 First, I wouldn't call the plan wrong, I'd call it

1  
2 incomplete. By voting no, I'm concerned that we  
3 would be stopping the things that are in it, all  
4 of which are necessary, in favor of what is  
5 lacking that we also know is necessary. I'm also  
6 concerned and I can't flip it off lightly, there  
7 is a difference of opinion as to what the  
8 consequences of a no vote are between now and the  
9 end of June. I am not optimistic that the  
10 situation in Albany is going to resolve itself in  
11 such a way that our authority past June 30th will  
12 be extended. I am very concerned about that. If  
13 the situation in Albany were different, I might  
14 feel differently about this vote. I believe also  
15 that we have signed a memorandum of understanding  
16 today between the Council and the administration  
17 that will preserve our right to amend the capital  
18 plan. I clearly think that the words here are  
19 amend it, don't end it. For that reason, I am  
20 casting a yes vote on the five year capital plan  
21 and all of the matters before us today.

22 WILLIAM MARTIN: Gennaro?

23 COUNCIL MEMBER GENNARO: Yes.

24 WILLIAM MARTIN: Gerson?

25 COUNCIL MEMBER GERSON: May I be

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2 excused?

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CHAIRPERSON WEPRIN: To briefly explain your vote?

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COUNCIL MEMBER GERSON: Yes.

6

CHAIRPERSON WEPRIN: Yes.

7

COUNCIL MEMBER GERSON: Mr. Chair, thank you. First of all, I need to disclose that my mother, Sophie Gerson, is a member of the board of directors of Friends of LaGuardia Place, though unfortunately she's been unable for the past few years to attend or participate in those meetings. That a permanent, non-paid member of our staff Lucy Cecere is a member of both the board of directors of the Caring Community, and Friends of LaGuardia Place. As City Council member, I'm an ex officio member of the Alliance for Downtown New York and the Greenwich Village Business Improvement District, all of which will receive funds under the proposed budget. Mr. Chair, I must vote no on the five year capital plan for the Department of Education. The problem is a multiyear plan is supposed to be a roadmap to get us to our goals with forks in the road to allow for fiscal contingency and adjustment. The

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1  
2 problem with this plan is it sets us out or  
3 continues us in the wrong direction in many  
4 fundamental respects. It refuses to acknowledge  
5 as a goal the CFE class size standards. As the  
6 deputy chancellor testified and as you know, I  
7 have nothing but the greatest of respect and the  
8 best of relationships with the deputy chancellor,  
9 but as she testified, the plan does not set forth  
10 as a goal the provision of a full fledged  
11 gymnasium either in every school building or in  
12 proximity to every school building which could be  
13 then shared. Richard Simmons was on the steps of  
14 City Hall talking about combating childhood  
15 obesity and the imperative for physical fitness.  
16 If our authority is not extended by the end of  
17 June we are in essence in no worse place. By  
18 voting for a capital plan which does not have  
19 these fundamental goals, we are perpetuating a  
20 wrong direction. I believe if we do as the Chair  
21 of our Education Committee recommended we will  
22 continue negotiations with the Department of  
23 Education, they will have to come back to us and  
24 we will have an opportunity to correct these  
25 fundamental flaws. I think we owe it to our

1  
2 schoolchildren to take and insist on that  
3 opportunity. I therefore vote no on M1429,  
4 accompanying Resolution 2039 and yes on all else.

5 WILLIAM MARTIN: Sears?

6 COUNCIL MEMBER SEARS: Permission  
7 to explain my vote.

8 CHAIRPERSON WEPRIN: Yes, you may.

9 COUNCIL MEMBER SEARS: First, I  
10 would like to disclose that I have a son who  
11 occasionally serves as a consultant to the CSA. I  
12 also am voting yes, but I would like to have a  
13 comment with respect to my colleague Jackson, whom  
14 I respect a great deal. I do join with your  
15 sentiments. But at the same time, I have to join  
16 with Councilman Fidler, because if there is any  
17 district that probably confirms to a great deal of  
18 what you're saying it's mine. It's probably the  
19 most overcrowded, the smallest and the most  
20 populated. We need to be able to start to correct  
21 some of the wrongs. One of the things we do have  
22 is to modify this budget and this school plan and  
23 we do that. Well at some point we can. We can  
24 always change it. I've done that myself and then  
25 it's been put in there and that requires it. But

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2 to say an absolute no means that we have a halt to  
3 the things that must be done. Although I am  
4 voting yes, in no way should you interpret that it  
5 diminishes my respect for the efforts that you  
6 have put through with education or anybody else on  
7 that committee. I vote yes.

8 WILLIAM MARTIN: Gioia?

9 COUNCIL MEMBER GIOIA: Thank you.  
10 First, my sister is a school teacher at P.S. 229  
11 in Queens. My brother-in-law is a corrections  
12 officer on Rikers Island. Both will receive  
13 capital funding in this budget. I'm not sure that  
14 I have to disclose that, but in the abundance of  
15 caution I prefer to. With that, I will be voting  
16 no on M1415 and the accompanying Resolutions 2034  
17 and 2035 for my previously stated reason that the  
18 Schedule C could not be decoupled. So I will be  
19 voting no on it, and yes on others. Thank you.

20 WILLIAM MARTIN: Vann?

21 COUNCIL MEMBER VANN: Pass for the  
22 moment.

23 WILLIAM MARTIN: Gentile?

24 COUNCIL MEMBER GENTILE: By way of  
25 disclosure I'd like to disclose that my sister

1  
2 works at I.S. 259 and she is a parent coordinator  
3 at that school. I vote aye on all.

4 WILLIAM MARTIN: Yassky?

5 COUNCIL MEMBER YASSKY: Also, for  
6 disclosure, I note that my wife is an employee of  
7 the Metropolitan Opera, which does not receive  
8 funding through the City Council but does receive  
9 city funding. I vote aye on all items. I won't  
10 restate my position on the school budget other  
11 than to say that Council Member Fidler's statement  
12 expresses exactly my feelings on this topic. I  
13 would just like to echo what he said with the one  
14 exception that I think the Council does have the  
15 authority to simply vote no. I do believe that.  
16 But other than that, I though he expressed exactly  
17 what I believe.

18 WILLIAM MARTIN: Ignizio?

19 COUNCIL MEMBER IGNIZIO: I'd just  
20 like to briefly state that I think the five year  
21 capital plan vote is a sham. I think it's a sham  
22 because it's an up or up vote. It's not an up or  
23 down vote. I think we need to appeal to Albany to  
24 have the power and the authority to amend the  
25 plan. My friend Robert Jackson is exactly right,

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2 but I believe the confines in the law mandates  
3 that we pass this. I don't believe, my read and  
4 my counsel's read is that we can vote no and have  
5 an existing plan and that's what concerns me. I  
6 look forward to our colleagues in Albany getting  
7 their act together and passing legislation that  
8 allows us to have teeth here and allow to rule  
9 again our own capital plan.

10 CHAIRPERSON WEPRIN: That wasn't in  
11 reference to the dental clinics was it?

12 COUNCIL MEMBER IGNIZIO: No, but  
13 take it as you will. I vote no on 1009, no on  
14 1010-A and aye on all others.

15 WILLIAM MARTIN: Oddo?

16 COUNCIL MEMBER: Mr. Chair, before  
17 we continue the roll, from an informational point  
18 of view, would you communicate to members of this  
19 body if they're voting no on the resolution  
20 concerning the capital plan, they should not sign  
21 the capital plan reso?

22 CHAIRPERSON WEPRIN: I think you  
23 just did.

24 COUNCIL MEMBER: Well that was your  
25 responsibility as a chair but since that didn't



1

2 happen; I wanted to make it clear.

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4 CHAIRPERSON WEPRIN: Mr. Martin  
will so note that.

5

6 COUNCIL MEMBER: But he did not so  
note that. He's not communicated that to the  
7 body.

8

9 CHAIRPERSON WEPRIN: No, but  
anybody that votes no, he will remove their name  
10 from that particular committee report.

11

12 COUNCIL MEMBER: One thing is  
removing it and another thing is informing members  
13 they should not sign the document.

14

15 CHAIRPERSON WEPRIN: Members are  
members.

16

17 COUNCIL MEMBER: No, Mr. Chair.  
It's a point of fact. They should not sign the  
18 document if they're voting no. You have an  
19 obligation to communicate that to them.

20

21 CHAIRPERSON WEPRIN: I think you've  
already communicated it. I just indicated that  
22 Mr. Martin will point out to any member that  
23 erroneously signed the document and voted no--

24

25 COUNCIL MEMBER: After the fact or  
before the fact?

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CHAIRPERSON WEPRIN: Well, this is  
vote.

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COUNCIL MEMBER: I understand that.  
I understand it's a vote. What I'm saying to you  
is that the obligation of you as the chair or the  
clerk was to communicate that.

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CHAIRPERSON WEPRIN: I'm going to  
take the position that the oral vote that a member  
makes in person supersedes the signature. If  
there's an inconsistency, we will resolve the  
inconsistency.

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WILLIAM MARTIN: Council Member  
Oddo?

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COUNCIL MEMBER ODDO: May I be  
temporarily excused to explain my vote?

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CHAIRPERSON WEPRIN: Are you sure  
you're all not in cahoots with Gioia to make sure  
that we don't vote until 24 hours now?

18

19

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COUNCIL MEMBER ODDO: No, I'm not  
in cahoots with the Councilman on anything. Man,  
there was so many ways to go there. There was a  
little voice inside my head that said, "Do it.  
Say it." That little voice was the voice of Bill  
de Blasio I think. We'll come back to that other

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1  
2 Councilman in a second. I just want to say I'm  
3 voting no on 1009, 1010-A, and yes on all others.  
4 I'd like to just say that I love and respect  
5 Robert Jackson and it pains me to not be voting  
6 with him, but I want to associate myself with the  
7 comments of Council Members Fidler and Ignizio on  
8 that front. I want to say to the Finance staff,  
9 thank you to each and every one of you. I  
10 probably won't name you later on, but please do  
11 not take anything that any of the members say at  
12 any point as any sign of disrespect because we  
13 hold you in such high regard. They have a lot of  
14 folks on the other side in the Department of  
15 Finance and OBM and you guys stand toe to toe with  
16 them and you do a fabulous job. I just want to  
17 close with almost how we opened, thanks to Council  
18 Member Weprin. There's an old saying, it's either  
19 about Calvin Coolidge or he made this comment  
20 about an opponent. Something to the effect that  
21 so and so would cut down a 200-foot redwood, stand  
22 on the stump and give a speech about environmental  
23 conservation. From time to time, that mentality  
24 raises its ugly head in this body and that's  
25 disgraceful. People have to learn that when you

1  
2 dump on the institution you're a part of, when you  
3 ask a commissioner, "can you assure me that the  
4 budget I'm voting on isn't fraudulent" or you do  
5 some of the theatrics we saw earlier, you dump on  
6 yourself. Remember that, it's a great line. Cut  
7 down a 200-foot redwood, stand on the stump and  
8 give a speech about environmental conservation.  
9 Thank you, Mr. Chairman.

10 WILLIAM MARTIN: Vann?

11 CHAIRPERSON WEPRIN: So how do you  
12 vote? Did you vote?

13 COUNCIL MEMBER ODDO: Yes. I voted  
14 yes on all with the exception of 1009 and 1010-A.

15 CHAIRPERSON WEPRIN: Thank you.  
16 Sorry, it was a long time ago. I forgot.

17 WILLIAM MARTIN: Council Member  
18 Vann?

19 COUNCIL MEMBER VANN: Permission to  
20 explain my vote, Mr. Chairman?

21 CHAIRPERSON WEPRIN: Short or long?

22 COUNCIL MEMBER VANN: Permission to  
23 explain my vote, Mr. Chairman.

24 CHAIRPERSON WEPRIN: Since this is  
25 my last budget, go for it.

1  
2 COUNCIL MEMBER VANN: I'm rarely  
3 long, as you may recall. I thought long and hard  
4 about this and I'm very persuaded by Chairman  
5 Jackson's passion and knowledge around this issue.  
6 I'm very disappointed in the administration, at  
7 least in how the disrespect they showed this body  
8 or at least showed this member who chaired the  
9 committee who I thought had oversight over CDBG  
10 and received no respect as far as I am concerned.  
11 I thought I had some recommendations that would  
12 make this body proud as to how we could use those  
13 additional funds to create jobs and so on. It's  
14 as if I was talking to the wall as far as I am  
15 concerned. Staff may differ. My anger there  
16 carries me over. I'm not going to vote against  
17 the budget, but I very well can vote with my  
18 friend and against the administration in this  
19 aspect. Having said that, I vote no on whatever  
20 numbers reflect the five year school plan and I  
21 vote aye on the others. Also, I must disclose  
22 that there is funding for the National Black  
23 Commission on AIDS and I am a volunteer member.  
24 Medgar Evans College, I have a daughter who is a  
25 director of the Office of Academic Transformation

1  
2 and Success. I have a daughter who is the  
3 coordinator of the College Now program. I have a  
4 son-in-law who is a graphic designer for  
5 disclosure. Is that short enough, Mr. Chairman?

6 CHAIRPERSON WEPRIN: That's fine.  
7 You could have been longer. It would have been  
8 fine. I was just asking.

9 WILLIAM MARTIN: All items in  
10 today's Finance agenda have been adopted by a vote  
11 of 19 in the affirmative, zero in the negative and  
12 no exceptions, with the exception of the following  
13 which are adopted: M1429 and accompanying reso is  
14 adopted by a vote of 15 in the affirmative, four  
15 in the negative and no abstentions; M1415 and  
16 accompanying resolutions adopted by a vote of 18  
17 in the affirmative, one in the negative; and  
18 Introductions 1009 and 1010-A are adopted by a  
19 vote of 17 in the affirmative, 2 in the negative  
20 and no abstentions. Thank you.

21 CHAIRPERSON WEPRIN: Please sign  
22 the committee report, with the exception of those  
23 resolutions or items that you voted no and do not  
24 sign those committee reports. I don't know if we  
25 have to keep the roll open, but I will. I'll keep

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the roll open until the State Meeting starts, up

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to 30 minutes. I hope the Stated Meeting will

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start before 30 minutes, but either up to 30

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minutes or until the Stated Meeting starts. Other

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than that, we're adjourned.

C E R T I F I C A T E

I, Donna Hintze 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 "Donna Hintze".

Signature

Date August 7, 2009