

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEES ON FINANCE AND ENVIRONMENTAL PROTECTION

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

Michael Hyman  
Acting Commissioner  
Department of Finance

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Commissioner  
Department of Design and Construction

Ronnie Lowenstein  
Director  
Independent Budget Office

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Deputy Director  
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3 CHAIRPERSON WEPRIN: Good morning  
4 and welcome to the last day of executive budget  
5 hearings for fiscal year 2010. Somehow it doesn't  
6 feel like the last day of school though.

7 My name is David Weprin, I Chair  
8 the Council Finance Committee. We have a long day  
9 today, so in the interest of time I will limit my  
10 opening remarks to 10 pages--no.

11 Throughout the executive budget  
12 hearings, we heard from various agency heads on  
13 the effect of the executive budget on their agency  
14 and how each agency will make best efforts to work  
15 around PEGs, budget cuts, and how they will make  
16 use of the federal stimulus money, if they were  
17 lucky enough to receive any.

18 After hearing testimony from these  
19 agencies and the public, one thing was abundantly  
20 clear and still remains clear--the economy has  
21 taken a toll on all of us either directly or  
22 indirectly. As the legislative body of this city,  
23 we will try our best to negotiate and come to an  
24 agreement with the administration on a budget that  
25 we can all be proud of. In this economic climate  
we will have to make difficult choices, however,

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3 our goal is to adopt a budget that will allow  
4 agencies to continue to perform their core  
5 services that are so important to this city.

6 Today, we will hear from the  
7 Department of Finance, the Department of Design  
8 and Construction, the Comptroller, the Independent  
9 Budget Office, and the Department of Environmental  
10 Protection.

11 We will begin first with the  
12 Department of Finance's Fiscal 2010 Executive  
13 Budget is 10% more than the Fiscal 2009 adopted  
14 budget at approximately \$228 million. Testifying  
15 on behalf of the Department of Finance is Michael  
16 Hyman, Acting Commissioner from the Department of  
17 Finance. Commissioner Hyman?

18 COMMISSIONER HYMAN: Good morning.

19 CHAIRPERSON WEPRIN: Good morning.

20 COMMISSIONER HYMAN: Good morning  
21 Chairman Weprin and members of the Committee of  
22 Finance. I am Acting Finance Commissioner Michael  
23 Hyman. Thank you very much for inviting me to  
24 testify today on the Fiscal Year 2009 Executive  
25 Budget--it's actually Fiscal Year 2010.

Since this is my first appearance

before you in this new role, I just wanted to give you some quick background on myself by way of introduction. While I am obviously new to this position, I have deep experience with the Department of Finance. By training, I am an historian. I earned my PhD in History at the City University of New York Graduate Center. I first joined Finance as a policy analyst in 1988. During my 21 years at Finance, I have served the agency in a number of roles--most recently as the Deputy Commissioner in charge of Tax Audit, Policy and Enforcement. As the agency's senior voice on tax-policy matters, I have helped to answer many of the questions posed to the agency over the years by members of this Committee, as well as by your excellent staff. So it is my great pleasure to be able to testify before you today and to be able to answer some of these questions directly.

Before I begin, I also want to recognize the people you see here behind me, the senior staff and management at the Department of Finance. I know how highly so many at the City Council regard the responsive and responsible staff Finance has assembled over the years, and

with good reason. The agency's many past successes--from easy-to-understand property tax bills to much-appreciated \$400 rebate checks to shorter wait times for parking hearings, to name just a few--have been built on the hard works of these very people. For my part, I want to second your appreciation of that work and personally thank each of them for helping me through my first month as Acting Commissioner.

I will do several things in my brief testimony before you this morning. First, I will summarize the assessment roll changes since the tentative roll was released in January. Secondly, I will update you about some legislation we are supporting in Albany as the session ends later this month. Next, I will give an update on our expanded efforts to get the Earned Income Tax Credit to New Yorkers--an effort that I am happy to report is being emulated in other parts of the country. Finally, I will be happy to take your questions.

I want to first turn to the final assessment roll for fiscal year 2010. The market value all city property is now \$795.6 billion,

which is 1.9% lower than last year's final roll market value of \$811 billion. However, because of assessment rules mandated by state law, the assessment that taxes are based on actually increased 6.7% since last year. The final market value is 0.7% lower than the market value of the tentative assessment roll that we released on January 15th.

There are four main factors that contribute to a change in the assessment roll. First, Finance responds to information that the public provides after they receive our Notice of Value. Second, we implement new exemptions. Since January, as a result of strong outreach and an online form for homebuyers, we have enrolled more than 36,000 homeowners in the School Tax Relief, or STAR, program--an increase of nearly 50% over the same period last year. We also helped more than 5,000 seniors, 2,000 veterans, and 800 people with disabilities receive tax exemptions.

Third, the Tax Commission reviews our assessments and reduces assessed value for some properties.



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3 Finally, we are required to value  
4 properties under construction on the tentative  
5 assessment roll. However, if the property is not  
6 ready for occupancy on April 15th and it's the  
7 first year of construction, the value is removed.  
8 Most commercial properties and residential  
9 properties that have applied for 421-a exemption  
10 benefits have three years to complete  
11 construction. Finance is required to include the  
12 value of these properties on the tentative roll in  
13 January, but we remove the value in May if the  
14 property was not ready for occupancy by April  
15 15th.

16 I also want to quickly update you  
17 on our state legislative efforts. As you know,  
18 the fiscal downturn has created its own set of  
19 challenges for legislators in Albany, as well as  
20 in City Hall. Finance has been closely monitoring  
21 the progress of several important pieces of  
22 legislation, and I have planned a trip to Albany  
23 next week to discuss bills of importance to us. I  
24 will talk about one of these bills today--an  
25 important state legislative item that I discussed  
before Chairman Yassky's Small Business Committee

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only five weeks ago. That bill has since been introduced as Senate 5519/Assembly 8615, sponsored by State Senator Carl Kruger and Assembly Member Denny Farrell. It would directly address a business-tax issue that has been raised by Speaker Quinn and many other Council Members, namely, the double-taxation of freelancers and sole-proprietors who pay the Unincorporated Business Tax, or UBT.

As I said at that hearing, many small businesses paying the UBT are run by individuals who are also New York City residents, and so they are subject to the New York City Personal Income Tax on the same income. The state legislation we are advancing will provide tax relief to half of the total population of firms paying the UBT by effectively exempting nearly 11,000 of them--those with taxable incomes of \$100,000 or less--from the UBT, while providing partial tax relief to an additional 6,000 businesses with taxable incomes between \$100,000 and \$150,000. About 80% of the 17,000 businesses affected by this legislative proposal are sole proprietorships.

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A final important element of the bill is that it will end the requirement that freelancers and sole-proprietors file the UBT form to Finance annually even when they have no liability, which was an added nuisance to some small businesspeople. If enacted, the reform would take effect during the current tax year and we hope we can have the Council's active support in the bill in the weeks ahead.

The final item on which I wanted to update you is the Earned Income Tax Credit Mailing Project. If you recall, the Earned Income Tax Credit is a major tax benefit provided at the Federal, State, and City levels that goes to the working poor. As part of the efforts of Mayor Bloomberg's Commission on Economic Opportunity, the city decided that we had to do more than just publicize the availability of the EITC, as helpful as those efforts have been. The problem was that unless those who were eligible actually applied for the Earned Income Tax Credit, they never received the benefit.

Finance realized that we had access to all of the basic data necessary to actually

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identify New Yorkers who were eligible but had not applied for the Earned Income Tax Credit, and we could complete tax forms for those New Yorkers to claim their credits. All the taxpayer would have to do was provide a social security number, date, and sign the amended return.

In the two years since we publicly launched the project in January 2007, in two separate annual mailings, we have directly helped low income New York City residents successfully claim more than 22,000 credits totaling almost \$14 million.

This year, in a new and important development, Finance partnered with our sister agency, the New York State Department of Taxation and Finance, to extend the EITC project statewide. The state's mailing was just completed at the end of last week and included more than 4,000 New York City residents. Perhaps most gratifying is that with the great publicity we have received, including being a semifinalist for Harvard University's Innovations in Government Award, other states have reached out to us for details on how they may do this. Just last week, Maryland

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3 undertook a similar mailing to directly assist  
4 their neediest working taxpayers.

5 Thank you. I'll stop there and I'm  
6 happy to answer your questions.

7 CHAIRPERSON WEPRIN: Thank you,  
8 Commissioner.

9 We've been joined by a number of my  
10 colleagues and we'll be getting more as the  
11 morning goes on. We have Council Member Eric  
12 Gioia from Queens, Council Member Diana Reyna from  
13 Brooklyn and Queens, and Council Member Alan  
14 Gerson from Manhattan.

15 Commissioner, can your agency  
16 change the--let me start off from the beginning.  
17 On your fiscal 2010 assessment roll, the market  
18 value for class one homes decreased for the second  
19 year in a row, yet assessments are still  
20 increasing by more than 4% and of course this is  
21 something that we, as Council Members, hear from  
22 our constituents all the time and it's a subject  
23 of much distress and something we have difficulty  
24 explaining to them to their satisfaction. In the  
25 past you have explained that this can occur until  
the target assessment ratio of 6% is reached, even

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though market values are decreasing, I believe the average ratio is now nearly 4%. Can your agency change this practice without resorting to state legislation?

COMMISSIONER HYMAN: No, actually, we need a state law change to fix the problem. As I'm sure as you are aware, it is kind of linked to the assessment caps that are a product of state law and the way they work over time is that when the market value of properties are increasing significantly, they do work to prevent major assessment value increases, but when the market starts to go down, there's a trailing effect, so you still have assessed values go up until, as you mentioned, they hit the target ratio of 6%. So to really correct the problem, a state law change is needed.

CHAIRPERSON WEPRIN: Okay. As you can imagine that's kind of hard to explain to your constituents who are generally cynical about government in general. Do you have any indication or projection of when we might expect assessments to actually start declining, perhaps even entering into negative territory?

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3 COMMISSIONER HYMAN: I don't have  
4 those in front of me, we can certainly look at it  
5 and provide some. I think for the next two years,  
6 we still see this effect because, as you mention,  
7 I think the median ratio of assessed value to  
8 market value is close to 4%, so it will take a few  
9 years even if market values are declining for the  
10 correction to happen, but we can work up some  
11 numbers and share it with your staff.

12 CHAIRPERSON WEPRIN: Yeah, it would  
13 probably also be helpful if we had some kind of  
14 booklet or memo, I mean I'm not looking to spend  
15 more money, but if we had some kind of limited  
16 publication or one-page letter that we could kind  
17 of share with our constituents that kind of  
18 explain it to look like it's not just coming from  
19 us, because from their point of view, even in  
20 years when we lowered the property tax or  
21 certainly kept the property tax stable and, if  
22 their homes went down in value based on your  
23 market value, our constituents were amazed that  
24 their actual taxes that they had to pay went up.  
25 And no matter how much you try to explain it to  
them, it's a complicated thing and it's something

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that does not really satisfy them. So is it possible to get us some kind of layman one-pager to kind of deal with this?

COMMISSIONER HYMAN: I think that's an excellent idea. I know on the bills we send out, we try to explain the computation, but you're right, the trick is making it kind of user friendly for laypeople. So we certainly can work on it, it might be good to get feedback from your staff as we do it to see if everyone agrees that it is user friendly. As you said it's a complicated situation, but I think the objective is very noteworthy.

CHAIRPERSON WEPRIN: Okay. In many neighborhoods commercial storefronts have remained unrented, often for several years. I understand that landlords can file income and expense statements reflecting reduced rental income in order to get assessment reductions. Have you seen an increase in filings of this type?

COMMISSIONER HYMAN: I think it is true that in our income and expense statements, landlords are supposed to reflect their true income, but the way we look at the properties is



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if a property is being underutilized in a neighborhood, we actually do look at what the norm is for the neighborhood as far as occupancy and use of property. So it doesn't automatically equate that if somebody submits a income statement that's zero or near zero that it's going to produce a major reduction in their value because we do try to look and generally if a property is being underutilized, what's the norm for an area. So while I'll have to get--as far as the count, I'll have to check, we can get back some data as to what we see in a low income from storefronts in particular, but it doesn't automatically equate into a value reduction. The value should reflect the norm for a neighborhood as far as occupancy and use of property.

CHAIRPERSON WEPRIN: Are there other tax benefits that landlords may qualify for as result of keeping commercial property vacant?

COMMISSIONER HYMAN: I don't think there's any direct tax benefits. I mean one byproduct is on your business income taxes, that really just reflects the income flow to a building. So if you're not generating income, you

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3 won't be paying business taxes, but I don't think  
4 that necessarily is a benefit, that just reflects  
5 the income. There's not an explicit program that  
6 tries to give any preferential treatment to that  
7 kind of situation.

8 CHAIRPERSON WEPRIN: All right,  
9 well as a follow up on that, is there any  
10 recommendation you might have in the way of tax  
11 benefits or other incentives to keep commercial  
12 rents affordable for neighborhood businesses and  
13 to help retain these businesses?

14 COMMISSIONER HYMAN: I think in  
15 general, just with the UBT proposal, we're trying  
16 to look at small business initiatives across taxes  
17 that will provide benefits to small businesses,  
18 small proprietors. For the UBT, there's a  
19 particular issue that you also have a double tax  
20 burden. As far as the property tax front, our job  
21 is to value the properties correctly and then I  
22 think it becomes more of a political question as  
23 to explicit type of relief you may want to provide  
24 to different property types.

25 CHAIRPERSON WEPRIN: The  
Partnership for New York City has been circulating

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a bill that brings New York City's business taxes more closely in line with those of New York State.

The package includes single sales, factor apportionment that Speaker Quinn and the Council has called for. This is a subject that the Department of Finance has worked on for a long time. [Pause] The advantages and disadvantages of the package to the business community and to the city's economy in general?

COMMISSIONER HYMAN: This is an issue that Finance has been looking at for several years. We look at it from a tax administration point of view, I think it is good economic development to have state and city laws in sync, and I think the main advantages are that you do have more consistency in treatment, it's easier for taxpayers to file based on the same rules at the state and city level. For Finance, as a tax administration agency, it allows us to do more projects jointly with the state. So as a general proposition, we have been supportive of efforts to try to create greater conformity and it's also just an effort to modernize the tax system. I think that a good economic development objective

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3 is achieved if you do have tax laws that are  
4 consistent across governments and that reflect  
5 current economic activities.

6 So a lot of the proposals are  
7 really to bring us up to date with what the state  
8 has done over time and to make it easier for  
9 businesses to comply with the tax laws.

10 CHAIRPERSON WEPRIN: Some parts of  
11 the package to reduce taxes of businesses are  
12 phased in. When will the tax reductions actually  
13 exceed the tax increases and the overall package  
14 decrease city revenues?

15 COMMISSIONER HYMAN: You know, I'm  
16 not sure if the final composition of the package  
17 has been resolved, I will leave it to the Office  
18 of Management and Budget to go through the  
19 details. I do know one part of it is that we were  
20 looking at the single sales factor is a big shift  
21 for the city's tax system, so one idea was that it  
22 will need to be phased in over time and it'll be  
23 also gives us a way to evaluate it as the measures  
24 are used by businesses.

25 So the specific composition of the  
package, I think OMB will have to comment on or

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your own staffs probably have maybe more information than I do. I'm basically looking at it from the point of view that getting them all implemented, if it's consistent with the state, is a good objective for the city.

CHAIRPERSON WEPRIN: Okay. And I know we got authorization for legislation on red light cameras, additional red light cameras. Can you please update the Committee on the red light camera program, in which areas the city will have new installations? Is that something that you get involved in or is that done through DOT?

COMMISSIONER HYMAN: That is DOT. Yeah, we basically collect the fines and adjudicate the summonses, but we're not directly involved in the location of the cameras.

CHAIRPERSON WEPRIN: Can you project additional revenue that may occur? And I know you also have the dummy cameras which result in revenue as well. Is there anyway to project some of the additional red light and dummy cameras, what that will mean in additional revenue?

COMMISSIONER HYMAN: I guess I

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3 would have to refer to whatever's being put in the  
4 budget as a forecast for the revenues associated  
5 with it. I don't know offhand, but we can get you  
6 the number.

7 CHAIRPERSON WEPRIN: Okay, if you  
8 could get us that.

9 I'm going to turn it over to  
10 Council Member Gioia, who I believe had a  
11 question.

12 COUNCIL MEMBER GIOIA: Thank you  
13 very much, thank you very much, Mr. Chair. The  
14 microphones are up loud today.

15 Welcome and congratulations on your  
16 new position and congratulations on the EITC  
17 program, which is the start of a model program, I  
18 hope for municipalities across the country. As  
19 we've seen, taxes are complex and intimidating for  
20 many New Yorkers and too many people check  
21 standard deduction when they're entitled to far  
22 more.

23 My experience in my neighborhood,  
24 we actually brought out volunteer accountants to  
25 do people's taxes in Queensbridge Houses last  
year, it was the number one mobile tax-preparation

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3 site in the city. This year, we actually created  
4 a fixed site and I think in total we're up to  
5 about \$8 million back in EITC, which is a huge  
6 amount of money for a very low income  
7 neighborhood.

8 But I want to talk to you about  
9 this program because I think it can be expanded  
10 and improved. First, how many people is the city  
11 mailing right now?

12 COMMISSIONER HYMAN: Well the most  
13 recent mailing, which is going out right now, it's  
14 4,000 New York City residents. As I mentioned, in  
15 the last two years we've I think given out, I  
16 think it's been closer to 22,000 that have  
17 received the benefit.

18 COUNCIL MEMBER GIOIA: And the cost  
19 to the city is postage and printing.

20 COMMISSIONER HYMAN: It's the  
21 postage and printing, and part of it was making  
22 the best use of resources we have, which is mainly  
23 federal and state tax data, which tells us the  
24 income and filing situation of taxpayers.

25 COUNCIL MEMBER GIOIA: So you look  
at federal and state tax data to find out who

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potentially qualifies for EITC and you mail it out to them saying, hey, good news, you probably qualify for this, you fill out the form for them and they do it. And...

COMMISSIONER HYMAN: No, that's basically it, we do research from the tax data as to who seems to meet the eligibility requirements as far as income you have to be working. The other thing we look for is if people are filing for the federal credit and they're not filing for the state and city credit, so that's another population that may be underutilizing a credit they're getting at the federal level.

But you're right, then we mail it to--a filled out an amended return that all they have to do is put their Social Security number and sign it.

COUNCIL MEMBER GIOIA: And so say in a universe of 25,000 people, I mean, we're really looking at a miniscule cost to the city, I mean, maybe \$50,000 including staff time, maybe a little bit more?

COMMISSIONER HYMAN: I think that's correct, and as we refine what we're doing, then



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the method is there so the upfront research-- probably the biggest effort was the first year when we had to develop the methodologies into the systems, now I think the main thing is the printing and the postage and sending it out. But I agree that it's a very worthwhile benefit you're getting for the cost.

COUNCIL MEMBER GIOIA: Now I have proposed previously and I'll propose to you today, what I found in my work on poverty is that people who qualify, there's a host of government services people qualify for and don't know about--EITC being a big one. But then, in addition, food stamps, the number one group of people who don't apply for food stamps are actually the working poor, working moms, many of them don't realize they qualify. The third part is Child Health Plus and free government health insurance for children, I think there are about 200,000 kids who qualify for free, in New York, free government health insurance and don't receive it. And so what I wonder is because now we've seen what a good investment actually going out and proactively reaching folks for EITC is, that there's a sum

cost here and I wonder if working with HRA and other city agencies, if there's a nexus here. In other words, you're paying for the postage, you're paying for the envelope, how much more would it take to fill out the Child Health Plus form or the food stamp form and get that all together? And then the final step of that, because, again, we're talking about such a small population of say 25,000 people, I mean, I'd recommend calling them all up, those who are not applying, again, very inexpensive. I mean in my campaign we could bang out 20,000 calls in a week.

And so these are things, in my view--I always think that--do you remember those old Apex Tech commercials where they tell you all these great things that would happen if you went to Apex Tech and then the guy would look at the camera and say, but I can't call you, you have to call me? And I always thought that government mistakenly followed the Apex Tech view, that we can't call them, they have to call us and I think what you're showing, quite correctly, is that that's not the case, we actually know who the working poor are and can actually go out and

connect with them.

And so, again, my proposal, and I'd be happy to follow up after, is that we integrate this--that it be taxes, food, and health insurance all together to try to reach the working poor with a holistic form or forms.

COMMISSIONER HYMAN: I would just add, I think that's very innovative thinking. I think you kind of would have to go through the mechanics and make sure that you can line everything up, but I think I agree with the thrust. I mean that's one thing that we're trying to do at Finance for the stuff we administer directly is to be more proactive about exemptions that are available to people, like looking to find from the tax data who appears to be a senior, who appears to be if their income eligible, contacting them about benefits they may be eligible for. So think part of it would just be working through and figuring out what's the best mechanical way to do it, but I kind of agree, it's good for government to be proactive and contact people when they're eligible for benefits they're underutilizing.

COUNCIL MEMBER GIOIA: I'll just

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conclude by saying, I recognize by the way that there's going to be some folks who qualify for the EITC who already have health insurance or who don't qualify for the federal food stamp program, and that's fine, I mean, I guess my point is I'd rather be over-inclusive than under-inclusive and by providing that information again to this group of working poor there's also a very good chance that their next door neighbor or their cousin-- this is the sort of thing that people talk about at the Tenant Association or the Block Association, I just got this form from the government and a phone call, did you know about this. And so I will be happy to follow-up with your office and try to help push this along, because I'd love to see you guys win Harvard awards, it'd be fantastic.

Thank you for your time.

COMMISSIONER HYMAN: Thank you.

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

COUNCIL MEMBER GERSON: Thank you,  
Mr. Chair.

Good morning and welcome.

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3 This fiscal year upcoming, could we  
4 at long last get started with the property tax  
5 reform commission which I and many of us have  
6 discussed extensively, not only with your  
7 predecessor, but with the Mayor and both agreed  
8 that we should do it? And with the aim of coming  
9 up with recommendations for a greater simplicity,  
10 equity, and consideration of special needs of New  
11 Yorkers? We last have done this well over, I  
12 think a decade ago, I think almost a couple of  
13 decades ago, and maybe it's time to have a blue  
14 ribbon panel look at this and come up with  
15 recommendations that will serve you and your  
16 department, as well as the city.

16 COMMISSIONER HYMAN: I think that's  
17 very worth considering. I mean, I agree with my  
18 predecessor that property taxes need to be--equity  
19 is a key factor that really gives confidence in  
20 the system, that transparency is greatly needed  
21 and some of the major kind of, just from a  
22 parochial perspective the Department of Finance,  
23 some of the major transparency issues to get the  
24 values correct and reflect reality would help a  
25 long way in looking at the issues of what's the

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relative tax burden across different property  
types.

COUNCIL MEMBER GERSON: Well  
terrific and this is not without political  
minefields, but all the more reason to establish a  
commission to push the discussion and conversation  
along, so I appreciate your answer.

In the meantime, there's my  
obsession with one inequity, again, previously  
discussed, which perhaps we could fix as a first  
step and that is the way in which we evaluate co-  
op and condos under a formula in which the  
evaluation varies, not with market rate variances,  
but with variances in proximity to a certain  
categories of multiple dwelling rental units--and  
I'm sure you know exactly what I'm talking about.  
So you have districts where you have co-op and  
condos which happen not to be in proximity to  
those type of multiple dwellings and, as a result  
of the formula, are taxed at a rate different from  
an equally valued unit, equally valued under the  
market elsewheres, that's something you could  
recommend kind of a quick fix, that maybe we can  
even implement during the upcoming fiscal year?

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COMMISSIONER HYMAN: Well I think the fix to the underlying valuation is fairly straightforward, but then, as you know, then you get into the complicated issue of the politics of who's paying what level, who's the winners, who's the losers But I totally agree that from, our perspective, and I think from a perspective of understanding the issues, you do need to have properties valued correctly, and the co-ops and condos there is an issue that they're not valued based upon true market values. So when you're trying to look at relative burdens for a home versus a co-op and a condo versus a rental property, it's very difficult if your starting point isn't the same, that you're really getting to the market values.

So we are committed to try to work to get to a point where the valuations we do reflect the true market values and then I think you get into a lot of the complicated issues of so what do you do about it, which should definitely be addressed and discussed. It's just our starting point is, I think what you were alluding to at the beginning, the values need to be correct

to even understand the starting point.

COUNCIL MEMBER GERSON: Well again,  
I appreciate your response and I look forward to  
working with you and your department, as you  
correctly noted, comprised of truly outstanding  
professionals and, again, maybe making this  
happen.

Could you just discuss for a moment  
how vacated properties are evaluated and taxed? I  
mean, we have properties in my district, as well  
as throughout the city, which either have been  
underdeveloped for years and they're maintained  
essentially as a vacant property or there have  
been urban recent demolitions for one reason or  
another and the property remains vacant for a  
significant period of time. Could you just give  
us the thumbnail sketch of how that works and any  
thoughts you have on how it should work  
differently?

COMMISSIONER HYMAN: I think it  
kind of depends on the situation. If you have a  
building that has a useful physical purpose but  
it's being underutilized, I think generally we  
tend to look at well what's the norm? If you have



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other properties that are being occupied at a certain level, that kind of situation should be extended to an underutilized property. If it's a property that really physically isn't in shape to be occupied, it can end up with a lower value.

COUNCIL MEMBER GERSON: I'm sorry, could you just I think elevate the microphone slightly?

COMMISSIONER HYMAN: Oh, sorry.

COUNCIL MEMBER GERSON: I think it's not...

COMMISSIONER HYMAN: I apologize.

COUNCIL MEMBER GERSON: Perfect, yeah, thank you.

COMMISSIONER HYMAN: Now just my first point was that if you have a property that's a fully functioning property and it's being underutilized, we generally tend to look for the norms in neighborhoods or in areas and then extrapolate to say that that property should have a comparable situation. If it's a property that really is dilapidated or is not physically fit for use, then it's going to be a different situation, that's a property that could have a lower value

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just because it's not--we're not extrapolating to potential uses of the property, we're looking at what's really there and how it's being used. If it's vacant land, it has its own situation, we have been working on vacant land to get the values accurate. There was a lot of discussion about how you should treat vacant land, our point is that we need to treat it comparably to everything else. That if we're looking at--

COUNCIL MEMBER GERSON:

[Interposing] And what does that mean? How does that--what does that translate into?

COMMISSIONER HYMAN: Well I mean it just translates into like if we look at, for example, commercial properties in general and if in general, because if we use an income capitalization approach and if that ends up being that the properties on average are being taxed at 33, 40% of their sales prices, we should have a comparable situation for the vacant land, that they should be at a same ratio so that everything is on the same playing field--that's from a valuation point of view. And then political decisions can be made as to do you want to do

something special for different categories. But our starting point is kind of parity, that two properties should have parallel methodological treatment.

COUNCIL MEMBER GERSON: And one last question, Mr. Chair.

We've been, as I think some of your team knows, have been looking into the issue of how the property tax system is picking up and assessing properties with kind of ancillary use enhancements--I think that's a new term, AUE, ancillary use enhancements, there you go--and that covers billboards, cell phone antennas, and the like. And we have, I mean in my district many billboards which should not exist, but that's a different issue we're taking up with the Department of Buildings, but as long as they exist and the property owner is benefiting from their existence, that benefit, that enhancement should be fully captured. We have received preliminary reports and information indicating that there has been, in certain properties, no change in property tax payment from before or after the installation of one of these supersized billboards. Would that

be a function of law or process which you are mandated to follow or is that just a matter of reporting or lack of proper reporting by the property owner? In other words, is this a question of law or is this a question of following the law?

COMMISSIONER HYMAN: We do value billboards or the ancillary use properties you referred to. I guess there's two parts to it, one is, if it's a billboard, it may be partially because of issues that you've raised in the past, we now are adding to our income and expense form that all landlords have to report income streams they're actually receiving if billboards are on their buildings or other ancillary equipment. The second part is if it's a standalone billboard on like a lot--

COUNCIL MEMBER GERSON: Right.

COMMISSIONER HYMAN: --and it's on a tax lot, that is something that I think is worth investigating further, whether or not--that may be an informational issue to make sure that we're picking up all the billboards that exist. So that's something that I could talk to our property

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tax division and get back to you as to what their feel for it, like, how are we doing, how many lots they're seeing, and whether or not additional research needs to be done to make sure we're fully capturing them all.

COUNCIL MEMBER GERSON: But the law as it currently is written allows you to fully capture those enhancements or do we need to give you any reforms to help you do that?

COMMISSIONER HYMAN: Well let me get back to you, I believe we do value them now, that's my understanding, but before I give you anything definitive, I'll get back to you.

COUNCIL MEMBER GERSON: I would appreciate that. Okay, I look forward to working with you on these and many other issues.

Thank you very much, Mr. Chair.

CHAIRPERSON WEPRIN: Thank you, Council Member. We've been joined by Council Member Robert Jackson from Manhattan, Council Member Simcha Felder from Brooklyn, and Council Member Albert Vann from Brooklyn.

The next questioner is Council Member Diana Reyna.

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3 COUNCIL MEMBER REYNA: Thank you,  
4 Mr. Chair. Good morning, Commissioner.

5 I wanted to just take an  
6 opportunity to ask you, in reference to your  
7 testimony and the wonderful work that your  
8 department has successfully been able to complete  
9 as far as the EITC mailers, in your assessment, if  
10 there has been one most current, how many  
11 outstanding households do you think are still  
12 eligible and have not applied for EITC?

13 COMMISSIONER HYMAN: That's a very  
14 good question. I think we made significant  
15 headway in contacting and identify, not only  
16 through the project we're doing but also through  
17 Department of Consumer Affairs efforts to do  
18 outreach, I think there's still always some  
19 population that just isn't getting the information  
20 or message, but I do think that through the  
21 mailing we did and through this outreach,  
22 increasing numbers are being contacted. I would  
23 say in past years, it probably was in the tens of  
24 thousands, it's now probably in the thousands,  
25 that there's still population that we should still  
seek to try to reach, but it's much smaller than

it was three or four years ago.

COUNCIL MEMBER REYNA: And in the past, Commissioner, there has been a breakdown by zip code so that you're targeting the highest zip codes that are not applying. Can that be supplied to this committee to be able to make an assessment as to whether or not we're making headways in those highest levels of not applying for their EITC?

COMMISSIONER HYMAN: Well what we can supply you is the population that's currently receiving the EITC, the mailings we're doing. As far as the populations--we're mailing to everyone that we can find, so the issue would be the unknown that additional efforts can help to detect. So we can send you information on what we know, what we're mailing to, and as we discover additional information, share that with you. But at this point part of the issue is the ones that we're not mailing to are the ones we don't know about yet. But yeah, the ones--for example, the most recent mailing, we're doing with the state, so I'll have to coordinate with the state, but we certainly can get you a zip code listing of where

those mailings are going to.

COUNCIL MEMBER REYNA: I would appreciate that very much. And it's just to be able to join you in the efforts of marketing the fact that if you think you may be eligible because you fit the criteria for an EITC, to be able to encourage households to find out.

And is it possible that a family can call 311? Are you encouraging 311 calls to combine the efforts of, not just a mailer, but a phone call into the system to be able to say, I don't know if I qualify, I'd like to give my information, can you send me a form?

COMMISSIONER HYMAN: Definitely, that I think is excellent. Yeah, often the face-to-face and the voice-to-voice contact is what people need if their confused about something. So that's definitely part of the effort.

COUNCIL MEMBER REYNA: And is that encouraged through your marketing efforts?

COMMISSIONER HYMAN: Well I think the city has, I think Department of Consumer Affairs is definitely marketing that as an effort to get people on board. Ours is more of a direct-



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-we're filling out amended tax returns and mailing them directly to the eligible population. The outreach we do is, I think more coordinated through the Department of Consumer Affairs, but we can certainly make sure that all efforts are welcomed and anything we're not doing, we should do.

COUNCIL MEMBER REYNA: Sure, I appreciate that. And as far as your, again, I congratulate your staff, your department for your efforts in trying to deal with a lot of the foreclosure prevention and tax liens sales in efforts to collect delinquent taxpayers. What outreach efforts can you foresee as far as additional outreach for delinquent taxpayers before their liens are eligible to be included in a sale?

COMMISSIONER HYMAN: Well we of course agree this is very important to reach the population before they actually end up in the lien sale, and I think last year we had great success working with your staffs to coordinate events and outreach. The Department of Finance side, two people in particular, Margaret Donadio and Lee

Fiorino deserve credit for doing the outreach. I think we had 22 outreach events that contacted 1,200 owners, we're trying to send questionnaires and contact people by phone before it actually gets into the lien sale.

One thing new we will be doing this coming late summer is an effort by our collections unit to actually contact homeowners or other property owners who seem to be vulnerable, who are in a situation that could lead to a lien sale in the upcoming year, to create more time to work with them and their problems, either get them on a payment plan. The first part is making sure they're getting all the exemptions they're entitled to, but just helping them work out the issues in a proactive way. So I think this is the first time we've done that, I think in August we plan to start contacting people and having some lead time to deal with the issues before you get to crunch time when the lien sale happens.

COUNCIL MEMBER REYNA: Absolutely. And you mentioned two different figures, you said 1,200 homeowners, and prior to that?

COMMISSIONER HYMAN: I said that we

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had 22 outreach events that served more than 1,200  
owners--I'm reading from my notes--

COUNCIL MEMBER REYNA: Okay.

COMMISSIONER HYMAN: --we received  
500 responses and pulled 240 people from the sale,  
mainly because they were eligible for exemptions.  
The other thing we did, which again, is trying to  
leverage the data we have is, we now are doing  
data matches to figure out if seniors with income  
levels below a certain level are in the population  
so that we can directly reach out and make sure  
they're getting the senior citizen benefits they  
need. I think this year was 200 seniors were  
found and got benefits because of this data match.

COUNCIL MEMBER REYNA: Well you  
answered my next question before I even asked, I'm  
very happy to see that there is some cross-  
referencing that you're able to at least target  
and increase the senior population to see who is  
eligible. And I don't know what other efforts,  
will you be able to do to continue targeting  
specific population that would be eligible to  
enroll in the senior citizens homeowners  
exemption?

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3 COMMISSIONER HYMAN: Well I think  
4 our greatest tool to do this is through data and  
5 we are actually having constant conversations,  
6 yeah, a lot of its federal data, you know people  
7 are filing their federal returns, they indicate  
8 various criteria as to their income or household  
9 situations that we can crosscheck to see if  
10 they're eligible for local exemption programs.

11 And one of the things we're working  
12 on, not only in New York City, but a lot of taxing  
13 jurisdictions is, with the IRS to get better data,  
14 that the data is more up to date, more timely,  
15 more complete. We do have information sharing  
16 agreements, as do all taxing jurisdictions with  
17 the IRS, so they're actually interestingly, I  
18 think in July there's going to be a conference  
19 where we're sending reps to kind of put a little  
20 more pressure on the IRS to get us the data as  
21 quickly as possible so that our data is more  
22 timely.

23 COUNCIL MEMBER REYNA: Let us know  
24 if we can be of assistance to your department. I  
25 know that I was very grateful for Mr. Guzmán who  
is part your staff at the Department of Finance in

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cosponsoring a Homeowners Night to be able to reach senior citizens population, as well as dealing with some of their--a homeowners building adjustment, where programs that they may not know are available and are to be able to take advantage of and so I just wanted to mention how grateful I was for that opportunity. We'll look forward to cosponsoring again with you, as well as the Department of Environmental Protection and Housing Preservation Development. It was a successful night and homeowners really appreciated information that they never heard of before and which is hard to imagine, but it's always the case.

And I wanted to just ask for your opinion, I don't know if you're familiar with HDFCs. It's a affordable co-op program where you have at one point or another tenants were able to form an association to be able to take over ownership over their buildings and each become their own homeowner to their perspective units through a third-party transfer from city-owned land into the ownership of the actual tenants themselves. And at one point these units, to

become a homeowner of those units, the household would have to pay a certain amount of money. Some of the amount that they would have to purchase that unit with, perhaps was a 300, \$500 value. Now we are seeing a depletion of these units because there is no restriction on the resale of the unit, and the unit receives a tax exemption. So that people are having paid 300, \$500, whatever the amount was, to purchase their unit are selling it for \$1 million and now this million dollar co-op is tax exempt. It's creating an artificial market, it's depleting our affordable housing units for homeownership. And I don't know what you would recommend sitting in your seat as the Commissioner of Department of Finance to be able to say, what could we do as legislators to be able to preserve these units so that they can maintain their affordability and the resale won't be such where the individual is being able to make an enormous 500% profit on what shouldn't be the case. And on top of that the new homeowner paying \$1 million is not actually paying taxes on that unit.

COMMISSIONER HYMAN: I hear what

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3 you're saying, I think this is something that  
4 maybe is more appropriate for HPD, although I'm  
5 willing to kind of look at the issue and get more  
6 educated about it, but I hear what you're saying  
7 as far as the bottom line.

8 COUNCIL MEMBER REYNA: I appreciate  
9 that, Commissioner, and I'd like to continue  
10 discussing this further with you. We have made  
11 some attempts to have a dialogue with HPD and deal  
12 with this particular issue, perhaps restructuring  
13 a voluntary program where you don't get the  
14 exemption if you don't sign on to restrictions as  
15 far as the sale is concerned. So that way we are  
16 doing two things--preserving affordable units on  
17 the homeowner's side and collecting the taxes that  
18 are due to the city considering the resale.

19 Thank you.

20 COMMISSIONER HYMAN: Thank you.

21 CHAIRPERSON WEPRIN: Thank you,  
22 Council Member. Council Member Robert Jackson.

23 COUNCIL MEMBER JACKSON: Well thank  
24 you, Mr. Chair. Good morning, good morning,  
25 everyone.

MALE VOICE: Good morning.

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3 COUNCIL MEMBER JACKSON: So quiet  
4 here in the chambers, and I was wondering whether  
5 or not we were in an executive budget hearings  
6 when I understand, Commissioner, that the city's  
7 taxes are down overall, is that correct? In  
8 general, specifically?

9 COMMISSIONER HYMAN: That's what I  
10 hear.

11 COUNCIL MEMBER JACKSON: How long  
12 have you been the Acting Commissioner?

13 COMMISSIONER HYMAN: I think it's  
14 about one month.

15 COUNCIL MEMBER JACKSON: Well  
16 congratulations.

17 COMMISSIONER HYMAN: Thank you.

18 COUNCIL MEMBER JACKSON: And I  
19 looked at your testimony, you've been around a  
20 while though, so you do have experience, which is  
21 always good.

22 COMMISSIONER HYMAN: I've enjoyed,  
23 I had the privilege of working with the city for  
24 21 years.

25 COUNCIL MEMBER JACKSON: Well  
congratulations on being appointed to Acting



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Commissioner and I wish you continued success.

COMMISSIONER HYMAN: Thank you.

COUNCIL MEMBER JACKSON: But my question is, I want to ask about the tax benefits that owners may get by keeping their neighborhood storefronts vacant. In many neighborhoods, commercial storefronts have remained unrented, often for several years, and I know one more specifically on 181st Street between Fort Washington and Bennett Avenue, it was a bakery and it's been vacant for three years.

And is there an incentive for landlord to keep these stores vacant or can landlords file income and expense statements reflecting reduced rentals in order to get assessment reductions?

COMMISSIONER HYMAN: I would say, yeah, the best way we can answer these types of questions is to have the actual identifiers for the particular parcels and we'll certainly look at them, but the general answer is that if you have a functioning property and it's been underutilized, we won't necessarily take you down to a very low value because you file low income and expense

statements, it's more reflective of what's the norm for an area. That if the building could be occupied and other buildings in the same neighborhood are occupied, we'll look to the average experience and extrapolate to the one that's underutilized. But to the extent you give us particular locations, we'll look at it and make sure.

COUNCIL MEMBER JACKSON: And the reason why--and I know my colleague Alan Gerson may have asked this question, but I have a bill pending which is called the Small Business Survival Bill, which basically sets a process in place where owners of stores will have a fair process in renegotiating a lease with landlords. And so this bill, I'm trying to move it to a hearing in the committee and in order so that our neighborhoods will be revitalized and small businesses will not be forced out of business such as the bakery, such as right across the street there was a card shop by mom-and-pop for 20 years and their lease was not renewed and now they're out of business, and the stores are vacant, and so I was curious about that.

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So right now, you're telling me--  
did I hear you say there's no incentive for  
landlords to keep their storefronts vacant?  
Because if there is, I want to get rid of it.

COMMISSIONER HYMAN: No, I  
understand. I think probably the best response we  
can give, when you give us specific parcels we can  
tell you what's going on what the parcel and  
exactly how they're being valued. I was think  
it's a general proposition, there is an incentive  
that to the extent that if you have a functioning  
building and you're just not occupying it all,  
that that's going to--and you file an income and  
expense statement that has very low income, that's  
going to translate into a drastically lower value.  
We do look at what the norms are in neighborhoods  
and so if two buildings are next to each other or  
that predominantly buildings are being occupied,  
we're going to extrapolate from that experience to  
the underutilized one, unless the building has  
some physical flaws that really makes it non-  
functioning. But, as I said, we can respond, you  
gave a particular parcel, and give you some  
feedback as to what's going on.

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COUNCIL MEMBER JACKSON: Well I'll follow up with your staffs concerning some specific properties because I'm just curious as to, for example, since it's been vacant three years, what was the value of it before, what is the value of it now and so forth and so on. So I'll follow--

[Crosstalk]

COUNCIL MEMBER JACKSON: -- specifically with your staff.

But this is an executive budget hearing, we're dealing with the whole budget and not specific individual situations, but I read in the paper approximately a week ago, it may have been the Daily News or one of our local papers where some developers owed a lot of money as far as taxes and fines and what have you and there were millions and millions and millions of dollars outstanding. And I asked the Department of Buildings when the Commissioner he was here, since the Department of Buildings are the ones who, I believe, issued the fines at construction sites and other things like that for developers, what's happening with collecting all of this money that

was put in the papers that these developers owe. And he said that that's not their responsibility, that's the Department of Finance, and I said that I would ask you or ask the Commissioner when they came in front. You know the story I'm talking about? The developers then had a woman--I forgot her name--who owed most of the money and she's still getting permits from the Department of Buildings to do other work, but she owes so much money in penalties and fines and what have you. What's happening with collecting all those millions and millions of dollars? You know what I'm talking about, right?

COMMISSIONER HYMAN: We're trying to collect everything that we can. I say in general, where we're working with, especially with things like ECB debt, is we actually do have a pilot program, which we hope to be expanded, which is to resolve any outstanding issues and get people to pay their penalties and their fines. One of the issues that we are working on correcting going forward is to make sure that the noticing is correct. I mean what happens often with notices that end up in ECB is that sometimes

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the address or info or the contact information  
isn't totally correct, so there's issues of  
getting the information to the proper person who  
owes the fine. And so what we're trying to work  
on is correcting addresses as much as possible;  
outstanding debt, dealing with it in an  
expeditious fashion and getting these issues  
resolved.

COUNCIL MEMBER JACKSON: My  
colleague Jimmy Vacca of the Bronx, I believe, put  
forward a bill basically saying that--I believe  
the bill would say that any developer that have  
all of these outstanding fines and penalties  
should not get a new building permit until they  
pay up these penalties and fines. Does the  
Department of Finance have a position on that?

COMMISSIONER HYMAN: We don't have  
an official position on the bill, I'd like to look  
at it--

COUNCIL MEMBER JACKSON:  
[Interposing] What about unofficial position?

COMMISSIONER HYMAN: Well I agree  
that people should be up-to-date and they  
shouldn't have outstanding fines and penalties.

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3 COUNCIL MEMBER JACKSON: Okay. And  
4 finally, let me ask about, is the Department of  
5 Finance also taking a reduction? If so, what is  
6 your reduction as far as the type of your agency's  
7 budget?

8 COMMISSIONER HYMAN: Well I think  
9 there's a--I don't have the exact dollar amount,  
10 which I can get for you, but we do have basically  
11 some attrition reductions that are going on, and  
12 we do have some personal service reductions that  
13 are kind of going in across--I mean other than  
14 personal service reductions that are going on  
15 across the board.

16 The other big thing we're trying to  
17 do which we think will save the city money and  
18 will also be just a better way of doing business  
19 is in-sourcing some of the work that are  
20 previously done by contractors.

21 COUNCIL MEMBER JACKSON: Aha, and  
22 that's what I was going to ask about. Before you  
23 get to that and hold that, my question is, and  
24 which you didn't really--you jumped to in-sourcing  
25 and basically not contracting out, but I wanted to  
ask you, as a result of the budget situation, are

you going to have any layoffs?

COMMISSIONER HYMAN: No, our  
reductions are through attrition.

COUNCIL MEMBER JACKSON: Okay.  
Well I'm glad to hear there's not going to be any  
layoffs.

Now tell me about the fact that  
you're not going to contract out and you're going  
to be in-sourcing, in essence doing work  
yourselves through city employees and what have  
you.

COMMISSIONER HYMAN: Well I think  
the general, for years we have used contractors,  
they have provided valuable services, but I think  
we think there's two aspects to the issue: one is  
that it is generally a cost savings to have the  
work done by city employees than through  
outsourcing to contractors and I think--

[Pause]

COUNCIL MEMBER JACKSON: Seventh  
graders from Flatbush Brooklyn. I saw them  
downstairs.

COMMISSIONER HYMAN: I don't know  
if this topic is going to interest them, but...



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3 COUNCIL MEMBER JACKSON: And one of  
4 them is going to be the new Finance Commissioner  
5 at age 12, 13 years old they're going to be  
6 heading--

7 COMMISSIONER HYMAN: I have an  
8 empty seat.

9 COUNCIL MEMBER JACKSON:--the  
10 Department of Finance, handling--

11 COMMISSIONER HYMAN: I could take  
12 two people.

13 COUNCIL MEMBER JACKSON: Two  
14 people, you have two commissioners up here, you  
15 ready? There they are right there.

16 COMMISSIONER HYMAN: And part of it  
17 is the cost savings, but part of it, I think  
18 equally important, is just the institutional  
19 knowledge. I mean, one of the problems we have is  
20 if you have contractors doing the same work over  
21 time and you don't have the information in-house,  
22 then how do you transfer the knowledge as your  
23 workforce changes over time. So part of the  
24 effort is to make sure that we have this stuff  
25 being done so that our staffs are in control of  
processes and it's, to me, it's a win-win: you

save money, plus it's a knowledge that you need to have in-house.

COUNCIL MEMBER JACKSON: Well, Commissioner, let me just say that DC 37 and many other unions have taken a position that in these tight budgets, that we need to try to maintain the city workforce and look at cutting outsourcing, in essence contracting out. So as a result of in-sourcing--and these are the new terminologies: in-sourcing, outsourcing, to me, it's contracting out and doing the work yourself, let's just put it in simple terms. How much money do you anticipate saving as a result of in-sourcing?

COMMISSIONER HYMAN: I think we have a \$5.7 million as the--is that true?--FY10 amount that we anticipate savings by having this work come in-house, we're doing it full steam.

COUNCIL MEMBER JACKSON: Well that's good and let me just--

[Off mic]

[Pause]

COUNCIL MEMBER JACKSON: Well let me congratulate you and your staff for having city employees doing the work yourselves so there's

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more accountability and knowing what work is being done over what period of time and not have to depend on an outside group or organization to do our work in essence.

But our analyst has indicated to me there was expected to be 26 layoffs in the Department of Finance and those are not going to happen? Those are going to happen by attrition?

COMMISSIONER HYMAN: Those are attrition cuts, even though it may say, I'm not sure if the--

[Crosstalk]

COUNCIL MEMBER JACKSON:  
[Interposing] But it's a reduction. You're going to reduce those budget items, those lines through attrition.

COMMISSIONER HYMAN: Attrition that we're not replacing the people unless they retire.

COUNCIL MEMBER JACKSON: Okay.  
Well thank you, Commissioner, and I think based on what you've just said this morning, you're doing a good job.

COMMISSIONER HYMAN: Thank you.

COUNCIL MEMBER JACKSON: And I'm

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not joking, I'm serious, because you talked about in-sourcing and in essence saving about \$5.8 million and, even though you could not give me a formal answer, I like your informal response with respects to that you feel and I feel that all of these penalties and fines on people should be paid up before we continue to give them permission to do other work. And you know one thing? And if you ask--and I know you're not going to get in any trouble for that because you ask any New Yorker, their answer will be just like your answer, so thank you for being honest.

COMMISSIONER HYMAN: Thank you.

COUNCIL MEMBER JACKSON: Thank you.

CHAIRPERSON WEPRIN: Okay. I'm going to correct Councilman Jackson, these are eighth-graders from Yeshiva [off mic] in Ocean Parkway Brooklyn--

[Crosstalk]

COUNCIL MEMBER JACKSON: Look, look, how many fingers? Seventh graders, right?

CHAIRPERSON WEPRIN: Seventh graders?

CHILDREN: Yes.

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3 COUNCIL MEMBER JACKSON: Seventh  
4 graders, right?

5 CHILDREN: Yes.

6 CHAIRPERSON WEPRIN: Well I'm given  
7 the wrong information here, but I know the  
8 principal David Seiter [phonetic], who's been very  
9 involved in a lot of civic activities in our city  
10 in Staten Island and other places. So welcome,  
11 seventh or eighth-graders.

12 We've been joined by Council Member  
13 David Yassky from Brooklyn. And the next  
14 questioner is Council Member Simcha Felder.

15 COUNCIL MEMBER FELDER: Good  
16 morning. And thank you, Mr. Chair. I want to  
17 apologize for being late. Although, I'm not a  
18 member of the committee, I try to come on time.  
19 And if I ask any questions that were discussed  
20 earlier, I'd appreciate you stopping me.

21 Having said that, I do want to echo  
22 the comments made by my colleague, Council Member  
23 Reyna, about your outreach efforts. I see some of  
24 the people sitting right in front of me who were  
25 at these events and the patience, besides the  
technical expertise that I can attest to, but I

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know that they're good, but the patience that they exhibited during those events are remarkable and it's something that we should all learn from, so they were just wonderful.

I just have a smorgasbord of a few questions and some of them I've been posing year after year so they should come as no surprise. The credit card free, we put in a piece of legislation, I am totally imposed to the city charging taxpayers money to pay their bills, although that's done routinely maybe somewhere else in the world, but that's not done anywhere, and that's with for-profit companies. And when the city receives a payment through a credit card, they save money, I should say we save money because any piece of paper that comes through the city's hands costs a lot more money--it has to be handled from place to place. I worked at the finance department for 10 years as a tax auditor and I have good memories at 345 Adams Street, but any piece of paper, I mean you're talking about a--why, I know we need money, but this issue goes way before the questions of the economic crisis. And I'm asking you again--former Commissioner

1 Stark said that she would look into it, maybe I  
2 think even, you know, I would say we had somewhat  
3 of a discussion about it, but at the end of the  
4 day, there is no logical excuse other than raising  
5 revenue and I don't think it's fair. I don't  
6 think when somebody pays their bill on the net  
7 that they should be charged a fee. What do you  
8 think?  
9

10 COMMISSIONER HYMAN: When we look  
11 at it, we look at it as we're trying to avoid  
12 passing along any fee that isn't incurred by the  
13 city. I hear what you're saying as far as  
14 electronic transactions should be cheaper than  
15 paper, but there is also merchant discount fees  
16 that credit card companies are passing along to  
17 the city. So we were kind of very committed to  
18 trying to create as many payment options as  
19 possible so people can have conveniences, but the  
20 fees that are getting passed along are really just  
21 the net fees that the city would absorb if they  
22 had to incur directly. So I have to say, to me,  
23 it's more of a budget issue that if the city feels  
24 like that's something that it's worth absorbing,  
25 it has a cost. It's just that at this point in

time it's not cost neutral.

COUNCIL MEMBER FELDER: Well I would disagree, if you have somebody going to a merchant to pay their bill, that I understand; but if somebody's paying online, right? You can pay online from your home. No one is doing anything, no one is charging the city anything. The only thing the city is incurring is the fee that the credit card company takes and the savings that the city is receiving by eliminating the paper trail is far greater than the fee that is being charged by the card company. So I don't want to keep this going, but I'm telling you again that I think that many people are concerned about, and are very opposed to fees being charged for anything paid with a credit card.

The other thing I wanted to mention is thanks to the efforts of your department and Deputy Commissioner Sam Miller after many years non-for-profits who for years would be charged real estate tax even though it was clear that they were non-for-profits unless they filed literally by the date through legislation. Now, no matter when they establish as long that they can prove



that they're non-for-profits even if it's in mid-July, they would get the credit as a non-for-profit. The water issue still remains a big problem because, as far as I know, that has not been resolved. So in theory if a church opened up July 1st, and it was clear that only water charge they had was for the church itself--no homes, no nothing, no apartments--they would wind up paying for that portion of the year 'til the next filing. I'm asking, it's not a question, I'm asking to please do everything humanly possible to correct that injustice because that's the same issue, it's the same issue, it's just we didn't get it done. I'm willing to take all the blame, but that's irrelevant, I just want to get it done because I don't think it's fair.

And finally, I just wanted to ask in terms of audits itself, because tax revenue is down, are you doing either more audits of any particular kind? In other words, more audits of any particular kind and what is the justification? I don't mean doing the audit, in other words, how do you decide what to do and what not to do?

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COMMISSIONER HYMAN: I think that's  
a very good question, and since I was the Deputy  
Commissioner of Audit, I can answer it.

Basically, one thing that I started to do when I  
took over--this was last fall--was to try to  
introduce, just as we're doing with the Earned  
Income Tax Credit, more data techniques to how we  
do our audit selection and it was driven really by  
two kind of objectives. One was really a fairness  
objective, that if you don't use data, you look at  
the full population, you tend to pick on certain  
taxpayers, which doesn't sound fair, so a lot of  
what we're doing is random sampling and part of  
that is, especially for smaller taxpayers, is  
really just tax compliance, it's not really big  
revenue generation.

The other part of what we're doing  
is, if you look at more data, you do find more  
underreported income. So if you look at what  
people are reporting at the federal level, again,  
a lot of city taxes, it really flows through from  
what taxpayers report at the federal level. So  
it's amazing how much inconsistencies you find and  
so a lot of those are just basically correcting

errors in how people are filing their returns at different levels of government.

But I think that one objective is to kind of instill some confidence that we're doing it in a fair manner, but then when we detect underreported income, we should be going after it.

COUNCIL MEMBER FELDER: Right, but I wanted to ask you a little tougher question. What I was trying to get at--and I'm not saying that I'm necessarily opposed--is that are you doing more audits because of the economic downturn? Some would say, I don't want to get involved with it, some would say that more tickets are being issued to raise revenue, right? I don't equate summonses with tax audits, but are you doing more tax audits because of the economic downturn and the loss of revenue?

COMMISSIONER HYMAN: I wouldn't say the volume is higher, I would say the productivity is up. That when we do the audits, they generally are generating more money because the screening up front is more effective.

COUNCIL MEMBER FELDER: Thank you.

COMMISSIONER HYMAN: And part of it

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3 is not to hassle people with erroneous assessment  
4 issues.

5 COUNCIL MEMBER FELDER: Yeah, I  
6 tell you that I think the Department of Finance  
7 did a wonderful job 15 years ago when I was there  
8 for 10 years and I think it still continues.

9 [Pause]

10 MALE VOICE: Antonio.

11 COUNCIL MEMBER VANN: Good morning,  
12 Mr. Hyman--

13 COMMISSIONER HYMAN: Good morning.

14 COUNCIL MEMBER VANN: --  
15 congratulations.

16 Actually, I just wanted some  
17 clarity. I was following the line of questioning  
18 of Council Member Reyna and I'm very interested in  
19 that area. In fact, I've worked very closely with  
20 Lee Fiorino on around these issues and my office  
21 and community organizers are very pleased with the  
22 interaction we've had over the years with Ms.  
23 Fiorino, we thank you for that.

24 Did I understand you to say that  
25 those senior citizens residents who may not have  
enrolled in the programs that would provide the

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exemption, that there is a way that you're doing something about that, are you reaching out to these seniors or disabled, all those that qualify that may not be enrolled in the program? Did I understand you to say that you are reaching out to them? Is that--

[Crosstalk]

COMMISSIONER HYMAN: We are to the extent that we can find them and I think I mentioned, we are trying to use more data sources to detect, like, for example, if we have Internal Revenue Service data, it can often tell us about the income of an individual often that we can get Social Security Administration information for the age. So to the extent that we have the information, we are trying to--and we detect them, we are doing outreach. Part of the issue is getting better and more up-to-date data so that we can do this kind of research.

COUNCIL MEMBER VANN: So what happens if the person does not--when you become aware of a person that you had not reached previously and you find out that they really should have qualified and did not, is there a

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point where it's too late, that they have to  
perhaps go into [off mic] because you didn't reach  
them early enough?

COMMISSIONER HYMAN: I mean  
different programs do have different deadlines,  
but I think part of the idea is to make sure  
they're getting everything they're eligible for.  
And if it's an issue of a tax lien sale, doing  
whatever we can to make sure that they're pulled.  
If it's an issue of an ongoing exemption,  
sometimes it's an issue of when we find them to  
make sure that, going forward, they can get as  
many benefits as possible.

COUNCIL MEMBER VANN: Yeah, I'm  
referring to one that's upon us this year, the  
tax. Is there anything we can do for those in  
this year you may not be able to reach who are  
eligible, again, to be exempted? Is it a point  
where it's too late, you can't do anything for  
them or--

COMMISSIONER HYMAN: [Interposing]  
You mean the exemptions for the current--

[Crosstalk]

COUNCIL MEMBER VANN: Before the

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tax lien--yes.

COMMISSIONER HYMAN: Well the tax  
lien, we did pull as many as we could--

COUNCIL MEMBER VANN: You pulled  
them.

COMMISSIONER HYMAN: --and that,  
again, that was the issue of whoever we found, if  
they were eligible for an exemption, we made sure  
they got the exemption and that did lead to  
hundreds of parcels being pulled and owners from  
the tax lien sale. On an ongoing basis, the issue  
is finding people as early as possible.

COUNCIL MEMBER VANN: Is there a  
working relationship or cooperation, coordination  
between Department of Finance and EPA because a  
majority of those at risk were because, not  
because of property tax delinquency, but water  
delinquency, and small amounts of money I might  
add. So I'm wondering, are you two talking to  
each other or does each one have their separate  
approach to dealing with this problem?

COMMISSIONER HYMAN: Well I think  
there are some separate issues, but I think we are  
trying to coordinate and have done some outreach--

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right?--events with them to try to make sure that all the areas are being dealt with because we realize the bottom line is you want to deal with the overall issue for the homeowner. So they are coordinated even though DEP has certain provinces over their water bills, but I think the outreach efforts have been joint with DEP and I think HPDs been involved.

COUNCIL MEMBER VANN: Well--

COMMISSIONER HYMAN: In all 22 outreach events, it was DEP, HPD, and Finance.

COUNCIL MEMBER VANN: So that you feel that Department of EPA is doing this similar outreach and have the same concerns that have been expressed to the Department of Finance to try and identify early on those folks on the list that should not be on that list?

COMMISSIONER HYMAN: I believe that's the goal that we all have is to make sure that if we can resolve issues for homeowners, especially more vulnerable homeowners, we should be doing it up front.

COUNCIL MEMBER VANN: Well actually, I don't think water delinquency ought to



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3 be a reason why a personal lien would be sold in  
4 the first place. But in some cases we're talking  
5 about, unlike the property tax you're talking  
6 about, delinquency within one year and it can be,  
7 as I recall, as little as \$1,000, I believe that's  
8 correct.

9 COMMISSIONER HYMAN: I believe that  
10 is the threshold--

11 COUNCIL MEMBER VANN: Right.

12 COMMISSIONER HYMAN: --but I think  
13 one year [off mic] and also I think single-family  
14 homeowners are exempt, right? [Pause] Yeah,  
15 water is one year, \$1,000, single-family  
16 homeowners are exempt.

17 COUNCIL MEMBER VANN: Right, right,  
18 that is--well I voted against it and I think it's  
19 ridiculous and perhaps we will have legislation to  
20 repeal that.

21 But Department of Finance have  
22 shown some sensitivity to these problems and I  
23 just wanted to make sure that there is talking  
24 going on between Department of Finance and EPA who  
25 may not have the same capacity, because they're  
new at this, this is the first time they've had to

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deal with this problem and you have years of doing it, so I just want to make sure there's communication between the two and a certain sensitivity.

It appears that over time there's been less number of property tax delinquency people on the list for having their property, their lien being sold, is that correct? And, if so, why do you think that is the case? Why is there a reduced number? Are more people going to foreclosure or something else happening?

COMMISSIONER HYMAN: Well I can speak to the last year, I mean but one thing that we do find with the property tax delinquencies, foreclosures, of course, is a very serious problem in the city, but the property tax delinquencies per se are not really up, I mean it's relatively stable over time. I mean that reflects the fact that if a class one, many people pay through a mortgage service company and the companies often will pay the taxes first to protect their own interest in the property. We're just trying to make sure, that to the extent there's any problem with the delinquencies that are being handled

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3 quickly up front, and I guess part of the issue is  
4 trying to help people even once they're noticed to  
5 get these issues resolved before the lien sale  
6 occurs. So just looking at the '09 statistics  
7 compared to '08, the actual number of like class  
8 one liens sold was actually basically the same.  
9 And we're not seeing anything currently as far as  
10 delinquency rates where property tax delinquencies  
11 are rising significantly compared to the  
12 foreclosure problems people are having.

13 COUNCIL MEMBER VANN: Thank you.

14 Finally, my recollection is that the reason why we  
15 began this system was primarily to get at the  
16 commercial properties, not so much residential,  
17 you don't really raise a lot of money from the  
18 residential side of this. I don't even know why  
19 we're doing this, maybe I'm talking to myself  
20 rather than you. But the downside is so severe in  
21 terms of struggling people losing their homes that  
22 shouldn't we consider focusing primarily on a  
23 commercial and not so much on a residential? Your  
24 opinion, I guess.

25 COMMISSIONER HYMAN: Well I mean I  
think that's a very good point that should be

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3 reviewed. I do think the program is somewhat  
4 structured to be more stringent on commercial  
5 properties, I think most of the money does come  
6 from commercial properties, and I agree that we  
7 want to make sure that as few foreclosures as  
8 possible happens on small homeowners.

9 COUNCIL MEMBER VANN: All right.  
10 Thank you, thank you, Commissioner.

11 CHAIRPERSON WEPRIN: I would just  
12 like to remind my colleagues we're about 40  
13 minutes behind schedule and we have the  
14 Commissioner of Department of Design and  
15 Construction here, so the last questioner--'cause  
16 I know there's some people that just arrived, but  
17 if you could save your questions for the next  
18 questioner.

19 We've been joined by Council Member  
20 Tish James from Brooklyn, Council Member Gale  
21 Brewer from Manhattan, and Council Member Helen  
22 Sears from Queens.

23 And the last questioner for this  
24 Commissioner is Council Member David Yassky.

25 COUNCIL MEMBER YASSKY: No, I can  
pass, I wanted to go through the water stuff

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again, which Council Member Vann really did. I'll just add to both Simcha Felder and Al Vann's comments.

I really think that--I urge you to lend your efforts to helping nonprofits get the water exemptions to which they should be entitled, as I understand it, so I hope we can get that done pretty speedily.

CHAIRPERSON WEPRIN: Thank you, Council Member. Thank you, Commissioner.

And we'll now hear from the Commissioner--

COMMISSIONER HYMAN: Thank you.

CHAIRPERSON WEPRIN: --of office of Design and Construction, David Burney, I think I saw him in the back.

[Pause]

COMMISSIONER DAVID BURNEY: Yeah, I'm right here, I'll be right there.

COUNCIL MEMBER BREWER: [Off mic] I have a question, though. Chris, come here. Yesterday the--

[Off mic]

[Pause]

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3 CHAIRPERSON WEPRIN: Okay. Finance  
4 is back in session and we're now going to hear  
5 from Commissioner David Burney of the Office of  
6 Design and Construction.

7 Commissioner Burney, and if you  
8 could identify your colleagues with you as well?

9 COMMISSIONER BURNEY: Yes, thank  
10 you, Chairman.

11 Good afternoon, Chairman Weprin,  
12 Members of the Finance Committee. I'm David  
13 Burney, Commissioner of the Department of Design  
14 and Construction, and with me today on my left, my  
15 Chief of Staff, Ana Barrio; on my right, General  
16 Counsel David Varoli; Deputy Commissioner David  
17 Resnick, Monahan, whom you know well; and Bruce  
18 Rudolph who, as you know, handles our  
19 discretionary program.

20 CHAIRPERSON WEPRIN: Who I usually  
21 embarrass at these hearings, but I'll try not to  
22 do it today.

23 COMMISSIONER BURNEY: Well thank  
24 you, Mr. Chairman.

25 I have a brief statement and then  
I'll be happy to take any questions.

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The agency's current FY 2009 operating budget is 95.9 million and of that, 82.3 million is for Personal Services. We have a budgeted headcount of 1,310, and \$13.6 million of the budget is for Other than Personal Services. The projected FY 2010 operating budget is 100.6 million, of which, 86.7 million is for Personal Services with a headcount of 1,312, and 13.9 million is for OTPS.

With just less than four months remaining in--actually less than four months remaining in FY 2009, I'm happy to report that DDC expects to meet or exceed most of its major statistical indicators that reflect our mission to deliver the city's construction projects in an expeditious, cost-effective manner, while maintaining the highest degree of architectural, engineering, and construction quality.

As you know, the current fiscal situation has necessitated a reduction in capital spending by our client agencies and, although we have to await the final FY 2010 capital plan from each of those agencies, the early indications are that the capital for FY 2010 will be reduced by

30%.

In 2009, the commitment plan totaled projects valued around 1.73 billion. In FY 2010, we expect that to drop to about one billion. Although those figures do not include the police academy, for which 670 million has been allocated in 2010 and the so-called "PSAC II" 911 call center for which the construction funds are currently held in the budget of the Department of--in DoITT's budget.

Last time I testified, I spoke about the ongoing repair projects in this building, City Hall, which DDC was asked to assist DCAS in implementing. The work will be completed over the next few years as we work with the building occupants to minimize disruption and the need for temporary relocation.

The projects are including life safety repairs to various building components, including reinforcement of deteriorated wood trusses in various areas. As you know, the committee room just next to us here was closed for a little while, we found some serious structural deficiencies in the roof. Those scaffolding



columns that you see in there now are part of a temporary support system while we effect more permanent repairs. We found similar issues in the bullpen where the Mayor's office is and in the committee of the whole and there are ongoing repairs underway or being completed in those areas as well.

We're also doing significant building-wide fire safety measures, including installation of a building-wide sprinkler system that will improve the life safety measures in the building. Replacement of the elevator just outside of the chamber here, ultimately, restoration of this room, including the ceiling and floor. Repairs and reconfiguration of council areas on the ground floor and the basement, including a new subbasement actually to bring in additional power supply to the building, and building-wide fire alarm systems and mechanical components. So ultimately, the building will be brought up to a much better state of repair than it currently is.

We're currently setting a phasing plan for the most critical work that's currently

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under review and certainly part of the work on the council side is quite extensive, will require temporary relocation, and we're working with council staff to work out a plan where we can expedite that relocation.

I wanted to bring to your attention that this past April, a new capital project layer was added to the City's map portal, which is called NYCitymap, and it now includes all the projects managed by DDC that are active in design or construction. You can get to this layer through City Map, it's available on Nyc.gov, you can also access it through DDC's website, and the locations of our projects and street work and infrastructure projects are highlighted and this replaces the old project browser that we've been currently working with. The user can click on any location and bring up basic information about projects, including description of the work, the scope, the phase, the sponsoring agency, the dollar value range of the project and the project completion date. You can also see an aerial photograph showing the actual site and the surrounding area. So I think this is a much-

enhanced form of technology over the old project browser, I think it'll be a very useful tool for Council Members and for residents of the city to keep track of projects that we're managing.

As a follow-up to my previous testimony concerning capital projects on non-city owned property, our staffs are continuing to work together, along with the OMB task force, to facilitate these projects and improve the process. At the end of May, 24 projects have been registered since the beginning of the fiscal year and one additional project has approved CP's and is awaiting registration.

We continue to work with the non-for-profits to get their projects through the various stages of the approval process, either at DDC, OMB, the Law Department, or the Comptroller's office. As I noted before, ensuring that the recipient organizations are provided with complete information about the process upfront, will result in faster completion of that process.

We continue to extend our offer to meet with recipient organizations and I think we've done that recently, Bruce, to provide

assistance so they understand the process and to answer their questions.

So that concludes my prepared remarks and I would be happy to take any questions.

CHAIRPERSON WEPRIN: Thank you, Commissioner. Let me just introduce our colleagues that are here, we have--I saw Councilman Jim Oddo from Staten Island and Brooklyn; Council Member Vincent Ignizio from Staten Island; Council Member Robert Jackson from Manhattan; Council Member Albert Vann from Brooklyn; Council Member Alan Gerson from Manhattan; Council Member Helen Sears from Queens; and Council Member Gale Brewer from Manhattan.

Let me ask you some questions, I know we went into this earlier this year at the preliminary budget hearings, but could you kind of give us an update on the federal stimulus projects that are shovel ready? And I know we had this discussion when we announced some of the federal stimulus capital money, that we were able to use some of that money for shovel ready projects to kind of mitigate the damage, I guess, of the cuts

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to the capital budget, because money that might have gone to regular city capital projects, which might not be shovel ready or that might be shovel ready, if we use the federal stimulus money for those projects we could substitute other projects in the capital budget that might not have been done, but of course that's keeping in mind the overall cut as well. So just to summarize, give us the status if you can of the shovel ready projects and how will that mitigate percentage-wise or otherwise what otherwise would have been the 30% cut to the capital budget?

COMMISSIONER BURNEY: Okay. Mr. Chairman, it's a little difficult for me to give you a comprehensive answer to that question because--

CHAIRPERSON WEPRIN: [Interposing]  
Well I had enough trouble with the questions, so...

COMMISSIONER BURNEY: And the reason for that obviously is that our client agencies, primarily DEP and DOT, are sort of leading the requests for stimulus funds. I know somewhat less about DEP, I do know that DOT, I

believe, currently has 25 projects that are stimulus funds, using stimulus funds. DDC is managing nine of those, those are primarily street reconstructions, I can give you the list, perhaps after the meeting. I believe the balance that DOT is managing are primarily bridge projects-- Brooklyn Bridge I know is one of them, I believe there are others.

So those projects are ongoing, we're currently managing them, they tended to be projects that were already receiving some form of federal funding because the process by which the city receives federal funds is quite complex and there's an arcane review and approval process, which means that if you haven't already started that process, it can cause delays. So I believe that's why those projects were selected.

We did of course submit a fairly extensive list of potential projects to our client agencies that were in various stages of design, and of course it begs the question of how you define shovel ready, and we were hoping that, as the system played out, more funds would become available to the city.

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But those nine that DDC are currently actively managing are definitely in our plan and--

CHAIRPERSON WEPRIN: [Interposing]  
Can you provide us with that list of projects?

COMMISSIONER BURNEY: Actually, I think I can give you most of them now--Kingston Avenue; East Houston Street; which is a continuation of the project, was just being completed on Westhampton Street; College point in Queens; Hugh Grant Circle; Paulding Avenue in the Bronx; Decatur Avenue, which is a major retaining wall repair project; Nassaur Avenue; and Hillside Avenue, they're all major streets reconstruction projects--is Eastern Parkway--and Eastern Parkway in Brooklyn also.

CHAIRPERSON WEPRIN: Okay. We had Commissioner Kelly, here, I guess about a week or two ago talking about the police academy in College Point and I know that's a large project for you, but I believe he testified that the original scope was reduced and the project has kind of been downsized from the original projection. Can you give us an update as to what

the original plan was, what the current plan is,  
and the status of it.

COMMISSIONER BURNEY: We hired a  
large design team headed by Perkins & Will, a  
major design firm, to prepare a master plan for  
the Academy and as you probably know, it's really  
it's a 35-acre site, it's really a comprehensive,  
almost really a university campus for the police  
department that would consolidate the eight or  
nine different facilities they have around the  
city into one location and that would, of course,  
eliminate all the transportation back and forth  
that they have to do with the current recruits.

Perkins & Will completed the master  
plan for the full 35 acres before the fiscal  
crisis came upon us and, as it stands now, OMB has  
budgeted 650 or 660 million only that will become  
part of a phase 1A for the site. I can't give you  
an accurate estimate for the full build-out, but  
it will certainly be in excess of 1 1/2 billion  
and we don't know obviously how the fiscal  
situation will play out and if or when that  
additional funding will become available.

However, phase 1A, which we're



calling it, which will start construction later this year, gives the police department the initial academic portion of the building, they'll be able to do their basic recruit training there, there will be gymnasium facilities for the physical training, there will be classrooms for their regular routine recruit work.

What we won't be doing, which will come later in the master plan, is moving things like the emergency vehicle operation situation, which is now out at Floyd Bennett Field, we won't be moving the pistol training yet, that's a very expensive component, so they will stay in their present location, but the basic academic training will move to the Queens site.

CHAIRPERSON WEPRIN: Okay. Thank you.

One of my favorite topics, I know we've gone back and forth with over they years and I know Mr. Rudolph was very involved in a lot of the projects, we had a whole Memorandum of Understanding on not-for-profits on non-city-owned land. Can you kind of give us an update, the status of some of those projects and the backlog

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and we had the moratorium as you may remember for a year, a couple of years ago and that was supposed to relieve some of the backlog on construction of some of the not-for-profits on non-city-owned land. Can you kind of give us an update as to the status of the pipeline and whether most of those issues were resolved?

COMMISSIONER BURNEY: Mr. Chairman, I think we prefer the term pipeline to backlog actually, that's our preferred expression, but, Bruce, do you know how many we have in the pipeline currently? I know we've done 25 this year so far--how many are still in the pipeline?

[Off mic]

COMMISSIONER BURNEY: About 50 or 60 still in the pipeline at various stages and of course, as you know, it's a long process. Often when the projects first come to us, the first thing Bruce has to do is sort of define the scope of work. Often it's not quite clear what the funds are to be used for, we have to ascertain that they are capital eligible, that restrictive covenants are not required, and that's part of the initial training program that we work with the

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recipient organization. So some of them go quickly and some of them end up being difficult projects to move.

CHAIRPERSON WEPRIN: Give us a list of the projects that have been done, the 25 you referred to and then also if you could kind of give us a list of, as many as you have, of the projects in the pipeline?

COMMISSIONER BURNEY: Yes, we can do that after the meeting, I think. [Pause] Oh, we did, we gave it to your staff last Thursday.

CHAIRPERSON WEPRIN: Okay, great. Thank you, we'll follow up on that.

Council Member Gale Brewer.

COUNCIL MEMBER BREWER: Thank you. One of my questions is how does it get decided which projects DDC manages and which, for instance, the libraries themselves manage? I think I've asked you this in the past, but...

COMMISSIONER BURNEY: Well I think as with any recipient of city capital funds, a decision has to be made as to the ability of the recipient organization to manage the funds. Most of the time a large organization like the

Metropolitan Museum or the New York Public Library who have a track record of capital project management can do the project themselves and can apply for a grant, rather than have DDC manage it.

In cases where they are also bringing private funding to the project, that strengthens that argument, that it would be managed by the recipient organization.

Our role really is to provide design and construction management expertise to organizations that don't really have it in that business. So a smaller institution that gets capital funds but has never done a project before, we bring in the management expertise to help them and take them through the project. So each case is a case--

[Crosstalk]

COUNCIL MEMBER BREWER:

[Interposing] So you do some libraries and not other libraries, is that the idea?

COMMISSIONER BURNEY: We do, we do most of all of the Queens library system, we do pretty much all of their work, except for minor work which they do themselves. Brooklyn--

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COUNCIL MEMBER BREWER:

[Interposing] I'm only interested in Manhattan.

COMMISSIONER BURNEY: In Manhattan-

-

COUNCIL MEMBER BREWER: I don't  
care about the other ones.

COMMISSIONER BURNEY: Okay. In  
Manhattan, we've done many of the branches, St.  
Agnes, as you know--

COUNCIL MEMBER BREWER: Right.

COMMISSIONER BURNEY: --we've  
managed--

COUNCIL MEMBER BREWER:

[Interposing] Are you on time and on budget?

COMMISSIONER BURNEY: Well we are  
not on time, I regret to say, as you know, it's  
been a checkered history, but I believe we're in  
the closing stages now and--David, I think we've  
got a--do we have a date now? We don't have a  
date, but it's very close, it's very close. The  
construction work is essentially done, when our  
working with the library--

COUNCIL MEMBER BREWER:

[Interposing] 'Cause my neighbors call me every

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day to ask about it, so I guess it's up on the St.  
Agnes as to the status, is it up?

COMMISSIONER BURNEY: Yes, yes,  
it'll be up there. We're now working with the  
library to do the fit-out, because they come into  
the--

COUNCIL MEMBER BREWER: Do the  
what?

COMMISSIONER BURNEY: To do the  
fit-out, the furniture and installation computer  
systems and so on which the library does  
themselves.

But in the case of NYPL, them  
managing a couple of the larger projects  
themselves, the renovation of the main branch  
Library 42nd Street. And we're doing--

COUNCIL MEMBER BREWER:  
[Interposing] So how much of an Admin fee do you  
take? For instance, for like a St. Agnes?

COMMISSIONER BURNEY: That's a good  
question, it does vary, there is what we call IFA,  
which we charge our time on the project back to  
the client agency and that comes out of the  
project budget.

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COUNCIL MEMBER BREWER: So it comes  
out of the amount that I put into the library for  
allocation.

COMMISSIONER BURNEY: Right, in  
other words, if \$10 million is set aside to do a  
branch library, a certain amount will come out for  
design fees, a certain amount will come out for  
construction fees--

[Crosstalk]

COUNCIL MEMBER BREWER:  
[Interposing] Okay. So when a project is late, do  
you get less of an Admin fee?

COMMISSIONER BURNEY: No, there  
wouldn't be a direct relationship with the  
timeliness of the project--

[Crosstalk]

COUNCIL MEMBER BREWER:  
[Interposing] So what's the incentive to come in  
on budget, on time?

COMMISSIONER BURNEY: That's always  
our goal with every project, is to come--

[Crosstalk]

COUNCIL MEMBER BREWER:  
[Interposing] I know that, but what's the

incentive? There's no incentive.

COMMISSIONER BURNEY: Well I think the project itself is an incentive, I mean that's what we're there for, that's our job.

COUNCIL MEMBER BREWER: Okay. No incentive, all right. Okay. Next question is, I have a project that was, I think it's EDC, it is a private nonprofit, it is a food pantry. Five years ago we gave them money and they had to become a condo in order to get the money. Is that a normal procedure? In other words, you wouldn't be managing an EDC project, they would manage that themselves.

COMMISSIONER BURNEY: They typically would, there have been cases where EDC projects have been transferred to DDC, but typically, they would manage them themselves, yes.

COUNCIL MEMBER BREWER: Okay. And they take a huge fee. Is that also a normal sort of thing? You don't know?

COMMISSIONER BURNEY: I don't know what their fee arrangement is.

COUNCIL MEMBER BREWER: Okay. It's beyond frustrating.



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The other question I have is, are you managing in the Bronx through DoITT the PCDC or do they manage that themselves? That's PCDC II.

[Off mic]

[Pause]

COUNCIL MEMBER BREWER: Yes, PSAC.

COMMISSIONER BURNEY: Oh, do you mean PSAC? Yes, we're managing the PSAC project, yes.

COUNCIL MEMBER BREWER: Okay. I am not a fan of that project, I'll tell you that right now. What's the status of it and--

COMMISSIONER BURNEY: [Interposing]  
We expect to break ground with construction later this year with a, you know, there's quite an extensive sidewalk package to do and there's a road to be built, so that will start later this year. The building itself will start construction in 2010.

COUNCIL MEMBER BREWER: And do you know the total budget of that?

COMMISSIONER BURNEY: 550 million in construction funds, I believe.

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COUNCIL MEMBER BREWER: How much?

COMMISSIONER BURNEY: 550 million  
in construction funds.

COUNCIL MEMBER BREWER: Okay. So  
that's the whole thing for construction.

COMMISSIONER BURNEY: Yes.

COUNCIL MEMBER BREWER: Okay. And  
the question with that is, normally when we have  
projects, we often can't start until we have the  
design and the construction money for everything,  
but you mentioned the police department and you  
mentioned PCDC that you're starting without the  
total package. You're able to do that?

COMMISSIONER BURNEY: Well with a  
larger project, OMB may frequently spread the  
capital over several years and, as the fiscal year  
comes in, that money is released and further funds  
are allocated, but the overall plan could be over  
several years. I mean the PSAC will take probably  
three years, the Academy will take significantly  
longer probably because of the funding situation.

COUNCIL MEMBER BREWER: Okay. Just  
again, back to this Admin fee, is it a percentage  
of the total project and it depends on the

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project, is that what you're telling me?

COMMISSIONER BURNEY: It depends on the project, I believe OMB has a rule of thumb for what they estimate it to be. But the fact of the matter is we charge our time and only our time individually to the project and that gets back charged to the project budget, so it does vary from project to project.

COUNCIL MEMBER BREWER: Okay, thank you.

CHAIRPERSON WEPRIN: Council Member Robert Jackson.

COUNCIL MEMBER JACKSON: Good afternoon.

COMMISSIONER BURNEY: Afternoon.

COUNCIL MEMBER JACKSON: Good to see you again. I met with some advocates last week and they were lobbying me about the proposed \$900 million that the Mayor has allocated in the capital budget to build a prison in the Bronx and to, I guess, reopen the Brooklyn House of Detention in Brooklyn. And my question to you regarding that is, are these projects in your shop at this point in time? And if so, what's the

value of these projects?

COMMISSIONER BURNEY: Yes, both those projects are being managed by DDC. The Brooklyn Men's House of Detention is 460 million, I think, somewhere in that order, and the Bronx Detention Center is 600 or thereabouts, right? Yeah, yeah. These are preliminary numbers because certainly in the case of the Bronx Detention Center, we don't actually have a design, there's only a site selection going on.

The Brooklyn House of D, we know a little bit more about because we've done an analysis of the existing building and what would it take to fix it up and so on and so we know a little bit more about that project.

COUNCIL MEMBER JACKSON: And do you know how much has been spent on these projects thus far as far as any preliminary work? They had said to me that they believe that when the Bronx project for preliminary work about \$30 million has been spent already on this project and--

[Crosstalk]

COUNCIL MEMBER JACKSON: --the reason why I'm asking that question, if you could

think about the dollar amounts is because in these tough economic times, people are now looking at whether or not there is a certain need to have additional prison space where expected to be built. And I know that there's opinions on both sides of the fence, but considering that, as you indicated in your opening remarks, that you're waiting to see what the fiscal 2010 budget is to determine the scope of what your work is going to be because my understanding is capital projects are cut by 30% and is going to be expanded as far as the timeframe. And so I guess the group and many other people are questioning the logic and I don't expect for you to give me a response to that, but you need to know where they're coming from.

But my question is, more specifically about do you know how much you have spent on the, if anything as far as preliminary work, on the Bronx prison and the Brooklyn prison?

COMMISSIONER BURNEY: Yeah, well, just to address your first question, I mean obviously relative need is something the client agency would have to address rather than DDC, but

I do know that the, both in the case of Brooklyn and the Bronx facility, they would be replacing existing unsuitable accommodation on Riker's Island. So the need would either be on Rikers or on those other two locations in order to meet the needs of the agency in terms of the number of beds and cell spaces. So it's more a question of where you put them, rather than if you need them or not, as I understand it.

In terms of the Brooklyn House of Detention, we did a study, we had Skidmore, Owings, & Merrill a couple of years ago do an analysis of the existing building, I don't know what that cost, it certainly wasn't 30 million--

MALE VOICE: Around a--

[Pause]

COMMISSIONER BURNEY: Around a million in design fees doing design analysis. Similarly with the Bronx facility, we did some site analysis, some studies of whether the site was feasible for the locations, and we had a design firm complete that analysis and they went on then to prepare the documentation required for the ULURP application for the site selection and

that must've cost three or four, a couple of million maybe or something, so we're talking maybe a million on each project, but certainly not 30 million.

Now, not to say that, I mean as you know, Corrections has the barge at the Bronx location and have done improvements in that location for that purpose. I don't know whether that's in the number you're talking about, but DDC has spent limited design fees so far, that's all.

COUNCIL MEMBER JACKSON: Okay. All right, well, because as I said, when you look at the whole capital budget, approximately 900 million or \$1 billion is allocated for those two projects, and there is question on whether or not that is the best way to spend our money, and obviously those decisions are made, not by you and your agency, but by the contracting agencies, which will be Criminal Justice, is that correct?

COMMISSIONER BURNEY: No, this is Department of Corrections, Department of Corrections.

COUNCIL MEMBER JACKSON:  
Corrections, right.

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COMMISSIONER BURNEY: You know, and I can say, I mean we're working closely with them on their physical plans and Riker's Island, as you know, has got a lot of aging facilities there. We're currently building a new facility there now, we're doing some other renovation work, and the question that comes up is whether that's the appropriate place to invest the city's money in redeveloping and rebuilding more on Riker's Island or does it make more sense to locate detention facilities closer to the court system where the detainees are actually processed. So that's really the discussion and I think, like every agency, Corrections will have to deal with the 30% cut and how they reconcile that with their capital needs, but I think the question is more to do with where you put them, rather than whether you need them.

COUNCIL MEMBER JACKSON: Now, Commissioner, with respects to your staff or your agency, has it had a across-the-board reduction like all other agencies? And if so, what is it and how are you dealing with that?

COMMISSIONER BURNEY: We have



obviously really don't have anything of our own money, our money is in the budget of the client agencies that we serve and, to the extent that they're being cutback in capital, then our workload is reduced accordingly. We're not quite sure yet how it's going to play out in 2010, we're waiting to see.

But in terms of our headcount, we're down around 200 positions anyway, so we don't expect, even if there's a 30% cut in capital from the client agencies, that we would be involved in layoffs or anything like that, we simply will not fill positions that are already not filled, so...

COUNCIL MEMBER JACKSON: You mean your headcount is down?

COMMISSIONER BURNEY: Yes, yes, we have a significant number of vacancies in the agency.

COUNCIL MEMBER JACKSON: So as a result of coming forward in fiscal 2010, you're not expected to have any layoffs then.

COMMISSIONER BURNEY: I do not expect any layoffs.

COUNCIL MEMBER JACKSON: And the question has come up and DC 37 has had a huge campaign as far as doing house, doing work, with city employees and not contracting out and let's deal with the budget deficit by reducing the amount of contracting out. And in fact, the Commissioner, Acting Commissioner of Finance was here prior to you where they talked about in-sourcing, meaning not contracting out, they're going to do the work themselves and save \$5.8 million, which is good, every little bit helps. So my question to you is, what are you doing as far as to reduce the contracting out and relying more on city employees to carry out the work that needs to be done?

COMMISSIONER BURNEY: Well as you may know, on our infrastructure side of the agency, which is about 50% of our portfolio, we do pretty much all the work in-house, the design work, we have our own design engineers doing water main, sewer work, and so on. A limited amount goes out to consultants when we have more work than we can handle essentially and we have offices in each borough where we manage the infrastructure

work. Again, to the extent that we have staff available, they're fully occupied, managing the work ourselves in-house and we supplement that with consultants as needed.

On the building side, pretty much all of the work, design work is done by private firms, we don't really have a capability of doing in-house work.

On the management side, we do. We manage many of the projects ourselves with our own staff, we supplement that with construction managers when we don't have the resources, but we're actually using less construction management and doing more in-house on the CM side.

So there are some savings being realized, I can't give you really what that number is, but we are using more in-house construction management than outsourcing network.

COUNCIL MEMBER JACKSON: Well overall, I just need to express as a legislator in dealing with this city's budget, I am in favor of more city employees doing the work and relying less on contracting out in order to save the city money so that we can keep people employed and also

aware if the issue of employees are not in question at all, then utilizing the monies in order to have additional programs wherever they may be that will positively impact the people of New York City.

So thank you, Commissioner. Thank you, Mr. Chair.

CHAIRPERSON WEPRIN: Thank you. We've been joined by Council Member Simcha Felder from Brooklyn. Council Member Helen Sears?

COUNCIL MEMBER SEARS: Thank you, Mr. Chair.

Good morning. I have just one question actually, you said that you do almost all of the Queens library system. I'm not quite sure how to coin this question because with the Queens library system, they need to have all the money in tact before they can make modifications to the facilities or to construct new facilities. As an example, I'll use the Jackson Heights Library. When it was decided after three options that they would tear the facility down, the estimate was about 29 million, it is now up to 50 million, so my question is--

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COMMISSIONER BURNEY: [Interposing]

I'm sorry, which library, which one?

COUNCIL MEMBER SEARS: The Jackson  
Heights Library.

COMMISSIONER BURNEY: Jackson  
Heights.

COUNCIL MEMBER SEARS: Yes, so I'm  
now told it's up to 50 million. So how, with a  
policy like that, how do you get to really even  
project how many projects you will have in any  
given year so that you will have the kind of staff  
that is necessary.

And in this mythical process that  
the library system has, they will never see 50  
million in a short period of time, and by the time  
it's 50 million is realized, it will be much more.  
So how do you manage to work with such a policy,  
particularly when you're handling almost an entire  
library system in one borough?

COMMISSIONER BURNEY: Well we're  
not actually currently managing the Jackson  
Heights--

[Crosstalk]

COUNCIL MEMBER SEARS:

[Interposing] No, the work doing them.

COMMISSIONER BURNEY: Well you see typically what happens is the client agency has to assess its own needs for capital and has to reconcile those needs with what they anticipate in terms of funding. We like to encourage our client agencies to bring us into that process because we can often help define those needs more accurately than they can if they don't have in-house design expertise, and we've been doing that more and more particular with the library systems. So the process would typically be to do an analysis of, if it's branch libraries, of what their needs are, estimate those costs, and then do a reconciliation between the needs and available resources. And I'm assuming that the Jackson Heights branch would fall into that same system, but we don't have it with us yet, so I can't answer it directly.

COUNCIL MEMBER SEARS: So then, and then finally, just to put this for me anyway in the proper text, that let's say that they finally get the money, which can be many years down the road, are you in a position then to deal with that project?

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3 COMMISSIONER BURNEY: Absolutely,  
4 yes.

5 COUNCIL MEMBER SEARS: Because it  
6 seems to me that--well then you do these projects  
7 fairly on a timely basis when they emerge, not  
8 that there's some long-range planning that you  
9 know in 2011 you may start this project in Queens  
10 with a library system, that in 2012 there will be  
11 another. Because with the policy that they have  
12 of actually having to have every penny in place,  
13 the costs keep escalating so there are constantly  
14 changes in to their estimates and their  
15 projections as to that project. So I just  
16 wondered how you were able to cope with that when  
17 you finally get this project that you have to deal  
18 with.

19 COMMISSIONER BURNEY: Well actually  
20 costs are currently declining, so that's good news  
21 at least for the moment.

22 COUNCIL MEMBER SEARS: Not  
23 according to the Queens library system.

24 COMMISSIONER BURNEY: No. Well  
25 construction costs--

COUNCIL MEMBER SEARS: Not when it

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goes from 29 million to 50 million, they're not declining. But I understand where you--but thank you very much.

[Crosstalk]

COMMISSIONER BURNEY: Yeah.

COUNCIL MEMBER SEARS: I think you need to be more involved with that system and I think that could help--

COMMISSIONER BURNEY: Well we're--

COUNCIL MEMBER SEARS: --expedite a process.

COMMISSIONER BURNEY: --we are there to help.

COUNCIL MEMBER SEARS: Thank you very much. Thank you, Mr.--

[Pause]

CHAIRPERSON WEPRIN: Thank you, Council Member. Council Member Albert Vann.

COUNCIL MEMBER VANN: Yeah, thank you, Mr. Chairman. Good afternoon, Commissioner.

I guess you delivered the Brooklyn Children's Museum. Do you recall the total number in the overall construction for that? Offhand.

COMMISSIONER BURNEY: Forty-five



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million, 45, 46 million, around that number, I think.

COUNCIL MEMBER VANN: From the city, from the city, city's--

COMMISSIONER BURNEY: [Interposing]  
Well I'm not sure what the city's contribution was because there was private money--

COUNCIL MEMBER VANN: Right.

COMMISSIONER BURNEY: --there was your money, there was Merrill so--

COUNCIL MEMBER VANN: Right.

COMMISSIONER BURNEY: --I'd have to get back to you on that--

COUNCIL MEMBER VANN: Okay.

COMMISSIONER BURNEY: --but I think the overall was around--

[Crosstalk]

COUNCIL MEMBER VANN: [Interposing]  
Around 45, okay. Do you recall what the participation was from WMBE, participation in any aspect of that project, construction, otherwise?

COMMISSIONER BURNEY: The electrical contractor was a minority contractor, that was the largest of the WMBEs, that's just

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what springs to mind, I'd have to get back to you  
on the others.

COUNCIL MEMBER VANN: Okay.

COMMISSIONER BURNEY: I know one  
thing we had worked on and I don't think did as  
well as I would have liked, was the local  
employment issue--

COUNCIL MEMBER VANN: Right.

COMMISSIONER BURNEY: --which I  
know we tried very hard to recruit local residents  
in terms of construction, but we did not meet our  
goal there, I know.

COUNCIL MEMBER VANN: Right. The  
general contractor, the GC--where there a GC?

COMMISSIONER BURNEY: Yeah, general  
contractor? Yes.

COUNCIL MEMBER VANN: And that was--  
-refresh my collection.

COMMISSIONER BURNEY: Well it was  
actually the project was managed by Skanska--

COUNCIL MEMBER VANN: Yeah,  
Skanska, right.

COMMISSIONER BURNEY: --Skanska  
Management, yeah.

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COUNCIL MEMBER VANN: Right,  
exactly. Now, we made that selection or you  
choose the contractor?

[Crosstalk]

COMMISSIONER BURNEY: Yes, yes, we  
do, yes.

COUNCIL MEMBER VANN: All right.  
So what determines what level of participation it  
would have from WMBE or if there would be  
participation and how much? Is there anything  
that makes that determination or are they left to  
do whatever they do or don't do?

COMMISSIONER BURNEY: Actually that  
has changed a little bit since the contracts for  
the Brooklyn Children's Museum were awarded. Now  
there's a more specific goal on subcontracting and  
subcontracts over a million dollars--I'd have to  
get this right--subcontracts under \$1 million have  
to--

MALE VOICE: Percentages.

COMMISSIONER BURNEY:--there are  
percentages, right? Yeah, maybe I'll have you  
back to you on the specific numbers, but the way  
it works now is if the general contractor is

subcontracting portions of the trades that he's responsible for, he has to meet certain MWBE goals for that and he has to submit at his time of bid what those plans are, and we then review that plan, approve it, and then he has to meet that plan during the construction phase. But that's new, that's subsequent to be BCM.

COUNCIL MEMBER VANN: You feel that this plan would have provided superior participation? We were not happy with that and we're very pleased with the work, we're very pleased with the children's Brooklyn museum overall and so forth, but very unhappy with the lack of local participation and also the lack of involvement of WMBE. Are you saying that the new regulations, there's a new structure that will improve or that will manifest, that there will be some level of WMBE participation in future projects, are you suggesting that [off mic]?

COMMISSIONER BURNEY: Well certainly we will ensure that these goals are met. It's not an easy process, and I have to say there are some unforeseen consequences. For example, we have rejected bids from minority contractors

because they did not have a subcontracting plan that met muster with the law, so that's somewhat perverse in my mind. So there are issues with the current MWBE program, I think it could stand some review and improvement.

Disappointingly, there is still no opportunity for us to apply or enforce any goal for local employment. And I've always felt that where we are doing, bringing a large capital project to a neighborhood, there ought to be some way of providing opportunities for local employment, particularly in areas where there are high rates of unemployment. That's a more difficult issue that's not helped by the MWBE program obviously, but I think bears further consideration.

COUNCIL MEMBER VANN: Well I know in a lot of communities, they have the advantage of CBA, community benefit agreement, is that the way to go to try and make sure that there is some minority participation?

COMMISSIONER BURNEY: I think the CBA program is not really being used by the city.

COUNCIL MEMBER VANN: Right.

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COMMISSIONER BURNEY: I know that Medgar Evers, I think, did a large CBA, but typically, I don't even know that it applies to city-funded projects, certainly we have not done one.

COUNCIL MEMBER VANN: Yeah, I guess I'm fishing for there has to be a more effective mechanism to make sure that we get minority participation that we have in place and you mentioned a new system where you think that would provide at least under \$1 million a great opportunity.

COMMISSIONER BURNEY: Yes.

COUNCIL MEMBER VANN: I'm saying I know in some instances have employed a CBA as a way of making sure that there is minority participation and I'm not sure how we approach it from design point of view, but perhaps you and your people can come up with something that would make sense, that would generate, create, and manifest that we get a greater percentage than we're getting now because this is pretty abysmal, I think. So perhaps we can talk about that offline if there's some things that can be done,

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I'd be pleased to work with you if that's possible.

COMMISSIONER BURNEY: I'd be happy to, Councilman, yeah.

COUNCIL MEMBER VANN: All right, thank you.

CHAIRPERSON WEPRIN: Thank you, Council Member.

I think that's good. Thank you once again as usual for coming.

We're going to have a little changed in order of witnesses. Instead of the Comptroller being next, we're going to hear from Ronnie Lowenstein from the Independent Budget Office, and to be followed by the Comptroller.

[Pause]

CHAIRPERSON WEPRIN: Okay. Finance is back in session and we're now going to hear from the New York City Independent Budget Office and their director, Ronnie Lowenstein.

And, Ms. Lowenstein, if you could also identify your colleagues that are with you today.

DIRECTOR RONNIE LOWENSTEIN: I am

here with Frank Posillico, IBO's Deputy Director.

CHAIRPERSON WEPRIN: Okay. You  
have prepared testimony?

DIRECTOR LOWENSTEIN: I have a six-  
page report which you should be just handed in a  
moment.

CHAIRPERSON WEPRIN: This grayish-  
looking document?

DIRECTOR LOWENSTEIN: Yes.

CHAIRPERSON WEPRIN: Okay.

DIRECTOR LOWENSTEIN: Appropriately  
gray.

CHAIRPERSON WEPRIN: Is the color  
reflective of the fiscal mood?

DIRECTOR LOWENSTEIN: Apparently.

CHAIRPERSON WEPRIN: Okay.  
Proceed.

DIRECTOR LOWENSTEIN: Okay. Well  
first of all, thank you very much for inviting us.

Since you've just received the six-  
page report, I'm going to spare you formal  
testimony and just give you the highlights.

The main you should take away is of  
course the color of the report itself. We are



indeed in the midst of a very severe recession.  
And this year is difficult, but next year is  
actually going to be worse.

Let me start with the only good  
news I've got, which is that recent weeks have  
brought a small glimmer of good news on the  
economic front. The U.S. economy is still  
contracting, but slightly slower than it had been  
contracting over the last several quarters.  
Financial markets have begun to stabilize. On the  
local level, again, New York City employment is  
still declining, but not as rapidly as it did  
towards the end of last calendar year. But,  
having said that, the U.S., New York City, and  
much of the world economy remains mired in a very,  
very severe recession.

IBO published its last forecast May  
20th, that's the six-page document you've got in  
front of you. Unlike the executive budget, IBO's  
tax revenue forecast includes all the all  
important April results for the personal and  
business income taxes and, based upon that  
additional information and our different  
forecasting techniques, we estimate that for the

current fiscal year, there will be roughly \$400 million less than OMB anticipated in the executive budget release. For next year, the figure rises, we're expecting about \$640 million less than OMB projects. You put that all together and from where we sit, even if all of the Mayor's budget proposals are accepted here and in Albany, the city is facing a gap on our calculus of about \$1.1 billion for the upcoming fiscal year, and that's assuming everything comes out as planned within the executive budget.

As we all know, not, everything happens as planned. There are great uncertainties certainly in terms of the economic condition, there are certainties as to the extent of how much of the city's tax program, particularly in the clothing sales taxes and the fees for the plastic garbage bags will be adopted either here or in Albany. Moreover, the city's two largest unions have contracts that expire very shortly--UFT contract expires in October, DC 37 in March, they may well settle at more than is held in the labor reserve. Finally, it's unlikely that the city is going to get the pension tier five that it was

counting on for \$200 million. So there are lots of risks that are mainly on the downside, which is to say that that gap that we're projecting of the remaining gap of \$1.1 billion for next year could well be considerably higher.

And as difficult as this year's balance is going to be to get, next year looks worse. For one thing, there's going to be no accumulated surplus to help us through for fiscal '10, you know, we still have some monies that were put into next year to help us out from when times are really good, they're gone by the year after. Moreover, for fiscal '11, the other thing that's happening is that the federal fiscal stimulus is drying up.

So for all of those reasons, we're anticipating a gap for fiscal '11 of \$5.6 billion, which is nearly 13% of city funded revenue. These are huge problems, the sooner we begin to address them, the easier it will be to do so. And I'd be happy to take your questions.

CHAIRPERSON WEPRIN: Okay. Thank you. I asked this question of Acting Commissioner of Finance Hyman, but I'm going to ask you

because--not that I wasn't satisfied with the answer, but it still really didn't answer my question of how to deal with my constituents and our colleagues' constituents and that's dealing with the assessment roll market value for class one homes decreasing for the second year in a row, yet assessments are still increasing by more than 4%, and of course it's hard to explain to taxpayers why their market value keeps going down, but their actual taxes keep going up without an increase by the Council, because we've done that also in different times. But in the past, I know the explanation has been that it's going to occur until the target assessment ratio of 6% is reached, even though market values are decreasing, and I believe the average ratio is now about 4%. What, if anything, can we say to these taxpayers, and how can this possibly be changed, either by state legislation or by otherwise?

DIRECTOR LOWENSTEIN: I would never understate the difficulty of trying to explain the city's property tax to anyone, it's ridiculously opaque, that's a problem in and of itself and it makes people, even when taxes are in many ways

1 fair, think that the system is unfair and rigged  
2 against them. So I certainly understand the  
3 problems your constituents face.  
4

5 I think that, apart from the  
6 opaqueness of the tax, the fact that there is some  
7 stability built into it by having these changes in  
8 assessments slowly phased in is, in general, a  
9 good thing, but if we can't explain it to people,  
10 I can understand why they're concerned or outraged  
11 or stressed, just as they're stressed in every  
12 other aspect of their lives. And I--

13 CHAIRPERSON WEPRIN: And what would  
14 you say to them?

15 DIRECTOR LOWENSTEIN: What do I  
16 say? I would say that there is virtually no part  
17 of the city's property tax system that's not  
18 broken and you should be raising your voices so  
19 that Albany hears us and does something.

20 CHAIRPERSON WEPRIN: So it's  
21 something that can be corrected by Albany.

22 DIRECTOR LOWENSTEIN: Yes, the  
23 answer is yes.

24 CHAIRPERSON WEPRIN: And how would  
25 it be corrected? What would the legislation say?

DIRECTOR LOWENSTEIN: Okay, that I have no idea about, but this is just--the opaqueness of the system is just one of many problems that this system faces and I think certainly that some of the taxpayers who have been most advantaged by the system--the single-family homeowners, some of the co-op owners along Fifth Avenue and Park Avenue and Central Park West--have been very vocal in the fact that they think that the tax is unfair despite the fact that they pay less, for example, than buildings in which there are renters. So there's nothing to say that when the whole system is in play that your constituents will make out better than they were before, it's hard to say and that's obviously been part of the problem, difficulty in getting Albany to take a serious look at it.

CHAIRPERSON WEPRIN: Okay. I don't know if that solves my problem, but it's certainly a dilemma that you can understand that we face and how to explain it.

We've been joined by Council Member Lou Fidler from Brooklyn since my last round of introductions. And a few of my colleagues have

questions to ask and I see the Comptroller has arrived as well, so we'll try not to keep him waiting too long.

Council Member Robert Jackson.

COUNCIL MEMBER JACKSON: Thank you, Mr. Chair, and good morning, Director Lowenstein, how are you?

DIRECTOR LOWENSTEIN: Good morning.

COUNCIL MEMBER JACKSON: Good. and I always rely on the Independent Budget Office for independent analysis of where the city budget is and you talked about, assuming everything is in place as projected by the Mayor and executive budget, we'll be approximately \$1.1 billion in the red by the end of June of 2010, is that correct?

DIRECTOR LOWENSTEIN: That's assuming nothing else happened. In fact, as you know, the city budget effectively on a year-round basis there'll be another opportunity to take a look at this budget early in the fall and I would assume that changes, if in fact things come about as we're now forecasting, that there'll be issues that will be addressed.

COUNCIL MEMBER JACKSON: Well I

know you read the papers and listen to the news, like I do and it appears as though that the City Council is not going to go along with putting a five cent surcharge on plastic bags and not go along with bringing back tax for clothes under \$110, so obviously that's several hundred million dollars right there.

DIRECTOR LOWENSTEIN: About five.

COUNCIL MEMBER JACKSON: About five, a half a billion dollars, but my question to you is with the General Motors supposedly filing bankruptcy today and the U.S. government pouring in another \$30 billion in order for them to stay afloat, do you think that that would have an impact here in New York City, more specifically as far as our economy?

DIRECTOR LOWENSTEIN: The city's economy is very much tied to the U.S. economy.

COUNCIL MEMBER JACKSON: I'm sorry, is what?

DIRECTOR LOWENSTEIN: New York City's economy is very much tied to the U.S. economy, and when the U.S. is in recession, we almost invariably earn recession as well. If the



GM situation further destabilizes the U.S. economy and brings growth down further, then we'll be feeling the ripple effects of that certainly.

COUNCIL MEMBER JACKSON: Now and when Mark Page was here and the Department of Education, New York City is expected to reduce their headcount by at least 10,000 positions and thousands of employees are expected to be laid off, and I hope that I'm wrong, but that's what's projected. And I believe that if thousands of employees are laid-off that's going to negatively impact our economic situation even more because those individuals will not be going to the grocery store, not be buying clothes, will not be doing repairs because, based on the average salary of average New Yorkers, is not a whole lot of money in order for them to pay their rent and what have you, and I predict that the city is going to be in worse trouble than it is predicting. Do you have any thoughts on that if, let's assume, 10,000 employees in the city are not working a year from now?

DIRECTOR LOWENSTEIN: I believe the number that was included in the executive budget

was about 3,800 in terms of layoffs, with the remainder in attrition. Certainly that's a huge problem for the individuals involved and, to some extent, a problem for the city as well. But the basic issue, which I am sure you understand, is that the city of New York is required to balance its budget. Unlike the federal government, we can't go to the Fed, even though they're just down the block, and say print us some, so we rely upon the federal government in particular when things are bad as they are now to provide the stimulus to keep as many New Yorkers working as we possibly can.

COUNCIL MEMBER JACKSON: Now and when you talk about stimulus, the Department of Education is receiving some stimulus money and, as you know, I chair the Education Committee and I have some issue and concerns with the Department of Education concerning their proposed five-year capital plan, which is \$11.2 billion, \$2 1/2 billion less than the current capital plan, which expires June 30th and I was wondering whether or not you had any opinions and thought about whether or not the proposed five-year capital plan is a

plan that is structurally sound or, as I have expressed, I consider it structurally imbalanced.

DIRECTOR LOWENSTEIN: I don't have any information on that. Frank, do you?

MR. FRANK POSILLICO: No, I agree with your numbers, but at this time we really haven't gotten--

CHAIRPERSON WEPRIN: [Interposing]  
Just identify your--

MR. POSILLICO: Oh, I'm sorry--

CHAIRPERSON WEPRIN: --name and title for the record.

MR. POSILLICO: --Posillico, Deputy director of IBO.

CHAIRPERSON WEPRIN: Thank you.

MR. POSILLICO: You're welcome. We haven't gotten into the details to figure out exactly how what projects would be involved in that reduction, but five years is a long time and plans change from plan to plan, so when we do finish an examination of it by project, we could most likely get back to you.

COUNCIL MEMBER JACKSON: And the reason why I was asking you because the proposed

five-year capital plan must be approved or not approved by this City Council and I was hoping that I would get an independent opinion on that particular matter one way or the other because currently, based on everything that I know, I can not vote on the capital plan because it's structurally imbalanced and it does not add one additional seat in District 6 in northern Manhattan; District 5 in Harlem; District 4 in East Harlem, and part of the upper West side; District 3 in upper Westside; District 1 in lower Manhattan, it doesn't add one seat at all. The only district in Manhattan is District 2 and, to me, that's totally unacceptable. And then citywide it only projects to build two high schools in the entire city when I know that the need is greater than that.

And that's what I say it's structurally imbalanced and that's why I was asking you whether or not you had an opinion about their proposed five-year capital plan.

DIRECTOR LOWENSTEIN: Okay, opinions no, but we can go back and see whatever information we can pull together for you before

you have to face that vote.

COUNCIL MEMBER JACKSON: I appreciate that, that vote has to take place before June 30th, before we pass the budget.

But let me just ask you, the Department of Education, their overall budget, including pension and debt and everything, is \$22 billion, which is more than one-third of the \$59.4 billion city's budget. And the Department of Education has said that they expect to get results from their principles by June 18th and they will give us information immediately thereafter several days. I'm wondering whether or not the Independent Budget Office, have you had an opportunity to analyze the Department of Education's budget from an expense point of view in order to give us an analysis or an opinion on whether or not, one, it's transparent; number two, whether or not can you give an opinion as to their projections as far as layoffs and stuff like that?

DIRECTOR LOWENSTEIN: Okay, I can give you an opinion on transparency without seeing the documents and the answer is no, definitely not.

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3 COUNCIL MEMBER JACKSON: No what,  
4 I'm sorry

5 DIRECTOR LOWENSTEIN: No, the  
6 Department of Education budget is far from  
7 transparent. That's been a problem for a very  
8 long time here.

9 Another problem is the department  
10 has not released sufficient backup data to the  
11 expense budget for the department to allow  
12 effective oversight, either by fiscal monitors  
13 like IBO or, more critically, the Council's own  
14 oversight and, without that information, anything  
15 I would say would be uninformed.

16 [Pause]

17 Oh, I'm being told that we did  
18 indeed just receive the backup today, which seems  
19 a little late in the game, but I certainly welcome  
20 it whenever comes.

21 COUNCIL MEMBER JACKSON: Well I'll  
22 be happy if you can give any analysis based on  
23 whatever information you can between now and as  
24 soon as possible because knowing that we're  
25 considering--and reading the papers there's some  
indication that the City Council and the Mayor may

be trying to finalize the budget sooner, rather than later. But I've already expressed publicly I don't see how I can pass a budget where one-third of the budget deals with the Department of Education not knowing the ramifications of the fallout, meaning the reductions from a programmatic point of view as far as in our schools.

So as soon as you can get some information where you can help me to analyze the budget and to come up with some better thoughts, I would appreciate it.

DIRECTOR LOWENSTEIN: We'll do the best we can.

COUNCIL MEMBER JACKSON: Thank you. Thank you, Mr. Chair.

CHAIRPERSON WEPRIN: Thank you, Council Member. The next questioner is Council Member Felder.

COUNCIL MEMBER FELDER: Good afternoon. You had a proposal for eliminating transportation to nonpublic schools, am I correct?

DIRECTOR LOWENSTEIN: What you're referring to, I believe, is IBO's option volume

which we put out every year. None of those are proposals, they're things that are generally out there in the public realm and what we do is, as dispassionately as possible, list the pros and the cons of each. We list what it would save or what it would bring in in taxes, and then there's, as balanced as we can make it, a list of here's reasons to do it and here's reasons not to do it.

COUNCIL MEMBER FELDER: Well that may be so, I don't remember, because I don't recall reading the details at all. But did you include in your details that it's mandated by state law?

DIRECTOR LOWENSTEIN: You know, we put it out in February and it's been long enough so that if I--

COUNCIL MEMBER FELDER:  
[Interposing] Well you have people who are here with you, will you have a--

DIRECTOR LOWENSTEIN: If one person--

[Crosstalk]

COUNCIL MEMBER FELDER: --is there anyone here with you? Well I--



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[Pause]

DIRECTOR LOWENSTEIN: [Interposing]

Okay. Our Chief of Staff is saying that he recalls that there are references to the state requirements. Generally speaking for each of the options, where there is a state law that would require changing, that's in there.

COUNCIL MEMBER FELDER: If you can check up on that--

DIRECTOR LOWENSTEIN: Okay.

COUNCIL MEMBER FELDER: --and get back to me, I would appreciate it very much.

So are you saying that, for example, how do you decide about which things you include or don't include?

DIRECTOR LOWENSTEIN: Many of them happen because people ask us questions.

COUNCIL MEMBER FELDER: If I asked you whether it be worthwhile to close the public schools down entirely and save the city a lot of money, would you include that?

DIRECTOR LOWENSTEIN: Probably not.

COUNCIL MEMBER FELDER: You would not include it.

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DIRECTOR LOWENSTEIN: No.

COUNCIL MEMBER FELDER: Despite the fact that Council Member Jackson is not in favor of the capital plan.

DIRECTOR LOWENSTEIN: Despite.

COUNCIL MEMBER FELDER: Despite that, because it doesn't make sense or why wouldn't you include that?

DIRECTOR LOWENSTEIN: First of all, that's so far beyond the realm and--

COUNCIL MEMBER FELDER: I see, who decides what's beyond the realm?

DIRECTOR LOWENSTEIN: Ultimately, that's me.

COUNCIL MEMBER FELDER: Excellent. So eliminating transportation for nonpublic school children is not beyond the realm.

DIRECTOR LOWENSTEIN: It was certainly a question that had been raised, we thought it was an interesting issue, and I believe we included that and at times, we've also included the textbook aid for private schools as well.

COUNCIL MEMBER FELDER: Yeah, I find it, with all due respect, you and I--probably

it's a compliment to you--have an entirely different frame of mind of what's reasonable or not. I don't think eliminating transportation to nonpublic school children or textbooks to nonpublic school children is within the realm of reasonable. I don't know how that comes about. The law has been around for, I think it's about 30 years, maybe a little more, mandating those things. What about eliminating nurses from nonpublic schools, did you include that?

DIRECTOR LOWENSTEIN: No, we did not.

COUNCIL MEMBER FELDER: Maybe next year.

DIRECTOR LOWENSTEIN: The reason it had been in the volume at some point, I believe, and then the Council I think took action on it in a way that made it clear that it was off the table and we took it out.

COUNCIL MEMBER FELDER: But what about lunches for nonpublic school children? Did you ever try that?

DIRECTOR LOWENSTEIN: I know nothing about it.

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COUNCIL MEMBER FELDER: Well you should look into it, because food costs a lot of money and nonpublic school children, certainly if they're not getting to school, don't need to eat and you should include that in next year's proposal. I'm being facetious--

[Crosstalk]

COUNCIL MEMBER FELDER:--but I think it's quite outrageous that you included that as one of your reasonable proposals. I don't understand it, I don't know where it comes from and if you're the judge, and I have a respect for you, of what's reasonable or not, then maybe you decided that this was reasonable when you were looking at my picture, maybe you went crazy, you know?

DIRECTOR LOWENSTEIN: I assure you not.

COUNCIL MEMBER FELDER: You don't look at my picture ever?

DIRECTOR LOWENSTEIN: No, sorry.

COUNCIL MEMBER FELDER: Okay, I'm sorry for you, but you get the gist. I think it's unconscionable when you say to me that it's

reasonable for you to debate whether nonpublic school children should or should not get transportation, should or should not get textbooks, and unfortunately forgot to include should or should not get food, and decided not to include nurses because we decided that's off the table, I think that's bizarre, and I would respectfully request that you never include that proposal again. Thank you.

CHAIRPERSON WEPRIN: I'm not sure there's a question there, but, okay. Council Member Fidler.

COUNCIL MEMBER FIDLER: It's hard to follow that, usually I'm the most obnoxious questioner.

Let me go down two areas briefly. When Chancellor Klein was here, I asked him if he'd ever seen the movie Dave, have you ever seen the movie Dave?

DIRECTOR LOWENSTEIN: No.

COUNCIL MEMBER FIDLER: Okay, well-

-

[Crosstalk]

MALE VOICE: I have, I've seen the

real life Dave too.

[Crosstalk]

COUNCIL MEMBER FIDLER:

[Interposing] In the movie Dave, the guy who is pretending to be the president of the United States--

DIRECTOR LOWENSTEIN: [Interposing]

Oh, okay, I did see it, yes.

COUNCIL MEMBER FIDLER: Okay, and do you remember when he calls his accountant friend in, he throws down the budget and says, go through this I need to pay for the jobs program, find me \$100 million of wasteful spending.

And we're in that kind of situation with the Chancellor, education aid has actually increased and spending in the Department of Education have increased, yet we're cutting the classroom by \$300 million and I suggested to the Chancellor that I'm sure that if he had his version of Dave, that someone could come in and look over the DOE books and find \$300 million that might not exactly be well spent. Does the IBO have the same access to the Department of Education budget and its spending as it does to

the rest of the city government?

DIRECTOR LOWENSTEIN: Yes, we firmly believe so, we haven't tested that in court and there is of course the problem--

COUNCIL MEMBER FIDLER:  
[Interposing] Why would you have to test it in court?

DIRECTOR LOWENSTEIN: I should back up. It's my understanding and, Frank, correct me if I'm wrong, under state law the Department of Education is still not a mayoral agency. And so we've treated them as a mayoral agency, but that hasn't been tested in court, let's put it that way.

COUNCIL MEMBER FIDLER: Have you ever been denied access to financial records and information from the Department of Education?

DIRECTOR LOWENSTEIN: We find that our requests are taking longer and longer and longer to fill than they had been in the past.

COUNCIL MEMBER FIDLER: Well that doesn't make you any different than the Council so I wouldn't worry about that.

DIRECTOR LOWENSTEIN: I agree that

we're in good company, but it's a problem for us.

COUNCIL MEMBER FIDLER: All right well have you had an opportunity--well let me take a step back. We are looking for alternative cuts to this budget so that we can save services that we consider to be a priority. In particular, I think there's a direct trade-off in the education budget, we need to find \$300 million that we can all agree that the Chancellor is misdirecting from the classroom. And so I was just wondering whether IBO has any such document, any such suggestions about the budget in general, and most specifically at the Department of Education.

DIRECTOR LOWENSTEIN: Well these suggestions, which really aren't suggestions, we call them options, are really within the options book, and that's why we put the options book out there each year. And there are many options that many people find, as far as morally reprehensible, there are always options that people applaud and always options that other people just--

[Crosstalk]

COUNCIL MEMBER FIDLER: Well you can be sure that if I look at your option book,



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I'm not going to be suggesting the options that the Council Member just asked you about because I agree with him they're out of the realm but--

DIRECTOR LOWENSTEIN: [Interposing]

But there are--

[Crosstalk]

COUNCIL MEMBER FIDLER: --that doesn't mean that there are some that are within the realm, and I'm quite sure you've probably sent this book to my office already and I probably--

[Crosstalk]

COUNCIL MEMBER FIDLER: --have no clue where it is. Sometime around April we start to get mounds and mounds and mounds of paper, so if you sent it, I apologize, but I would really appreciate getting it again from you as quickly as possible, because we are in fact going to be talking about alternative cuts in the next couple of days.

DIRECTOR LOWENSTEIN: We'll get you as many copies as you want today.

COUNCIL MEMBER FIDLER: One will do.

DIRECTOR LOWENSTEIN: One.

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COUNCIL MEMBER FIDLER: Thank you.

DIRECTOR LOWENSTEIN: And I should also say that it's always online, we put it out in February just to keep it out of the main part of the budget season so that people can start thinking about it before they start negotiating.

COUNCIL MEMBER FIDLER: I wish I had, I believe that some of the cuts that Council Member Yassky and I proposed last November as an alternative to raising the property tax came from that book and so obviously there is some in there that I do agree with and I know the Council agreed with them and proposed them to the Mayor, and he, of course, turned them down, they weren't his idea.

So my second question for you is, you are aware of the fact that the Mayor has proposed cutting the capital budget by 30%. Have you looked at that proposal in terms of, A, what it will actually save over the next three or four years to taxpayers and dollars, whether it will save the taxpayers any money inasmuch as it may be putting some people out of work who otherwise would be paying income taxes and spending other

money. Have you done any of that analysis?

DIRECTOR LOWENSTEIN: No, nothing at this point, but we could certainly look at the near terms, give you an estimate of near-term savings. I think many of the savings come longer-term but we could quantify that for you certainly-

[Crosstalk]

COUNCIL MEMBER FIDLER:

[Interposing] And when you look at that near-term savings, I would appreciate it if you would look at the flipside of it, which is how many people will it put out of work and what's the economic ripple effect of that, and will we actually then be net positive or negative in revenue? And could you also look at whether or not the cost of construction has come down to the point that it is a penny wise and pound foolish thing for the city not to be spending money on capital programs now that may be necessary and then will cost more three years from now, and factor that in.

DIRECTOR LOWENSTEIN: Okay. I can't promise all of that in the timeframe that you need it for, for your negotiations. We'll do

what we can and get back to you with as much as we  
can, as quickly to allow you to--

[Crosstalk]

COUNCIL MEMBER FIDLER:

[Interposing] Well I'd appreciate that and the  
capital budget gets swept under the rug during  
budget time because the big issues are who's  
\$150,000 allocation got cut and the capital budget  
doesn't stand on the steps of City Hall giving out  
flyers, but yet it is an extraordinarily  
significant part of the budget. We've been trying  
to get answers from Director Page about this, but  
he just seems to be stonewalling me on those  
questions and those answers, at least in public he  
doesn't want to answer those questions.

And so I guess the last question I  
have is you've probably--do you watch TV at all?  
Every now and then?

[Off mic]

DIRECTOR LOWENSTEIN: Colbert and  
Daily, mainly.

COUNCIL MEMBER FIDLER: But if you  
watch TV, then you must have--there's this fellow  
by the name of Bloomberg who's been running TV

1  
2 commercials for the last month and a half, you  
3 couldn't have missed it no matter what you're  
4 watching, and he talks about a five-borough  
5 economic plan--

6 CHAIRPERSON WEPRIN: [Interposing]  
7 You can ask that question to the next witness as  
8 well.

9 COUNCIL MEMBER FIDLER: Now I would  
10 rather ask the Independent Budget Office for their  
11 opinion of this.

12 So that TV advertisement says that  
13 this five-borough economic plan, I'm not really  
14 quite sure what the plan is, will create or save  
15 400,000 jobs, and I was just wondering whether IBO  
16 had an opinion as to whether or not the economic  
17 plan that is in place in the city of New York will  
18 save any jobs, and, if so, how many; and if it  
19 will create any jobs, and, if so, how many? I  
20 don't know anyone who got one of the created jobs,  
21 yet so that's...

22 DIRECTOR LOWENSTEIN: Okay. Does  
23 the commercial tell you over what time frame?

24 COUNCIL MEMBER FIDLER: Oh, no, I  
25 don't think--well no, it just tells you the five

boroughs, it doesn't give you time frame, just a geographic reference.

DIRECTOR LOWENSTEIN: We can take a look, I understand the proposal that he's referencing back, I must admit I skip over the commercials, but we can take a look at what was included there certainly, yes.

COUNCIL MEMBER FIDLER: Well I wish I could skip over the commercials, but they appear to be totally unavoidable. And the fact of the matter is that I'm asking you because you are the Independent Budget Office and I would ask my friend the Comptroller, but I'm sure that anyone would take any answer that he gave and say, well he's running for mayor. So you are the Independent Budget Office and that commercial has been pounded and pounded and pounded to the point that people just say, oh, well we're saving 400-- who, where, what? Is it real, is it true? If it's true, I want to give the man credit; if it's not true, I want him to justify it, and I can't think of anybody better than the Independent Budget Office to give me an analysis of that, and I think it's important.

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DIRECTOR LOWENSTEIN: We will.

COUNCIL MEMBER FIDLER: I gave you  
a lot of homework.

DIRECTOR LOWENSTEIN: Yes.

COUNCIL MEMBER FIDLER: Thank you.

CHAIRPERSON WEPRIN: Thank you,  
Council Member.

On that note, thank you, Ms.  
Lowenstein.

And we'll now hear from the  
Comptroller of the City of New York.

We've been joined by Council Member  
Oliver Koppell from the Bronx.

[Pause]

COMPTROLLER THOMPSON: Before we  
begin, I guess I'd have to ask Councilman Fidler,  
what ads?

Committee Chair Weprin--

CHAIRPERSON WEPRIN: [Interposing]  
You're not home, Comptroller, to watch TV during  
normal times.

COMPTROLLER THOMPSON: None of us  
are home watching TV, we're in trouble these days.  
And when I get the opportunity, I try and stay

away from fiction, so I wouldn't see those anyway.

Committee Chair Weprin, Honorable members of the Finance Committee, good afternoon. With me today is Deputy Comptroller Marcia Van Wagner.

As we come together this year, the worst economic downturn since the end of World War II is taking a heavy toll on the city's economy. Although the city's labor and housing market have been less severely affected by the recession than those in many other areas of the country, the overall state of the local economy remains grim. My office expects a decrease of 250,000 jobs from the cyclical peak in August of 2008 through the expected trough in late 2010. The deteriorating labor market will push the number of unemployed residents to nearly 400,000 by mid-2010.

Furthermore, the city's economy is projected to underperform the nation until 2013, primarily because of the challenges facing our financial sector.

Two statistics tell the story. While the finance and insurance sector and the professional and business services industries



accounted for 25% of the city's employment in August of 2008, they have absorbed 48% of the job reductions since that time. Because the city relies heavily on income sensitive taxes, the recession's impacts on revenues have therefore been especially pronounced.

The executive budget projects a total tax revenue decline of 11.3% or \$4.4 billion between fiscal year 2008 and fiscal year 2010. Non-property tax revenues are not expected to recover their pre-recession levels during the plan period. As a result, the city's fiscal outlook is sobering, to say the least.

The fiscal year 2010 executive budget and four-year financial plan depicts a risk laden gap closing program to balance the fiscal year 2010 budget, followed by projected budget gaps of \$4.58 billion in '11, \$5.16 billion in fiscal year '12, and \$5.42 billion in fiscal year 2013. Even more troubling, analysis by my staff reveals that net risks to the budget would widen those gaps further to \$734 million in '10, 6.65 billion in '11, 7 and .54 billion in '12 and \$8.3 billion in fiscal year 2013. Such large projected

gaps are truly unprecedented.

As the city has been making efforts to contain expenditures and raise revenue since the economy began to falter, additional gap closing measures will become harder and harder to achieve. One gap closing idea the city is pursuing would increase the sales tax burden in order to bring in an average of \$1 billion annually in fiscal years 2010 through 2013.

Because that tax is regressive and disproportionately impacts the very New Yorkers struggling to make ends meet in the current downturn, I have proposed an alternative tax on individuals making a half a million dollars a year and above. Specifically, I'm recommending a 4.3% tax rate on taxpayers with a taxable income of a half a million dollars, and 4.8% tax on taxpayers with taxable income of \$1 million or more, compared to the current rate of roughly 3.65%.

As with the state income tax, these rates will be flat rates, rather than applying only to the margin of income. Based on estimates by my office, this would yield nearly \$1 billion in calendar year 29 and a similar amount in fiscal

year 2010.

Even with the proposed sales tax, because of uncertainties surrounding state legislative approval and differences in economic outlook, my office identifies tax revenue risks of 60 million in '10, 575 million in '11, 928 in '12, and \$1.4 billion in 2013. Additionally, neither the Council nor legislators in Albany have embraced a fee on plastic bags, creating an additional risk of \$100 million in fiscal year 2010, that risk would grow to 170 in fiscal year 2011.

The majority of the \$574 million expenditure risk my office has identified for fiscal year 2010 stems from the uncertainty regarding the Mayor's projected savings associated with changes to employee benefits. As you know, the Mayor's proposal to restructure employee health insurance benefits requires approval by our municipal unions, and his plan to create a new, less costly pension tier requires the approval of both the unions and the state legislature. Those initiatives have been projected to yield \$200 million apiece in annual savings.

These risks will be augmented by others in the out years of the plan. For instance, while the Mayor's health insurance costs containment initiative requiring employees to contribute 10% towards health insurance premiums would reap savings beginning in 2011--there is at present no agreement on this matter with the unions.

The other elements of spending risk for 2010, include \$70 million in payroll taxes the city will have to pay to conform with legislation enacted by the state legislature in support of the Metropolitan Transportation Authority, as well as \$137 million in overtime pay.

The federal American Recovery and Reinvestment Act will provide education funding that will offset cuts made in the state-enacted budget and stave off the need to lay off some 14,000 teachers. Therefore the headcount projections in the executive budget do not reflect as draconian a reduction in fiscal year 2010 as anticipated previously. However, full-time city funded headcount is expected to contract by about 8,000 in 2010 to be achieved through a mix of

attrition and layoffs. Since most municipal employee unions have contracts in place through fiscal year 2011, there is little opportunity, other than layoffs, to save on direct labor costs.

At the time of the January plan, the Mayor announced his intention to implement a 30% reduction to major components of the capital commitment plan. The purpose of the reduction was to bring growth in debt service costs in line with the average growth in tax revenues by reducing the size of the capital commitment program. The fiscal year 2010 executive capital commitment plan would achieve a 17% reduction in the city-funded portion of the plan after the reserve for unattained commitments. Yet debt service is actually expected to continue to grow 8% per year through fiscal year 2013 because the impact of incremental changes to the size of the capital commitment plan is felt over a long period. While debt service is projected to slow to a 2.3% pace after 2013, it could be even greater in the out years, owing to a tendency by the city to underestimate commitments. An analysis by my office of seven executive budget commitment plans

from fiscal year 2002 to 2008 show that the third and fourth years of a given plan understated actual results on average by 35 and 51% respectively. Moreover, state revenues are much more cyclically sensitive than the cities.

Since the state enacted budget was approved by the Legislature, the governor has warned that, based on current tax collections, the state could be facing a gap of at least \$3 billion in the current fiscal year. Since about 70% of the state budget consists of aid to localities, additional gap closing actions in Albany are certain to result in more stress on the city budget.

The hurdles the city is facing during this financial plan period are daunting. The recession in all likelihood will be followed by several years of lackluster growth. As a result, even if the city achieves its ambitious gap closing plan and, despite the presence of substantial federal stimulus dollars, additional gap closing initiatives will be necessary and they'll likely require sacrifice and patience on the part of New York City residents.

One thing I know is that such sacrifice will be rewarded. Again and again, in the most trying of times, New York and New Yorkers have shown themselves capable of adapting and emerging stronger and more resilient than before.

While we may press up against the limits of our budget, we must never put a limit on our confidence to nurture our city with vision and imagination. Those are the values New York City was founded upon, those are the values that will see us through our current economic troubles, and those are the values that will keep us strong long into the future.

CHAIRPERSON WEPRIN: Thank you, Comptroller Thompson.

We've been joined by Council Member Leroy Comrie from Queens.

I'm going to ask you some debt issuance questions and then possibly get into another area. But just on the debt issuance side, I think when you were here last in the preliminary budget I asked you about how some of the changes have been in the debt issuance market in light of some of the volatility in the markets and how has

that changed the way the city has issued their debt. And I think you referred to doing smaller general obligation deals, as opposed to billion-dollar plus deals, you were doing more frequent underwritings of smaller amounts. Has that changed since you were here at the preliminary budget and what's the current thinking on size and frequency of general obligation bond issues?

COMPTROLLER THOMPSON: Well we continue to have a robust debt issuance program, we are seeing and one of the things that became very apparent is that, while we had perhaps structured smaller deals in the \$3 to \$400 million range, we were seeing greater demand and I had mentioned that the last time I was here. Most of that being driven by a smaller retail buyers across the spectrum, which was very good for New York City.

We're seeing, I think, less volatility than we saw before, less stress on debt issuance, so I think things have stabilized a bit, and we're seeing, perhaps not deals in the 800 million range, but now in the \$500 million range that we are going to market with and if demand



presents itself, upsizing those deals. So there still is demand there, we're seeing it on both the retail side and the institutional side now. So things, I think, are closer to normal than they were a few months ago.

CHAIRPERSON WEPRIN: So is it safe to say that retail is less driving the market or is it still driving--

[Crosstalk]

COMPTROLLER THOMPSON:

[Interposing] Retail is still a substantial portion of our market, but it isn't almost solely driving the market, as it was four or five months ago.

CHAIRPERSON WEPRIN: Okay. Let me ask you, it's been raised, I guess with some of the issues involving the credit agencies and also the dissolution of a number of bond insurance companies, do you think that rating municipal securities on the same scale as corporate securities would be fairer to municipal issuers, and how would that affect the city's various ratings or borrowing costs? Just identify yourself for the record.

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MS. MARCIA VAN WAGNER: Marcia Van  
Wagner, Deputy Controller for Budget.

COMPTROLLER THOMPSON: I mean, I  
think that--look, New York City happens to be in a  
very good place. I think that the decline of  
insurers and others has had less of an impact on  
New York City than on a number of other  
municipalities. Having our best credit rating in  
decades has been very helpful and New York City  
paper continues to be in demand. So less  
concerned about--I mean I know that there is  
concerns about additional liquidity out there and  
different discussions that are going on where that  
would help us, would be in the variable rate  
demand--or, you know, with our variable rate  
bonds, those are perhaps areas that that would  
benefit us, but in most of our--the GO or water,  
our credit ratings are still very strong and  
continue to be strong compared to a number of  
other municipalities. So I'm not sure right now,  
if you make the adjustment and start to rate us  
set against corporate issuers, I'm not sure if it  
has much of an impact on New York City, it may in  
other places, but not necessarily for us.

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CHAIRPERSON WEPRIN: You've heard the variable rate demand market, has that market come back? I know there was a time in particular with the auction rate security market kind of died, and has the auction rate security market and the variable rate demand bond market come back?

COMPTROLLER THOMPSON: Well--Oh, I'm sorry, did you want to--

MS. VAN WAGNER: No.

COMPTROLLER THOMPSON: The variable rate--well the auctioned security market, I'm not sure that that's going to be back anytime in the near future, but variable rate, there is still a market there, I would believe that additional liquidity in that area would be very helpful to New York City. I mean you're talking about financing that it's something not even 2%, but 2/10 of a percent, which would be very helpful to us. So I think that that, if you talk about liquidity in that area, that would be very helpful for New York City.

CHAIRPERSON WEPRIN: Okay. The executive budget includes \$1.7 billion in qualified school construction bonds or--everybody

has initials--QSCBs to be issued as general obligation debt. Federal tax credit bonds are relatively new in the municipal debt market and QSCBs are brand new federal tax credit bonds. Is there a chance that the city will have to sell these bonds below face value?

COMPTROLLER THOMPSON: Well there's almost no way to predict that. I think there's only been one issue that's been sold to date, and a very small one out in California. So it's hard to be able to predict, however, if they perform as intended, I think we'd see additional and real and substantial savings from that, so we continue to be hopeful there.

And I realize that the timeframe on those, I think they're looked at as only 14-year, possibility--

[Crosstalk]

CHAIRPERSON WEPRIN: --14 year.

COMPTROLLER THOMPSON: --of 14 year debt. We believe that we could mix or combine it with a regular GO issuance that would look to some of the longer maturities. So we believe that in one way or another, we will see benefit from it.

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3 CHAIRPERSON WEPRIN: I'm going to  
4 turn it back to the pension funds and I have a  
5 401(k) myself from my prior Wall Street days and I  
6 hadn't opened the monthly statements for probably  
7 quite a few months, and I think I restarted  
8 opening them about two months ago. And well  
9 actually the last three months in the equity  
10 markets have been pretty good, I think it's  
11 probably been a record for a long period of time  
12 of three consecutive months, I guess of  
13 substantial increases in the equity market.  
14 Obviously, that doesn't make up for anything near  
15 the 40 plus percent downturn prior to that. But  
16 can you just kind of give us a current update as  
17 we talk about today. And I know the stock market  
18 was up in the morning, I don't know what it's  
19 doing now, but just to kind of give us an update  
20 of where we are vis-à-vis the value of the pension  
21 funds. I know it was a high of about 105 billion  
22 at one point and then it was down to about 80  
23 billion. Where are we right now and where do you  
24 see us heading?1

25 COMPTROLLER THOMPSON: I think  
you're very right or very accurate, we're from a

high of about 105, I think our low had been about 77, I think right now our last audited number put us somewhere in the 82 range, and that still doesn't take into account the last month and a half, it is only up to, I believe, the end of March. So we're--

CHAIRPERSON WEPRIN: [Interposing]

It'd be higher than that--

[Crosstalk]

COMPTROLLER THOMPSON: Absolutely.

We are feeling much better watching the market go up, let me tell you. It's for you and I see Councilperson Katz has joined us, if you'd want to talk about sleepless nights, the potential for sleepless nights exists for both of you, if you look at a declining market and you realize that it has a substantial impact on the portfolio. But when things go up, you sleep well, so the market has been going up for the last few months, it is definitely something that has a positive impact on our pension funds and we're hopeful that we continue to go up and that truly to June is an excellent month, so that by the end of the month as we close our fiscal year, we'll be in

substantially better shape than we were in only  
six months ago.

CHAIRPERSON WEPRIN: Okay. What  
have you done, and I understand you're not the  
sole trustee as our friends at the state level and  
that's a whole another issue whether that's a good  
idea or not a good idea, but what has been done  
with the pension funds as far as diversification  
post-meltdown in the equity markets?

COMPTROLLER THOMPSON: Well I think  
that what you are doing right now, it's not what  
we did post the meltdown, it's what we did before  
that I think has helped New York City in a number  
of ways. If you look at diversification since  
2002, since I took office, we've increased our  
exposure to private equity, to real estate, things  
like treasury protected securities, other areas  
like convertible bonds and others, those have  
served us well in this downturn. I would've liked  
to have thought that international equity was an  
area as we diversified into that that would offer  
protection, but we've seen the decline there also.  
But I think the diversification into other areas  
into what would be considered areas other than

stocks and bonds has been very helpful to us and has helped to diversify the portfolio. I think what we've done post-equity meltdown is to look at in smaller ways areas like distressed debt and try and get in some of those areas and I think while that is going to provide a bit of a balance, it still isn't going to be able to create full balance.

So I think that looking where there is opportunity right now, we've tried to be a little more nimble in those areas and look to invest dollars in there, even though the realization is you're only going to be able to invest a small portion of the portfolio there.

One of the things that continues to serve us well as you seen the equity decline, we are long-term investors and now as we watch the market bounce back, that is very helpful to us also, and you continue to see some of our stocks recover in substantial ways.

CHAIRPERSON WEPRIN: I won't hold you to the exact numbers, but what is the approximate percentage breakdown of the five pension funds cumulatively as far as equities,



real, estate private equity? Can you give us kind of a overall approximate breakdown.

COMPTROLLER THOMPSON: Let me in the alternatives space, real estate and private equity probably occupies somewhere in the adjusted 15% range between it. The alternative space is occupied, I think the capital alternatives is about 25, the basket clause these days. I think we are given the decline in some places, we're probably pressing up against that these days. And when you look at the equity market, we're probably in there in about 40% between both domestic and international equity. On the bond side, depending upon how you classify it, it's probably about another 25? [Pause] About another 25%--and these are rough estimates in my head, I mean we'd be happy to get that back to you a little later the exact and specific breakdowns as of March 31st.

CHAIRPERSON WEPRIN: I mean, that's about 65%, what would the other 35% be?

COMPTROLLER THOMPSON: Probably about 25% in the alternative bucket and I'd have to break out the last 10 for you, but that's kind of where it is right now. As I said, I'll be able

to get most of those breakdowns back to you soon as I get back to the office and get the adjusted numbers because we've seen changes because of the decline in the domestic side and how much of the portfolio it is. I'll be happy to get it back to you soon as I get to the office.

CHAIRPERSON WEPRIN: Sure, no problem.

We have a number of colleagues that have questions, and we've also been joined as you recognize, by Council Member Melinda Katz from Queens and Council Member Diana Reyna from Brooklyn and Queens. And I believe Council Member Jackson had a question.

COUNCIL MEMBER JACKSON: Thank you, Mr. Chair. And, Comptroller Thompson, let me thank you for your years of service as the city Comptroller of the city of New York, you'll be completing your eighth year and, obviously you're running for mayor, so you will not continue on as the city Comptroller, so I congratulate you for serving our great city for eight years--

COMPTROLLER THOMPSON: Thank you.

COUNCIL MEMBER JACKSON: --as the

city Comptroller of New York.

COMPTROLLER THOMPSON: Thank you,  
and I look forward to negotiating the budget next  
year with you so...

COUNCIL MEMBER JACKSON: And I'll  
look forward for negotiating budget with you or  
anyone else that's going to make it better.

COMPTROLLER THOMPSON: Thank you.

COUNCIL MEMBER JACKSON: But let me  
just ask a couple of questions, if I may, with  
respects to the budget. The Independent Budget  
Office was here earlier and Ronnie Lowenstein, the  
Director, indicated that with everything as  
planned by the Mayor and his executive budget,  
assuming everything goes forward, that the city's  
budget will be about \$1.5 billion in the red by  
the close of fiscal year 2010. Does that go along  
with your numbers and also--that's one question,  
and then knowing the fact that the way things are  
right now and it seems as though that we will not  
go along with a five cent surcharge on plastic  
bags which the executive budget predicts will  
bring in about \$100 million in 2010 and \$160  
million in 2011 and the Council would not go along

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with a clothing tax on clothes under \$110. So with that, I'd like to hear your response to the first question as far as the deficit in 2010, assuming everything the Mayor wants goes through. And then number two, with respects to if the City Council does not go along with the tax on the plastic bags and the clothes under \$110.

COMPTROLLER THOMPSON: Well the one thing, and I'm going to save the first part of that question for Deputy Comptroller Marcia Van Wagner. I'm going to answer the second half of that.

I, in my testimony, recommended an increase of taxes on those making a half a million dollars a year or more. I think that--

COUNCIL MEMBER JACKSON:  
[Interposing] And that would be like a personal income tax--

COMPTROLLER THOMPSON: Yes--

COUNCIL MEMBER JACKSON: --is that correct?

COMPTROLLER THOMPSON: --yes, it is.

COUNCIL MEMBER JACKSON: Okay.

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3 COMPTROLLER THOMPSON: That and  
4 right now with a tax rate of about 3.65%, what I'm  
5 recommending is tax rate of 4.3 on those making a  
6 half a million dollars a year or more, and 4.8% on  
7 those making--well 4.3 on those making a half a  
8 million dollars a year or more, 4.8% on those  
9 making \$1 million a year or more. It's little  
10 more than in one case it is not a full percent and  
11 then in the other case, it's just a little more  
12 than 1%--that would generate about \$1 billion and,  
13 in looking at the increase or in looking at the  
14 tax on plastic bags as well as the sales tax  
15 changes that the Mayor is recommending, it would  
16 more than fill that gap. So there's an  
17 alternative recommendation to be able to fill that  
18 portion of the budget that the Mayor has counted  
19 on in sales tax increases.

20 COUNCIL MEMBER JACKSON: But you've  
21 heard what the Mayor has said and what some other  
22 people have said that those individuals that,  
23 under your proposal, some of them would just leave  
24 New York City altogether. I don't buy that, I  
25 think that's nonsense, but I want to ask your  
opinion on whether or not you believe that to be

true--those individuals that are more mobile  
earning a half a billion dollars or more--half a  
million?

COMPTROLLER THOMPSON: Half a  
million.

COUNCIL MEMBER JACKSON: Half a  
million and those that are earning a million or  
more would leave the city.

COMPTROLLER THOMPSON: I don't  
think that--let me put it this way, people aren't  
in New York City because of the low tax rate to  
begin with, and I think that if you look at  
federal tax cuts that have occurred over the last  
few years, the years of the Bush Administration,  
it more than offsets any projected increase. I  
would suggest that we sunset those increases so  
there is finality when they would end, but while  
there is a concern, I know the Mayor has expressed  
his concern over those wealthy New Yorkers that  
they might leave, what about the rest of New  
Yorkers, those middle class and working New  
Yorkers who are, by these tax increases, being  
forced out, where do we go? So I would honestly  
say, no, I don't think wealthy New Yorkers are

going to leave, I think it is important to sunset those provisions, any tax increases, but, no, I don't believe that they're going to move out of New York City.

COUNCIL MEMBER JACKSON: And the second part, the first part you were going to ask your deputy--

COMPTROLLER THOMPSON: Yes.

COUNCIL MEMBER JACKSON: --the comptroller?

MS. VAN WAGNER: Sure. We haven't had a chance to review the IBO report, so I can't really speak to the details of their forecast, but it sounds to me like they have a more negative revenue forecast than we do. Most of our adjustment to next year's budget gap is based on risks we see in the plan, the tax programs, and then on the spending side we have a number of risks as well. So we see an increased gap of about \$700 million, but that's not assuming, I mean I think their gap is, even if everything else happens, and we're assuming a lot of things don't happen, so I would have to have a closer look at their report to be able to fully respond to that

question.

COUNCIL MEMBER JACKSON: Now, Comptroller, I had asked the budget director these questions regarding the Department of Education and I want to ask you the same thing as the Comptroller of the City of New York, as far as I've said that the proposed five-year capital plan for the Department of Education is structurally flawed and that it's out of whack, meaning that it does not really conform with the needs of New York City. And I don't know if you're aware, but under the proposed five-year capital plan by the Department of Education, not one seat is expected to be built in District 6, 5, 4, 3, 1, the only seats are expected to be built in Manhattan is in District 2. And at the high school level, they're only projected to build two new high schools over the next five years in New York City altogether. Now do you believe that the five-year capital plan is structurally flawed and whether or not it meets the needs of New York's growing population?

COMPTROLLER THOMPSON: Councilman, [off mic] done at least one report in the last 12 months focused on how the Department of Education



determines where seats are built and created in the city of New York and pointed out how flawed it is, that it does not take into account things like building permits and construction and growth in so many areas. Had the opportunity also to stand with Congresswoman Maloney, I believe yourself, and Borough President Stringer to point out how in Manhattan, there is just--that it doesn't match up to where the need is. So I would, I mean, across the city of New York the way the Department of Education has always done their projections for where they need to put seats doesn't match up with reality at times. And, as you said, made recommendations on changing that, slowly but surely, it appears to be changing, but they're still not where they need to be. So I'm not surprised by the simple fact that it doesn't match up where the need is.

COUNCIL MEMBER JACKSON: Now, you know, I'm always--and my question is want to put you on the spot because, in fact, I don't want to give you what they call easy questions.

COMPTROLLER THOMPSON: You never do, Councilman.

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3 COUNCIL MEMBER JACKSON: Well I  
4 Chair the Education Committee as you know, and  
5 I've said publicly that the proposed five-year  
6 capital plan is structurally flawed and as a  
7 result of that, unless it's straightened out, I  
8 cannot vote on a proposed five-year capital plan  
9 because it's structurally flawed and does not meet  
10 the needs of New Yorkers. I ask you, if you were  
11 a member of the City Council, would you be voting  
12 yes on this proposed five-year capital plan?

13 COMPTROLLER THOMPSON: Councilman,  
14 I would never presume to tell one of the members  
15 of the City Council how they should vote, however--  
16 -

17 COUNCIL MEMBER JACKSON:  
18 [Interposing] If you were a member of the City  
19 Council or if you were the Education Committee  
20 chair, knowing the facts as they are, the facts as  
21 they are.

22 COMPTROLLER THOMPSON: I would  
23 attempt to force them to restructure their capital  
24 plan to meet--

25 [Crosstalk]

COUNCIL MEMBER JACKSON:

[Interposing] And if you--

COMPTROLLER THOMPSON: --real  
needs.

COUNCIL MEMBER JACKSON: --and if  
you cannot force them to do that?

COMPTROLLER THOMPSON: Councilman,  
I understand your no vote.

COUNCIL MEMBER JACKSON: Then is  
the Department of Education transparent in their  
documents for you as the City Comptroller to  
analyze whether or not their justification in  
proposed layoff of thousands of employees and have  
you had an opportunity to look at that?

COMPTROLLER THOMPSON: Councilman,  
the Department of Education, and I think I've sat  
in this chair for the last--

COUNCIL MEMBER JACKSON: Seven  
years, this is now eight years.

COMPTROLLER THOMPSON: --at the  
very least, 2003, I was going to say 2002, let me  
give them some credit for the first year. It has  
been the most opaque budget that I think exists in  
the city of New York, I firmly believe the  
Department of Education goes out of their way to

hide money and it's almost like sleight of hand.

So I think that the Department of Education, it is hard to be able to break things down. I've been so frustrated over the years, I tried to pass state legislation and spoke to members of both the Assembly and Senate about legislation that would force the Department of Education to act like other city agencies--be able to break their budget down in ways that are transparent, they have still neglected to do that. And, unfortunately, what we will get from the Department of Education is, geeze, the Comptroller's people don't understand our budget.

COUNCIL MEMBER JACKSON: Well is it true that you don't understand their budget?

COMPTROLLER THOMPSON: I don't think they understand their budget, Councilman, to be blunt about it, and if they tell you they do, this is the same agency that a few years ago overspent their budget and had to be bailed out by the city of New York because they blew through the budget in special-education. This is the same group of people who I believe--and the Independent Budget Office isn't here anymore--I believe

between the Independent Budget Office and the Public Advocate, they had asked for--the Public Advocate had asked for information, the Chancellor was found to be hiding \$130 million I believe on the side at one point for new testing in grades kindergarten, first grade, and second grade, when in fact they were talking about making cuts in the classroom last year so--

COUNCIL MEMBER JACKSON:

[Interposing] But, no, Comptroller, I heard on the radio this morning that the Mayor under Mayoral control have improved the schools and as you, as the President of the Board of Education, the schools were a dismal failure and I disagree with that. But I ask you, what do you have to say about the fact that under your leadership as the President of the Board of Education, schools were not doing as well as under Mayor Bloomberg under mayoral control?

COMPTROLLER THOMPSON: Councilman, I'm not going to sit here and debate, however, I think that--

COUNCIL MEMBER JACKSON:

[Interposing] Were you in total control of the--

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COMPTROLLER THOMPSON: --I think  
that--

COUNCIL MEMBER JACKSON: --schools  
at that time?

COMPTROLLER THOMPSON: Absolutely  
not, and no, at that point, no, no one really was,  
the closest was the Chancellor. The truth is, I  
don't know that all the gain that we are seeing or  
hearing about is, in fact, accurate. I think one  
needs to take a look, if we're talking about  
comparisons and gain, to take a look at the  
federal test that is given every two years called  
the NAPE where New York City has been flat for the  
last four years and against other cities and  
states has shown no gain. One needs to only take  
a look at, I believe, SAT scores that are lower  
than they've been in years and the excessive need  
for remediation in two-year CUNY institutions of  
New York City graduates that I believe is in  
excess of 80%.

So I don't want to debate the issue  
right now; however, I would honestly say that, and  
coming back to the fiscal side, that it is an  
intentional attempt on the part of the Department

of Education to hide their budget--State Comptroller, not me, State Comptroller highlighted the excessive amount of no-bid contracts that are going on at the Department of Education, I believe his number was \$375 million over the last three years and we've pointed out in the last few months, the excessive amount of spending off of contracts that at one point might have been \$100,000 that are coming back a couple years later at 3, 4, and \$5 million, almost runaway contracts at DOE also.

COUNCIL MEMBER JACKSON: Well and I know, Mr. Chair, and I'm going to end with this here, you have two individuals in this room that are running for City Comptroller. If things remain the same, do you think they'll have just as tough a time dealing with the Department of Education budget as your office has had?

COMPTROLLER THOMPSON: I think they would have a tougher time.

COUNCIL MEMBER JACKSON: Now you said at the preliminary budget hearing that if you are the Mayor that you said within one year that DOE's budget will be transparent and so that

everyone will know what's going on or heads would roll. You said that then, and I ask you now, how long would it take under your mayorship in order to make sure the Department of Education's financial management system is in place or heads would roll?

COMPTROLLER THOMPSON: Less than a year, Councilman.

COUNCIL MEMBER JACKSON: Thank you, Mr. Chair.

CHAIRPERSON WEPRIN: Thank you, Councilman. We've been joined by Council Member Peter Vallone, Jr., from Queens.

The next questioner is Council Member Fidler.

COUNCIL MEMBER FIDLER: Thank you. And so many questions have occurred to me while Council Member Jackson was speaking and it does occur to me that this flatness in the national scores has to be measured against the fact that Councilman Jackson and his friends actually saw the fruits of the CFE lawsuit and that state and federal aid to education has increased dramatically and yet the results have not



increased dramatically with them. So that's a comment that I think should be on the record here.

And you were talking also about your proposal for high-end PIT, and I did a budget survey in my district, we mailed out over 10,000 of them, and we got several hundred responses and one of the questions that was asked specifically, Comptroller Thompson, was whether or not my constituents would prefer a high-end PIT increase or a sales tax increase, 85% of them, and I represent the moderately affluent outer borough district, 85% preferred a high-end PIT to the sales tax because I think they consider that regressive. I didn't have to ask about the plastic bag tax, which as we all know who was going to pay that. I mean it's not going to be paid by the folks on Sutton Place who get their food delivered in boxes; it's not going to be paid by people in the chichi neighborhoods who go out and buy a burlap bag, it's going to be paid by the mother who's running from her second job, has to go into the grocery store, grab some food to get home to feed her kids and it's a five cent a big tax on food and that is in fact, what the plastic

bag tax is about. So I appreciate your suggestion for the alternative because I think many of us find the sales tax, particularly on clothing, and on the plastic bag tax to be the most regressive aspect of the most regressive taxes.

I hadn't intended to ask you the questions that I had asked IBO about the jobs, but you actually refer to it in your testimony. I am someone who believes that, just because someone has spent \$10 million pounding an idea into my head, that doesn't make it true. And I know--

COMPTROLLER THOMPSON:

[Interposing] It's more than 20 million.

COUNCIL MEMBER FIDLER: Well this particular point, I mean, there's plenty of money on the other ideas, but the idea that 400,000 jobs are being created or saved in the city of New York by the current economic policy of this administration. And I recognize that in asking you these questions you are biased and you're running against the man and that's why I was hoping that IBO would have answers, but you do in your testimony say that you believe that the reverse is true, that we are facing a decrease of

a quarter million jobs, possibly going up to 400,000 jobs in mid-2010. What I would like to know is do you or did any member of your staff that's here able to justify those numbers with some logical explanation? Why is it that the Mayor sees 400,000 new jobs or saved jobs and you see a quarter million to 400,000 disappear?

COMPTROLLER THOMPSON: I think that even the Mayor's own Office of Management and Budget in their projections for job loss from August or so of last year through the end of 2010 is talking about a 300,000 job loss. Our 250,000 projection is more optimistic than OMB is, I believe that OMB projects the 300,000 job loss over the same period of time. So this is one situation where obviously where I guess the media people and the campaign people need to talk to the government people who are doing the projections because the Mayor's own Office of Management and Budget projects between last August or last July and the end of 2010, they're projecting a 300,000 job loss in the city of New York. How that matches up against the TV ads, I have no idea.

COUNCIL MEMBER FIDLER: I don't

think the Mayor's media people ought to talk to the OMB folks because then they'd be forced to let the facts get in the way of a good story and we never let that happen.

So, you are--well actually, your numbers are both more optimistic on the low end, but less optimistic on the high end. Why would you see that number going to 400,000? What are we doing wrong that jobs are falling through the floor here?

MS. VAN WAGNER: Well first of all I want to clarify those two numbers a little bit different. The 250,000 loss is a loss of the number of payroll jobs in the city, so that's based on a survey of businesses how many jobs they hold. The 400,000 is the number of unemployed people.

[Pause]

COUNCIL MEMBER FIDLER: I see, I understand that, okay. So then--

[Off mic]

COMPTROLLER THOMPSON: ...150,000 individuals were unemployed prior to.

COUNCIL MEMBER FIDLER: I see, so

if we were creating jobs, that number would be going down, right? Do you see that number going down in your projections?

COMPTROLLER THOMPSON: Not in the foreseeable future, I mean--

MS. VAN WAGNER: Right.

COUNCIL MEMBER FIDLER: All right, well, you know, the final comment would be that this Mayor has only found one tax that he has find publicly objectionable, well actually 1 1/2, he didn't like the hotel tax increase either for some reason, but the high-end PIT is the only tax that this Mayor has spoken out against. He's raised property taxes, he's raised water rates, and he did point out that the high-end PIT hits the people who spend a lot of money in the restaurants. And I believe you invoked the name and I think it is exactly true, that is in fact trickle down economics, it is the theory of George W. Bush, and George Herbert Walker Bush, and it certainly is not in line with my thinking as a Council Member and I'm glad to see it's not in line with your thinking as Comptroller.

COMPTROLLER THOMPSON: Councilman,

it is something we definitely agree on and, no, that is the only thing the only tax that the Mayor has objected to. I mean it was part of the whole, we love the rich radio show that the Mayor had afterwards to just talk about how it would drive people out and one only needs to point also, other states that are experiencing--other municipalities, but particularly are experiencing financial problems, Governor Corzine is talking about raising taxes on wealthy New Jerseyans because they're in that type of fiscal situation also. It is the only place that this Mayor has objected to taxes going up.

COUNCIL MEMBER FIDLER:

Comptroller, it's okay to love the rich, we can all love the rich, I love the rich, I aspire to be one someday, but it's also important that we also love working men and women in this city and the middle-class in this city. And, quite frankly, we're being nickeled and dimed to death by this tax policy.

CHAIRPERSON WEPRIN: Thank you

Council Member.

We've been joined by Council Member

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John Liu from Queens.

Next questioner is Council Member  
Melinda Katz.

COUNCIL MEMBER KATZ: Thank you,  
Comptroller Thompson. And I guess my first  
question would be why would it be harder for us to  
negotiate next time?

COMPTROLLER THOMPSON: If there  
isn't a change in state legislation this year, it  
was almost a feeling they can continue to get away  
with being unaccountable. So it really is a  
question of if the state legislature doesn't at  
least create an accountable budget structure or  
force them to fall in line with where other city  
agencies are, they're going to continue to get  
away with it, that's why.

COUNCIL MEMBER KATZ: You are a  
true Comptroller cause it's more a joke about who  
the next mayor is.

Okay. The Department of Education,  
as you know, I put in a resolution calling upon  
the state only to give mayoral control if they  
have to play by the same rules of the game that  
every other agency in the city has to basically

1 apply with. You handed in testimony at that time-  
2 -I just would like to know, number one, is there a  
3 way to quantify the waste of the Department of  
4 Education considering the problems that you have  
5 in actually auditing them and having an RFP  
6 process as part of the procurement process? Have  
7 you ever quantified how much waste we believe  
8 could be found at the Department of Education?  
9

10 COMPROLLER THOMPSON: It's hard to  
11 do just given how opaque and large units of  
12 appropriation other things are over there. It's a  
13 budget that is hard to follow and when we come up  
14 with criticism ,the Chancellor, it continues to do  
15 the, geeze, they don't understand our budget, and  
16 the truth is the Chancellor doesn't understand  
17 their budget. So it's hard to quantify how much  
18 waste there really is over at the Department of  
19 Education.

20 COUNCIL MEMBER KATZ: Right, the  
21 testimony--when we did the resolution, you did  
22 hand in testimony about the millions of dollars  
23 that it was costing the city extra because of the  
24 sole-source negotiations.

25 COMPROLLER THOMPSON: Both sole-



source contracts and, as I said, and it's not my number any longer, the state comptroller I believe came back with \$375 million in sole-source contracts, sole-source, no-bid contracts over the last few years. It is also the contracts that we have pointed out that they're working off of, say, state requirements contracts and others that continue to bring in and say \$100,000 contract this year. They continue to just use those contracts without going back, trying to get better prices without putting it out for competition, and the numbers are skyrocketing.

So the number of contracts, and we'd be happy to get that back to you also, the number of contracts that we've witnessed over there, particularly off requirements contracts, that just continue to go through the roof, there's no competition on that. And what they've indicate is well we've drawn off of, say state contracts, but then you point to the state agencies that have gone out or even other city agencies who have used the contracts, but negotiated cheaper prices-- Department of Education doesn't do that.

COUNCIL MEMBER KATZ: Right, and I

guess similar to that topic and since this is a budget issue and that issue kept coming up at the hearing, the Department of Education's answer is basically, we are not like any other city agency in the city of New York, we have all of these schools all over the city, if we didn't do it the way we did it, it would waste money for the city and it would cause time and effort in that context. So we never really got a chance to ask you that question at the hearing. So what would be the response to that?

COMPTROLLER THOMPSON: That if the-

-

COUNCIL MEMBER KATZ: Not that I don't know what the response may be.

COMPTROLLER THOMPSON: --if they did things--look, they can save money over there, that is not--are they different than any other city agency or do they have to have a separate set of rules? No they don't. Could they work the same way that other agencies work in the city of New York with the same rules? Absolutely. So all that just continues to be the Department of Education taking advantage of legislation that has

created a gray area, that allows them to be, you know, best conversation I think I've had over all the years goes back to 2003 with the Snapple contract and we pointed out, you're in a conversation with the Department of Education, the Corporation Counsel's office and in the end I said, so let me get this straight, because they continue to change rules and even do things against their own rules, so I said, well let me ask you a question, in the end, what you're telling me is the only rule that you followed is that there were no rules and they said yes, and I was that can't be in New York City in this year. Well it continues to be, they continue to make the rules up as they go along.

COUNCIL MEMBER KATZ: Well we will be sure to continue the fight with whoever it is in that future.

The second question I have is about the sales tax increase, I think most of the sort of acknowledge and realize the regressiveness of that tax, or a lot of us do, we'll tell you most of us do when the vote happens I guess. Do you have any way of quantifying what type of hindrance

that would be in future buying and income tax revenue--in tax revenue for the city? Is there any way to quantify that?

MS. VAN WAGNER: We could take a look at it, I mean, there is--we can probably come up with a range of estimates.

COUNCIL MEMBER KATZ: I'd be curious to know what we will actually lose in tax revenue because of the increase in tax.

COMPTROLLER THOMPSON: Absolutely.

COUNCIL MEMBER KATZ: And see if it even begins to offset what the Mayor is talking about.

COMPTROLLER THOMPSON: We'll see if we can quickly model some of that and get it back to you and the other members quickly.

COUNCIL MEMBER KATZ: Thank you.

Debt distressed, as you know, we've been talking about that around the city, I brought it up several times. I'm actually just curious, do you have a template on how much you think that we should be investing in debt distress, whether you would focus on New York companies for that, how would that work? Because I know there's

several billions of dollars out there in private equity looking to invest in debt distress and they shouldn't be making the money when we're not.

COMPTROLLER THOMPSON: We are looking at a number of distress-type funds, we are looking at distressed debt. At this point, there isn't a firm number that we're looking at, but there is opportunity there. So on the pension side, we're definitely looking at that as one of the areas of investment.

COUNCIL MEMBER KATZ: If you do as the months go on get a better number on what we're looking at there, I'd be curious to know as well. Thank you.

Last, but not least, you don't talk a lot about the stimulus package. I'm curious on your thoughts on that, whether or not it's actually working to create jobs in the city, how you think that's going to affect the future budgets.

COMPTROLLER THOMPSON: Well it clearly has stabilized a few areas, I mentioned education and others on the municipal side, it will add, though not as much as everybody wanted

in some places. Look, it has a benefit and is good for New York City and New York State. How much of a long-term benefit it's going to have how many jobs, I'm not sure that we can fully quantify it, even though we're seen announcements each and every week about what it will mean. But I'm not sure that anybody's been able, because dollars aren't fully deployed and we're not exactly sure, they're still making some decisions on the state level as to where the money goes. I still think that it is still a work in progress, let me put it that way. So not exactly sure how many jobs it will create and/or stabilize or retain, it's just still a moving target.

COUNCIL MEMBER KATZ: Or how much credit has opened up in the city because of it, all that kind of stuff.

COMPTROLLER THOMPSON: But see you really haven't, you still talk to people on an anecdotal basis--

COUNCIL MEMBER KATZ: None.

COMPTROLLER THOMPSON: --credit markets are still very tight. You're not--

COUNCIL MEMBER KATZ: [Interposing]

Mortgage companies aren't calling people to say I got a great offer for you.

COMPTROLLER THOMPSON: No, as well as and it is less the mortgage companies these days than the businesses that rely on banks and liquidity there, and they're not seeing additional credit or liquidity. So that has not--whether it's the stimulus package or the money that went to a lot of the Wall Street firms and others, you just haven't seen it on a full unfreezing of credit markets yet.

COUNCIL MEMBER KATZ: As I go around the city, I think I found the exact same thing from constituents, business owners all over the city, I was curious as to whether you--

COMPTROLLER THOMPSON:  
[Interposing] Yeah, no, it's--

COUNCIL MEMBER KATZ: --your numbers show the same.

COMPTROLLER THOMPSON: Those who are working against receivables and others are still squeezed and they used to be able to borrow from different places, they're watching their credit lines dry up, it is still a very difficult

situation.

COUNCIL MEMBER KATZ: Thank you  
very much.

CHAIRPERSON WEPRIN: Thank you,  
Council Member. Council Member Liu.

And I just want to remind my  
colleagues that we're almost an hour behind  
schedule and we have the environmental protection  
portion waiting.

COUNCIL MEMBER LIU: Thank you, Mr.  
Chairman, I'll be very quick.

Mayor Bloomberg talked about how  
they were going to reserve 2 to \$3 billion for  
post-retirement medical obligations, they did that  
a few years ago. Now is there a trust fund that's  
been set up for that already?

COMPTROLLER THOMPSON: Well that  
was the retirees' health trust fund, I believe  
we're tapping into some of that this fiscal year.  
And I believe that the possibility of tapping into  
the rest of it exists the following fiscal year.

COUNCIL MEMBER LIU: Is that under  
the control of the Comptroller's office or is that  
totally within the realm of the administration?



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COMPTROLLER THOMPSON: It is totally within the realm of the administration. There may not be a--you may not be able to take money out of front door--and correct me if I'm wrong--but there is a back door so that structure funds retirees health benefits and if the city doesn't make the contribution, the money is still paid out. I mean--

COUNCIL MEMBER LIU: I see, all right. Okay, that becomes a lot clearer, because they had a huge fan fair a few years ago when the Bloomberg administration first put the \$2 billion in and then the subsequent year they put either another half a billion or another billion into that, and then this year at the preliminary budget hearings, Mr. Page testified that they in fact were counting on some of that money to plug the budget deficit--

COMPTROLLER THOMPSON: Exactly.

COUNCIL MEMBER LIU:--and then at the executive budget hearing, they said no, they weren't touching it. So in fact, well they said they were not touching it--

[Crosstalk]

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3 COUNCIL MEMBER LIU: --very clear.

4 COMPTROLLER THOMPSON: I think that  
5 they have rejected tapping into that, I mean I'd  
6 have to--correct me if I'm wrong.

7 MS. VAN WAGNER: No, they are using  
8 some of those assets to offset the higher pension  
9 costs.

10 COUNCIL MEMBER LIU: To offset  
11 higher pension costs. Higher pension costs that  
12 would have had to been part of the fiscal 2010  
13 operating budget.

14 MS. VAN WAGNER: Correct.

15 COMPTROLLER THOMPSON: Yes.

16 COUNCIL MEMBER LIU: Okay.  
17 Interesting.

18 COMPTROLLER THOMPSON: I mean the  
19 one thing and going back and this was something  
20 that for years that I had mentioned, I know that  
21 Councilman Weprin, I used to be in agreement at  
22 almost each budget hearing the need for a rainy  
23 day fund, and a defined, identifiable rainy day  
24 fund. And obviously it would have been nice to  
25 have that and a larger rainy day fund that would  
have been put on the side over the last four years

or so when the budgets--when we had record  
surpluses, it would have been good to be able to  
tap into that now.

COUNCIL MEMBER LIU: And that's  
what I had complimented Mr. Page on back in March  
that he had indeed found the holy Grail of  
municipal finance. He was using this in effect as  
a rainy day fund.

COMPTROLLER THOMPSON: They are  
still, from what we understand, they are still  
anticipating using that.

COUNCIL MEMBER LIU: Okay, thank  
you. And then the other question I had was that  
in your testimony, Mr. Comptroller--and thank you  
very much for joining us today.

COMPTROLLER THOMPSON: It's always  
a pleasure, Councilman.

COUNCIL MEMBER LIU: It says here  
the initiatives, the new tier of pensions--no, I'm  
sorry, the restructuring of employee health  
insurance benefits and the plan to create a new  
less costly pension, that those initiatives would  
yield \$200 million apiece in annual savings?

COMPTROLLER THOMPSON: Those are

the projections of the Mayor's people of OMB,  
those aren't our projections and I believe, if I'm  
correct, IBO, at the very least, had said that on  
the pension savings that we generate in the first  
budget year, no savings at all.

COUNCIL MEMBER LIU: Right, okay.  
All right, thank you very much.

COMPTROLLER THOMPSON: Thank you,  
Councilman.

COUNCIL MEMBER LIU: I just wanted  
to make sure that I understood that was the  
Mayor's projections not--

COMPTROLLER THOMPSON: Yes.

COUNCIL MEMBER LIU: Thank you.  
Thank you, Mr. Chairman.

CHAIRPERSON WEPRIN: Thank you,  
thank you, Council Member, and thank you,  
Comptroller Thompson, it's been a pleasure working  
with you on these budget hearings for these last  
eight years and this may be our last hurrah in  
these capacities. And we look forward to working  
with you on issues through the end of this year  
and hopefully in the new year in your new  
position.

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3 COMPTROLLER THOMPSON: Councilman,  
4 or Mr. Chairman, let me just say what a pleasure  
5 it has been in working with all the members of the  
6 City Council on these budget issues. It is over  
7 the years, I think that all of us working together  
8 have really helped to make for a better New York  
9 City and I've enjoyed it. So thank you again.

10 CHAIRPERSON WEPRIN: Thank you.

11 We're going to take a five-minute  
12 recess and then we're going to reconvene with the  
13 Department of Environmental Protection and that'll  
14 be co-chaired by Council Member Jim Gennaro, Chair  
15 of the Environmental Protection Committee.

16 And we've been joined--prior to our  
17 recess by Council Member Vincent Gentile from  
18 Brooklyn.

19 [Pause]

20 SERGEANT-AT-ARMS: Quiet, please.

21 CHAIRPERSON WEPRIN: Finance is  
22 back in session and we're now joint with the  
23 Environmental Protection Committee, chaired by  
24 Council Member Jim Gennaro.

25 We're joined by a few more  
colleagues, we have Council Member Liz Crowley

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from Queens, Council Member Mathieu Eugene from Brooklyn, Council Member Tom White from Queens, and Council Member Vincent Ignizio from Staten Island.

I'm going to turn it over to Chair Gennaro for a statement.

CHAIRPERSON GENNARO: Thank you, thank you, Mr. Chairman. Also joined by Council Member Peter Vallone from Queens, did we--

CHAIRPERSON WEPRIN: Oh, I didn't see you, sorry.

CHAIRPERSON GENNARO: --get you? Okay.

Good afternoon, as I said I'm Councilman Jim Gennaro, Chair of the Committee on Environmental Protection. This is a hearing on Environmental Protection Committee of the committee on the fiscal 2010 budget. Today we'll hear testimony from DEP about its expense and capital executive budget and general agency operations.

The capital plan is of particular interest to the committee. The capital funding provisions for environmental protection made

available by the passing of the American Recovery and Reinvestment Act of 2009. The committee is very interested in DEP plans to make use of this funding, and what projects it has identified for these funds.

The committee plans to discuss a variety of other important issues with DEP today, including the factors and processes involved with agencies bid savings in several large capital projects, the impacts related to the reduction in the department's capital plan, and remediation of flooding problems in Queens.

And the committee will start taking the statement. Pleased to be joined by Commissioner Steve Lawitts, Joe Mearin [phonetic], also of DEP, very grateful to have you and your good team of DEP with us here today, Commissioner. It's my pleasure to welcome you and to ask you to state your name for the record and proceed with your good testimony.

COMMISSIONER STEVE LAWITTS: Thank you, Chairman Gennaro.

My name is Steven Lawitts. I'm the Acting Commissioner of the New York City

Department of Environmental Protection. Good afternoon, Chairman Weprin and members of the Environmental Protection and Finance committees.

And as you pointed out, Chairman Gennaro, I am joined by Joseph Mearin, our Assistant Commissioner for Budget at DEP, as well as numerous senior management in the chairs just to my right.

I'd first like to address our capital budget. DEP consistently provides over one billion gallons a day of some of the highest quality, best drinking water in the state and treats New York City's wastewater to even more rigorous federal standards. Carrying out these mandates requires, as you know, massive infrastructure that must continually be maintained and upgraded regardless of the overall state of the economy. However, this period of tremendous financial stress means that we must also do more with less, while ensuring the continued reliability of these critical systems, as well as complying with federal and state standards.

In addition to ensuring the funding of mandated projects, we have worked hard to



continue funding many projects that are critical to ensuring the future of our drinking water and wastewater systems. However, we have had to make some hard choices.

The fiscal year 2010 executive budget has DEP's capital commitment funded at \$1.7 billion, with total funding from fiscal years '10 through fiscal years 19 proposed that 12.9 billion. As you may recall, the fiscal year '10 preliminary budget provided capital funding of 1.9 billion with a total funding of 14.--excuse me 14.5 billion for fiscal years '10 through '19. The difference represents a reduction of approximately 205 million in fiscal year '10 and 1.6 billion over the 10-year period.

In addition, last fall DEP, like all other capital agencies, submitted a plan to defer 20% of its four-year capital plan by stretching four years worth of capital work for the fiscal years 2009 through 2012 and into five years through 2013. This was part of a citywide program to contain the growth in capital expenditures and the associated debt service. In its executive budget submission earlier this year,

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DEP proposed a further 10% reduction of capital commitments for fiscal years 2010 through 2019.

At DEP, this task is more difficult because prioritizing or reducing the capital budget is largely limited to our non-mandated projects. Mandated multiyear projects required by state and federal regulators but not funded by them are the largest single component currently constituting 53% of the total capital budget in fiscal year 2010. These mandated projects generally involve large capital investments and are critical to maintaining the quality of our drinking water or our harbor waters.

The non-mandated projects generally fall into one of several categories that are not connected to some water quality mandate--ensuring the dependability of the water supply, sewer, and water main projects, reconstruction or repair projects at treatment plants and upstate infrastructure, such as the repair of the Delaware aqueduct, dam safety, and road maintenance.

Fortunately, federal stimulus funding should offer some relief. We are working closely with the state and expect to reach

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agreement on the selection of water and wastewater projects in the not too distant future. Based on many discussions with the state about the American Recovery and Reinvestment Act, or ARRA, eligibility criteria, the range of potentially eligible DEP projects, and the amounts and schedules associated with them, the executive budget creates a \$100 million ARRA placeholder.

There have been a lot of questions about why the stimulus money isn't leading immediately to significant rate mitigation. First, it is not yet in hand, and even if New York State informed New York City today that it was to receive 100 million for designated projects, the grant would not be distributed in one lump sum. The ARRA funds for water and wastewater projects will be funneled through the process used by the state revolving loan funds or SRF. AARA funds will work in the same manner as current SRF funding--the city must fund eligible projects upfront using its own capital budget and then submit the project expenditures for reimbursement.

I should also note that the original AARA legislation had envisioned

subsidized loans to stimulate water and wastewater projects. New York City was instrumental in mandating nationally that 50% of the water and wastewater money be given in grants. Water mains and sewers, although critical to local quality of life, are most often not mandated and are, therefore, more subject to deferral or cuts, cuts that we do not make lightly.

Moreover, because SRF funding lists give high priority to projects involving water treatment, DEP does not expect New York State to award stimulus money to any water main or sewer projects. However, these types of projects may benefit from a substitution effect. When New York State notifies DEP as to which projects are stimulus eligible, DEP can make some estimates on the timing of the stimulus reimbursements.

Depending on when and how much ARRA funding makes its way into the capital budget, DEP may be able to restore or advance some much-needed water main or sewer work as an indirect result of ARRA.

Next I'll speak to the expense budget. In the preliminary budget, the fiscal year 2010 expense budget was projected at \$941

million. As we explained at the time, the budget amount would need to be updated in the executive budget to reflect the cost of nondiscretionary variable costs and often volatile items, such as the price of chemicals needed for water treatment and collective-bargaining increases. In the executive budget, the fiscal year 2010 expense budget is proposed at \$1.023 billion. Though not yet fully reflected in the FY '10 budget, DEP continues to implement a reduction plan of a \$24 million savings in fiscal year '10. The new needs causing an increase of approximately \$82 million in the expense budget between preliminary and executive budgets include adding 37.2 million to account for continued cost increases in the cost of chemicals used in the treatment of drinking water and wastewater; adding \$7.6 million for heat, light, and power; adding \$7.2 million for collective-bargaining settlements; adding \$5.4 million to reflect projected increases in upstate property taxes; adding \$5.3 million for the Newtown Creek settlement; adding another \$7.2 million in other needs, including 35 positions, leases, postage, and sludge removal, and restoring

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113 temporary positions and \$7.5 million to continue reducing the backlog of worksite safety concerns identified by--excuse me, identified by our environmental health and safety program. The funding for these positions technically expires at the end of each fiscal year and is then restored in the next fiscal year.

I'd like to say a few words about the reduction in the fiscal year 2010 rate increase proposal from 14% to 12.9%. There was an overall improvement in the water and wastewater utilities financial condition in the six weeks that elapsed between the initial 14% rate proposal on April 3rd and the May 15th rate adoption meeting of the New York City water board. The four factors that enabled a smaller increase were further expense reductions in the DEP operating budget, including an additional reduction of 74 positions at \$4.8 million in fiscal year 2010; a significant savings of \$10.4 million due to decreases in the cost of fuel and gasoline; and, while not part of DEPs budget, lower interest rates significantly reduce debt service payments on bonds used to finance DEP's capital program;

and enhanced collection efforts brought about a stronger revenue performance for April than originally anticipated.

Probably because of April's stronger numbers, the water board approved a 1.1 percentage point rate reduction. However, going forward, we are concerned about decreased revenues in May, continued uncertainties in the credit market, and changes in the bond market over which we have no control.

In previous testimony, I outlined the many factors driving the increase in water and sewer rates needed to maintain the sustainability of the city--mandated projects; capital needs; higher energy, fuel, and chemical costs; and unexpected drop in water consumption; and increasing levels of debt. Due to these various uncertainties, the agency must be fiscally prudent, therefore, DEP will continue its efforts to find efficiencies and cost savings to offset those elements of the system's revenue, debt service, and operation and maintenance that vary beyond our control.

While not directly subject to the

city's PEG measures, I have established a target of \$50 million in baseline savings for fiscal year 2010. Some savings, such as the headcount and fleet reductions, have already been achieved, others, such as changes to sludge disposal and using alternative chemicals in water and wastewater treatment processes, are still being developed. Other citywide initiatives proposed by the Mayor, such as pension and health-care reform, would also contribute towards this target. All of these would mitigate, yet not eliminate, future rate increases.

I would like to address one of the non-water and sewer system initiatives in the executive budget. The fiscal year 2010 expense budget includes new positions related to improving oversight of certain types of construction activity.

As you know, following the tragic fire at 130 Liberty Street, Mayor Bloomberg ordered a comprehensive review of construction demolition and asbestos abatement sites. The bills heard before the Environmental Protection Committee in May are the result of a collaborative



process that combined the findings of the task force with legislative proposals put forth by members of the Council in the wake of the accident. To effect the changes recommended by the task force, the administration will establish a new asbestos technical review unit, also called ATRU, staffed jointly by the Department of Buildings and DEP which will review and permit asbestos abatement projects that could potentially pose a risk to public safety. The additional 12 positions required to establish ATRU are fully funded in the expense budget. Revenue from new permit requirements will offset the costs of additional staff and, because these activities are not related to the water and sewer system, they will not affect the rate.

The Council and all other stakeholders have worked diligently to quickly and comprehensively address the need for greater oversight and agency coordination at construction demolition and abatement sites. We look forward to finalizing and enacting this legislation.

Thank you, Chairman Gennaro and Weprin. That concludes my prepared statement I

would be pleased to take your questions.

[Pause]

CHAIRPERSON WEPRIN: Okay. We've been joined by Council Member Robert Jackson, by Council Member Tish James, and Council Member Oliver Koppell.

[Off mic]

FEMALE VOICE: He never left.

CHAIRPERSON WEPRIN: He never left.

Commissioner Lawitts, we spent a lot of time, Councilman Gennaro and I, over the last number of months talking about the water rate hike and I actually was tempted not to bring it up, but you seem to have touched on it in your opening statement, so I think it's fair game since you opened the door to at least address it, I won't address it in great length like I have done many, many prior occasions. But I still continue to think that the decrease from 14% to 12.9% couldn't be classified as anything other than a drop in the bucket, no pun intended, or maybe pun intended, but you didn't really discuss at all the issue that we keep hammering on--the rental agreement and the excess payments, which could be

used to keep the rate down and to reduce the potential rate increases. And we're getting close to our budget time and the time, I guess, that the city of New York would request the rental payment or the Water Board would agree to a rental payment and my understanding is it just would require either a letter agreements or an oral agreement, it wouldn't require legislation to change that rental agreement between the Water Board and the city of New York through the Office of Management and Budget. Can you give us an update and a glimmer of hope of possible that excess rental payment, which I think this fiscal year is about 134 million, it's going to be over 200 million next year, and rising to as high as over 300 million in a couple fiscal years--can you give us an update as to what discussions, if any, have been held on that? And I just want to remind you that when we did reach an agreement on the water lien sale, standalone water lien sales, part of that agreement was that the Office of Management and Budget would seriously--we didn't incorporate it as part of the agreement unfortunately, which we probably should have, but it was specifically

put in that they would reconsider the excess payment and look to eliminate that excess rental payment. Can you give us some insight on that?

COMMISSIONER LAWITTS: Yes, Chairman Weprin. If I could just first update the estimate of the rental payment that you mentioned a few minutes ago. The total rental payment expected for fiscal year 2009, the fiscal year that will end at the end of this month, is \$160 million, of which \$54 million is to go to pay debt service on general obligation bonds that were issued before 1985 to support the water system, and that would leave a residual rental payment of approximately \$106 million. The figure you mentioned of 130 million or so, I believe is the figure for fiscal year 2010, that that would be the residual figure after--

CHAIRPERSON WEPRIN: [Interposing]  
Could be--

COMMISSIONER LAWITTS: Yeah.

CHAIRPERSON WEPRIN:--I've heard these numbers so many times over and over--

COMMISSIONER LAWITTS: Yeah.

CHAIRPERSON WEPRIN: --again, it's

like it's...

COMMISSIONER LAWITTS: And as you know, Chairman Weprin, that the state law that created the Water Board, the Water Finance Authority, the financing agreement, the lease between the Water Board and the city specifies a rental payment, specifies the formula for calculating that rental payment, and provides that after satisfying debt service, that the residual payment, if the city requests it, is payable--it must be paid by the Water Board to the city if the city requests it.

[Off mic]

CHAIRPERSON WEPRIN: ...when it has to be paid by?

COMMISSIONER LAWITTS: It's usually the last day of the fiscal year, it's usually June 30th, that's my recollection.

And I believe at this time it's the city's intent to request the full rental payment, the full residual of \$106 million.

CHAIRPERSON WEPRIN: Why am I not surprised?

[Pause]

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3 COMMISSIONER LAWITTS: And perhaps,  
4 Chairman Weprin, because you may recall as I do,  
5 the city budget director testifying with DEP  
6 approximately two years ago about--what he stated  
7 at the time was the continued need for the city to  
8 receive the residual rental payment and I believe  
9 he's probably testified in this executive budget  
10 round that--I don't know if he addressed the  
11 rental payment directly, but I believe--

12 CHAIRPERSON WEPRIN: [Interposing]  
13 Hard to get him to address anything.

14 COMMISSIONER LAWITTS: --I believe  
15 he testified to a need of the city's overall  
16 general fund to receive those monies.

17 CHAIRPERSON WEPRIN: Well there is  
18 a budget deficit, but I'm not going to harp on  
19 this, but it just seems to me that we should be  
20 calling it what it is, which is an excess property  
21 tax to pay for government services that people are  
22 unaware of because they think when they make their  
23 quarterly water and sewer payments that it's going  
24 for water and sewer purposes and not for teachers,  
25 not for firefighters, not for police, and not for  
sanitation, they're all very good services and I'm

sure the money's being put to use, but it just seems to me that we should call it what it is and it shouldn't be put into that category of water and sewer payments.

You can comment or not comment.

COMMISSIONER LAWITTS: No, I don't want to speak on behalf of the budget director, but I can speak in my role as Acting Commissioner of DEP and as Executive Director of the Water Board that if the city requests it, we need to pay it.

CHAIRPERSON WEPRIN: Have you had any discussions with the city about the position of the Water Board? Has the Water Board taken a position on whether that residual rental payment should go into the general fund?

COMMISSIONER LAWITTS: Well the position that the Water Board's taken has been to fund of the rate structure study, which, among other things, is looking at the rental payment and, not only at the city's rental payment and its history, but the similar rental payments that many other water utilities across the country make, they don't always call it a rental payment, but it

represents many of the same elements as New York City's rental payment is, it's a payment to the host city to compensate the city for services that that city or that county provides to the water utility. Just as the city of New York provides police, fire coverage, roadway maintenance through the DOT and many other city services to the water utility, our water utility, like others across the country, pay their host jurisdictions and other utilities in New York City like Con Edison pay for these same services through their taxes. Our water utility doesn't pay taxes to the city, but the excess rental, the residual rental payment is a payment for these services in lieu of taxes.

CHAIRPERSON WEPRIN: When can we expect to see this rate structure study?

COMMISSIONER LAWITTS: I expect to see it in the first half of the fiscal year.

CHAIRPERSON WEPRIN: Okay. And how much is the cost now for the rate structure study?

COMMISSIONER LAWITTS: It's approximately \$1 million.

CHAIRPERSON WEPRIN: And that was budgeted last year?



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3 COMMISSIONER LAWITTS: It was  
4 actually budgeted this fiscal year, fiscal year  
5 2009.

6 CHAIRPERSON WEPRIN: Fiscal year  
7 we're in now and for the next month?

8 COMMISSIONER LAWITTS: That's  
9 correct.

10 CHAIRPERSON WEPRIN: Okay. And how  
11 long have they been working on this rate structure  
12 study?

13 COMMISSIONER LAWITTS: They've been  
14 working on it approximately 10 months and--

15 CHAIRPERSON WEPRIN: [Interposing]  
16 Could have given birth to a baby by then. Can we  
17 get a study?

18 COMMISSIONER LAWITTS: Hopefully  
19 anyone carrying a baby would have given birth  
20 after 10 months, but--

21 CHAIRPERSON WEPRIN: [Interposing]  
22 But I mean why is it taking so long?

23 COMMISSIONER LAWITTS: Well the  
24 study was intended to take approximately one year  
25 and as we got into depth on certain issues like  
benchmarking against other utilities across the

country, we wanted to ensure that when we are able to discuss the completed study with the Council and with other interested stakeholders, that it's as accurate as possible and since, as an example, there is a lot of interest in the rental payment, there's a lot of interest in how that compares and whether other utilities have that. We want to ensure that when we have that public discussion, we are presenting apples to apples to apples and that we don't have a comparison between us and other utilities distorted by differences in accounting practices and so on.

CHAIRPERSON WEPRIN: Okay. I'm not satisfied with the answer, but I'm not going to challenge it. It seems to me that it would've been nice to have had that rate study published prior to the Water Board making the decision to increase water rates 12.9% on top of 14% last year and on top of 11 1/2 percent the year before, which is almost a 50% increase over four years, but it is what it is. And I guess you can gather from my tone and from my prior tone that I'm not a happy camper, but I think we'll look forward to seeing it and doing what we will with it as far as

making the issue for future rental payments and  
future rate increases.

I'm going to turn it over to Chair  
Gennaro.

CHAIRPERSON GENNARO: Thank you,  
Mr. Chairman.

I'm very gratified that many of my  
committee members here have questions and I want  
to get them on as soon as possible, so what I'll  
do is I'll just ask one question and then I'm  
going to put some of my colleagues on. I'm going  
to be here for the whole hearing certainly, I know  
my colleagues have other places that they need to  
be. So I will ask one question and then defer to  
some of my colleagues, get them on, and then  
return for some questioning at the end.

And, Commissioner Lawitts, in your  
statement you make reference to the \$205 million  
reduction from 1.9 billion to 1.7 billion in the  
DEPs capital commitment plan for 2010. And so the  
question is, what were some of the items that were  
reduced to bring things down a total of \$205  
million, and presumably there were probably more  
than \$205 million in cuts because I'm sure a

couple of other things might have gone up, and so it seems that we're netting out at \$205 million less in the FY '10 DEP capital commitment plan. So what are some of the marquee reductions that were taken to get to that \$205 million lower amount?

COMMISSIONER LAWITTS: Thank you, Chairman Gennaro.

Just before answering that with some quantitative information, if I could just preface that briefly with to reiterate that when we look at potential areas to cut the budget, we do have to keep in mind that our first priority, as it has in the past, must go to our mandated projects, those that we're building under consent or judicial orders, and typically beyond that, we do want to preserve funding throughout the 10 year plan for dependability to ensure continuous delivery of water. We do want to minimize the amount of reduction that we have to take to sewer projects, especially in areas where we know there are flooding problems. Having said that, we took a \$52 million reduction in one of the upcoming phases of the Gilboa dam project. We took a \$40

million reduction in job order contracts at our wastewater treatment plants--job order contracts are large multiyear contracts that they're on-call contracts and they're requirements contracts that allow us to address a number of short-term capital repair needs without letting specific individual contracts for those repair needs. And, among other things, they've allowed us to meet a lot of our environmental health and safety related short-term capital upgrade needs at our wastewater treatment plants, but we felt in this case, in order to meet a budget target, we could take this reduction and still have sufficient funding left in this category to meet our foreseeable needs at those plants. And we took another \$40 million reduction in the budget for the essential residuals building at the Newtown Creek wastewater treatment plant, and I should say we--

CHAIRPERSON GENNARO: [Interposing]  
What is that? What is the essential residuals--

COMMISSIONER LAWITTS: The  
residuals building is when the wastewater comes in and initially the solids are screened out of it--

CHAIRPERSON GENNARO: Right.

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COMMISSIONER LAWITTS: --that those  
other residuals.

And I was going to address this a  
little later in questions, that we have at Newtown  
Creek in our last few bids, including one that we  
just opened in the last couple of weeks, have  
enjoyed the bids coming in well below our  
estimate--

[Crosstalk]

CHAIRPERSON GENNARO: [Interposing]  
Yeah, that was one thing--

COMMISSIONER LAWITTS: --project.

CHAIRPERSON GENNARO: --that I was  
going to bring up also--

COMMISSIONER LAWITTS: Yeah.

CHAIRPERSON GENNARO: --these lower  
bids.

COMMISSIONER LAWITTS: Yeah, and--

CHAIRPERSON GENNARO: But just on  
our tally sheet so far--

COMMISSIONER LAWITTS: Yeah.

CHAIRPERSON GENNARO: --we've got  
the Gilboa thing and then the sewage treatment  
plant requirements contract, now this is like the

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Newtown Creek--

COMMISSIONER LAWITTS: Right.

CHAIRPERSON GENNARO: --does that mean that this building will be that much less expensive or we're just not going to fund it this year, it'll be pushed to like another year?

[Off mic]

COMMISSIONER LAWITTS: Yeah, those are reflecting bids savings actually.

CHAIRPERSON GENNARO: Bids savings.

COMMISSIONER LAWITTS: Yeah.

CHAIRPERSON GENNARO: Okay. And there's probably one or two more items to take us up to 205 million--

COMMISSIONER LAWITTS:

[Interposing] Yeah, I am mean, they're just in terms kind of in descending order, there are some reductions to some of our emergency water main and sewer repair contracts, but still leaving us what we feel is a sufficient amount given our recent history. And that if we need, if, in the unlikely event that we need to supplement those during the year, I mean we would never let the budget amount constrain us from actually responding properly to

emergencies, but--

CHAIRPERSON GENNARO: [Interposing]  
How much of a cut was that in the emergency thing?

COMMISSIONER LAWITTS: There was a  
\$20 million cuts in the water main contract--

CHAIRPERSON GENNARO: All right.

COMMISSIONER LAWITTS: --the water  
main emergency--

CHAIRPERSON GENNARO: Right.

COMMISSIONER LAWITTS: --contract.  
And then there are a lot of other smaller items  
and--

CHAIRPERSON GENNARO: Would that be  
water main, sewer main contracts or that's just  
water main contracts?

COMMISSIONER LAWITTS: That one  
that I mentioned, Mr. Chair, was just water main.

CHAIRPERSON GENNARO: Water main,  
and so that's 20 million off--like what's the  
total for the year for something like that?

COMMISSIONER LAWITTS: I'll have to  
get that for you shortly.

CHAIRPERSON GENNARO: Yeah I just  
want to get some--



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COMMISSIONER LAWITTS: Yeah, yeah.

CHAIRPERSON GENNARO: --perspective  
on what kind of scale we're--

COMMISSIONER LAWITTS: Right.

CHAIRPERSON GENNARO: --talking  
about.

COMMISSIONER LAWITTS: Right.

CHAIRPERSON GENNARO: And just to  
segue a little bit into I'm not as reneging on my  
promise to only ask one question, this is sort of  
an extension of the first question, yeah.

COMMISSIONER LAWITTS: It's one  
multipart question.

CHAIRPERSON GENNARO: Yes, correct,  
correct.

Regarding the bid reduction--

COMMISSIONER LAWITTS: Yes.

CHAIRPERSON GENNARO: --could we  
talk a little bit about like that phenomenon, just  
briefly that phenomenon--

COMMISSIONER LAWITTS: Certainly.

CHAIRPERSON GENNARO: --and then  
what we've been able to--we, see when it's good  
news, it's we, you know--have been able to realize

as a result of these bids coming in lower than we had thought, and what do you think might be behind that? Is it something about change orders being processed more quickly and contractors aren't going into the banking business when they do business with us? Or is it just the poor economy, people's pencils are a little sharper when they come in with these bids or--what do you think--

COMMISSIONER LAWITTS: Right.

CHAIRPERSON GENNARO: --what's the number and like what do you think is driving it?

COMMISSIONER LAWITTS: Okay. I can talk about the number first and then I can talk about some of the factors that--

CHAIRPERSON GENNARO: Sure.

COMMISSIONER LAWITTS: --we believe are contributing to the number.

Of the bids that we've opened and awarded so far, we had estimated collectively-- this is on an number of bids, 615 million and the bids came in collectively at 415 million, a savings of 200 million, about 32%. And then adding to that--

CHAIRPERSON GENNARO: [Interposing]

That's huge.

COMMISSIONER LAWITTS: It is--

[Crosstalk]

CHAIRPERSON GENNARO: ...is huge,  
right?

COMMISSIONER LAWITTS: --and I'll  
get into some of the reasons in a minute.

And then adding to that savings is  
a set of bids that we opened in the last two weeks  
for the next phase of Newtown Creek, it's called  
Newtown Creek Contract 41, and that we had  
estimated at 530 million, the bids came in at  
approximately 355 million, so we saved another 275  
million on there, that's another 32%. And so,  
collectively now it's against estimates of 1.1  
billion, we've opened bids totaling about 770  
million for savings of approximately 375 million  
or 32%, a third. A third.

The reasons we believe are several.  
One is, we had been engaging for the last three  
years in a multiyear effort to improve capital  
program management in our engineering design and  
construction division and just as examples of  
that, and you mentioned change orders, Mr. Chair,

that we've done much more structuring and monitoring of our change order process over the last three years and that has been further enhanced by some of the changes announced as part of the Mayor's construction improvement task force commitments to eventually get all city agencies to reduce change orders to under 200 days processing.

And we, in a number of areas, we have much more highly structured a lot of our capital program management processes, we've published and trained our 400 project management people--design and project management people in disciplines, such as improved estimating. We commissioned a expert panel on market conditions, we did these in response to what we and other city agencies were experiencing one, two, and three years ago in terms of having to compete with other public sector projects, other private sector projects in heavy construction, when the city was at the peak of the economy and at the peak of construction. And, as you know, we've testified many times before that we were not only competing against all these other entities, we were also competing against ourselves because in a single

year, for example, we bid the Croton filtration plant, the Catskill Delaware UV treatment plant, as well as perhaps \$1 billion worth of upgrades at Newtown Creek.

And so I'd like to think a large part of this was that we've improved our ability to assess the market and estimate accordingly. I think there's still some lag there that we can't yet keep up completely in real time with what's happening out on the market, and so you're seeing, in some senses, the flip side of what occurred two and three years ago--

CHAIRPERSON GENNARO: Yes.

COMMISSIONER LAWITTS: --we're overestimating and that we are getting bids better than we expected, because as you observed, Mr. Chair, the economy if there is a silver lining in what otherwise is not a very good economic picture is that the heavy construction contractors on whom we depend are a little hungrier for our work than they were two and three years ago. So I think it's a combination of us getting better and that it is a more competitive market.

CHAIRPERSON GENNARO: Thank you,

thank you. Maybe we'll talk a little more about that when I come back, but for now we have council members that wish to ask questions.

Thank you, Commissioner, for your comprehensive answer, but I recognize Council Member Vallone, who I suspect is going to ask something that relates to public safety of the watershed. That's my suspicion.

[Crosstalk]

COMMISSIONER LAWITTS: There's that possibility.

CHAIRPERSON GENNARO: Yeah.

COUNCIL MEMBER VALLONE: Good guess.

I do have only one 17 part question myself though, okay? So--

CHAIRPERSON GENNARO: Okay, okay.

COUNCIL MEMBER VALLONE: --and one of those 17 parts we'll get to that, it'll be relatively quick.

First of all, let me echo Chair Gennaro with my opposition to the illegal tax increase disguised as a water rate increase, which was pushed through by the Board, but I, again,

won't go any further into that because we're all  
on the record about that.

Now the difference between the  
budget today and the preliminary budget is 82  
million. A cynic might say that you got a 13%  
increase and now you just want to spend more  
money. I'd like to know how some of these costs  
came up in the last two months--37 million to  
account for the continued cost of chemicals,  
that's just one of many which seem to pop out here  
as cost you would have known about two months ago.  
Why is that additional cost that we did not know  
about in the preliminary budget?

COMMISSIONER LAWITTS: Well, as I  
had said before, Council Member Vallone, that  
chemicals are among our most volatile costs, that  
some of our chemicals had risen over 100% in a  
single fiscal year. And as a result, and we  
don't--in the short term, we don't have  
alternatives to using these chemicals and so we  
have to budget based on the most current  
information we have and chemicals like electric,  
power, and fuel, and other energy costs, which  
also tend to be volatile, we often have to wait

until close to the end of the fiscal year to get as much actual data as we can before we can budget what we believe to be the appropriate amount for the coming fiscal year.

As I indicated earlier, we are looking at least a couple of alternatives to the kinds of chemicals we currently use that are involved in treating both drinking water and wastewater--

COUNCIL MEMBER VALLONE:

[Interposing] Well I know about chlorine, what other chemicals are you talking about when you talk about chemicals that treat our water?

COMMISSIONER LAWITTS: Well there's ortho phosphate which is used to treat drinking water. And that is one of the chemicals that experienced a very large percentage increase over the last couple of years, then there is also fluoride. And we are looking at, there is an alternative--there may be an alternative to ortho phosphate, a chemical that some other systems have begun to use. And we need to--

COUNCIL MEMBER VALLONE: Well and--

COMMISSIONER LAWITTS: --test it



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and--

COUNCIL MEMBER VALLONE: --are  
there any--

COMMISSIONER LAWITTS: --want to  
pursue that, but it's not something we can use  
yet.

COUNCIL MEMBER VALLONE: I  
understand that, but first of all before I get  
back to why this cost wasn't budgeted in the  
preliminary budget, what other chemicals ortho  
phosphate, fluoride, chlorine, anything else I  
should know about that's in my drinking water?

COMMISSIONER LAWITTS: That's all  
in the drinking water, I think. That's--

COUNCIL MEMBER VALLONE: Okay.

COMMISSIONER LAWITTS: --in the  
drinking water and then--

COUNCIL MEMBER VALLONE: Okay.

COMMISSIONER LAWITTS: --and then  
there are chemicals we add to the wastewater.

COUNCIL MEMBER VALLONE: I don't  
mind those, it's--

COMMISSIONER LAWITTS: Okay.

COUNCIL MEMBER VALLONE: --the

drinking water I'm concerned about.

Well I mean, I'm not going to harp on this, but it seems to me like you can estimate much closer than a \$37.2 million difference in the cost of chemicals in two months.

You also said that part of your additional spending is going to be for 35 new positions, and on the same page you say that one of the factors that allowed you to not get the entire increase you wanted, the 14%, was the elimination of 74 positions--I'm very confused, how do those two things exist on the same page?

COMMISSIONER LAWITTS: Right, we did take a reduction between the preliminary and the executive budgets of an additional 74 positions. These are positions that are primarily in our administrative support areas and there is a small number of position reductions being taken in our operating areas, 10 of those 74 positions are allocated to our three big operating bureaus, but they're mostly in administrative support areas and we just felt we needed to, even though we had needs to add in other areas, we needed to offset that by taking cuts, where we felt we responsibly

could without affecting day-to-day operations.

COUNCIL MEMBER VALLONE: But you kept the increase down a whole 1% by eliminating 74 positions and now that you receive the money, you want to add 35 positions. Are those the same positions, different positions?

COMMISSIONER LAWITTS: No, and those were all part of the executive budget and so it wasn't after we received approval for the rate, it was the 35 additional positions and the 113 environmental health and safety positions offset by the reduction of the 74 positions all went into the equation that was a change between the preliminary budget, as you observed, and the executive budget, that was also a change between the factors that existed when we first proposed the 14% rate increase on April 3rd and the adopted rate increase of 12.9% on May 15th. The executive budget was released on May 1st, as I recall, and so that the release of the executive budget and the institutionalizing, if you will, of those reduced positions, as well as the debt service savings, as well as the energy savings identified late in the fiscal year collectively allowed us to

go in and propose a reduction in the rate increase.

COUNCIL MEMBER VALLONE: I might begin to understand that if I were to ask another 15 questions, but since I can't, I just continue to not understand how we could have a reduction of 74 positions and an addition of 35 positions on the same page, but maybe we'll discuss this when there aren't colleagues waiting to ask questions.

Last question is, you are adding 35 positions, I'm assuming none of them are DEP officers. Last time we spoke, you had about 161 DEP officers patrol over 2,000 miles of watershed even though you were budgeted for about 188. Any change in those numbers?

COMMISSIONER LAWITTS: As of the end of April, Council Member Vallone, the number's gone up slightly, it's 166 out of the 188 currently on board. And also I think, as I indicated to you earlier, we brought onto DEP, we hired just about a month ago a new deputy commissioner for security to oversee the DEP police, as well as the in-city security and to provide improved coordination in city with NYPD,

and he's Kevin McBride and he's here today.

COUNCIL MEMBER VALLONE: I think  
Chair Gennaro and I would like to set up a meeting  
as soon as--after the budget with--

COMMISSIONER LAWITTS: Certainly.

COUNCIL MEMBER VALLONE: --what's  
the new position called? Deputy...

COMMISSIONER LAWITTS: Deputy  
Commissioner for Security.

COUNCIL MEMBER VALLONE: Welcome  
aboard, we need that. And I'm fighting for you  
here. Are any of these--

[Crosstalk]

COMMISSIONER LAWITTS: Yeah.

COUNCIL MEMBER VALLONE: --166, any  
of this money that you discussed going to get us  
any closer to 188?

COMMISSIONER LAWITTS: Well yeah,  
it provides for the same headcounts and budgeted  
headcount of 188. And I think, as we've discussed  
before, we have an Academy that is scheduled to  
graduate in July, next month, and the challenge to  
us will be to run the next Academy just as soon  
after that as we possibly can, so that we get

another class of 20 to 30 cycled through and out in the field during the coming fiscal year.

COUNCIL MEMBER VALLONE: It's a challenge that we haven't met since I've been Public Safety Chair, we haven't been anywhere close to 188, so let me again discuss a need for additional DEP officers to patrol our watershed.

Mr. Chair, thank you, I think it was only a 13 part question, but I'm done, so thanks.

CHAIRPERSON GENNARO: Thank you. Thank you, Council Member Vallone, and certainly it would be great to get together with Deputy Commissioner McBride, is that right?

COMMISSIONER LAWITTS: Yes.

CHAIRPERSON GENNARO: Okay.

COMMISSIONER LAWITTS: McBride.

CHAIRPERSON GENNARO: Maybe we can go upstate again, you and me, Pete, and check out the security operation, if we promise not to divulge anything that we see.

[Pause]

See, I just said the words, promise not to divulge and my microphone went dead, so how

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do you like that? You're pretty good, Deputy  
Commissioner McBride, you managed to dismantle my  
microphone from afar. So, Pete, this man is good.

We're also joined by Council Member  
de Blasio. Bill, thanks for being here. And I  
forgot to mention him last time.

And Council Member Ignizio has  
questions.

[Off mic]

CHAIRPERSON GENNARO: Okay. Yes,  
yes, Council Member, please, I recognize Council  
Member Vincent--

COUNCIL MEMBER IGNIZIO: Thank you  
very much--

CHAIRPERSON GENNARO: --Ignizio.

COUNCIL MEMBER IGNIZIO: --Mr.  
Chairman and to whoever I seemingly skipped over,  
I apologize.

Good afternoon, Commissioner, let  
me first start by--

COMMISSIONER LAWITTS: Good  
afternoon, Council Member.

COUNCIL MEMBER IGNIZIO: --saying  
what a good working relationship my office has

with you and your deputy commissioners and your agency from yourself to Ann and Joe and Jim, they've been great to my office and we appreciate that response. Sometimes we don't get the answers we like, but at the very least, we get answers and for a Council Member it helps us our jobs better.

COMMISSIONER LAWITTS: Thank you, Council Member.

COUNCIL MEMBER IGNIZIO: I'm doing double duty today, obviously I'm representing both my borough and my district, so if I can run through some quick lightning round questions vis-à-vis my borough I'd be--unless Kenny Mitchell's not here, so I'm going to begin with Clove Road--is it 422 Clove Road, the reconstruction? Did I get the address right? The Clove Road reconstruction of the yard--maybe it's 222 Clove Road, is that what it is?

[Off mic]

COUNCIL MEMBER IGNIZIO: 288, all right, see, you can tell it's not my district. 288 Clove Road, reconstruction is supposed to begin and there's apparently that's a necessary project for the borough's application of DEP



operations, is there any update on that?

COMMISSIONER LAWITTS: You know, do  
you know?

DEPUTY COMMISSIONER JIM ROBERTS:  
Yes.

COMMISSIONER LAWITTS: Deputy  
Commissioner Jim Roberts will speak to that.

COUNCIL MEMBER IGNIZIO: Yes.

DEPUTY COMMISSIONER ROBERTS:  
Number one, that project is administered by the  
facility's coordination piece of the Bureau, but  
it's for our fiscal and water operations. They  
are currently looking at moving the half of the  
personnel from that yard to the South Shore  
facility--

COUNCIL MEMBER IGNIZIO: Joe line  
[phonetic], right?

DEPUTY COMMISSIONER ROBERTS: -to  
Joe line, and I'd have to get back with you on the  
exact status of the project and the money, but I  
think it has been pushed out until next fiscal  
year at this point.

COUNCIL MEMBER IGNIZIO: Okay,  
okay. Thank you for that.

And Brookfield, which this committee should know and the city should know, really the yeomans work that the city has done on a project that was really ultimately the responsibility, the lion share with the state. Can you just update me and this committee on the last inactive toxic waste landfill in the city and its progress on its remediation?

COMMISSIONER LAWITTS: Certainly, Council Member. As you know, we discussed the status at a committee meeting approximately six weeks ago. Since then, there has been progress, we did get an application from the state for the \$100 million in funding that the state has committed to contribute towards the projects overall cost of approximately \$280 million, we turned that application around quickly in a matter of just a few days. We submitted it to the state, the state informed us that the application is complete, the state, in the form of DEC. The process that exists in the states on a funding agreement like this requires the application to go next to the state division of budget and ultimately to the governor's office for sign off.

At that point, DEC would send us a draft funding agreement, which we would review and execute promptly and DEC may also send us along with that draft contract an additional letter of intent to fund the \$100 million. We believe DEC is using its best efforts within the state government to push this application through those two additional stations.

COUNCIL MEMBER IGNIZIO: That would be a first, that's good.

COMMISSIONER LAWITTS: As soon as we receive either the Letter of Intent or the draft funding agreement, use either one of those as the basis to award the contract, to sign the contract, and then submit it for registration to the city Comptroller.

And as we had discussed at the community meeting six weeks ago, everything is proceeding on a pace, although we'd always like it to proceed faster, everything is proceeding at a pace that will allow construction to begin this fall.

COUNCIL MEMBER IGNIZIO: Thank you.  
And thank you for your personal intervention.

And then finally I just wanted to reiterate that, which I know you're hearing throughout, which is that my district in southern Queens and two districts that have a major underserved population vis-à-vis sewer construction. I recognize that those changes are going to occur, I would just like to be made aware of those so that I could alert the communities that, because of fiscal times they would be pushed out six months, a year, or two years and what the schedule therein is. Deputy Commissioner and Jim Garin [phonetic] that--Deputy Commissioner Jim Roberts and Jim Garin have been great about letting us know project by project, but my understanding is you've had to do an all sewer review and decide what's going where, and at the time that you feel comfortable within the next several weeks I'd like to be made aware of where they go so I can inform my constituents of that.

COMMISSIONER LAWITTS: Certainly, Council Member Ignizio. We do have in the 10-year plan a total of a little bit over 450 million for Staten Island sewers, we have a similar amount for sewers in Queens as well.

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COUNCIL MEMBER IGNIZIO: Well thank  
you, sir.

And one final point, Mr. Chairman,  
if you'll indulge me and that is if wastewater  
treatment-type projects could be worked into the  
discussion of funding part of the Bluebelt capital  
program, while I recognize they can't fund sewer  
operations, perhaps they could fit under the  
definition of storm water and natural storm water  
such as the Bluebelt and the cleaning of our  
waters that we have on the island, perhaps that  
could fit into a stimulus category and we could  
advance projects that way.

Thank you very much, sir--

COMMISSIONER LAWITTS: Thank you.

COUNCIL MEMBER IGNIZIO: --and Mr.  
Chairman, I reserve the rest of my time.

CHAIRPERSON GENNARO: Thank you,  
thank you very much, Councilman. I recognize  
Council Member White, I recognize Council Member  
White.

COUNCIL MEMBER WHITE: Thank you  
very much, Mr. Chairman.

[Sneeze]

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3 COUNCIL MEMBER WHITE: Bless you.

4 Concerning the American Recovery  
5 and Reinvestment Act, federal funds was made  
6 available to address many of the environmental  
7 concerns. In that package, 4 billion in capital  
8 funds was allotted nationally for clean water  
9 capital and 2 billion for drinking water capital.  
10 Of that national funding [clears throat] excuse  
11 me--the city estimates that it would receive 266  
12 million for clean water and 45 million for  
13 drinking water. So far DEP has allocated 100  
14 million of the ARRA funds in the executive plan.  
15 When does DEP anticipate allowing the rest of the  
16 anticipated 211 in the ARRA stimulus package?

17 COMMISSIONER LAWITTS: Well we hope  
18 as soon as--excuse me, as soon as possible,  
19 Council Member White. We have, as I testified  
20 earlier, been working, we have been working, we  
21 continue to work with the state to identify a set  
22 of projects--and we have identified more than  
23 enough projects that would absorb any stimulus  
24 funding that comes our way.

25 We have also been using these  
discussions to press, we believe at this time

successfully, for a large portion of the stimulus funding to come to us in the form of grants, rather than just lower interest loans, because grants, as you know, Council Member, will have the not only the--grants will allow us to find substitute uses for existing city funds to fund projects that otherwise might be deferred, whereas, loans would not allow that kind of substitution. So we've been pressing for a large percentage to come in the form of grants and it's our information that approximately 50% of the total funding that we will get will come in the form of grants.

But I can't answer at this time, exactly when we'll have a finality on a specific dollar amount or a specific list of projects.

COUNCIL MEMBER WHITE: Is there a time frame? Because we still have an outstanding--the total would be 311 million.

COMMISSIONER LAWITTS: Well--

COUNCIL MEMBER WHITE: Does DEP anticipate receiving the full 311 million based on that package?

COMMISSIONER LAWITTS: Well we--

COUNCIL MEMBER WHITE:

[Interposing] And the reason why I ask, if you don't know around about when you're going to get it, how can we pay for it and what form it's coming in, and how can you plan, what can you substitute for? You're saying at least 50% you might--

COMMISSIONER LAWITTS: We have a combination of projects that are about to begin construction and those that are already underway. And we, as I said, we believe we have a list of projects that's more than enough to absorb any stimulus dollars that get awarded to us, and so as soon as those decisions are made as to what the list of eligible projects is and when we will receive the money and when that will be announced, we'll be ready to go.

And so when I mentioned earlier, to the extent we get grants that allows us to potentially substitute other projects for the city funds, we have lists of those projects as well.

We have a lot of projects waiting in the wings, if you will, that can go ahead, as long as the funding is made available.



COUNCIL MEMBER WHITE: Okay. On that list, the substitute list, do we have an idea what that list consists of?

COMMISSIONER LAWITTS: Well it would include some sewer projects, for example.

COUNCIL MEMBER WHITE: Where?

COMMISSIONER LAWITTS: In places that are most needy of sewer build-out--Queens and Staten Island.

COUNCIL MEMBER WHITE: Well I know that in Southeast Queens for many, many years we've had a great need for sewers because the homeowners there are being flooded out of their homes and with the increase in the building of homes and connecting all of the homes in, we run into quite a problem with six homes being connected to the same line to go to the sewer and if one of the lines gets clogged, it's going to cost them about \$3,000 to repair it at their cost, and they have a certain amount of time to do that in, according to the law, and we'll be putting a big burden on those homeowners, so we need some relief. For instance, Stations 6 which has been on the drawing board, I believe for about eight

years now and when you talk about projects, that's ready to go, design, everything has been done with Station 6. And what we have to do to relieve the flooding is we have to let some of that water out of there in order to reduce the water level so that we have less funding. Do you know where that project is, because it's been ready to go for years.

COMMISSIONER LAWITTS: Yes, well these Station 6 is funded in the capital plan, and it's funded beginning in 2013. But we have, going down Station 6, we have first sewers in Southeast Queens, a total of, in the executive plan, 305 million, of which actually its front loaded with 76 million being just for next year.

COUNCIL MEMBER WHITE: Okay. Then how much funds have been dedicated to enact the Jamaica Bay Watershed Management plan and what is the status of that project?

[Pause]

COMMISSIONER LAWITTS: I think I'm going to have to get back to you, Council Member, on that exact amount because that involves a number of projects and, rather than take your time

and sit here and tally them, if I could get back to you on that?

COUNCIL MEMBER WHITE: You can really take my time because my constituents have been waiting a long time and this is an opportunity to really focus in on what my constituents and Councilman Comrie and Councilman Saunders and the assembly people in the area, including State Majority Malcolm Smith, we have been waiting for this project for years and years [off mic] Station 6. And we really feel that in the priorities of capital from 1 to 10, we might be number 11, which doesn't show up. And we need to be put in that system near the top of the list to get some relief. We've had a lot of problems over there in Southeast Queens concerning the water contamination and the spillage over there on Springfield Boulevard consisting of where the Chair of Finance Weprin is, Comrie, comes down to myself, and they still haven't found the cause of it, it's just a belief what the cause is.

And we really need a lot of things done with this money in our area and you don't have us in the drawing board.

COMMISSIONER LAWITTS: Well I'll have to get back to you, Council Member, on how much is in year by year for each of the component projects, I don't have that with me.

COUNCIL MEMBER WHITE: Okay. I wish you would take that seriously because I'm pushing for my constituents to get their fair share of the capital dollars of what they deserve.

COMMISSIONER LAWITTS: Of course.

COUNCIL MEMBER WHITE: I think everybody deserves some, okay? But there has to be a priority in terms of we've been pushed to the outer years for so long, we have to be put to the inner years, and that's what I'm saying. And I hope you can appreciate the fact that, yes, you do your jobs and you do a good job, but you got to do a good job for us in Southeast Queens.

And it's very sorely needed and they're still building houses over there and the density cannot be accepted or tolerated in terms of even the proposed VA Hospital building homes over there. I mean we have to look ahead and I'm looking ahead and I'm making this appeal to you that we will not accept anything less than to be

included in this capital plan and some of this  
stimulus dollars and that we can point to and  
direct to see that you're really working on our  
behalf. Okay?

COMMISSIONER LAWITTS: Okay,  
certainly.

COUNCIL MEMBER WHITE: Thank you  
very much.

CHAIRPERSON WEPRIN: Thank you,  
Council Member. Council Member Reyna.

COUNCIL MEMBER REYNA: Thank you,  
Mr. Chair. I know that I'm probably the end of  
this line of questioning, I apologize. I've been  
walking in and out.

I just wanted to go back to a  
budget question as far as the laid out testimony,  
I couldn't read through all of it, but I'm not too  
sure if you mentioned anything concerning a set  
budget on sinking streets, the issue of  
rehabilitating perhaps trenches that have  
collapsed, any specific amount of money and what  
is--

MALE VOICE: Where's the whole  
sewers budget, but--

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[Crosstalk]

COUNCIL MEMBER REYNA: --your assessment as far as cave-ins are concerned in relation to your 311 complaints. Because I know I have a specific location that I've called in myself and 311 has responded by telling me it's been called in, three weeks later, we still see the sinkhole and it's growing, its massive now. So I'm concerned, I'm not too sure what in relation to your budget does the budget address as a whole the city of New York and then in particular by borough and I'm not too sure if you go in a rotation fashion the way Department of Transportation, let's say, does with their re-pavement program.

COMMISSIONER LAWITTS: Okay. Well that's a multipart question, so I'll--

COUNCIL MEMBER REYNA: I know, I'm sorry.

COMMISSIONER LAWITTS: No, I'll try and address each one.

Certainly if there's a specific condition and you've called it into 311 and if it hasn't been addressed yet and if you want to give

me the location, we'll--

COUNCIL MEMBER REYNA: Absolutely.

COMMISSIONER LAWITTS: --certainly  
look at it.

COUNCIL MEMBER REYNA: It's Grand  
Street between the Roebling Street and Marcy  
Avenue, or between Roebling and Havemeyer.

COMMISSIONER LAWITTS: Okay.  
Between Roebling and Havemeyer. Okay. We'll  
certainly get out there and look at it.

And then the cave-in issues, where  
there are street cave-ins to the extent that  
they're a result of underlying sewer collapses,  
those would be addressed in a programmatic way by  
at least the portion of our sewer budget, which  
citywide is about \$2.1 billion for the 10 year  
period. You may have heard me respond to Council  
Member White that there's a portion of the sewer  
budget, which is specifically intended to build  
out sewers in underserved areas where they don't  
currently exist, but there is also a part that's  
for a programmatic replacement of older sewers and  
that also touches, of that 2.1 billion, Brooklyn  
is set to get about 174 million and--

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COUNCIL MEMBER REYNA: For specific  
cave-ins?

COMMISSIONER LAWITTS: No, for  
sewers all together, I'd have to--

COUNCIL MEMBER REYNA: All  
together--

COMMISSIONER LAWITTS: --go through  
and I could send to you supplementally, for  
example of what's planned for your area that's a  
replacement project, not a build-out of new  
sewers.

And that also touches upon one of  
your other questions about whether we do this on a  
cycle basis as DOT does. You may know, Council  
Member Reyna, that we try to, when possible  
coordinate with DOT, so that we can build or  
replace our water mains and our sewers at the same  
time that DOT--

COUNCIL MEMBER REYNA: Correct.

COMMISSIONER LAWITTS: --wants to  
do a major street replacement, but more major than  
just milling and repaving. So we try to do that,  
we try to agree on our mutual priorities and a lot  
of the time they do overlap in that where DOT



needs to and wants to replace streets for us also coincides where with where we want to replace water mains or sewers. Sometimes our priorities are different and so sometimes we'll be building on a different schedule than they are, but we try to coordinate with them and I think as you also know that those contracts get designed and built by the Department of Design and Construction.

COUNCIL MEMBER REYNA: So you're going to get back to me specifically on the 34th District replacement projects that perhaps are in the pipeline for street collapsings--the cave-ins and in coordination with DOT, so that at least we're all on the same page and making sure that DOT doesn't come and pave and then we still have a continuing occurrence of a cave-in. But your mention of DDC was in reference to that collaboration?

COMMISSIONER LAWITTS: Yes, that when you have a project that involves the triple rehabilitation of the roadway, the water mains, and the sewers, that that's done, DDC is the designer and constructors with DOT and DEP as the client agencies.

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COUNCIL MEMBER REYNA: And that's  
part of the \$174 million allocated--

COMMISSIONER LAWITTS: Correct.

COUNCIL MEMBER REYNA: --for  
Brooklyn.

COMMISSIONER LAWITTS: Correct, a  
significant portion of these projects would be to  
do those combined projects with DOT that are  
designed and built by DDC.

COUNCIL MEMBER REYNA: And,  
Commissioner, what would be the amounts concerning  
building new sewer capacity versus replacing out  
of the 174 million?

COMMISSIONER LAWITTS: Right, I'll  
get that for you as well--

COUNCIL MEMBER REYNA: Okay.

COMMISSIONER LAWITTS: --I don't  
have that right in front of me, but I'll get that  
for you.

COUNCIL MEMBER REYNA: And I raise  
that as a major concern only because in Brooklyn  
we've seen massive development. The waterfront in  
particular of what Greenpoint Williamsburg could  
eat up and perhaps leave a deficit for DEP's

allocated budget of 174 million just on new  
infrastructure.

COMMISSIONER LAWITTS: Right, and  
you may also know that in many cases where there  
is a large-scale development coming in that the  
developer--

COUNCIL MEMBER REYNA: Has agreed--

COMMISSIONER LAWITTS: --needs to  
provide that infrastructure--

COUNCIL MEMBER REYNA: And that's  
only--

COMMISSIONER LAWITTS: --according  
to our standards and our review and our approval.

COUNCIL MEMBER REYNA: Right, and  
that's only where there was a redevelopment  
rezoning aspect or a process where there was a  
negotiating effort to have the developer agree.  
But inland, in Greenpoint Williamsburg we've had  
massive development and so the capacity is not  
there for that massive developments upland, and so  
I'm just trying to figure out where there's new  
infrastructure--

COMMISSIONER LAWITTS: Right.

COUNCIL MEMBER REYNA: --that's

going to be built is it part of that--

COMMISSIONER LAWITTS: Right.

COUNCIL MEMBER REYNA: --particular  
scenario--

COMMISSIONER LAWITTS: Okay, okay.

COUNCIL MEMBER REYNA: --or is some  
of that going towards new infrastructure, not  
necessarily, or perhaps to supplement whatever the  
developer's already agreeing to do.

COMMISSIONER LAWITTS: Right, and  
we can lay that out for you.

COUNCIL MEMBER REYNA: Fantastic.  
And the budget for Queens, because I represent  
both Brooklyn and Queens.

COMMISSIONER LAWITTS: Yes. For  
Queens, again, all sewer work in Queens over the  
10 year period, approximately \$480 million.

COUNCIL MEMBER REYNA: And this is  
both.

COMMISSIONER LAWITTS: It's a  
combination of new sewer build out and  
replacement.

COUNCIL MEMBER REYNA: And you're  
going to get me the same breakdown for the--

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COMMISSIONER LAWITTS: I will.

COUNCIL MEMBER REYNA: --480--

COMMISSIONER LAWITTS: I will.

COUNCIL MEMBER REYNA: --in Queens?

COMMISSIONER LAWITTS: Yes.

COUNCIL MEMBER REYNA: Thank you  
very much, I appreciate it.

And I just wanted to end with my  
thank you's to DEP, Ms. Hubbard participated as a  
one-on-one consultation with my homeowners night  
for my constituents last week and I just wanted to  
say thank you so much because it was of great help  
to my constituency in getting some resolution to  
some of their, perhaps outstanding bills in  
relation to DEP or interest in the new water  
meters that you're projecting--

COMMISSIONER LAWITTS: Yes.

COUNCIL MEMBER REYNA: --to  
install. Thank you.

COMMISSIONER LAWITTS: No, thank  
you.

CHAIRPERSON WEPRIN: Council Member  
Crowley.

COUNCIL MEMBER CROWLEY: Thank you,

Chairman. Good afternoon, Commissioner.

I have a question as it relates to your capital budget. On annual or yearly or over the five years it says that you have an average of committing only, or spending only 87.6% of your allocated funds, is that true?

COMMISSIONER LAWITTS: That sounds approximately right for the recent past.

COUNCIL MEMBER CROWLEY: Now I'm a little concerned as it relates to my community--

COMMISSIONER LAWITTS: Yes.

COUNCIL MEMBER CROWLEY: --I share a lot of the same concerns that my colleagues have expressed, especially Council Member White. I'm curious to know where we are with our capital improvements in the 30th Council district and why, because I'm under the impression that for a number of years it was funding that slowed down these projects. Why there was almost 13% or more than almost 13% every year not spent that could have been spent and perhaps prevented flooding.

COMMISSIONER LAWITTS: Right, well let me just go back to your first question for a minute if I can that the percentage has greatly

improved in the last two years that in fiscal year 2007, for example, we committed in the high 90 percentages of what was a record annual commitment plan of 3.7 billion; last year, we committed about 90% of a \$3.4 billion capital commitment plan. So in the last couple of years, we've significantly increased the percentage that we commit each year and in those last couple of years the total amount that was planned for us was much larger than in previous years--3.7 billion was a record year for us. So we've gotten better at committing larger percentages of a growing capital program.

Having said that, there are sometimes factors that don't have anything to do with the budget that cause projects to slip from one fiscal year into the next. Sometimes it's a problem when we go to award a contract and if there's a problem with a vendor and we have to take the additional time, perhaps to go to a second vendor, that sometimes those projects if their bid towards the end of the year, the awards will be delayed somewhat.

Sometimes it's a regulatory change that causes us to hold a project over from one

year to the next.

But it's certainly our goal to commit 100%, we've gotten a lot closer to it in the last couple of years and we want to use every available dollar funding we have and put it into construction just as soon as we possibly can.

And I don't have the specifics on--

COUNCIL MEMBER CROWLEY: What--

[Crosstalk]

COMMISSIONER LAWITTS: --the infrastructure work in your Council district, but I will get it to you.

COUNCIL MEMBER CROWLEY: But for the borough of Queens, that seems like a small number in compared to the larger budget capital budget.

COMMISSIONER LAWITTS: Well out of a total citywide sewer budget of 2.1 billion, it is [pause]--do I have that document? I don't--

[Off mic]

COMMISSIONER LAWITTS: Okay.

[Off mic]

COUNCIL MEMBER CROWLEY: Okay, I'm sorry. So Queens--



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COMMISSIONER LAWITTS: Well yeah--

[Off mic]

COUNCIL MEMBER CROWLEY: --in  
relation to the city, did you--

COMMISSIONER LAWITTS:  
[Interposing] Yeah, Queens 480 million out of 2.1  
billion, so that's more than 20%.

COUNCIL MEMBER CROWLEY: Right, but  
in recent years in terms of damage because of not  
having the infrastructure--

COMMISSIONER LAWITTS: Right.

COUNCIL MEMBER CROWLEY: --capacity  
to meet the needs, wouldn't you say that Queens  
was one of the most neediest boroughs?

COMMISSIONER LAWITTS: Well I would  
say Queens is a needy borough certainly in terms  
of investment that's required to prevent flooding  
or to mitigate flooding in your district and in  
Southeast Queens. There are also--pardon me, for  
just a second.

[Pause]

All right, so in addition to that  
borough wide allocation of 480 million, part of  
the 2.1 billion is, it's a citywide allocation of

870 million, so and some of that's for emergency work and utility relocation. A large part of that I'm sure will go to Queens, but I can certainly get you the project by project breakdown of timing and dollars of projects in your area, as well as elsewhere in Queens.

COUNCIL MEMBER CROWLEY: Great, thank you.

CHAIRPERSON WEPRIN: Thank you, Council Member. I think we're finished with you, I don't know if you--

COMMISSIONER LAWITTS: So to speak.

CHAIRPERSON WEPRIN: So to speak, so to speak, I'm sure we'll be having discussions, but I think that's it for today's budget hearing. We will now hear from--thank you for coming--

COMMISSIONER LAWITTS: Thank you, Chairman Weprin.

CHAIRPERSON WEPRIN: We will now hear from members of the public. We have two that are pre-signed up, Richard Anderson, the president of the New York Building Congress and Ralph Palladino, vice president of Local 1549 of DC 37.

If there's anybody else that would

like to testify, please fill out a slip with the  
Sergeant-at-arms and come up now or forever hold  
your peace.

[Pause]

Mr. Anderson and Mr. Palladino,  
it's always a pleasure to see both of you, you're  
regular testifiers over the years, over the weeks,  
and we appreciate your interest in our  
deliberations and what's happening in the city.  
And I know you both have insightful testimony and  
statements and, since it's just the two of you,  
talk as long as you like.

MR. RICHARD ANDERSON: Uh-oh,  
that's dangerous.

MR. RALPH PALLADINO: Two union  
guys? I don't know.

MR. ANDERSON: You want to go  
first? No, okay.

[Off mic]

MR. ANDERSON: Mr. Chairman,  
Council Member Crowley, nice to see you both.

[Off mic]

MR. ANDERSON: Pardon me?

COUNCIL MEMBER JACKSON: What about

me?

MR. ANDERSON: Robert Jackson, when  
did you sneak in?

COUNCIL MEMBER JACKSON: I've been  
here.

MR. ANDERSON: Nice to see you as  
well.

COUNCIL MEMBER JACKSON: I thought  
you forgot about me--

[Off mic]

MR. ANDERSON: Thank you for this  
opportunity.

The Building Congress is testifying  
this afternoon on the capital budget component of  
the proposed fiscal year 2010 New York City budget  
out of concern for sufficient funding of the  
city's capital plan over the next decade.

After proposing in January, a 30%  
reduction in the overall spending as part of the  
city's 10-year capital strategy, the Mayor's  
revised executive budget instead proposes a more  
modest reduction that allows for overall capital  
spending of about \$10 billion for the next two  
years, each year for the next two years. The

Building Congress, which called the original proposal counterproductive to the city's economic health, believes the revised plan is a significant improvement, much of it due to the efforts of the City Council.

This was achieved by first reducing commitments financed by the city's general obligation bonds to 27% rather than 30%, applying federal stimulus funds toward education projects, and, finally, reducing the non-city finance proportion of the plan by just 10%, including the Department of Environmental Protection's capital projects which are financed by dedicated water and sewer fees, much of which you just discussed.

The Building Congress acknowledges the depth of the city's current budget problems and limited options available to close the deficit. For this reason, we appreciate and applaud the willingness of city's leaders to find ways to modify the actual reduction in commitments from about 30% to approximately 17% in the 10-year plan. This revised capital strategy and the continuation of a \$10 billion annual near-term spending level is important for the construction

industry, as well as for the local economy.

While the initially proposed cuts by our analysis would have resulted in construction job losses of almost 10,000 ,the revised plan is expected to reduce that number to about 5,800. Building Congress research shows the city lost 22,600 construction jobs between August of last year and February 2009--a decline of 16% in just six months. Given that construction spending and employment generally lag the rest of the economy, it is likely that this alarming rate of job loss will continue until next year and possibly beyond. By maintaining spending levels in the near-term, the city will preserve thousands of jobs for working-class New Yorkers and significantly bolster economic activity during a period of rising unemployment.

Nevertheless, while the near-term outlook has improved, the forecast for 2011 and beyond is significantly more grim. The impact most likely will be felt starting in fiscal year 2012 when many current projects will be near or at completion. At the same time the construction industry will likely be experiencing the severe

1 impact of spending declines across the board. The  
2 Bloomberg Administration is projecting that annual  
3 capital spending will drop to \$8 billion by fiscal  
4 year 2013 and continue its decline through the end  
5 of the next decade where, absent revisions,  
6 spending would drop to about \$6 billion annually.  
7 We must do everything possible, Mr. Chairman, to  
8 avoid this scenario.  
9

10 As the Building Congress has long  
11 advocated, the solution to the city's capital  
12 spending challenge is to identify and implement  
13 dedicated sources of funding, not to diminish  
14 spending on critical infrastructure needs.

15 The Bloomberg Administration and  
16 the City Council deserve credit for their  
17 dedication to forward-looking investments in the  
18 city's infrastructure. We have been impressed  
19 with the city's commitment to school construction,  
20 transportation, environmental projects, and  
21 affordable housing--all comprehensive investments  
22 with long-term benefits. The Building Congress  
23 stands ready to continue working with the Mayor  
24 and the City Council, as well as the state  
25 legislature and governor to identify dedicated

sources of infrastructure financing and reduce reliance on debt while ensuring that the city's fiscal needs are continually and efficiently addressed. Thank you.

CHAIRPERSON WEPRIN: Thank you, Mr. Anderson. Mr. Palladino.

MR. PALLADINO: Thank you. Greetings to the Chair, David Weprin, and Councilwoman Crowley and Councilman Jackson.

Local 1549, by the way, is a member of DC 37 and we have 18,000 members, clerical administrative work for the city of New York in all city agencies, the Health and Hospitals Corporation, and the NYPD.

Now the administration's budget proposal for 2010 does not help those in need or the local economy. Services and jobs will be lost while those who can afford to pay the most will get off the hook. The best way to balance the budget is to raise revenues and cut wasteful spending, not cut jobs. Nearly 4,000 taxpaying city employees will be laid off beginning July 1st if this budget is enacted. This will mean less taxpaying residents for the city and less



purchases in local businesses. It will mean that those 4,000 former productive workers will have to seek unemployment insurance and city services in order to survive. It will mean an increase in homelessness and in foreclosures and, by the way, we do have some homeless members of Local 1549. This will only make the local economy worse and strain city services more than they are already.

I know someone well who recently came off a civil service list in Agency for Children's Services, and is on the layoff list. She has a husband who is out of work in his construction job and cannot find work. They have three young children. Last year, they had an income of roughly \$80,000; after July 1st, they will not have any income. How is this Staten Island family going to survive and pay their mortgage? No one will take her place on the job, isn't it better that workers such as she keep working so as to help the public?

It makes no sense to layoff close to 900 civilian employees of the New York City Police Department and replace them with higher paid police officers. This idea of the NYPD's

might also mean the city's proposal to receive the President's stimulus COPS program funding in order to hire more police officers will be in jeopardy.

Why would the federal government turn over stimulus funds meant for job creation when it might be used directly or indirectly to make it easier to layoff lower wage workers? In the long run, civilianizing the NYPD will enhance public safety and save tax dollars.

The city administration can save tax dollars by eliminating most of the \$9 billion in wasteful contracting out of jobs to private companies. These companies make huge profits while paying their workers next to nothing with no benefits to perform tasks readily done by city employees. Contracting out takes quality and absence controls out of the city's management's hands. These contract workers are untrained and, unlike clerical civil servants, they do not have to take a test in order to get their jobs.

The city should also adopt a fair tax on wealthier citizens proposed by City Council Speaker Quinn. This could raise close to \$1 billion if enacted, and, no, people will not leave

the city. The Princeton study in New Jersey showed that that didn't happen when they did it permanently in New Jersey, and when they did it earlier in after 2001 in the city on a temporary basis, people did not leave. And, by the way, if people like Rush Limbaugh and the other one , Tom Golisano, want to leave the city, well shame on them, and they both could leave because that way we can maybe have some of our homeless members at 1549 occupy their former digs.

Will the city continue to give away tax breaks to companies that never create local jobs? The city's newspapers annually run stories on this outrageous giveaway to businesses. These and other savings, along with other proposals to raise city revenues, if enacted, would mean that there would not have to be layoffs nor service reductions, this could help turn the local economy around.

City employees should not be the ones to pay for this crisis. We are taxpayers who must pay higher rents and MTA fares also. Let's restore fairness to the budget. And if you do enact the PIT increase, we will be glad to go to

the Senate and the state Senate and lobby with you  
all in Albany for that. Thank you.

CHAIRPERSON WEPRIN: Okay, just a  
correction, Mr. Palladino, I think it's the city  
of Rochester that Tom Golisano is going to be  
leaving or state of New York.

MR. PALLADINO: I'm sorry, the  
state.

CHAIRPERSON WEPRIN: The state of  
New York, not the city--

MR. PALLADINO: Thank you.

CHAIRPERSON WEPRIN: --but the  
point was well taken and actually Comptroller  
Thompson was here earlier, he also advocated for a  
high-end PIT surcharge over the sales tax  
increase.

I believe Council Member Jackson  
had a question.

COUNCIL MEMBER JACKSON: Thank you,  
Mr. Chair.

I have comments and questions, and  
since you said to the two witnesses to take all  
the time they want, so that means I can take all  
the time that I want also?

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3 CHAIRPERSON WEPRIN: As long as you  
4 want, Council Member.

5 COUNCIL MEMBER JACKSON: Thank you,  
6 Council Member and Chair.

7 First, let me thank you, Mr. Chair.  
8 As the Chair of the Finance Committee for the past  
9 seven years, now in your eighth year, I have stood  
10 next to you through all of these finance hearings  
11 whether or not it's the normal finance committee  
12 hearings, but clearly, you know through all of the  
13 preliminary budget hearings and executive budget  
14 hearings, even the last one as of today, and  
15 knowing that this is your last term in office  
16 because you're running for higher office, I want  
17 to congratulate you as the Chair of the Finance  
18 Committee for doing a job well done and  
19 representing all of us as the Chair of the Finance  
20 Committee and for you staying the chorus. Meaning  
21 that from beginning to end, whether or not we  
22 began at nine o'clock in the morning and end at  
23 sometimes at 7, 8 o'clock in the evening, when I  
24 turn around at the end, you're there and I'm  
25 there. So I congratulate you on a job well done  
and I wish you all the best in your future

endeavors as the Chair of the Finance Committee and your future endeavors, knowing that this is your last executive budget hearing that you will be overseeing as the Chair of Finance Committee.

CHAIRPERSON WEPRIN: You can talk for another hour if you like, Council Member.

COUNCIL MEMBER JACKSON: So sometimes it's important to congratulate our own for doing the job that they are expected to do, but still and all, it's been a long time and I've worked with you for many years because we came in the same time.

And I know that you're moving on to bigger and better things and I look forward to working with you in the future.

CHAIRPERSON WEPRIN: Thank you, Council Member, I very much appreciate it and I wish my wife Ronnie was here to hear your words, because you don't always get that appreciation, but--

[Crosstalk]

COUNCIL MEMBER JACKSON: I understand.

CHAIRPERSON WEPRIN: --appreciate

it.

COUNCIL MEMBER JACKSON: I do  
understand that.

And now to the two witnesses, and I  
wanted to ask, Ralph, you indicated about the PIT,  
as you know, the Speaker also proposed a PIT for  
us to look at and her PIT was, I think was about--  
David, correct me if I'm wrong--about 300,000?

MALE VOICE: Two hundred and fifty  
thousand.

COUNCIL MEMBER JACKSON: Two  
hundred and fifty thousand, and the City  
Comptroller indicated today an increase for those  
earning 500,000 or more and then a million or more  
could raise the type of money that we need in  
order to carry us through.

And so, Dick, I don't know if  
you've dealt with that in your testimony, does the  
New York Building Congress have a position on  
whether or not a PIT, if at all possible, would  
that be palatable to the Building Congress?

MR. ANDERSON: We do not have a  
position, but I think we would be very concerned  
about its impact on the economy going forward. We

do think that people are movable, they do locate and relocate based on tax rates, so I would not be too hasty in pursuing a personal income tax increase.

COUNCIL MEMBER JACKSON: I think the Comptroller indicated that he would consider a temporary one and I think that knowing, as you know, I sit on the Finance Committee and I'm on the Budget Negotiating team and I've listened to many people that deal with analyzing the budget on a continuous basis from our finance people to the Independent Budget Office to the City Comptroller's office, the Office of Management and Budget, the State Comptroller's office, and many other groups and organizations, and all of them say our economic situation doesn't look good in the future and everyone is predicting in 2011, 2012 5 to \$6 billion deficit. And I've said that we have to be able to work together as a family, meaning all New Yorkers. And obviously those New Yorkers that earn the least have the least ability to help other families, and I think those families that are earning more should help the family as a whole in New York City, and so that's why I have



been advocating for a temporary PIT on those wealthier New Yorkers in order to help the whole entire family.

But now you talked about in your testimony about the capital plan reduction being reduced from 30 to 17 with a continuation of about \$10 billion in capital infrastructure and I agree that that must continue. But I'm not only looking at one aspect in infrastructure, but I'm looking at all the other aspects because, well you indicated in your testimony, the number of employees that will be negatively impacted if in fact we don't continue this type of construction, and Ralph Palladino mentioned about the negative impact it's going to have on his members as far as those that are expected to be laid-off. I'm just trying to find out how do we balance this in order to ensure that the capital infrastructure continues and why we continue to keep employees that, as Ralph indicated, if they're laid-off, may go on to social services, Medicaid, homelessness, and other things that we may have to pay for as a result of them being laid off and the one example that he gave with two individuals of the same

family, they're both, as of July, their family income will be coming in, none of them will be working.

MR. ANDERSON: I think--

COUNCIL MEMBER JACKSON: So I'm just trying to come up with a solution how we deal with this.

MR. ANDERSON: I think, Council Member Jackson, you've raised a very important point here, and that's about balance in government and when government goes too far in one direction to the exclusion of others, like we did in the 1970s away from an infrastructure program entirely, we paid a heavy price in the future. If you go too far away from social service programs or programs for the homeless, as many cities have done, and New York had some of those problems in the past, you pay a heavy price in the future. And that's what government is all about, making tough choices, making sure a great city stands for all of the things that are going to keep it great. And so I think the answer is balance and it's making those choices so that you continue to be a great city going forward.

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COUNCIL MEMBER JACKSON: And I know that I, as a member of this body, that must address this particular issue with the budget, and trying to find that balance knowing that the resources that we have coming in from the finance industry, coming in from the insurance industry, coming in from the real estate industry, coming in from tourism--all of those bases are shrinking and knowing that our spending, as far as personal service and pension and debt--all of that is going up based on contracts that we have with our municipal unions. How do we find that balance overall, and I'm just looking for suggestions from--DC 37 has come out with the fact that we should look at reducing the city's contracting out, that we contract out over what \$9 billion a year, and just this morning we had the Department of Finance in front of us where they said that they were going to cut out some of their contracting out and they called it in-sourcing and I called it, let's call it what it is, they're not going to contract out anymore and city employees are going to do the work. And they said they anticipate saving, just from the Department of

Finance 5.7 or \$5.8 million and I think that that's great, where it's going to keep city employees employed and also save money from the Department of Finance so they won't have to make other reductions. And I asked the comment and I ask you and I'm going to ask you and [off mic] if you have a comment, I heard this morning on the news that the General Motors was going to file for bankruptcy and the federal government was going to pour in \$30 billion in order to keep them afloat, and I asked, I think, the Finance Commissioner whether or not that was going to have an impact on us here in New York City. Do either one of you have an opinion on that whether or not, that will impact us here in New York City?

MR. ANDERSON: One impact is in a lesson and the lesson is that if you're not competitive in what you do with your peers, you don't stay in business very long. And we've found that in the building industry, design firms, contractors, subcontractors, real estate organizations--if they can't perform competitive services, then they really don't survive.

And I think what happened with

General Motors and the automotive industry and other industries is their costs got out of line and their competition was able to undercut them to gain market share and it really showed.

And this is true for municipal government as well. New York City can not be so costly compared to its competition around the world, around the country that we won't pay a price going forward. We are the highest cost construction environment in the United States by far, we've gotten away with that because there was so much demand for organizations and people to come here, to visit here, to live here, but now with the economy tough, we cannot have, we can't sustain that kind of a cost structure and we have to find ways to bring down construction costs. I think there's a lesson in this and there's a lesson for New York, we cannot continue to give away very, very expensive benefits to the workforce, to others, and not pay a price, you have to be competitive and this is a lesson.

You can't just look around and say others should pay the bill, that might work in the short run, but in the long run it won't work. So

we all have a responsibility to be mindful of the bottom line.

MR. PALLADINO: Well actually I draw a different conclusion. Since the 1970s, if you look at the auto industry, there has been nothing but concessionary bargaining by the UAW. The UAW contract since the 1970s, since that seems to be a line we're drawing in the past, have been giving away one thing after another, and yet that still did not forestall the crisis in General Motors. As a matter of fact, it drove down the living standards of the people living in Detroit and Michigan.

If people do not receive a decent wage and do not get the benefits that, by the way, they gave up wages for and pensions that they gave up wages for, then they will not be able to contribute to the local economy. It is shortsighted to look at the troubles of GM as just the troubles of GM and competitiveness because this is a worldwide crisis we're in now.

The wealth distribution in this country is unlike the last century, there hasn't been a larger redistribution of wealth from the

bottom to the top and then culminating with what happened with Bush and the collapse that we're in now, now that says something. To me, that's the issue--all the money was going to the top few, 1%, and the rest of us have been losing. Real wages have dropped in the city and the country in the last decade almost, okay?

And the issue of taxation, by the way, fair taxes, I agree with what was said before that things have to change, that there's been too long of one side or the other, the pendulum swinging. Well the pendulum since Ronald Reagan has been tax breaks for the wealthy, that's been the pendulum and there's still politicians today stuck in the past that still want that, that don't want to raise taxes on the wealthiest people. The top rate in the state used to be 15% when George Pataki came in, it went down to six, they temporarily now are raising it to 9%. So a temporary 9% increase to 10% temporarily, but then they want state workers to get laid off permanently to give back benefits permanently--this is not fairness.

And by the way, workers are the

majority, working people and people unemployed are the majority, not the 1%. So let's have some democracy and let's have some fairness and then maybe we can turn this economy around.

COUNCIL MEMBER JACKSON: Well--

CHAIRPERSON WEPRIN: If I knew this was going to be such a lively debate at the end of the day, I might have sold tickets and we might've started it earlier.

COUNCIL MEMBER JACKSON: Well it's pretty ironic, we're ending our executive budget hearings today on June 1st, by the way, and our last two panelists are both representative of, one, the Building Congress is building construction people mainly, isn't that correct, Dick?

[Crosstalk]

CHAIRPERSON WEPRIN: ...also have significant labor representation, I might add.

COUNCIL MEMBER JACKSON: And in essence, the construction industry and then you have Ralph Palladino representing municipal workers of DC 37, which is the District Council 37.



And listening to both of you, I think that both of you are right and as I said that we have to find a solution where we can come together to ensure that all of us are taken care of during this economic crisis so we all, as members of our great city, survive and only through dialogue and listening and be willing to compromise are we are going to be able to do that. And so I think it's going to be a combination of what everyone said in order to make it work.

And I commit to you that I look forward to working with all parties in order to make sure that it works and one of the things, Dick and Ralph, that I don't know if you've known that I have taken a position that the proposed five-year capital plan by the Department of Education, which is budgeted for \$11.2 billion over five years, is not sufficient. It doesn't meet the needs of the students of New York City, and in fact, it's 2 1/2 billion dollars less than this current five-year plan, but it's a five-year plan, and it doesn't even take into consideration everything that needs to be done.

And one of the things under the

state Contract for Excellence is that they've mandated the Department of Education, the city of New York to make sure that the proposed five-year plan is in line with the Contract for Excellence as far as class-size, that's not done. So I've issued a situation and position that it's structurally flawed and as a result of that, I cannot support it. I feel that it needs to be more in building of more schools which would increase the construction work for members that you represent and others and what have you.

And so that's a dilemma that I'm in right now. Hopefully that will be resolved and, if not, here's one example where I'm going to have to vote no because as far as new additional seats in the proposed five-year plan, if you know anything, and Manhattan has 1.5 million people living in it right now, and as you know, the city of New York is going to grow over the next 10 years. There's not one seat that is expected to be built in upper Manhattan, not one seat on the upper West side, not one seat in midtown or on the Westside, not one seat in lower Manhattan, the only seats that are going to be built are in

District 2, which is Greenwich village and part of the upper East side. The need is definitely there, I'm not saying it's not there, but there's needs in other parts of this district, of the borough and the city and, under the proposed five-year capital plan, only two high schools are expected to be built over the next five years--totally inappropriate, inefficient for the needs of our great city.

So I'm looking forward to hopefully that the capital plan by the Department of Education will increase and that will increase construction and will mean continuation of jobs and what have you, and eventually employees at DC 37 and also giving our children, the future leaders of our great city, the opportunity for a quality education.

MR. ANDERSON: You know, one thing you might suggest, Mr. Jackson, is a longer range capital needs review or assessment by the Department of Education. The Metropolitan Transportation Authority doesn't just do a five-year capital program, it does a 20 year needs assessment and there's no reason why a great city,

with the vast educational establishment we have, shouldn't have a 20-year assessment, and that would provide a framework and would give you some assurance that they're really looking at the true maintenance and expansion and other capital needs of the total educational system. And this could be done and should be done in conjunction with the 10-year capital strategy for the entire city. So you'd have a five-year capital program, the 10-year capital strategy, and maybe, just for education, because it's so especially important, you could do a 20-year look and this might give you some assurance, they might not be able to fund enough to satisfy you, but at least you would know that the framework is there.

COUNCIL MEMBER JACKSON: You know, maybe then, Dick, I should make you or if I was the Mayor, I would appoint you as the president of the School Construction Authority, because clearly--and I'm not being funny--clearly I have said, tell me what the needs are in total, the least we would know and then tell me what's the game plan to make sure that we have enough seats for every child in the system, enough seats to

meet the class-size mandates by the state of New York, enough money to make major repairs, because right now under the five-year capital plan, there are five levels of repair, one being the lowest and five being the highest, there are only, under the proposed five-year plan, only going to repair level 5, no 4s and no 3s, that just doesn't make sense to me. And so I said tell me what it would take, would it take \$100 billion? Or 150 or 80? And then tell me what your game plan is, like you said, over 20 years. Are we going to spend 10 million, 15 million over this five years, another 15 million? So at least you know from a framework point of view, but we don't have that.

And that's one of the reasons why I say this plan is structurally flawed because there's really no game plan in order to map out what the true needs are. So you're basically saying what I've been asking all along and I appreciate--now I didn't cue you in on this beforehand--

MR. ANDERSON: No, sir.

COUNCIL MEMBER JACKSON: --but any-

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MR. PALLADINO: You didn't give him  
questions?

COUNCIL MEMBER JACKSON: No.

MR. ANDERSON: No.

COUNCIL MEMBER JACKSON: Any, in my  
opinion, from a commonsense framework point of  
view, that's what you have to have.

MR. PALLADINO: But can I add one  
thing? I mean, I agree with that--

COUNCIL MEMBER JACKSON:  
[Interposing] And the Chairman said I only have  
one more minute.

MR. PALLADINO: --and the thing is--  
-

CHAIRPERSON WEPRIN: [Interposing]  
I think we're in overtime already. What Mr.  
Anderson said about the 20-year capital plan, we  
could probably take bets as how many executive  
directors would serve during that period.

MR. PALLADINO: But I think the  
same thing is--

MR. ANDERSON: [Interposing] That's  
why you need it.

MR. PALLADINO: Right, but the same

thing is true in health care, there's no planning either, but the other thing we're going to need is revenues. If you don't have the money, you could all the plans out you want, if you don't do the revenue and then you're not--where is the money going to come from if you keep cutting down the workforce? And how is that could generate anything? Okay? The New York Times last Saturday or Sunday, the editorial about California is instructive because if you go back--last week, not yesterday--and read it, it says during this kind of a period recession time cuts and tax increases are not the best way to go, but if you have to do one or the other, it is better to do the tax increases, to generate the revenue to get us out of the crisis and I just wish some people in New York were listening.

COUNCIL MEMBER JACKSON: Well this is what the New York Times reported--

MR. PALLADINO: Yes.

COUNCIL MEMBER JACKSON: --with respects to California.

MR. PALLADINO: And this was not Paul Krugman, our editorial, this was an editorial

from the New York Times last Sunday. My  
apologies--

COUNCIL MEMBER JACKSON:

[Interposing] I want to thank both of you--

[Crosstalk]

COUNCIL MEMBER JACKSON: --for

coming in on the last day of budget hearings and I  
appreciate the dialogue that we have had with the  
both of you and I look forward, along with  
Chairman Weprin, look forward to working with both  
of you in order to come up with solutions to work  
together in order to ensure both our capital plans  
continue and employees continue to work.

CHAIRPERSON WEPRIN: On that note,  
we're about to conclude fiscal 2010 executive  
budget hearing.

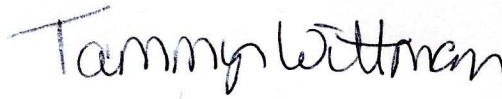
We were joined by Council Member  
Joel Rivera and Council Member Oliver Koppell.  
And we are now adjourning the last day of 2010  
executive budget hearings.

[Off mic]



C E R T I F I C A T E

I, Tammy Wittman, 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 black ink that reads "Tammy Wittman". The signature is written in a cursive style with a large initial "T".

Signature\_\_\_\_\_

Date June 24, 2009