

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

JOINT COMMITTEES ON FINANCE AND ENVIRONMENTAL
PROTECTION

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April 28, 2009
Start: 10:47 am
Recess: 2:35 pm

HELD AT: Council Chambers
City Hall

B E F O R E:

DAVID I. WEPRIN
JAMES F. GENNARO
Chairperson

COUNCIL MEMBERS:
Diana Reyna
Gale A. Brewer
Leroy G. Comrie, Jr.
Bill de Blasio
Lewis A. Fidler
Alan J. Gerson
Eric N. Gioia
Robert Jackson
G. Oliver Koppell
Helen Sears
David Yassky
Vincent J. Gentile
Vincent Ignizio

A P P E A R A N C E S

COUNCIL MEMBERS:

James S. Oddo
Domenic M. Recchia, Jr.
Peter F. Vallone, Jr.
Mathieu Eugene
Elizabeth Crowley
Eric Ulrich

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

Steven Lawitts
Acting Commissioner
New York City Department of Environmental Protection

Alan Moss
Chair
New York City Water Board

Helen Marshall
Borough President

Marcia Van Wagner
Deputy Comptroller for Budget
New York City Comptroller

Hershel Weiss

Ed Korman
Executive Vice President
Small Property Owners of New York

Jackie Monterosso
Communications Director
Rent Stabilization Association

April Tyler
State and local Campaigns Coordinator
Neighborhood Economic Development Advocacy Project

Corey Bearak
Queens' Chamber of Commerce
Queens' Civic Congress

Mary Ann Rothman
Council of New York Cooperatives and Condominiums

Heather Hughes
Water Consultant
Ashokan Water Services

Harold Shultz
Citizens Housing and Planning

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3 CHAIRPERSON GENNARO: Okay. We're
4 going to start.

5 SERGEANT-AT-ARMS: Quiet, please,
6 kept it down, find a seat.

7 CHAIRPERSON GENNARO: You ready,
8 sir? Okay. Good morning, I'm New York City
9 Councilman Jim Gennaro, Chair of the Committee on
10 Environmental Protection. This is a joint hearing
11 with the Finance Committee also. Chairman David
12 Weprin will be here very shortly, he has asked
13 that we not further delay the hearing and move
14 forward, we're happy to do that to get the
15 testimony of some of the good people who are going
16 to be here today.

17 To focus on, of course, the topic
18 of this hearing which is the water rate increase.
19 Fourteen percent has been proposed, last year it
20 was 14 and a half, double-digit rate increase the
21 year before that, and my committee and David's
22 committee, the Finance Committee has been very
23 focused on this issue, particularly with regard to
24 some of the payments that are made by the Water
25 Board to the City for payments that--payments to
the City from water and sewer rate revenues that

3 do not relate to water and sewer. This has been a
4 topic of controversy, it was spoken to last year,
5 it was spoken to the year before that, it's fine
6 to try to speak to it, it's certainly a different
7 matter to actually do something about it. And we
8 are here to see what we can do to benefit water
9 and sewer rate payers who are struggling in this
10 bad economy to make ends meet and double-digit
11 rate increase after double-digit rate increase is
12 too much for the water rate payers of New York
13 City to bear.

14 So we're here today to press the
15 case on this issue, to talk to the DEP, to talk to
16 the Water Board, and to also ask a question of our
17 own institution as to whether or not we're willing
18 to do what needs to be done on our side of the
19 house to really take on this issue head-on and
20 find out what we do about the rental payment
21 residual. If we cut down on the rental payment
22 residual that gets paid to the city, then we're
23 going to have to do something about it and we're
24 going to have to fill that budget gap. And so
25 these are questions for all of us to ponder,
hopefully we'll make good progress on these

3 questions during this hearing.

4 Before I introduce the panel who is
5 here before us today, I want to recognize the
6 members that are here. Starting from the desks in
7 the front, Council Member Vallone, Council Member
8 Crowley, Council Member Koppell, Council Member
9 Gioia, Council Member Comrie, Council Member
10 Jackson, Council Member Vacca, Council Member
11 Sears, Council Member Brewer. We'll be joined by
12 other members of the Committees on Environmental
13 Protection and Finance as we go forward.

14 I want to thank all of the good
15 staff that helped to put this hearing together
16 today. We have the Finance staff, we have the
17 Committee on Environmental Protection staff, David
18 Weprin's staff, my staff, too many staff to
19 mention, but they all know who they are and we
20 love them very much and we thank them for their
21 work.

22 We're going to be treated today
23 also by the testimony of Borough President
24 Marshall who is here, we're happy to have Borough
25 President Marshall in the house, a former member
of this body and a former member of the Committee

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3 on Environmental Protection and a real good member
4 of that committee if I do say so myself, I worked
5 for that committee at the time.

6 We're fortunate to be joined by
7 Acting Commissioner Steve Lawitts of DEP, who also
8 serves as Director of the Water Board, I think is
9 the title--yes, Executive Director of the Water
10 Board and Alan Moss, the Chairman of the Water
11 Board, grateful to have you here, Chairman Moss.
12 We look forward to your testimony, we have lots of
13 questions here from the members and we look
14 forward to your statement and look forward to
15 giving you the opportunity to answer questions.

16 And, with that said, I'd ask you
17 both to state your names for the record and
18 proceed with your good testimony.

19 COMMISSIONER STEVEN LAWITTS: Thank
20 you, Mr. Chair. Good morning, Chairman Gennaro,
21 members of the Environmental Protection Committee
22 and the Finance Committee, Borough President
23 Marshall.

24 My name is Steven Lawitts, I'm
25 Acting Commissioner of the New York City
Department of Environmental Protection. Sitting

3 at the table with me is Alan Moss, the Chair of
4 the New York City Water Board.

5 I want to thank you for the
6 opportunity to testify before you this morning
7 and, as you can see, there's a screen here we're
8 going to have some slides accompany my prepared
9 remarks. In the interest of time, we'll be doing
10 these two things in parallel--multi-tasking.

11 As you know, and as you indicated,
12 Mr. Chair, the Water Board is proposing a 14%
13 water and sewer rate increase for fiscal year
14 2010. Particularly now, we understand that any
15 increase may be difficult for many of our rate
16 payers, so we do not make this proposal lightly.
17 The increase we have proposed is what is needed,
18 not only to meet our legal obligations to state
19 and federal regulatory agencies, but also to
20 maintain New York City's water supply system as
21 one of the best in the world and an unparalleled
22 resource for all New Yorkers, now and in the
23 future.

24 Like every City agency, DEP has
25 taken significant cuts to its capital and
operating budgets. For the fiscal year 2009 we

1
2 reduced our spending in our operating budget by 46
3 million and in fiscal year 2010 we have already
4 cut 24 million and we continue to pursue savings.

5 The proposed rate increase for
6 fiscal year 2010 is primarily driven by increases
7 in the debt service we pay on our largely mandated
8 capital program, as well as a largely
9 nondiscretionary operating budget, which includes
10 critical items such as energy, fuel, and
11 chemicals. This year, the proposed rate is also
12 being driven by an unanticipated and significant
13 decline in consumption, which has had an impact on
14 revenues.

15 Later in my testimony, I will
16 address each of these issues in more detail, share
17 highlights from the past year, and address various
18 questions that are sometime raised in connection
19 with the rate.

20 Though our City and our Department
21 face economic challenges that are very much
22 influencing the way we do business, the Bloomberg
23 Administration is arguably presiding over the most
24 important period of revitalization for New York
25 City's water and wastewater infrastructure since

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3 the creation of the post-World War II Delaware
4 Water Supply system and the post-1970s
5 transformation of our Waste Water Treatment
6 System.

7 Under Mayor Bloomberg, DEP's actual
8 and planned capital commitments have totaled 21
9 billion and have provided for key water quality
10 and water supply projects. As a result of this
11 investment, and thanks to the support of Speaker
12 Quinn and Chairman Gennaro for our land
13 acquisition program, in 2007 the city was granted
14 an historic 10-year Filtration Avoidance
15 Determination, or FAD, for the 90% of our water
16 supply that comes from the Catskill and Delaware
17 systems.

18 Harbor water quality has also
19 improved dramatically, and is now at the best in
20 over 100 years, based on 100 years of scientific
21 sampling data. In fact, this year, we will mark
22 the centennial anniversary of that program.

23 Funding outlined in the agency's
24 10-year capital plan will only continue these
25 successes.

The Third Water Tunnel, the Croton

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3 filtration plant, the Ultra Violet Treatment
4 Plant, land acquisition and infrastructure support
5 for the Filtration Avoidance Determination,
6 sweeping changes to the Newtown Creek Waste Water
7 Treatment Plant, and preparation to fix the
8 Delaware Aqueduct are just a few of the agency's
9 significant ongoing projects.

10 These projects are ambitious and
11 forward-thinking. They are in the best traditions
12 of the engineers who, more than 150 years ago,
13 began building one of the greatest water supply
14 systems in the world, and, as envisioned in
15 PlaNYC, they will ensure that this system can
16 support an additional population of one million
17 people by 2030 and remain viable for generations
18 to come. Investment in our system is essential
19 and our existing infrastructure, some of which is
20 120 years old or more, sets the standard for
21 future work.

22 However, we are also acutely aware
23 that we are making these investments at a time
24 when our account holders are particularly
25 concerned about their personal finances and are
facing increases in many of their living expenses.

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3 Given that reality, this might be a time to
4 consider stretching out the planned capital
5 program. For the most part, however, we do not
6 have the option to slow or reduce this program of
7 capital investment. Since most of our major
8 projects are mandated, we must build them on a set
9 schedule, which means that in some cases we end up
10 paying significant debt service on several large
11 projects at once. In the past, mandated projects
12 would have been largely paid for by federal or
13 state aid, but that aid has declined, and was
14 effectively eliminated in the end of the 1990s,
15 even as mandates have increased.

16 And as the capital plan has grown,
17 we have also begun committing a higher percentage
18 of the plan. Whereas between fiscal years 2003
19 and 2006, an average of \$1.8 billion, or 73% of
20 the plan was committed each year; over the last
21 two fiscal years, we have committed an average of
22 93%, or \$3.4 billion, each year. While this is
23 good, and it means that DEP is doing an even
24 better job of meeting its goals, it does mean that
25 there are more projects to pay for.

As a result of these rising capital

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3 needs, in fiscal year 2010, debt service and
4 operations maintenance expenses will comprise
5 equal shares of the anticipated \$2.96 billion
6 system cost, with debt service showing the largest
7 year-over-year increase.

8 Fortunately, because of interest
9 rate savings through our excellent bond ratings,
10 these payments, though higher than last year, are
11 still below budget because actual interest rates
12 on our bond issuances were lower than anticipated.
13 While our interest rate assumptions for fiscal
14 years 2009 and 2010 were in a range of 6.2 to
15 6.8%, actual issuances have ranged from 4.79 to
16 5.93%.

17 Though capital costs remain high,
18 it is undeniable that, in addition to the
19 fundamental benefits that these projects will
20 provide for the system, they also have a
21 tremendous stimulative effect. Looking only at
22 our three largest ongoing projects--the Croton
23 Water Filtration Plant, the Ultraviolet Treatment
24 Plant, and the Newtown Creek Wastewater Treatment
25 Plant--together they provide work for more than
1,700 contract construction employees and, by the

1
2 end of this summer, that number will grow to over
3 2,000 employees being employed on our three
4 largest projects. This is particularly important
5 to note as communities around the country strive
6 to take advantage of economic stimulus programs
7 created by the American Recovery and Reinvestment
8 Act, or ARRA.

9 In talking about stimulus, however,
10 I must mention that water infrastructure is unlike
11 many of the other major infrastructure categories
12 where states and municipalities automatically will
13 get a majority of the ARRA stimulus money in
14 grants. Since the water grant programs largely
15 ended in the 1990s, as I said previously, I am
16 particularly pleased to report that city
17 officials, DEP staff members, and staff from water
18 utilities around the country have worked with
19 federal and state officials to advocate that a
20 significant portion of the stimulus funding for
21 water infrastructure is allocated as grants. This
22 is a very important distinction because over time
23 it will help mitigate rate increases. To date,
24 New York State has been extremely responsive to
25 our concerns, and we are hopeful that moving

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3 forward, a large portion of available stimulus
4 funding will be distributed as direct grants.

5 Because the Council monitored
6 closely the transformation of our Bureau of
7 Customer Services, I know you'll be interested to
8 hear that the changes we made have had a tangible
9 benefit. As you know, over the past two years DEP
10 has worked to improve its Bureau of Customer
11 Services in order to compel delinquent customers
12 to pay, collect long overdue revenue, and provide
13 customers with more reliable and accurate billing
14 information. It is critical that everyone pay his
15 or her fair share, and, though many of these
16 initiatives are ongoing, serious delinquencies
17 among single-family homes have already declined by
18 nearly 10% since 2008, and by more than 15% among
19 multi-family properties. As a result, this year's
20 revenue decline is primarily tied to a drop in
21 consumption, and not to customer payments, as
22 would be the case in the past, and we are able to
23 propose a rate increase that is consistent with
24 what was projected more than a year ago prior to
25 any indications of an economic recession.

Last year's water lien sale, and

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3 the Payment Incentive Program that we offered to
4 delinquent customers prior to the lien sale,
5 brought in approximately \$100 million in
6 previously uncollectible revenue and started us on
7 the way to dramatically reducing the number of
8 long-term delinquencies. This year, 18,492
9 customers collectively owing \$180 million in
10 delinquent charges, were eligible for the lien
11 sale, with approximately 4,000 of those customers--
12 --the owners of mixed use properties and condos--
13 eligible for a new Payment Incentive Program. As
14 of the April 22nd 10-day listing for the lien
15 sale, 9,360 customers have paid a total of \$54
16 million, and \$25 million is now covered by new
17 payment agreements; 10,685 customers, and \$95
18 million in revenue, remain eligible for the May
19 4th sale. Of those customers eligible for the
20 Payment Incentive Program, 56% have taken
21 advantage of the payment incentive program, which
22 has yielded \$17 million in revenue.

23 Service termination notices have
24 seen similar success, with a 95% payment rate from
25 the 51 customers who were sent the first of this
year's 15-day notices on April 1st, and let me add

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3 that in the three weeks subsequent where we've
4 issued 15-day notices and have reached the service
5 termination deadline, we've had a similar success
6 rate where approximately 95% of the people
7 receiving the notices have paid us or signed
8 payment agreements before the service termination
9 date.

10 In addition, we have launched a new
11 automated outbound calling program to reach out to
12 chronically delinquent customers before
13 enforcement action is taken against their account.
14 To date, this program has been extremely
15 successful with \$9 million in delinquent revenue
16 collected between January and March alone.
17 Without these enforcement tools we would be
18 looking at a much more significant revenue gap,
19 which would undoubtedly have an impact on the
20 rate.

21 In recognition of the current
22 economic climate, we have implemented these
23 programs with sensitivity to the concerns of our
24 most vulnerable customers. Approximately 37% of
25 the Payment Incentive Program eligible customers
have opted to enter into payment agreements this

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3 year and, though payment agreements will only
4 yield 10% of delinquent arrears this fiscal year,
5 they offer these customers an opportunity to
6 spread out payments while ensuring that they will
7 now be paying regularly into the system. In
8 addition, working closely with the Council, last
9 year we created the Safety Net Referral Program
10 which connects low-income, senior, and disabled
11 customers with existing financial counseling and
12 social services at other city agencies. To date,
13 this program has served more than 1,500 potential
14 clients.

15 We are also in the process of
16 implementing several new programs that will
17 further enhance system equity and revenue
18 stability.

19 At the April 3rd Water Board
20 meeting we introduced denial of access and theft
21 of service charges for property owners who do not
22 provide access for our meter readers or where
23 deliberate tampering with city-owned metering
24 equipment has occurred. We are hoping to
25 formalize these regulatory changes at the May 15th
rate adoption meeting.

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3 In addition, DEP is currently
4 installing Automated Meter Reading, or AMR,
5 technology citywide, which will provide accurate
6 billing information and reduce the likelihood and
7 frequency of customer disputes. In other cities
8 that have implemented Automated Meter Reading in
9 conjunction with robust enforcement tools,
10 collection rates have surged as high as 99%. A
11 similar increase in New York City would increase
12 revenues substantially and could have a mitigating
13 impact on future rate increases.

14 As pleased as we are about the
15 performance of our enforcement tools, there have
16 also been some challenges in the last year. One
17 of the biggest challenges has turned out to be an
18 unforeseeable and dramatic 6% drop in water
19 consumption. Because consumption rose citywide in
20 fiscal year 2008, this decline was particularly
21 difficult to predict. If this unprecedented trend
22 continues, fiscal year 2009, the current fiscal
23 year, will mark the lowest water usage year since
24 the severe droughts of the 1960s. DEP plans for
25 reductions in usage based on historical data, but
such a large unplanned decrease does have an

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3 impact on the rate. The fiscal year 2009 decline
4 in consumption is expected to account for
5 approximately 80% of the decline in revenues that
6 we are currently experiencing.

7 The drop in water consumption
8 mirrors other indicators of the overall economic
9 downturn. More than 8,000 financial and business
10 services jobs have been lost since last year,
11 ridership on many of the MTA's lines has declined
12 in recent months, Manhattan commercial occupancy
13 rates and condo sales have also decreased, and
14 hotel occupancy rates have declined as well.

15 Last year, our rate was influenced
16 by the skyrocketing cost of energy and chemicals.
17 In addition, we experienced the negative effects
18 of one of the most extreme periods of construction
19 inflation in recent memory. The construction
20 market was so competitive that we were not only
21 competing against other city and regional projects
22 in both the public and private sectors for the
23 same bidders, but also against ourselves. As a
24 result, all of our bids came in high. Last year,
25 for instance, we awarded two of the largest
construction contracts in city history. The high

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3 cost of construction over the past few years will
4 continue to have an effect over the next few years
5 as our debt service grows. We are pleased,
6 however, that construction costs do appear to be
7 coming down, which should have a beneficial effect
8 on rates in the future.

9 In recognition of rising system
10 costs, this year we have worked to reduce our
11 operating budget and have already cut it by 5%, as
12 have other city agencies, putting us on track to
13 save \$46 million in fiscal year 2009, the current
14 fiscal year. We have also identified \$24 million
15 in cuts in our fiscal year 2010 operating budget
16 and continue to look for further reductions.

17 We identified these savings in
18 areas that would not affect drinking water
19 quality, wastewater treatment, or our extensive
20 environmental health and safety program. Cost
21 saving initiatives currently underway include:
22 reduction in equipment purchases; limitation of
23 administrative expenses; reductions in contract
24 services, such as cleaning and security;
25 reevaluation of the dosage of chemicals and
testing of alternatives; reduction in the number

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3 of non-emergency light-duty vehicles; reduction in
4 the number of part-time employees; and examination
5 of the fee schedule for various permits issued by
6 the agency.

7 Now I would like to address three
8 issues sometimes raised concerning the financing
9 of water and sewer system: the rental payment,
10 reimbursements to other agencies, and the rate
11 study, and, I believe, Mr. Chair, that you had
12 identified these same issues in your opening
13 remarks.

14 First the rental payment. The
15 rental payment covers the cost of general
16 obligation bonds that were issued by the city
17 before the creation of the Water Finance Authority
18 and the Water Board to cover the portion of the
19 general obligation bonds that were being directed
20 at the water system at the time. The rental
21 payment also provides security for the bonds and
22 covers the cost of services provided by the city.
23 Unlike other utilities in this city, such as Con
24 Ed, DEP does not pay taxes for the services we
25 receive from other city agencies. One of the
things that the Water Board's ongoing rate study

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3 has determined is that most large water utilities
4 make a similar payment to their municipalities.

5 In fact, many large utilities pay substantially
6 more to their host municipalities than DEP does,
7 and, in most cases, they do not get as many
8 service in return as we do. We know that the
9 rental payment has been a subject of concern and
10 interest to many of our elected officials,
11 including you, Chairman Gennaro and Chairman
12 Weprin has also stated this as a concern of his.

13 We are currently conducting a
14 comprehensive rate study--an effort that began
15 last year. The study will consider, not only the
16 rental payment, but will also allow us to better
17 understand the rate structures that are employed
18 by other large cities. In doing so, we have
19 collected data on over 25 water and wastewater
20 utilities nationally--those that are most
21 comparable to us in size and complexity--and we're
22 currently analyzing and comparing those with New
23 York City. In our analysis, we are evaluating
24 alternative structures, such as fixed charges,
25 conservation rates, and storm water rates, with
regard to equity among our different customer

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3 classes, financial stability, affordable housing
4 stock, water conservation goals, storm water
5 management and rate payer sensitivity. In other
6 cities that have implemented major structural
7 changes to their rates, this process of evaluation
8 has taken many years. Though former Commissioner
9 Lloyd had originally said in response to a
10 question that work on the rate study would be
11 sufficiently advanced to influence the fiscal year
12 2010 rate. Last fall we made it clear that our
13 rate study would require a longer period of time
14 and that its findings would not impact this year's
15 rate setting.

16 Nevertheless, we are looking
17 forward to coming back to the Council, the Water
18 Board, and the interested public with proposals
19 later this year. We have already met with
20 stakeholder groups and plan to do so again shortly
21 to update them on the work and get their feedback.
22 We look forward to discussing the results of the
23 study with you as the analysis continues over the
24 coming year.

25 And, finally, on the topic of
reimbursements, there has also been some

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3 misunderstanding regarding payments made by DEP to
4 other agencies. These payments, known as city
5 direct payments, or reimbursements, cover specific
6 services which DEP would otherwise have to hire
7 staff to perform. For instance, the fire
8 department conducts hydrant inspections with
9 existing staff and the sanitation department does
10 street sweeping that the city is mandated to do as
11 part of a consent order to control floatables.

12 For those of you who are not familiar with this
13 term, it's a nice sounding term, but it's street
14 litter that is washing into the sewers and
15 overflows in heavy rain conditions and causes
16 litter to back up on the beaches among other
17 things, and it is also something that ends up in
18 our wastewater treatment plants and makes the very
19 complex systems even more difficult to maintain.

20 It is more important to bear in
21 mind that even with the proposed increase, New
22 York City's water and sewer rates will still be
23 lower than 8 of the 24 large cities in the nation.
24 To put this into another context, water is just
25 about the only major expense and component of the
cost of living in New York City that is lower than

3 the national average.

4 I want to thank you again, Mr.
5 Chair and members, and I would be glad to answer
6 any of the questions. I look forward to
7 continuing to work with the Council to keep New
8 York City's water system one of the best in the
9 world.

10 CHAIRPERSON GENNARO: Thank you,
11 Commissioner Lawitts, Chairman Moss, appreciate
12 your testimony. We have questions for you, I just
13 want to recognize some of the members who have
14 come in since you started your statement.

15 [Off mic]

16 CHAIRPERSON GENNARO: Council
17 Member Eugene, right on cue, right on cue, Council
18 Member Eugene. Council Member Fidler, Council
19 Member Gentile, Council Member Bill de Blasio,
20 also right on cue. Council Member Ulrich, Council
21 Member Ignizio. We thank all these members for
22 being here, for participating in the hearing.

23 And let me just return briefly to
24 the issue I mentioned in my opening statement
25 regarding the rental payment and, just to get the
numbers down for the current year that we're in

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3 now, FY '09, the rental payment that presumably
4 will be made at the end of this fiscal year to the
5 administration, not counting reimbursements, which
6 is a totally separate number, what will that
7 number be for the end of '09?

8 COMMISSIONER LAWITTS: Yes, yes,
9 Mr. Chair, for the current fiscal year and. as you
10 had indicated in your opening remarks, there are
11 three components to the rental payment. There is
12 the total rental payment, which is, as of the
13 beginning of this month, estimated to be 160
14 million, and, as you know, Mr. Chair, because the
15 total rental payment is a function of the debt
16 service on water finance authority debt, that
17 rental payment number does change from time to
18 time as new debt is issued. The number has been
19 moving down during the course of the fiscal year,
20 it started as a higher number than 160, but as of
21 the beginning of this month, it's estimated to be
22 160 million. Of that total, 54 million is needed
23 to pay the debt service on outstanding general
24 obligation bonds issued before 1985 to fund
25 improvements to the water system. That would
leave a residual of approximately \$106 million.

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3 CHAIRPERSON GENNARO: Right. And
4 for fiscal year 2010, this would be a projection
5 of what the total rental payment would be, the
6 pre-1985--

7 COMMISSIONER LAWITTS: Right.

8 CHAIRPERSON GENNARO: --debt
9 service and the residual.

10 COMMISSIONER LAWITTS: Right.

11 CHAIRPERSON GENNARO: What would be
12 the estimates for those?

13 COMMISSIONER LAWITTS: Yes, the
14 estimates, again, as of the beginning of April
15 were a total rental payment next year of \$198
16 million, the general obligation debt service of
17 approximately \$67 million, leaving a residual
18 rental payment of approximately \$132 million.

19 CHAIRPERSON GENNARO: Right. And
20 that \$132 million would, if you think in terms of
21 for every rate point increase generating somewhere
22 in the vicinity of like 22, 23, 24, \$25 million,
23 something like that, something in that range,
24 right? What's the current number we're working
25 with--

[Crosstalk]

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3 COMMISSIONER LAWITTS: Right, with
4 a current system cost in this fiscal year of
5 approximately \$2.5 billion, each point on the rate
6 is approximately \$25 million.

7 CHAIRPERSON GENNARO: Twenty-five
8 million dollars, so the rental payment residual of
9 132, little more than five points on the rate
10 right there with the residual, right? 'Cause five
11 points on the rate would be 125 million, so a
12 little more than five points on the rate for the
13 residual. And therein lies the problem of why the
14 Water Board and DEP and, frankly, our side of City
15 Hall also have to figure out what we do to make
16 this a little more sustainable, a little more
17 fair. As I like to point out from time to time,
18 this is our little shopworn chart here from years
19 past where we kind of break the rental payment
20 down into the component that is depicted in blue,
21 that would be the portion of the rental payment
22 that goes to pre-1985 debt and the red shaded part
23 of the graph would be that part of the rental
24 payment that goes into the city's general fund and
25 within the next couple of years, the pre-1985 debt
will go to zero and the rental payment residual,

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3 which would be 100% residual at this point, gets
4 north of \$300 million and leading to significant
5 rate increases every year just to--this can be, if
6 people want to pass this around and whatever, take
7 a look at it, there you go, Pat, you got it--and
8 this phenomenon of the residual which didn't exist
9 only a couple of years ago, up until a couple of
10 years ago, the full rental payment went to pay
11 pre-1985 debt service and that was back when--well
12 it's a whole history of how this started when the
13 rental payment was first started, it was supposed
14 to be for the pre-1985 debt service or it could be
15 driven by 15% of the Water Finance Authority debt,
16 whichever is greater. Several years ago, the 15%
17 of the new debt service became greater than the
18 pre-1985 debt service leading to the situation
19 where the rental payment had two components, that
20 for the pre-1985 debt and that for the residual.

21 We're joined by Chairman Weprin,
22 we're happy to have him with us here today.

23 And so this is something clearly
24 that we have to do something about because I don't
25 think anyone can really envision a day where we
have a rental payment to the general fund of \$300

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3 million and we'll have to raise water rates and
4 untold amount of a percentage point just to cover
5 that, so it's not something which is really
6 sustainable, something that we have to do
7 something about, something that we've been talking
8 about for the last couple of years and now we're
9 on the precipice of the third double-digit rate
10 increase in a year and this wouldn't be a double-
11 digit rate increase but for the rental payment and
12 residuals.

13 So all that said means that we have
14 to do something about it, you indicated in your
15 statement, Commissioner, that the rate study will
16 speak to this--a little echo going on here in the
17 chamber all of a sudden--that the rate study will
18 speak to the rental payment. I'd like to ask you
19 what you think the rate study will find with
20 regard to what we can do about the rental payment
21 and also whether or not DEP and the Water Board
22 are willing sort of this year to make some kind
23 of, at a minimum, a gesture towards taking less
24 than the full rental payment just to show the rate
25 payers of the city of New York that we're serious
about speaking to this issue and whether or not

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3 that's something that the rate payers can expect
4 in the rate setting this year. So those are the
5 two questions, what will the rate study--what do
6 you think the rate study will say about what we do
7 with the rental payment to make it fair and
8 somehow sustainable, and whether or not the rate
9 payers can expect something in the way of some
10 rental payment relief in that the administration
11 would be willing to take less than the full rental
12 payment this year? Those questions are for either
13 of the panel members and so there you have it.

14 COMMISSIONER LAWITTS: Okay. Well
15 let me attempt to answer the question first, Mr.
16 Chair.

17 CHAIRPERSON GENNARO: Sure.

18 COMMISSIONER LAWITTS: The rate
19 study, and we will, as I indicated earlier, be
20 having a fuller public discussion of it in the
21 next two months. One of the things it shows, as I
22 indicated earlier, is that New York's rental
23 payment, the rental payment that the New York
24 water system makes to the city of New York, is by
25 no means unique to New York, it's not peculiar to
New York, it exists in similar form in many other

3 water utilities across the country. And if you
4 look at some measures, New York's rental payment
5 as a percentage of total system revenues, we're in
6 the range of what other water utilities pay to
7 their host cities, we're about in the middle of
8 the range. And, as I had indicated earlier, for
9 the amount we pay or in exchange for the rental
10 payment, we do receive a host of city services--
11 police protection, fire protection, use of streets
12 that DOT maintains and so on.

13 And I would just want to say one
14 more thing about the rental payment, setting aside
15 what the final disposition is of the residual at
16 the end of the fiscal year that the currently
17 applied formula, which is prescribed in the state
18 law that established the Water Finance Authority
19 and established the Water Board, that provides for
20 the rental to be based on 15% of Water Authority
21 debt service does provide additional reinsurance
22 to bond investors and bond rating agencies.
23 During the course of the fiscal year, it provides
24 additional coverage should any other unexpected
25 condition otherwise impede our ability to pay our
debt service, fortunately, that has never occurred

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3 and our bonds, as I had indicated earlier, receive
4 the highest rating possible that the rating
5 agencies give--AAA from Standard & Poor's, for
6 example.

7 And as to what becomes of the
8 residual rental payment and so that that is the
9 part that's within the discretion of the
10 administration to demand on the last day of the
11 fiscal year, in part or in whole, I think the
12 answer to that, Mr. Chair, needs in part to be
13 looked at in relationship to the other pieces of
14 the rate equation, which are some of these
15 potential structural changes that we spoke of that
16 are undergoing analysis that will be discussed
17 thoroughly in public in the months to come, such
18 as a fixed charge component, a storm water
19 component, a conservation incentive rate. So we
20 need to, I think, look at a whole equation to see
21 if any of these other structural changes will
22 provide the revenue necessary to fully pay for the
23 system cost while mitigating the year-to-year
24 percentages that our rate payers have had to
25 endure.

Having said that, and with the

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3 executive budget to be released in the next two
4 weeks approximately, I can't speak completely on
5 behalf of the administration and the city's Office
6 of Management and Budget, and I think, Mr. Chair,
7 as you and, Chairman Weprin, as you had indicated
8 yesterday evening that it's not that I can't speak
9 on behalf of the entire administration in terms of
10 this, what essentially is a citywide budget
11 decision about the portion of the residual payment
12 that flows to and eventually is retained in the
13 city's general fund on the last day of the fiscal
14 year.

15 CHAIRPERSON GENNARO: Well thank
16 you, thank you. The difficulty that I'm having,
17 and I think that my committee and the Council is
18 having is that the whole notion of the rental
19 payment leaving the system, going to the city's
20 general fund, this is, as I indicated, a
21 relatively new phenomenon, we manage to run a
22 really good water and sewer system for many
23 decades without a residual payment going into the
24 city's general fund and difficult to make people
25 understand, 'cause I can't even understand it,
something that didn't use to exist, we did fine.

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3 In the last couple of years it has come into being
4 and now when you look at the graph, these numbers
5 are climbing out of sight very quickly and we have
6 to figure out some way to deal with it because in
7 this current year coming up we're going to have
8 about--in fiscal year 2010, about \$132 million
9 leaving the city, going to other parts of city
10 government and that's not a flat or static number,
11 it'll be going up in nominal amounts in the actual
12 numbers, in terms of a percentage of revenues that
13 may be different story, but 106 this year, 132 in
14 2010, and within a couple of years over \$300
15 million.

16 And what I would like to see is the
17 administration and the Water Board and our own
18 institution make this a budget priority for how we
19 can figure out how to help rate payers and we are
20 part of the equation here also because we have to--
21 -if we're going to say, okay, we want the
22 administration to take less of a rental payment at
23 the end of the year, less of a residual, where
24 there's \$25 million less or \$50 million less or
25 \$75 million less or \$100 million less, that \$100
million has got to come from someplace and we're a

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part of certainly making that happen.

3 So, Commissioner, Mr. Chairman, Mr.
4 Chairman, I think there's got to be a commitment
5 from this Council and from the administration and
6 the Water Board to figure out a way to make this
7 unsustainable rental payment somehow sustainable,
8 somehow fair and that should be our quest. Will
9 you join us in this quest, Commissioner?

10 COMMISSIONER LAWITTS: Yes, Mr.
11 Chair, well, both Mr. Chairs--

12 CHAIRPERSON GENNARO: Right.

13 COMMISSIONER LAWITTS: --Chairman
14 Gennaro and Weprin and you've both in the last 24
15 hours used the term sustainable and I think it
16 certainly is a cause for concern that, with the
17 formula for establishing the total rental payment
18 being a function of debt service and because of
19 the needs of our capital program, a largely
20 mandated capital program, but in any event the
21 largest capital program of any city agency that,
22 with every expectation that the capital spending
23 will grow over the coming years, that the debt
24 service as a result will also grow and that with a
25 legislated formula that ties the rental payment to

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3 the debt--

4 CHAIRPERSON GENNARO: Right.

5 COMMISSIONER LAWITTS: --service,
6 the issue of water rate sustainability is at the
7 heart of your question. So it is a question of
8 how long into the future can the rate be
9 sustainable if a part of the rate is, to the
10 extent that the residual rental payment continues
11 to be paid entirely into the general fund at the
12 end of the fiscal year as opposed to reinvesting a
13 portion of it--

14 CHAIRPERSON GENNARO: Yes.

15 COMMISSIONER LAWITTS: --in the
16 water system.

17 CHAIRPERSON GENNARO: Yes, that's
18 what has to be determined and it would be better
19 for the rate payers of New York City if that were
20 determined. This year, we made sort of a down
21 payment on that commitment to the water and sewer
22 payers.

23 I'd like to ask Chairman Moss a
24 direct question regarding the thinking of the
25 members of the Water Board on rental payment
residual. With the full understanding that

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3 currently this is something that's in your lease
4 and, like any good tenant, you're trying to pay
5 your rent and if you're obligated to pay the rent
6 then that's what all leaseholders do is pay their
7 rent and the Water Board, as a leaseholder, is no
8 different. But to the extent that the--I think
9 it's incumbent upon the members of the Water Board
10 opine on this matter to the administration and to
11 the Council, quite frankly, that the Council and
12 the administration jointly should figure out a way
13 to ride this bull, and so is there a sentiment
14 among the members of the Water Board to opine on
15 the not sustainability of the current rental
16 payment formula and to beseech the administration
17 and the Council to help? What is the sense of the
18 Water Board on this issue?

19 CHAIRMAN MOSS: The sense of the
20 Water Board right--by the way, I just want to say
21 it's been eight years since I've been before the
22 Council.

23 CHAIRPERSON GENNARO: Welcome back,
24 welcome back, Chairman Moss. And also if you
25 could speak directly into the microphone, too,
it'd be helpful.

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3 CHAIRMAN MOSS: Okay. Is that
4 better?

5 CHAIRPERSON GENNARO: Yes.

6 CHAIRMAN MOSS: The sense of the
7 Water Board members is that they want to be
8 educated, they want to be educated on the
9 background and what other jurisdictions are doing
10 and what's going on in the world of water supply
11 rates and water and sewer rates.

12 What we have is a formula that was
13 set up, I believe, in the Koch Administration, it
14 was Francis McCartel and Mark Page that were
15 involved in the creation of this tripod [off mic]
16 arrangement--the Water Authority, the Water Board,
17 and the Department of Environmental Protection.
18 That's been operating now for about 25 years and
19 after 25 years it makes sense to take a look,
20 stop, see what you're doing and see if there's any
21 way of doing it better. It's our belief that you
22 can always do something better and what we want to
23 do is, with this rate study, use this as a vehicle
24 to be able to improve, if we can, on what are
25 doing, taking into consideration all of the
testimony that we've heard so far at the hearings

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3 and--which probably will continue, certainly the
4 remarks that you've made move us to be sensitive,
5 aware, and concerned about what we're doing and if
6 there's any way of doing it better.

7 CHAIRPERSON GENNARO: Thank you,
8 thank you. I certainly would agree with the need
9 to take a serious look at everything that goes
10 into how we do the rental payment structure
11 because we just have way too much money leaving
12 the system--we shouldn't have any money leaving
13 the system, but 106 million in FY '09, 132 million
14 if things don't change in FY '10, so I would urge
15 the Water Board, I would urge you as Chairman to
16 urge them to do whatever you can to lend your
17 voices to water rate fairness and sustainability.
18 So thank you, Chairman--

19 CHAIRMAN MOSS: Just the one other
20 thing that came out of some of the discussions
21 with the Water Board was that the Council was very
22 helpful in providing a climate to enter into this
23 water rate study, so we're appreciative of that.

24 CHAIRPERSON GENNARO: Thank you,
25 thank you. No, David and I are happy to be boat
rockers any time.

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3 We've recently been joined by
4 Council Member Jim Oddo, the Minority Leader of
5 the Council, welcome to you, Jim.

6 And we have many members that have
7 questions, I have more questions that I will come
8 back to. I'll just, as a prelude, on page four of
9 your statement, Steve, you have an item about
10 denial of access and theft of service charges, I
11 have some questions on that that I'm going to come
12 back to you on, but out of deference to the
13 Chairman and other members who have signed up for
14 questions, I'll come back for a second round on
15 that, we have many members that are signed up for
16 questions.

17 And so, with that, it's my pleasure
18 to recognize Chairman Weprin who is here for a
19 statement or questions and then we have other
20 members who have signed up for questions.

21 So thank you, Commissioner Lawitts,
22 thank you, Chairman Moss, and I'll see you for a
23 second round very soon.

24 CHAIRMAN MOSS: Thank you.

25 CHAIRPERSON GENNARO: Chairman
Weprin.

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3 CHAIRPERSON WEPRIN: thank you,
4 Chairman Gennaro, and Commissioner Lawitts and
5 Chair Moss, indulge me if I express my outrage on
6 top of Chairman Gennaro's outrage and go into the
7 same issue because I'm sitting here for, it's
8 actually the eighth year of increases, but really
9 for the last three years, I just can't help
10 express my outrage.

11 You testify, we had numerous
12 testimony here a number of years when there were
13 proposed double-digit increases for the first time
14 three years ago and the administration, your
15 agency, the Water Board all blamed the City
16 Council and particularly the Finance Committee
17 'cause we refused to authorize and I was a very
18 strong opponent to authorizing standalone water
19 lien sales. I have here a recent copy of the
20 Daily News listing, some of them obviously are
21 property tax liens, but all the ones with the
22 water drops, there's a lot of them, there's pages
23 and pages of standalone water lien sales, and this
24 was going to be the panacea, this was the panacea
25 that was going to save the rate payers of New York
City. Time and time again, meeting after meeting

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3 we heard from you and your agency and the Water
4 Board that all you needed--and even from the
5 Mayor, the Mayor himself blamed the City Council
6 that the reason we have to have these increases in
7 the water rates is because of City Council refuses
8 to provide standalone water lien sales and because
9 they can't do the standalone water lien sales,
10 they can't collect off of the 15% of the rate
11 payers that aren't paying their bills and they
12 have to punish the 85% of the rate payers who are
13 good citizens and businesses that are good
14 citizens that are paying their bills, and that's
15 why, once we do the standalone water lien sales,
16 we wouldn't have these increases.

17 As a matter of fact, we had an
18 agreement, unfortunately we didn't put it into the
19 legislation, from Mark Page saying that they would
20 seriously adopt the eliminating the excess revenue
21 that's going into the general fund that Chairman
22 Gennaro went into great length about, which this
23 year I think is 132 million, rising to about 300
24 million over three years. And if we do the
25 standalone water lien sales, they will eliminate
that. We even got testimony from Mr. Page that it

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3 wouldn't require legislation to change the
4 agreement, all it would require is not asking for
5 that money in a letter to the Chairman of the
6 Water Board.

7 As a matter of fact, I believe,
8 although it may be denied by the administration,
9 that the reason Chairman Tripp resigned or was
10 forced out was because he and certain other
11 members of the Water Board who were also resigned
12 or forced out basically wanted to eliminate the
13 excess rental payment.

14 It blows my mind to think that
15 you're saying here, oh yeah, but that money goes
16 to pay for police and fire--very, very good, then
17 let's call it another property tax. And I have to
18 tell you if you were proposing a 30% property tax
19 within less than three years, which is what you've
20 done here 11 1/2%, 14%, and now 14 1/2%--40%,
21 excuse me. If you are proposing a 40% property
22 tax increase over three years, I can't tell you
23 how many people would come to every one of these
24 hearings, but the reason it's kind of--the
25 hearings are not getting the great attendance and
it's not getting the publicity is, one, is they're

3 not the most accessible, I was in Staten Island
4 last night, yes, you did reference that. I heard
5 from time and time again that it was inaccessible
6 to public transportation, that there was no
7 parking, but forget about that. A 40% rate
8 increase within three years. When there is excess
9 revenue that is going into the general fund, yes,
10 it's great to have in the general fund but water
11 rate payers should not be paying to subsidize the
12 general fund, otherwise just increase the property
13 tax, call it what it is, and take responsibility.

14 What are you going to do now the
15 question is, because there hasn't been a question,
16 what are you going to do now about that excess
17 rental payment, I want to know what you're going
18 to do about it this year.

19 COMMISSIONER LAWITTS: Well as I
20 had indicated, Chairman Weprin, when Chairman
21 Gennaro asked a similar question only a few
22 minutes ago--

23 CHAIRPERSON WEPRIN: I'm not
24 surprised.

25 COMMISSIONER LAWITTS: I'm sorry?

CHAIRPERSON WEPRIN: I said I'm not

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3 surprised.

4 COMMISSIONER LAWITTS: No, I heard
5 that, I'm not sure what that's in reference to.
6 You're not surprised at what?

7 CHAIRPERSON WEPRIN: Chairman
8 Gennaro said the same thing a couple of minutes
9 ago.

10 COMMISSIONER LAWITTS: Okay. My
11 answer is the same as it was a few minutes ago
12 when Chairman Gennaro asked it the first time.

13 [Pause]

14 CHAIRPERSON WEPRIN: ...again.

15 COMMISSIONER LAWITTS: Okay. I
16 cannot speak on behalf of financial decisions that
17 have to be made for the city as a whole, which is
18 the decision that you're talking about, which
19 would be the disposition of the residual rental
20 payment on the last day of the fiscal year and the
21 decision as to how much of that the city retains
22 in the general fund, versus how much of that is
23 returned for reinvestment in the water system. I
24 can't speak behalf on the entire administration
25 for that, I would just acknowledge, as I think you
already know, Mr. Chair, because you are Chairman

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3 of the Finance Committee that the city's general
4 fund is having issues this year, the overall city
5 finances are suffering as a result of the economic
6 conditions surrounding us for the same reasons
7 that are, we believe contributing to the steep
8 reduction in the amount of water being consumed
9 this year, which has resulted in a loss of \$100
10 million by the end of this fiscal year we believe.

11 CHAIRPERSON WEPRIN: Okay. So in a
12 sense, rate payers are being punished for
13 conserving water in a sense because they're using
14 less water and conserving water and doing what the
15 experts say is a good thing to do for the
16 environment and everything else, they're ending up
17 paying more.

18 COMMISSIONER LAWITTS: I wouldn't
19 characterize it that way, Mr. Chair. We've been
20 encouraging conservation for more than 20 years,
21 we have a long-term trend, which I spoke of in my
22 opening remarks, where conservation based on
23 decisions that individual households make has
24 trended over the last 20 or more years in a
25 reduction of one half percent to 2% per year.
What we're seeing this year, which is a 6 to 7%

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3 decline in water consumption goes way beyond
4 decisions being made in individual households
5 related to water conservation that access
6 reduction, which is on the order of five
7 percentage points is due, we believe, to economic
8 factors, to the recession, to the same underlying
9 factors that are causing hotel occupancy to
10 decline, office occupancy rates to decline, co-op
11 and condo sales to decline, transit ridership to
12 decline. Those same conditions which are causing
13 fewer people to come into the city, people who
14 consume water, businesses that consume water,
15 those have all been on the decline this year.

16 CHAIRPERSON WEPRIN: The problem is
17 you keep raising these rates double digits,
18 they're going to be more on the decline because
19 you're going to have more businesses going out of
20 business, you're going to have more houses being
21 foreclosed upon.

22 Is it a fact that you spent a
23 million dollars on a study by Booz Allen Hamilton,
24 which I assume was rate payer's money or
25 taxpayer's money to figure out how you can
basically improve your collection and improve the

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3 efficiency of the water collection, is that true?

4 COMMISSIONER LAWITTS: It is true.

5 CHAIRPERSON WEPRIN: Okay. What's
6 happening with the recommendations from that
7 million-dollar Booz Allen study and what
8 percentage have the collection gone up as a result
9 of instituting some of those recommendations?

10 COMMISSIONER LAWITTS: Well I
11 think, as you know, Mr. Chair, one of the
12 recommendations was to have a water-only lien sale
13 and we appreciate the Council's efforts in getting
14 that passed. And there were a number of
15 organizational changes that were recommended in
16 the study, reorganizing our call center to provide
17 faster service, more responsive service to the
18 sometimes several thousand calls we get a day. We
19 have made those organizational changes. One of
20 the changes, as you know, Mr. Chair, was to offer
21 payment incentive programs as a prelude to the
22 ultimate enforcement actions of selling liens or,
23 in the case of single-family homes, terminating
24 water service and we've implemented those.

25 And, well I think you've missed
this in my opening remarks, Mr. Chair, but to go

3 back to one of the earlier points you made about
4 the lien sale, the lien sale and its associated
5 payment incentive program did generate over \$100
6 million last year that we arguably otherwise
7 wouldn't have collected and, to use Chairman
8 Gennaro's example from a few minutes earlier, at
9 \$25 million per rate point that the \$100 million
10 we took in, arguably put off the need to raise the
11 rates another four percentage points last year.

12 I'm sorry, Mr. Chair, to more
13 completely answer your question, and this was a
14 slide I showed earlier, but I believe you missed
15 it, is that the lasting effect of both the lien
16 sale and the service terminations were that we
17 have continued to benefit from double-digit
18 decreases in the percentage of our customers who
19 pay late. So we've seen in the case of multi-
20 family homes, a 15% decline in the number of
21 customers who are seriously delinquent. Partially
22 offsetting that, however, are increases, year over
23 year increases in the number of customers who are
24 becoming newly delinquent by 30 to 60 days.

25 And that, Mr. Chair, we believe is
a direct result of the general economic conditions

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3 that surround us.

4 CHAIRPERSON WEPRIN: Thank you. I
5 know there are a number of members have questions
6 to ask, so I'm not going to go into great length,
7 but I just want to stress I also have--I know
8 Chairman Gennaro has reservations about some of
9 these fee increases and reducing the amount of
10 days of notification. I just want to make sure
11 that you're making special provisions for senior
12 citizens and other vulnerable constituents that
13 may have some difficulty in getting access to some
14 of this information or understanding some of it.
15 Is there some unit within DEP or within the Water
16 Board that is kind of having a special outreach to
17 seniors citizens? Because we get a lot of
18 complaints from senior citizens that don't
19 understand the water bills, that still have
20 problems, by your own admission, in the past,
21 there have been major, major billing errors, in
22 one case, and one of the reasons why I fought so
23 hard against standalone water lien sales, there
24 was a senior citizen in my district a number of
25 years ago who got bills that were quadruple what
she thought they should have been and they said

3 the only way she could correct it was to go to
4 Downtown Manhattan and through it and she was not
5 able to leave her home for physical reasons, and
6 she kind of ignored the bills until it kind of got
7 out of hand and then she contacted our office and
8 we intervened. And, as it turns out, they were
9 actually applying a different lot number to her
10 property, so she actually did not owe the bills at
11 all, but it took a long time for us to resolve
12 that. What are you doing as far as reaching out
13 to those type of individuals?

14 COMMISSIONER LAWITTS: Right, well
15 we have a number of efforts underway that we've
16 been participating in a number of community-based
17 events, some organized through the respective
18 Council Member offices to not only assist
19 constituents who have concerns about the lien
20 sale, which again affects multifamily homes only,
21 but at the same time to reach as many members as
22 we can who may be single-family homeowners and to
23 ensure that they know the programs that are
24 available to them, like the senior citizen
25 homeowner exemption, to make use of the various
safety net referral programs that I mentioned in

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3 my prepared remarks that can pair the homeowner
4 with the city agency who can provide assistance,
5 like the Human Resources Administration or the
6 Department of Housing Preservation and
7 Development. And we have an office, we have an
8 ombuds office within our Bureau of Customer
9 Services, which customers can call if they have a
10 particularly difficult problem that they need to
11 discuss with a set of specially trained staff.

12 CHAIRPERSON WEPRIN: Okay. I
13 appreciate that. Can you tell me what the
14 delinquency rate is now versus what it was before
15 we authorized standalone lien sales?

16 COMMISSIONER LAWITTS: Yes, as I
17 said, the overall on-time payment rate, which, in
18 the years leading up to the lien sale, had hovered
19 around 88%. It's still around 88% overall, but
20 the mix has changed. As I indicated a few minutes
21 ago, we have seen a 15% decline in multi-family
22 building owners that are a year or more
23 delinquent; we've seen up to a 10% decline in
24 single-family homeowners that are more than a year
25 delinquent. But offsetting that partially are
customers in both single and multi-family homes

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3 who are becoming newly delinquent, who for the
4 first time are becoming 30 to 60 to 90 days
5 delinquent. And, again, we believe that that's--
6 they're newly delinquent so we believe that
7 they're encountering some personal financial
8 circumstances as a result of the recession.

9 CHAIRPERSON WEPRIN: Well it may
10 also be related to these huge increases that they
11 keep getting and it's becoming unaffordable to a
12 lot of small businesses and the middle-class
13 owners.

14 We have a number of people who want
15 to ask questions, and we are obviously behind
16 schedule, so Chairman Gennaro.

17 CHAIRPERSON GENNARO: Thank you.
18 Sure, thank you, Chairman Weprin.

19 We've been joined by Council Member
20 Reyna, Council Member Jackson, Council Member
21 Yassky, Council Member Recchia.

22 And I'm going to recognize other
23 Council Members for questions now with this panel,
24 there are many of them.

25 I'm just going to make a brief
statement regarding the final disposition of the

3 rental payment this year. I think, Mr. Chairman,
4 that our own institution should make a commitment
5 and make this a budget priority and be part of the
6 solution in trying to figure out how we get the
7 administration to take less of the rental payment
8 residual in fiscal year 2010. We've got to be
9 part of that conversation, it's got to be a
10 priority for us. And if the Bloomberg
11 Administration, together with the Council,
12 together with the Water Board sees this as a goal
13 that has to be accomplished this year, we can make
14 headway. But that I think is how it has to happen
15 and certainly I think this should be a budget
16 priority of the Council.

17 With that said, it's my pleasure to
18 recognize Council Member Vacca from the Bronx.
19 Council Member Vacca.

20 COUNCIL MEMBER VACCA: Thank you.
21 I sit here and I listen and I don't understand how
22 there's not a realization that there's a sense of
23 outrage over this yet another increase. Rates are
24 up 77% since 2001 and we're having already a
25 forecast of another 12% increase in FY 2011, leads
me to believe that one could easily say water

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3 rates are out of control. Many people stop me on
4 the street and they say, Jimmy, what's all this
5 stuff about a green New York? What do you mean a
6 green New York? We're out there saving water, we
7 were doing what were asked and we think we're
8 making a contribution. The more water we save,
9 the more our rates go up, so much to do about
10 nothing.

11 I questioned the Water Board, but I
12 realize the Water Board is here as a functionary
13 agency that basically does what it's told and will
14 do what it's told again. But the facts speak to
15 themselves--12% of the base pay that DEP pays its
16 employees is in overtime. The facts speak to
17 themselves, contractual services are up 87%
18 between 2001 and 2007. The facts speak to
19 themselves, in FY 2009 you have \$94 million in
20 holding codes.

21 I think the average person has a
22 right to little more transparency than that. I
23 think that when your agency talks about you making
24 budget cuts, you've made budget cuts along the
25 periphery because you have not been required to
meet the PEG mandates of the Mayor. The Mayor

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3 says that he's not requiring you to meet PEG
4 mandates because basically you're revenue
5 producing and you're revenue producing because
6 you're putting it on the back of the people who
7 pay water bills in this city, that's the analogy
8 that we confront. Because water and sewer
9 operations are utility funded, 96% of DEP's budget
10 was not subject to PEG cuts in the January
11 financial plan. This is according to the
12 independent budget office, not Councilman James
13 Vacca.

14 You've been plagued by capital
15 budget overruns where the amount of money your
16 capital project starts off with doubles and
17 triples before a shovel is put in the ground and
18 the consumer has to pay. People who save water
19 could die of dehydration and their water bills
20 would go up. That's the reality in this city and
21 that's what we're confronting.

22 We talk about lien programs brought
23 in \$100 million, you talk about \$79 million in
24 other delinquencies and that the new lien on May
25 4th is going to bring \$95 million in. Well if
we're bringing all this money in, why can't we

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3 avoid a rate increase? Where is all this money
4 going? We were the ones who fought for the lien
5 sales. We are now collecting this money and water
6 bills are going up.

7 I think that we are owed an
8 explanation. We are determined that you implement
9 the full PEG increase--your headcounts have
10 remained stable; your head counts have not gone
11 down; you continue to spend, to be exempted, and
12 when you hear the general term you raise your own
13 revenue, I know where you raise your own revenue.

14 CHAIRPERSON GENNARO: Council
15 Member Vacca--

16 [Crosstalk]

17 COUNCIL MEMBER VACCA: The people
18 are owed an explanation, can you answer--

19 CHAIRPERSON GENNARO: Okay.

20 COUNCIL MEMBER VACCA: --any of the
21 aforementioned? I'd like to know why a holding
22 code. What is this holding code, \$94 million?

23 COMMISSIONER LAWITTS: I'll try to
24 answer your statement one point at a time Council
25 Member Vacca. As my testimony earlier indicated,
we did take a \$46 million reduction in this

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3 current fiscal year, that's 5%. It's true that
4 the directive covered only the tax levy agencies,
5 but the water utility took a similar percentage in
6 this current fiscal year as other city agencies 46
7 million, 5%. We've taken reductions in headcount,
8 we took approximately 42 heads out in the current
9 fiscal year, we put up another 74 heads very
10 recently for a total of over a 100, and this
11 despite the fact, and to address your earlier
12 statement about overtime, the reason we have a
13 large overtime is because we have a water and
14 wastewater system that has to operate 24 hours,
15 seven days a week and that we are not staffed
16 sufficiently on full time staff to cover all of
17 the essential operating positions and all of the
18 court mandated environmental health and safety
19 positions with full-time people on straight time,
20 and so in order to fill these must-fill posts, we
21 have to incur a fair percentage of overtime. And
22 we need to do that to meet our regulatory
23 requirements and particularly in the wastewater
24 treatment system, to meet the requirements of our
25 discharge permits so that we're not in violation
of any State or environmental laws.

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3 COUNCIL MEMBER VACCA: When an
4 agency has cuts, the first thing that's eliminated
5 is overtime. The 12% figure I allude to, how much
6 in tax levy money is that costing the taxpayer of
7 the city of New York? When I referred to
8 contractual services being up from 87% from 2001
9 to 2007, what is the current expenditure you lay
10 out for contractual services?

11 COMMISSIONER LAWITTS: I don't have
12 the figure on contractual services in front of me,
13 Council Member Vacca, I can provide that.

14 COUNCIL MEMBER VACCA: I'd like to
15 know, I think the Council should know and it
16 should be transparent. I'd like to know how much
17 is 12% of overtime.

18 I'd like to know where the \$94
19 million is in the holding codes. Since when is
20 holding codes, okay? I thought it was no good.

21 CHAIRPERSON GENNARO: Council
22 Member Vacca, here's how it's going to work from
23 here through the end of the hearing, there's a lot
24 of frustration regarding the water rates, a lot of
25 frustration with double-digit hikes and I gave you
a fair amount of latitude in your opening question

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3 or statement, but we--

4 COUNCIL MEMBER VACCA: I will
5 conclude, Mr. Chair--

6 CHAIRPERSON GENNARO: --here's what
7 we're going to do--

8 COUNCIL MEMBER VACCA: --I just
9 want answers to my questions.

10 CHAIRPERSON GENNARO: No, no, no, I
11 will, I will and I'll do that and other members,
12 and there are many who will be posing questions to
13 the panel, I really have to, in order to move the
14 hearing along, so the panel will entertain
15 questions. So we're going to try to minimize the
16 statements and focus on questions.

17 COUNCIL MEMBER VACCA: All right.

18 CHAIRPERSON GENNARO: And so,
19 Council Member Vacca--

20 COUNCIL MEMBER VACCA: Thank you,
21 Mr. Chair.

22 CHAIRPERSON GENNARO: --happy to
23 get you an answer to your question.

24 COUNCIL MEMBER VACCA: Yes, thank
25 you, Mr. Chair, I will not make any further
statements, I will limit my remarks to questions.

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3 CHAIRPERSON GENNARO: Okay.

4 COUNCIL MEMBER VACCA: The \$94
5 million in holding codes, what is it, where is it?

6 COMMISSIONER LAWITTS: I'll provide
7 that answer after the hearing, Council Member
8 Vacca.

9 COUNCIL MEMBER VACCA: And you will
10 provide the information on how much we spend in
11 contractual services and why the amount is
12 significantly increased.

13 COMMISSIONER LAWITTS: Yes, I'll
14 provide the amount, I can tell you now that the
15 increase is primarily due to in that time frame
16 that you mentioned between 2002 and now, that
17 coincides with the period under which the
18 department has been under federal probation and
19 had to establish an environmental health and
20 safety program as part of the conditions of our
21 probation, and that has involved establishing a
22 lot of contractual services to find, analyze, and
23 remediate environmental conditions at our
24 facilities to correct a lot of safety conditions.
25 As an example, 30,000 safety conditions were
identified at our wastewater treatment plants

3 alone. And that would be the primary driver of
4 the increase in contractual services over this
5 period.

6 COUNCIL MEMBER VACCA: Okay. I
7 would like specifics I'm sure you would share it
8 with the Committee. The lien program brought in
9 \$100 million and other delinquencies I refer to
10 now are producing revenue, we're bringing in on
11 the May 4th collection for the liens, we're
12 bringing \$95 million. Why are we getting a rate
13 increase when we see lien programs and related
14 revenue enhancers now coming in to the city's
15 coffers? Any of this money being applied to
16 mitigate the increase?

17 COMMISSIONER LAWITTS: Well it's
18 all being applied to mitigate the increase,
19 Council Member Vacca. We're not taken in this
20 money, the 95 million to which you just referred,
21 95 million is the equivalent of just under four
22 points on the rates. So if we were not collecting
23 the 95 million through the upcoming lien sale, the
24 rate increase might have to be four points higher
25 because we're operating essentially a fixed cost
operation.

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3 COUNCIL MEMBER VACCA: Well then
4 can I deduce from that that when you get money
5 from the stimulus program which you seem hopeful
6 of receiving from the federal government, will
7 that stimulus program money reduce the rate that
8 you intend to increase in FY 2010 or in FY 2011
9 and what can we expect in terms of stimulus money
10 reducing planned increases going ahead this year
11 and the next two years?

12 COMMISSIONER LAWITTS: That
13 depends, Council Member Vacca, on the amount of
14 stimulus money we actually receive. And whether
15 the stimulus aid is in the form of loans or
16 grants, if it's in the form of grants, it will
17 have a bigger mitigating impact on the rate; if
18 it's in the form of loans, reduced interest rate
19 loans, it will have a much smaller impact on the
20 rate.

21 COUNCIL MEMBER VACCA: Did you ever
22 estimate if you were subject to the full PEG cuts
23 that the Mayor has assessed to other agencies,
24 what would be the impact on DEP if you were
25 assessed the full PEG cuts that the Mayor assessed
to similar city agencies?

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3 COMMISSIONER LAWITTS: Well as I
4 said earlier, Council Member Vacca, when earlier
5 this year, the Mayor issued a directive for a 5%
6 cut among city agencies and we implemented a 5%
7 cut that's worth \$46 million on the operating
8 budget this year, and we implemented another \$24
9 million for next year, and we have submitted a
10 further budget reduction, as I said earlier, of
11 another 74 positions.

12 COUNCIL MEMBER VACCA: But you have
13 been exempt--

14 CHAIRPERSON GENNARO: Council
15 Member Vacca--

16 COUNCIL MEMBER VACCA: --I'll end
17 my question.

18 CHAIRPERSON GENNARO: Okay.

19 COUNCIL MEMBER VACCA: The
20 statement is that you've been exempted from 98% of
21 the PEG cut and by having this agency included in
22 the PEG cut more thoroughly, we could have more of
23 a savings but the water payers are paying and
24 we're being soaked.

25 But I conclude my questioning and I
hope to get answers on questions I did not get

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3 answers to.

4 I have to ask to be excused in a
5 while, I have to go to the Bronx Water Board
6 hearing.

7 CHAIRPERSON GENNARO: Thank you,
8 Council Member Vacca. I know you sit right next
9 to me on the Council, you're very passionate on
10 these issues and I know you're going to the
11 hearing in the Bronx now.

12 I recognize Council Member Vallone.

13 COUNCIL MEMBER VALLONE: Thank you,
14 and, Council Member Vacca, despite the freedom
15 from cuts, we still don't have enough DEP police,
16 we're supposed to have 188 and we still have less
17 than 161.

18 So you raised the rate last year,
19 which caused less usage and now you need to raise
20 the rates because there's less usage. In what
21 kind of bizarre world do we punish conservation?
22 You just testified that last year, you needed a
23 rate increase because construction costs and
24 energy costs were so high and, not only did you
25 get a 14 1/2% rate increase, but you got the right
to collect on these liens. Now, of course,

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3 construction costs and energy costs are much, much
4 lower, you testify that they appear to be coming
5 down. Again, I don't know what bizarre world that
6 is, but in the rest of the world they fall into
7 never before seen lows. So the reason we raised
8 the rate last year is construction costs and
9 energy costs are so high and now they're way down,
10 and yet you're back here again asking for another
11 water rate increase. How come those costs are
12 not--how come we're not getting a rate decrease
13 based on energy costs and construction cost being
14 so far down?

14 COMMISSIONER LAWITTS: I'll address
15 the construction portion first, Council Member
16 Vallone. It is true that in the bids that we've
17 received so far this fiscal year, the preponderant
18 trend has been that construction costs have been
19 down, they've been, fortunately, below our
20 estimate, which is 180 degrees different than what
21 we had been experiencing in the two or three years
22 before when we had awarded some of our largest
23 construction projects and some of the city's
24 largest construction projects ever. And while
25 this year's bids do provide a benefit in terms of

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3 looking at this year's capital budget, you have to
4 understand that, I think at any one time the total
5 outstanding debt of the water system is something
6 like 16 billion and so we have that \$16 billion
7 chunk of debt out there on which we're paying debt
8 service at interest rates that I spoke about
9 earlier, and that debt typically is financed
10 through 30-year bonds.

11 So the fact that we've gotten good
12 bids this year provides a marginal improvement to
13 this \$16 billion debt load that we're carrying.
14 But when you look at what we're bidding this year
15 and adding that, which is a small addition onto
16 our \$16 billion total debt load, it provides a
17 marginal savings. I think you also heard me
18 testify earlier that we are paying in the bonds
19 that we've sold more recently, well this fiscal
20 year, we're paying higher interest rates than we
21 did pay last year and, while the interest rates
22 are still below our budget assumptions, they are
23 higher than they were last year. And so that is
24 tending to offset somewhat this benefit that we're
25 getting from the lower construction prices that
were bid this year.

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3 You mentioned energy costs, the
4 energy costs are an allocation that we get from
5 the city, which we will get I believe a final
6 determination on that before the end of this
7 fiscal year, and to the extent that energy costs
8 are lower than we currently project, that will be
9 reflected in savings, which will help to mitigate
10 next year's rate increase.

11 Since we're on this subject,
12 Council Member Vallone, I just want to point out
13 that there are cost components of our operating
14 expense that have increased dramatically over the
15 last year. Ortho phosphate, which is a chemical
16 we use in our drinking water has increased in
17 price over 100% in just the last year.

18 COUNCIL MEMBER VALLONE: Look,
19 please, I mean, you've been going on a long time,
20 but the cost of ortho phosphate can not even
21 compare to the cost of gasoline, so let's not go
22 there, let's stick to gasoline and construction
23 costs.

24 Your costs are way, way down, and
25 yet you're here asking for a rate increase. What
happens next year? You just spoke for 10 minutes

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3 about capital costs and debt service--none of
4 that's going to change. So next year, do you come
5 back here again with another 15% increase? What
6 happens next year?

7 COMMISSIONER LAWITTS: Next year
8 will be continuing to look for cost reductions,
9 we'll be continuing to look for savings in our
10 operating expenses, and through the improvements
11 that we've made in our capital program management
12 and taking advantage of the current economic
13 climate, hopefully see a continued reduction in
14 our new bids that we'll receive next year and
15 hopefully add those to provide again a marginal
16 benefit to our \$16 billion debt load.

17 COUNCIL MEMBER VALLONE: So what'll
18 happen is that people will use even less water
19 because you raised the rates again, and then
20 you'll have less revenue and come back looking for
21 a higher rate increase. That's what will happen.

22 My last question, and I just want
23 to agree with the Chairs regarding the rental
24 payment. It is plain and simply a stealth tax
25 increase. You're using this nebulous Water Board
to do the dirty work of raising taxes, which is

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3 illegal because you have to come to this body to
4 raise taxes and you know this body won't, so
5 you're raising water taxes, using that money to
6 pay for needed services like police and schools,
7 but you're doing it illegally and that has to
8 stop. You have to come to the representatives of
9 the people if you want a tax increase and not do
10 it through some nebulous Water Board that no one
11 knows how it exists or why it exists or what power
12 it has. You have to come to us and you're not
13 doing that.

14 Thank you, Mr. Chair.

15 CHAIRPERSON GENNARO: Thank you,
16 Council Member Vallone. I recognize Council
17 Member Fidler.

18 COUNCIL MEMBER FIDLER: Thank you,
19 Mr. Chairman. And, Commissioner, I want to
20 actually start with a few kind words and I suggest
21 you revel in it because they may be the only--

22 COMMISSIONER LAWITTS: I'm sitting
23 down.

24 COUNCIL MEMBER FIDLER: --kind
25 words you get today. I do want to thank your
agency for your outreach. And when my offices had

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3 had to reach DEP on behalf of individual
4 consumers, you've been very cooperative and your
5 community outreach events in my district have been
6 very, very successful and I want to thank you for
7 that.

8 COMMISSIONER LAWITTS: Thank you,
9 Council Member.

10 COUNCIL MEMBER FIDLER: And now I'm
11 going to switch the channel back to the outrage
12 channel--

13 COMMISSIONER LAWITTS: Oh, okay.

14 COUNCIL MEMBER FIDLER: --because
15 that's what we're really doing here, Commissioner,
16 is channeling the outrage about constituents. I
17 want you to know that at this time every year I
18 send out a budget survey to every household in my
19 district and there is not a mention of anything
20 about water or sewer rates in the printed text and
21 it allows for free-form responses for my
22 constituents. I will tell you that in my
23 estimation, and I read every reply, 10% of the
24 replies I have gotten have expressed outrage over
25 the proposed increase in water and sewage rates--
10% in free-form, you could write about any city

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3 issue. That's a phenomenal amount of outrage, and
4 I think you need to understand that, as you sit
5 there and understand why we are expressing our
6 outrage here to you.

7 Now, Chairman Weprin and I both
8 took Economics 100 at Albany State, I don't think
9 we had the same professor, but I'm sure we both
10 used Samuelson Economics and in that textbook,
11 there is a chapter on Elasticity of Demand, and it
12 is an economic theory regarding the
13 interrelationships between price, demand, and
14 consumption. Now you're telling us that the
15 consumption of water has gone down, now it would
16 be wonderful if we could all just hang our hats on
17 people are being more conscious about conserving
18 unnecessary water use, but the first question that
19 I would have for you is, do you know from any
20 independent source that people are not now being
21 put into the--or some people being put into the
22 incredibly uncomfortable position of having to
23 choose between water and food or water and drugs
24 because the price has gone up so significantly?

25 COMMISSIONER LAWITTS: I don't
know, I can't answer that question, statistically,

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3 Council Member Fidler. I have some anecdotal data
4 regarding the past month's experience with the 15-
5 day service termination notices we've been sending
6 to customers who have owed at least \$500 for six
7 months or longer, that the majority of--as I'd
8 said earlier, 95% of those people who are noticed
9 either pay us in full or sign a payment agreement,
10 but the thing that's different this year than last
11 year is that the majority of those people are
12 paying us in full as opposed to signing a five-
13 year payment agreement where they only have to put
14 down 10% initially and pay the remainder over five
15 years. When--

16 COUNCIL MEMBER FIDLER: What's the
17 interest rate over those five years?

18 COMMISSIONER LAWITTS: It's 9% per
19 year, it's the same interest rate as outstanding
20 property tax obligations and outstanding water
21 bill.

22 And so that's an indication to us
23 that at least in this relatively small universe of
24 people who have not been paying their water bill
25 and have been chronically delinquent, that they
have the resources to pay because otherwise they

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3 wouldn't be paying us in full, they would be
4 stretching the payments out over five years. They
5 have the resources to pay, but for whatever reason
6 they until now have chosen not to pay us.

7 COUNCIL MEMBER FIDLER: Honestly,
8 Commissioner, I think you're taking your anecdotal
9 evidence and reaching conclusions that aren't
10 justified and I would suggest to you that there
11 are many different groupings within people who are
12 using water and some have the resources and are
13 just slow payers and are trying to balance their
14 economics and the there are other people who are,
15 perhaps, making the decision about their use of
16 water. Which when we talk about Elasticity of
17 Demand, the one thing that you have to factor in
18 is that water is an essential, people need it to
19 live and as we continue to have double-digit
20 increases in water prices, we talk about the sales
21 tax is being regressive, double-digit increases in
22 water rates are even more regressive than that. I
23 mean, you need water to survive, so I'm not sure
24 that your drawing the appropriate conclusion for
25 the majority of people from that small anecdotal
sampling.

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3 I would also point out to you,
4 Commissioner, that if you want to look at
5 anecdotal or tangential occurrences, the rise in
6 foreclosures in the city of New York, people are
7 going to pay their mortgage first, then their
8 water bill second, that's probably why you're
9 showing a greater increase in the number of people
10 who are 30 to 60 days out, but it would be
11 evidence of the additional pressure that you are
12 putting on people who have to pay these bills.

13 And if a restaurant raises its price, they have to
14 be concerned that fewer people are going to come
15 in, so I would ask you if you've done any analysis
16 of whether or not these double-digit increases in
17 water rates are going to drive more homeowners
18 into foreclosure, thereby reducing your cash flow
19 and your consumption to a degree that may be even
20 greater than I guess it's the \$375 million this
21 rate increase is designed to bring you.

22 COMMISSIONER LAWITTS: No, Council
23 Member Fidler, we haven't done that analysis yet,
24 that's actually an analysis we've talked about
25 doing was to develop some statistically relevant
price elasticity of demand curves so that next

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3 year at this time we could have a fuller
4 discussion of the relationship between price
5 increases and the demand on the water.

6 COUNCIL MEMBER FIDLER: While I'm
7 always disappointed to hear that we're going to
8 raise the price and then analyze it later, but I
9 just have one last line of questioning. You
10 talked about your rates study and, particularly,
11 in terms of the rental payments. You analyzed
12 other cities, you said that most have some other
13 form of rental payment. You compared yourself to
14 Con Edison and I see an obvious difference between
15 the Water Board and Con Edison, Con Edison being a
16 privately held company and the Water Board being a
17 city agency, so I see a huge distinction there.
18 Now when you were looking at these other cities,
19 in each case or in how many of these cases was the
20 Water Board and municipal agency as opposed to a
21 private enterprise?

22 COMMISSIONER LAWITTS: All of the
23 systems we've been studying are municipally owned
24 water utilities.

25 COUNCIL MEMBER FIDLER: All right.
Well at least I'm glad you're comparing apples to

3 apples, that's a good thing.

4 Now when you're talking about the
5 services that are provided to the Water Board, you
6 mentioned two that just jumped out at me, quite
7 honestly, Commissioner, as being ridiculous. Are
8 you telling me that the fire department wouldn't
9 be inspecting hydrants as a matter of fire safety?
10 Are you telling me that sanitation wouldn't be
11 sweeping the streets to keep them clean if it
12 weren't about floatables? And if so, why are the
13 water rate payers picking up the full cost of
14 cleaning our streets and making sure that our fire
15 hydrants are working?

16 COMMISSIONER LAWITTS: Well with
17 regard to the fire hydrants, Council Member, it's
18 not so much that someone wouldn't be inspecting
19 it, it's who inspects the hydrants and the
20 hydrants are our responsibility to maintain and
21 replace if necessary and repair. But in terms of
22 the inspection, the choice comes down to whether
23 DEP personnel who ultimately would have to repair
24 the hydrant also do the inspection or whether we
25 contract it out, if you will, to the fire
department who can do it at a lower cost than we

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3 can because the fire department is in every
4 neighborhood every day and that they can, just in
5 the normal course of their non-fire fighting work
6 day, can do a number of hydrant inspections and
7 that's less costly than having us send our limited
8 repair crews to inspect the--I don't remember the
9 number, the staggering number of hydrants, over
10 100,000 per year.

11 But in terms of sanitation, we are,
12 as I'd indicated earlier, under a consent order to
13 control floatables. So we don't pay the entire
14 cost of the Sanitation Department cleaning
15 program. I don't know if Sanitation would sweep
16 streets less frequently if we weren't paying a
17 portion of it, but a part of what we pay for and
18 it is a similar case in other utilities that we've
19 looked at it is we do get a floatables reduction
20 benefit, it's a benefit not only in terms of
21 meeting our regulatory requirements but also in
22 reducing the wear and tear on our wastewater
23 treatment plants because the things that end up
24 in, if not cleaned by Sanitation, like cans and
25 plastic bags and so on--

COUNCIL MEMBER FIDLER:

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3 Commissioner, yeah, I get where you're going--

4 COMMISSIONER LAWITTS: Okay.

5 COUNCIL MEMBER FIDLER: --but I
6 think the point is that this is really a
7 rationalization, because if there wasn't a consent
8 decree on floatables and flow-and-go, or whatever
9 this other stuff is, if DEP wasn't responsible for
10 the fire hydrants, the fire hydrants would still
11 be inspected by the fire department to make sure
12 that our city is safe as a matter of fire safety
13 and our streets would still, I think, be being
14 swept to make sure that cans and other debris
15 wasn't lying on our streets. So this is a
16 rationalization for the rent payment, it's not a
17 justification, there's no analysis, there's no
18 economic analysis being done of what the cost is
19 and, therefore--the rent payment is being tied to
20 some arbitrary figure.

21 So I just want to concur with the
22 concluding remarks of Council Member Vallone, who
23 said this is in effect a way to throw money into
24 the general fund to provide for municipal services
25 and it's being done by a board that has no
accountability, there is in effect taxation

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2 PROTECTION

3 without representation, that is entirely
4 controlled by the Bloomberg Administration and no
5 matter how much we sit up here and rant and rave,
6 we have no control in it, and yet it is a tax
7 being placed upon the people that we represent
8 that very, very clearly outrages them. And it is
9 out of control, as Chairman Weprin said, it is out
10 of control--40% over three years is out of
11 control. We need to find a way to do better than
12 that and we need a way to maybe change the system
13 so that there is greater transparency and greater
14 accountability and a rational basis for the
15 charges that we have. Thank you, Commissioner.

16 CHAIRPERSON GENNARO: Thank you,
17 Council Member Fidler. I recognize Council Member
18 Koppell.

19 COUNCIL MEMBER KOPPELL: Thank you,
20 Mr. Chairman. I understand that there are a
21 limited number of places that we can look to
22 determine whether this rate increase is justified
23 and what we can do one--and the first thing I
24 guess we have to look at what are the expenses
25 that you are paying. So I'd like to call your
attention to chart number four. I might say your

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2 PROTECTION

3 chart makers seem to have forgotten to put numbers
4 on some of the pages of the charts, next time
5 please have a number on each page. You have a
6 number on page two, but not on three and four and
7 you have a number later on page 5 and six, but not
8 on seven, that's kind of sloppy work. But anyway-

8 -

9 [Off mic]

10 COUNCIL MEMBER KOPPELL: Yeah,
11 they're sloppy. But anyway, let's look at page
12 four. Four shows that you have debt service cost,
13 and I might parenthetically say some of us felt
14 you could have done much better with the cost of
15 the Croton facility [off mic] been built in
16 Westchester, but I won't belabor the point. Let's
17 leave debt service cost alone, I assume that's a
18 fixed, you can't change it, am I right about that?

19 COMMISSIONER LAWITTS: About the
20 debt service?

21 COUNCIL MEMBER KOPPELL: Yeah, you
22 can't change that.

23 COMMISSIONER LAWITTS: That's
24 correct.

25 COUNCIL MEMBER KOPPELL: Right.

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2 PROTECTION

3 And there's been a lot said about the 10% you pay
4 to the city, I'm not going to say anything
5 further. I don't disagree with what's been said,
6 but that's really a decision that we have to make
7 with the Mayor, probably not with you.

8 Let's look now at the 45% that's
9 operating costs. You reported that you saved \$46
10 million in one cut and than 24 million in another,
11 am I correct about that?

12 COMMISSIONER LAWITTS: That's
13 correct.

14 COUNCIL MEMBER KOPPELL: Now did
15 that flow directly to the costs placed on the
16 water users?

17 COMMISSIONER LAWITTS: Yes.

18 COUNCIL MEMBER KOPPELL: So you're
19 saying that you saved \$70 million of what you
20 projected would be paid for by the water users as
21 a result of these cuts.

22 COMMISSIONER LAWITTS: Yes.

23 COUNCIL MEMBER KOPPELL: And did
24 you change your projection of the increase that
25 you expected in the forthcoming fiscal year as a
result of saving the 70 million?

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2 PROTECTION

3 COMMISSIONER LAWITTS: The 14%
4 water rate increase that we're proposing reflects
5 the fact that we've taken the 46 million and the
6 24 million.

7 COUNCIL MEMBER KOPPELL: But I have
8 a somewhat--what were you projecting last year as
9 the increase you would need for this year? I
10 think you--

11 COMMISSIONER LAWITTS: Fourteen
12 percent.

13 COUNCIL MEMBER KOPPELL: Right, but
14 you just said that the \$70 million was new
15 savings, so why didn't that reduce the 14% that
16 you projected last year?

17 COMMISSIONER LAWITTS: The primary
18 reason, Council Member Koppell, is that, while we
19 were able to identify these savings and, while, as
20 I indicated debt service, while higher than last
21 year is still a little bit less than we had
22 budgeted, because of the decline in the water
23 consumption, our revenues from our customers are
24 projected to be \$100 million below budget by the
25 end of this fiscal year. So we're--just let me
finish, please--we're starting on July 1st with a

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2 PROTECTION

3 revenue base that's \$100 million less than we
4 predicted last year at this time. So, while we
5 identified additional operating budget savings, we
6 identified debt service savings below last year's
7 projections, we are \$100 million worse off in our
8 revenue base and the two, if you want to think of
9 it like that, offset each other almost in their
entirety.

10 COUNCIL MEMBER KOPPELL: So tell me
11 now, in the last fiscal year, the item that's now
12 1.34 billion, what was that last year?

13 COMMISSIONER LAWITTS: I will have
14 to get back to you with a precise number, Council
15 Member. It was a little bit smaller, but I don't
16 remember the exact number. Debt service is
17 growing--

18 COUNCIL MEMBER KOPPELL: No, I'm
19 not talking about--I'm sorry, if you'd look at
20 page four, if you numbered it now you should be
21 able to find it, but--

22 COMMISSIONER LAWITTS: I'm sorry,
23 yes?

24 COUNCIL MEMBER KOPPELL: --I'm not
25 looking at the green, I'm looking only at the

1 COMMITTEE ON FINANCE AND ENVIRONMENTAL 87
2 PROTECTION

3 blue. Was the blue more or less for the last
4 fiscal year?

5 COMMISSIONER LAWITTS: I'm sorry,
6 because I just have a black-and-white copy in
7 front of me, is the blue the 1.32?

8 COUNCIL MEMBER KOPPELL: No, it's
9 the 1.34.

10 COMMISSIONER LAWITTS: Operating,
11 I'm sorry.

12 COUNCIL MEMBER KOPPELL: Operating,
13 we're talking about operating expenses.

14 COMMISSIONER LAWITTS: Yes, thank
15 you. Thank you, sorry.

16 COUNCIL MEMBER KOPPELL: I'm trying
17 to see how the savings--

18 COMMISSIONER LAWITTS: Yes.

19 COUNCIL MEMBER KOPPELL: --was the
20 1.34 more or less in the year before the one we're
21 looking at here?

22 COMMISSIONER LAWITTS: It was less.

23 COUNCIL MEMBER KOPPELL: It was
24 less, so where are the savings then?

25 COMMISSIONER LAWITTS: Well,
Council Member, one item, which we haven't

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2 PROTECTION

3 discussed yet today is that out of that 1.34
4 billion--

5 COUNCIL MEMBER KOPPELL: Yes.

6 COMMISSIONER LAWITTS: --17%, one-
7 sixth of that entire operating cost is the health
8 benefits and pension costs associated with the
9 6,000 employees we have. And, as I've testified
10 numerous times before, that is a cost that does
11 not hit any other city agency's budget, it's
12 carried centrally within the city's miscellaneous
13 budget for all other city agencies but, because
14 we're a water and wastewater utility that must
15 show the full costs of operation and must be
16 compensated from our customers for that full
17 costs, it's part of our budget. It is the
18 fastest-growing part of the budget. I haven't
19 testified to this before, but that rates, which is
20 a rate that gets applied on top of wages, grew
21 from 28% three years ago to 35% two years ago to
22 45% last year to 51% this year.

23 COUNCIL MEMBER KOPPELL: Fifty-one
24 percent of what?

25 COMMISSIONER LAWITTS: Wages.
Wages, a third of that 1.34 billion, 34%, that's

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2 PROTECTION

3 \$400 million, over \$400 million are wages that we
4 pay to our 6,000 employees. That fringe benefit
5 gets applied on top of the wages. The fringe rate
6 has gone from 28 to 51% in just three years for
7 reasons that I think everyone understands having
8 to do with rising costs of health care, but more
9 recently, just as every other major pension system
10 and every endowment in the country has lost up to
11 a half of its value from declines in the stock
12 market, so has the city pension system which has
13 caused a large increase in the fringe rate.

14 COUNCIL MEMBER KOPPELL: The point
15 I'm trying to make is that every city agency has
16 been forced to cut its budget and I'm skeptical
17 that you've got your budget, you've just admitted
18 that the 1.34 is more than it was last year. In
19 my opinion, consistent with what other city
20 agencies are doing, that should be less than it
21 was last year.

22 COMMISSIONER LAWITTS: That's
23 exactly the--

24 COUNCIL MEMBER KOPPELL: That's my
25 opinion.

COMMISSIONER LAWITTS: --that's

1 COMMITTEE ON FINANCE AND ENVIRONMENTAL 90
2 PROTECTION

3 exactly right, Council Member. If we were put on
4 the same playing field as other city agencies
5 where fringe costs did not show up in our budget
6 or reserves for not yet negotiated labor
7 agreements are not in our budget, then you would
8 see a year-to-year reduction, but we're not like
9 other city agencies, we're accounted for
10 differently, we bear the cost of fringe, we bear
11 the costs of pending labor settlements, which
12 other agencies don't have to do.

13 COUNCIL MEMBER KOPPELL: Now when
14 we're talking about those costs, we're only
15 talking about the costs associated with the water
16 system?

17 COMMISSIONER LAWITTS: That's
18 correct.

19 COUNCIL MEMBER KOPPELL: Not other
20 employees.

21 COMMISSIONER LAWITTS: That's
22 correct, the--

23 COUNCIL MEMBER KOPPELL: These are
24 isolated out. It's not like a percentage.

25 COMMISSIONER LAWITTS: It's the
6,000 employees who operate the water and

1 COMMITTEE ON FINANCE AND ENVIRONMENTAL 91
2 PROTECTION

3 wastewater system only.

4 COUNCIL MEMBER KOPPELL: It's only
5 those people.

6 COMMISSIONER LAWITTS: Only.

7 COUNCIL MEMBER KOPPELL: Okay.

8 Well, again, as I say, I hear what you're saying,
9 nonetheless, given the [off mic] stringencies, I'm
10 disappointed to see that that number has actually
11 gone up. I heard your explanation.

12 Let's look at the other side now,
13 that's the only thing we can look at on the
14 expense side. Let's look at the other side, the
15 revenue side. And I want to compliment you, as
16 you know, I've been lobbying for five years to get
17 you to be more aggressive about collections and
18 you're finally being somewhat more aggressive, but
19 as I look again, if your folks would fill in for
20 you, page seven that doesn't have a number, but if
21 you look at what would be page seven if it was
22 numbered--

23 COMMISSIONER LAWITTS: Yes.

24 COUNCIL MEMBER KOPPELL: --you'll
25 see a very disturbing aspect. We're talking here
about only delinquencies that are greater than a

1 COMMITTEE ON FINANCE AND ENVIRONMENTAL 92
2 PROTECTION

3 whole year.

4 COMMISSIONER LAWITTS: Yes.

5 COUNCIL MEMBER KOPPELL: Now in
6 this column, do we include as delinquent the
7 people who have entered into pay agreements?

8 COMMISSIONER LAWITTS: No, we
9 don't, if they're--

10 COUNCIL MEMBER KOPPELL: Okay.

11 COMMISSIONER LAWITTS: --if they
12 entered into payment agreements and they're
13 current--

14 COUNCIL MEMBER KOPPELL: Right.

15 COMMISSIONER LAWITTS: --on their
16 payment agreements, then they're not included--
17 they're included as part of the 15% reduction in
18 this case. In other words, if they signed the
19 payment agreement with us last year--

20 COUNCIL MEMBER KOPPELL: Right.

21 COMMISSIONER LAWITTS: --and
22 they're current on their payment agreement--

23 COUNCIL MEMBER KOPPELL: Right.

24 COMMISSIONER LAWITTS: --so they're
25 no longer delinquent--

COUNCIL MEMBER KOPPELL: Right.

1 COMMITTEE ON FINANCE AND ENVIRONMENTAL 93
2 PROTECTION

3 COMMISSIONER LAWITTS: --by a year
4 or more, they're part of this reduction.

5 COUNCIL MEMBER KOPPELL: Okay. But
6 this is not the reduction, the page I'm looking
7 at, please, if you'd number page seven, you'd see
8 that the problem is that the delinquencies in the
9 area of single-family homes has gone up markedly
10 in the last--

11 COMMISSIONER LAWITTS: No, I'm
12 sorry, Council Member, let me just clarify, those
13 are reductions--

14 COUNCIL MEMBER KOPPELL: Those are
15 reductions?

16 COMMISSIONER LAWITTS: --it starts
17 at zero and goes down to as low as 9% below--those
18 are all declines, they start at zero and go down.
19 So, for example, November, in single-family homes,
20 that's a 9% reduction in the number of seriously
21 delinquent customers over the previous November.
22 Right next to that in multi-families is a 15%
23 reduction in multi-family customers in November
24 versus the November from a year before. These are
25 all reductions.

COUNCIL MEMBER KOPPELL: Well I

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2 PROTECTION

3 guess then the chart doesn't--I misread the chart
4 then, but what I'm trying to get at is how many
5 people are still delinquent by more than a year,
6 not including the ones who signed payments
7 agreements?

8 COMMISSIONER LAWITTS: I would have
9 to get that to you, Council Member, I don't have
10 that with me.

11 COUNCIL MEMBER KOPPELL: What's
12 troubling me is that you talk about having a 90%
13 collection rate when other cities you yourself say
14 have a 98% collection rate. And now we've had the
15 shut off--ability to shut people off for about a
16 year now, I think, am I right about that?

17 COMMISSIONER LAWITTS: That's
18 correct.

19 COUNCIL MEMBER KOPPELL: Virtually
20 nobody should be delinquent because they should be
21 shut off and what we found is that when you'd
22 start to shut people off, they pay.

23 COMMISSIONER LAWITTS: That's
24 correct.

25 COUNCIL MEMBER KOPPELL: So, in my
opinion, your delinquency rate on shut offs should

1 COMMITTEE ON FINANCE AND ENVIRONMENTAL 95
2 PROTECTION

3 be close--you should be at 98%, not at 90%. That,
4 I think, is a very serious problem. I mean, I
5 don't know what--and I'm not including people who
6 are doing a payment agreement, because, okay, if
7 they have a payment agreement, I can't criticize
8 you I think you should be relatively liberal about
9 that, I'm glad you have a system of referring
10 people to social services. We've talked about the
11 fact that--

12 COMMISSIONER LAWITTS: Right.

13 COUNCIL MEMBER KOPPELL: --I was
14 the author of the Utility Bill of Rights which--

15 COMMISSIONER LAWITTS: Yep.

16 COUNCIL MEMBER KOPPELL: --gives
17 that right to gas and electric customers--25 years
18 ago I did that in Albany. So I'm all for being
19 humane, but I'm not for being stupid, and we
20 should not be allowing people to be a year in
21 arrears when we could cut off their water. It's
22 not--

23 COMMISSIONER LAWITTS: And that's
24 exactly why, Council Member--

25 COUNCIL MEMBER KOPPELL: We cannot
be in the business of providing free water.

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2 PROTECTION

3 COMMISSIONER LAWITTS: --that's
4 exactly why once the winter heating season ended
5 and we resumed shutoffs and we've been going to
6 increasing number of notices each week, we started
7 with 51, we've been moving up to 75 per week and,
8 as I said, in the four weeks that this program has
9 been in place, we've averaged 95% compliance with
10 the people to whom we've served notice, sorry for
11 the poor sentence construction.

12 COUNCIL MEMBER KOPPELL: Well
13 that's terrific. So, given the fact that you're
14 getting this high rate of compliance--

15 COMMISSIONER LAWITTS: Yes.

16 COUNCIL MEMBER KOPPELL: --what are
17 you projecting for next year, because next year
18 hasn't started yet, that starts on July 1st. What
19 percentage are you projecting for collections?

20 COMMISSIONER LAWITTS: A similar
21 percentage in the high 80s, but--

22 COUNCIL MEMBER KOPPELL: Well why
23 can't you project 98%?

24 COMMISSIONER LAWITTS: Well as I
25 indicated earlier, Council Member, that the other
cities that I spoke of that have gone to 98% have

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2 PROTECTION

3 coupled enforcement measures like these with
4 automated meter reading. We've launched the
5 automated meter reading, we will be fully rolled
6 out citywide in approximately two years. We are
7 now in several thousand locations and we have to
8 automate 833,000 meters over the next couple of
9 years, but as each automated meter reading
10 installation takes place, then those properties
11 are not going to receive estimated bills. That's
12 the key to getting the higher percentage is
13 getting actual bills every month.

14 COUNCIL MEMBER KOPPELL: Well I
15 think that, given the emergency and given the huge
16 increase you asked for, you should project 98%
17 collection and you should tell the people out
18 there that they got to do it. It's not going to
19 be a question and you got to tell every customer
20 that if they don't start paying, they're going to
21 have their water shut off, and that's got to be
22 done as far, as I'm concerned, it should be done
23 tomorrow. And then if you project 98%--let's
24 assume you projected 98%, how much more could you
25 collect than projecting 89% that you're doing now?
How much more could you collect?

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2 PROTECTION

3 COMMISSIONER LAWITTS: Well it
4 would be all other things being equal, about 11%
5 more in revenue.

6 COUNCIL MEMBER KOPPELL: And how
7 much dollars would that be?

8 COMMISSIONER LAWITTS: That would
9 be on a base of the current 2.5 billion would be--

10 COUNCIL MEMBER KOPPELL: So it
11 would be about 200 million, say.

12 COMMISSIONER LAWITTS: Yes, it
13 would be around 250 million.

14 COUNCIL MEMBER KOPPELL: And if you
15 collected that 200 million, what would that
16 reflect on the rate? It's about 30 million a
17 point?

18 COMMISSIONER LAWITTS: It's 25
19 million a point.

20 COUNCIL MEMBER KOPPELL: So 200
21 million would be eight points.

22 COMMISSIONER LAWITTS: And that's
23 why we're investing heavily in automated meter
24 reading, Council Member.

25 COUNCIL MEMBER KOPPELL: But think
about this, you could save eight point, we go to

1 COMMITTEE ON FINANCE AND ENVIRONMENTAL 99
2 PROTECTION

3 14% down to 6%, Mr. Chairman, if they collected
4 98%, which they do in Boston and Philadelphia.
5 Why don't we do that? Why don't we just make a
6 real--like war, when you have war, you gear up,
7 this is a war. Now we have a war and we're going
8 to put all our people onto the project of
9 collecting water from people who are taken
10 advantage of the good people who are paying.
11 That's what I suggest. And then you come back and
12 you say we're going to do it and, okay, don't
13 reduce it 8%, reduce it 4% and come back and tell
14 me you're going to do the war, the war on
15 delinquencies and go down from 14% to 10% before
16 we have to face this increase, that's what I
17 suggest, Mr. Chairman.

18 CHAIRPERSON GENNARO: Thank you.

19 COMMISSIONER LAWITTS: Mr. Chair?
20 I'm sorry, may I ask a question?

21 CHAIRPERSON GENNARO: Well I tell
22 you, well here's what we got just for everyone,
23 this is probably as good a time as any. We have
24 to be out of this room at 1 o'clock, I was going
25 to recognize Council Member Oddo--

COMMISSIONER LAWITTS: Okay. That

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PROTECTION

2 was my request, Mr. Chair, because--

3 CHAIRPERSON GENNARO: Yeah, 'cause
4 I know that you also--

5 COMMISSIONER LAWITTS: --as Council
6 Member Vacca had indicated earlier, there is a
7 Water Board--

8 CHAIRPERSON GENNARO: Yes.

9 COMMISSIONER LAWITTS: --rate
10 hearing in the Bronx at 2 p.m.--

11 CHAIRPERSON GENNARO: Right, okay.

12 COMMISSIONER LAWITTS: --which
13 Chairman Moss and I need to be at.

14 CHAIRPERSON GENNARO: So here's
15 what we're going to do, we're going to try to have
16 short questions and short answers and I'm going to
17 recognize Council Member Oddo.

18 Council Member Koppell is going to
19 the hearing in the Bronx.

20 I'm going to recognize Council
21 Member Oddo. After Council Member Oddo,
22 unfortunately, we're going to have to transplant
23 this whole operation--

24 [Off mic]

25 MALE VOICE: Back and forth, after

3 the [off mic] my question.

4 CHAIRPERSON GENNARO: Okay. Then
5 maybe we can try to get everything done before we
6 have to move. Without further ado, Council Member
7 Oddo.

8 COUNCIL MEMBER ODDO: Thank you,
9 Chairman Gennaro. I think that you and Chairman
10 Weprin and my colleagues covered most or all of
11 the substantive points that needed to be raised
12 and essentially have whittled this down to what it
13 is, it's a backdoor attacks.

14 I have one quick question on fiscal
15 matters and one process question. And,
16 Commissioner and Chairman, thank you for coming to
17 Staten Island, and actually, Chairman Weprin,
18 thank you for coming to Staten Island last night
19 and for your testimony.

20 Last night you heard Council Member
21 Ignizio and I and some rather, as I said last
22 night, edgy, hard-hitting testimony, including
23 essentially saying that you guys have hijacked the
24 phrase water boarding from the CIA.

25 But my process question is one of
the points that I raised last night. I asked both

1
2 of you how do either of you answer the assertions
3 that there is an inherent conflict, an obvious
4 one, with a particular commissioner and that this
5 is all preordained? And obviously I refer to the
6 article I talked about last night, Dave Seifman's
7 [phonetic] column, you have a Commissioner who is
8 appointed, who is actually having a fundraiser
9 that the Mayor is attending, the biggest
10 contributor to her political action committee is a
11 cofounder of Bloomberg, LLP. To me, that is the
12 insult on top of the injury, and when New Yorkers
13 hear that, they become very cynical. So I ask
14 you, Chairman, if a New Yorker came up to you,
15 Commissioner, and said this is all rigged, why
16 would I show up to one of these hearings, it's all
17 rigged. How do you respond to that?

18 CHAIRMAN MOSS: All I can tell you
19 is that my experience with the members of the
20 board over the past 10 months has been that these
21 are people who have a high regard for public
22 service, they are quite independent in their
23 thinking and in their discussion. I have never
24 seen any sign of conflict, and I believe that they
25 are going to these hearings with open minds and

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with open hearts.

COUNCIL MEMBER ODDO: Commissioner,
do you have any comments or you leave it to the
Chairman?

COMMISSIONER LAWITTS: I'll defer
to the Chairman.

COUNCIL MEMBER ODDO: Okay. Well I
think, Chairman, you should consider asking this
particular member of the Water Board to recuse
herself. I think this process should be above
board and without any concerns. And, God forbid,
if this conflict emanated from the City Council,
we've read for over a year now stories, and some
rightly so and some more than a reach, of conflict
of interest stemming from this Council, and I
remember an appointee to the BSA and Ms. Hinkson
and there was much discussion from my learned
colleague, Council Member Fidler, because her
sponsor was a licensed professional, I think he
made some very valid points. Here, the sponsor,
if you will, is the Mayor's office and I think the
conflict is much larger and, frankly, I have not
heard any of my colleagues mention this, and I
understand that this body loves to pray at the

1 altar of the environmental movement, everybody
2 wants to be greener than green, and I'd have to
3 think that that's playing into this. But this is
4 someone who's--we're expected to believe that she
5 is going to bite the hand that feeds her, that's
6 not happening and that feeds the cynicism, and
7 maybe that's one of the reasons why you had six
8 people attend the hearing last night.

9
10 My substantive question is for the
11 Commissioner. Can you quantify for us in terms of
12 how much of a rate increase has occurred as a
13 result of the cost overruns for the Croton
14 project? Can you estimate how much that
15 translates into a rate increase for this year and
16 for the years past?

17 COMMISSIONER LAWITTS: I would have
18 to get back to you on that, Council Member,
19 because I think I would have to give that to you
20 as a range because we would have to have a
21 discussion about what the correct starting point
22 is, what the baseline number is, and what the
23 overrun is.

24 COUNCIL MEMBER ODDO: Okay. And
25 I'll just close with this, because the numbers

1
2 from the IBO and the numbers from some of the
3 other folks have provided us in terms of what the
4 original estimate was and where we are now, can
5 you clarify and provide us with those numbers
6 right now? Or someone on staff?

7 COMMISSIONER LAWITTS: No, not
8 right now, Council Member, but I can follow up
9 with you.

10 CHAIRPERSON GENNARO: Thank you,
11 Council Member Oddo. When I had the mic last, I
12 failed to recognize that we were joined by Council
13 Member James and, moving right along, I recognize
14 Council Member Brewer.

15 COUNCIL MEMBER BREWER: Thank you
16 very much and I too want to thank your staff, Ann
17 Canty [phonetic] and Intergovernmental staff.

18 But these are my question, first of
19 all, are all the Water Board members appointed at
20 the current time? 'Cause I know that when Mr.
21 Tripp left, there was a big distaste in terms of
22 the community. Not quite clear why he left and
23 feeling that, as somebody who was independent his
24 whole life, it did taint the Water Board. Is
25 everybody appointed now and is there anybody who

2 has his kind of independence thinking on the Water
3 Board?

4 COMMISSIONER LAWITTS: There are
5 seven Water Board members, there are seven
6 positions, all of them are currently filled.

7 COUNCIL MEMBER BREWER: Okay. And
8 when would the actual decision about this rate
9 increase if it's to go forward be made?

10 COMMISSIONER LAWITTS: The next
11 scheduled meeting of the Water Board is May 15th,
12 that is when the Board is scheduled to adopt a
13 rate.

14 COUNCIL MEMBER BREWER: Okay. My
15 other question is, the 2,000 workers that you
16 mentioned or 1,700, do they live in New York City
17 or do they live all over the Metropolitan area?

18 COMMISSIONER LAWITTS: We know that
19 a lot of them work in New York City, we know for--

20 COUNCIL MEMBER BREWER: Live, live.

21 COMMISSIONER LAWITTS: Live, I'm
22 sorry. They all work in New York City, except
23 those on the UV plant, but a lot of them do live
24 in New York City. We know for example, we've been
25 tracking it very closely--

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2 COUNCIL MEMBER BREWER: Do you
3 know, the percentage by chance?

4 COMMISSIONER LAWITTS: I don't know
5 right now.

6 COUNCIL MEMBER BREWER: Would you
7 let us know?

8 COMMISSIONER LAWITTS: If I can
9 obtain the data on that, what I do know, Council
10 Member, is that at the Croton filtration plant,
11 approximately 25% of the workers are Bronx
12 residents, we've been tracking--

13 COUNCIL MEMBER BREWER: So 75%,
14 okay.

15 COMMISSIONER LAWITTS: --we've been
16 tracking that very closely.

17 COUNCIL MEMBER BREWER: All right,
18 we'd like to know that.

19 COMMISSIONER LAWITTS: Okay.

20 COUNCIL MEMBER BREWER: Postage,
21 what do you spend per year on postage for water
22 mailings?

23 COMMISSIONER LAWITTS: Between 2
24 1/2 and \$3 million per year.

25 COUNCIL MEMBER BREWER: Okay. And

1
2 is there any suggestion--I know Time Warner just
3 send out that if you pay online and get your bill
4 online, you save a dollar. Is there any--

5 COMMISSIONER LAWITTS: Well I
6 didn't know that and I'm a Time Warner customer.

7 COUNCIL MEMBER BREWER: I know, but
8 I'm just saying it came yesterday in the mail, I
9 read all my bills.

10 COMMISSIONER LAWITTS: Oh, okay.

11 COUNCIL MEMBER BREWER: So my
12 question to you is, what are you doing, not
13 necessarily everybody has online, you can't make
14 it for everyone, what are you doing to save costs
15 on postage? And when I get the Croton mailing, do
16 you pay for that or who's paying for that mailing
17 that nobody reads?

18 COMMISSIONER LAWITTS: The cost--

19 COUNCIL MEMBER BREWER: Are you
20 paying for that?

21 COMMISSIONER LAWITTS: --the cost
22 of the--well the cost of that mailing is borne as
23 part of the overall water rate--

24 COUNCIL MEMBER BREWER: Okay.

25 COMMISSIONER LAWITTS: --and so we

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2 have been introducing a number of options over the
3 last year to make it easier to pay online.

4 COUNCIL MEMBER BREWER: Sure, what
5 I'm saying is--

6 COMMISSIONER LAWITTS: Yes.

7 COUNCIL MEMBER BREWER: --again, if
8 we're doing as Council Member Koppell said, war to
9 try to get the rates down, it does seem to me that
10 we get two mailings--we get the Croton mailing,
11 which absolutely nobody reads, which I understand
12 you pay for, and a water bill. Can they be
13 combined and obviously at the same time try to do
14 something online? I mean, it's not billions, but
15 it's millions.

16 COMMISSIONER LAWITTS: Right,
17 right.

18 COUNCIL MEMBER BREWER: What can we
19 do there?

20 COMMISSIONER LAWITTS: Well we'll
21 look at that, I believe we're required to--

22 COUNCIL MEMBER BREWER: Yes, but
23 they can go together.

24 COMMISSIONER LAWITTS: --distribute
25 the Croton mailing.

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2 COUNCIL MEMBER BREWER: I

3 understand, but they could be in the same
4 envelope.

5 COMMISSIONER LAWITTS: Okay.

6 COUNCIL MEMBER BREWER: Okay. Is
7 it something to look at?

8 COMMISSIONER LAWITTS: Yes.

9 COUNCIL MEMBER BREWER: Okay.

10 COMMISSIONER LAWITTS: Yes.

11 COUNCIL MEMBER BREWER: The other
12 question I have is, I am very familiar with
13 NYCWiN, Chair of the Technology Committee, when
14 you say, oh, I understand new meters, old meters,
15 I understand the savings, where are you exactly in
16 terms of those savings so that, again, we could
17 have lower rates for water users? In terms of
18 NYCWiN and making opportunities for the person who
19 has a water bill to pay, it could be very concise
20 and you wouldn't have a dispute and so on, because
21 you're doing it electronically, wirelessly.

22 COMMISSIONER LAWITTS: Yes, well--

23 COUNCIL MEMBER BREWER: 'Cause you
24 need a new meter to do that, it can't be an old
25 meter. Go ahead.

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2 COMMISSIONER LAWITTS: Right, as I
3 mentioned before, we have the total Automated
4 Meter Reading program. It's a total cost of about
5 250 million, that includes three major components.
6 One, is you mentioned NYCWiN and that's the
7 equipment and software that we are installing
8 through our contractor to piggyback on the NYCWiN
9 network for our citywide receiving of data from
10 component number two, which is a set of borough-
11 based installation contracts and the associated
12 hardware to, not only install approximately
13 830,000 transmitters, but to replace on an
14 accelerated basis approximately half of the
15 existing meters in the city, approximately 400,000
16 meters. The third major piece of this is the
17 system, a new billing and collection system that
18 ties all of this together and we're in the final
19 stages of a RFP selection. We received, I
20 believe, seven proposals which we're very
21 encouraged by, there was a lot of competition,
22 we'll be making the final selection and awarding a
23 contract this summer.

24 But, even in the absence of that
25 new system, we are, as I indicated earlier, as

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3 individual neighborhoods get their Automated Meter
4 Reading equipment, the transmitter and the new
5 meter installed, we're already capturing those
6 automated data.

7 COUNCIL MEMBER BREWER: Is any of
8 this stimulus fundable?

9 COMMISSIONER LAWITTS: None of this
10 work is, as far as we know, eligible under the
11 stimulus program.

12 COUNCIL MEMBER BREWER: Why not,
13 why not?

14 COMMISSIONER LAWITTS: Because the
15 only projects that have been identified to us as
16 eligible are projects related directly to drinking
17 water, infrastructure, and treatment and
18 wastewater, and wastewater the amount of funding
19 potentially available to us under wastewater is
20 approximately 10 times the amount available to us
21 under drinking water.

22 COUNCIL MEMBER BREWER: Okay. All
23 right, so if you're talking about--

24 CHAIRPERSON GENNARO: Do you have
25 more, Council Member Brewer? We're--

COUNCIL MEMBER BREWER: Yeah,

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3 quickly, 250--

4 CHAIRPERSON GENNARO: --we're dying
5 here--

6 COUNCIL MEMBER BREWER: I know.

7 CHAIRPERSON GENNARO: --we've got
8 to get out.

9 COUNCIL MEMBER BREWER: But I've
10 been here from the beginning.

11 CHAIRPERSON GENNARO: Okay.

12 COUNCIL MEMBER BREWER: From the
13 begin--before you guys were here, I was here.

14 CHAIRPERSON GENNARO: I understand,
15 I understand and I appreciate that, but--

16 COUNCIL MEMBER BREWER: Okay.
17 \$250 million, when would that recognize a savings
18 if you are saying that that is something that will
19 recognize the savings, when all of the components
20 are in place.

21 COMMISSIONER LAWITTS: Well, as you
22 said, as each neighborhood gets rolled out and we
23 eliminate estimated bills from those customers, we
24 would expect to see the payment rate improve.

25 COUNCIL MEMBER BREWER: Okay.

COMMISSIONER LAWITTS: So gradually

1
2 over the next two years and dramatically at the
3 end of the two-year period.

4 COUNCIL MEMBER BREWER: Okay. I
5 will finish, I will just say that it's hard to
6 understand the rate increases when you listen to
7 some of this discussion.

8 And the fire department is
9 constantly fixing the hydrants, I think they would
10 do so--I would concur do so anyway, and I think
11 the Sanitation Department tries to do a good job,
12 but I don't know if it's worth the money that you
13 pay them or that we pay them. So I would concur
14 with my colleagues, we have to find another way.
15 Thank you very much.

16 COMMISSIONER LAWITTS: Thank you.

17 CHAIRPERSON GENNARO: Thank you,
18 Council Member Brewer. Thank you for being with
19 us throughout the entire hearing. The last
20 witness for the panel I'm going to introduce right
21 after I recognize that we've been joined by
22 Council Member Martinez, happy to have Council
23 Member Martinez here.

24 And, with that, I recognize the
25 last questioner for the panel, Council Member

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3 Reyna.

4 COUNCIL MEMBER REYNA: Thank you so
5 much, Mr. Chair. I'll make sure I'm as quick as
6 possible, I know you have to be leaving,
7 Commissioner.

8 COMMISSIONER LAWITTS: Thank you,
9 Council Member.

10 COUNCIL MEMBER REYNA: As of today,
11 do you have any figures as to how many shut off
12 notices have been enforced?

13 COMMISSIONER LAWITTS: Well
14 approximately, we sent out, this is roughly, over
15 the last four weeks, about 300 notices. So how
16 many have actually been shut off?

17 COUNCIL MEMBER REYNA: Mm-hmm.

18 COMMISSIONER LAWITTS: A handful.

19 COUNCIL MEMBER REYNA: A handful.

20 COMMISSIONER LAWITTS: Yeah.

21 COUNCIL MEMBER REYNA: Would you
22 say under a hundred?

23 COMMISSIONER LAWITTS: Oh, that
24 would've been shut off?

25 COUNCIL MEMBER REYNA: Yes.

COMMISSIONER LAWITTS: Oh no, I'm

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3 talking a literal handful, like five.

4 COUNCIL MEMBER REYNA: Literal
5 handful, as in one hand.

6 COMMISSIONER LAWITTS: Yeah,
7 because, again, the good thing about the service
8 termination notices is that--and we'd much rather
9 have the people pay, than shut them off and 95% of
10 the people have been paying.

11 COUNCIL MEMBER REYNA: Out of the
12 300.

13 COMMISSIONER LAWITTS: Yes.

14 COUNCIL MEMBER REYNA: And so the
15 shut-off notice is going to be a 15-day period?

16 COMMISSIONER LAWITTS: It's a 15--

17 COUNCIL MEMBER REYNA: Is that what
18 I read?

19 COMMISSIONER LAWITTS: --it's a 15-
20 day notice, it's sent only to single-family homes.

21 COUNCIL MEMBER REYNA: And how soon
22 will you be sending multi-family dwelling homes
23 notices?

24 COMMISSIONER LAWITTS: We don't
25 shut off water to multi-family homes. Thanks to
the Council, there's lien sale legislation which

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2 covers multi-family homes and the two programs
3 are, in a sense, mutually exclusive. We shut off
4 single-family homes, but we don't sell their
5 liens, we sell the liens on multi-family homes,
6 but we don't shut them off.

7 COUNCIL MEMBER REYNA: And do you
8 feel you get--well it's too early to tell whether
9 or not the shut-off notice policy is more
10 effective or equally effective as the water lien
11 sales.

12 COMMISSIONER LAWITTS: I think
13 they're comparably effective.

14 COUNCIL MEMBER REYNA: But we only
15 have a handful.

16 COMMISSIONER LAWITTS: No, but we
17 have many hundreds more from this year and from
18 last year, who, rather than be shut off, paid,
19 they paid. So the more people we serve with this
20 notice, the more who will pay and that's our
21 ultimate objective is to get people to pay and to
22 stay current on their bills.

23 COUNCIL MEMBER REYNA: I would not
24 want to endorse the shut-off of water to any New
25 Yorker, as had been said in this hearing, it's a

1 matter of surviving, without water, you'll die.

2 And so I just want to make sure that we're as
3 aggressive as possible in making sure that this is
4 a deterrent for people to think that they can get
5 away with not paying, but an incentive to pay and
6 I'm just trying to figure out how much of a
7 success is the shut-off notice. And you're
8 saying--

9
10 COMMISSIONER LAWITTS: It's high,
11 it's 95% or higher.

12 COUNCIL MEMBER REYNA: Okay. And
13 as far as the Automatic Meter Reading, in October
14 of 2008, Comptroller DiNapoli had conducted an
15 audit of DEP and found that only 25% of the meters
16 had been replaced, when to date, they should have
17 already been replaced at the level of 400,000.

18 COMMISSIONER LAWITTS: Right, that
19 was for that period the state comptroller was
20 auditing, that was true, that was a particular
21 slice in time. We have since accelerated the
22 replacement and, as I said a few minutes ago, the
23 Automated Meter Reading funding provides in part a
24 further acceleration, replacing fully half of the
25 city's meters over the next two years.

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3 COUNCIL MEMBER REYNA: Half of the
4 city's meters?

5 COMMISSIONER LAWITTS: Yes, because
6 the other half aren't scheduled for replacement
7 yet, the others haven't reached the end of their
8 useful life.

9 COUNCIL MEMBER REYNA: I went to a
10 Civic Association meeting last night comprised of
11 homeowners and one of the particular issues when
12 we started discussing the potential increase that
13 the Water Board is going to consider, they were
14 outraged at the fact that we have these Automatic
15 Meter Readings, I thought those were supposed to
16 create a cost savings for us as customers. And I
17 didn't know what to tell them--

18 COMMISSIONER LAWITTS: Yeah.

19 COUNCIL MEMBER REYNA: --because
20 that is exactly what was introduced as part of the
21 plan to replace old meters with new meters.

22 COMMISSIONER LAWITTS: Right.

23 COUNCIL MEMBER REYNA: Can you just
24 explain to me, what can I go back--

25 COMMISSIONER LAWITTS: Yes.

COUNCIL MEMBER REYNA: --as an

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3 answer--

4 COMMISSIONER LAWITTS: Right.

5 COUNCIL MEMBER REYNA: --to my
6 constituency, because they're further and further
7 disillusioned.

8 COMMISSIONER LAWITTS: Right. We
9 are rolling out the installation neighborhood by
10 neighborhood, we actually have information
11 available on our website about what neighborhoods
12 we're going to be in over the coming weeks. And
13 as we install, we're installing hundreds per week,
14 that those accounts are benefiting from that
15 transmitter installation and in many cases, the
16 replacement of an old meter with a new one,
17 eliminating estimated bills and the estimated
18 bills, we believe, are the number one cause of
19 disputed payments and the situation we got
20 ourselves into over the decades where people
21 started out with what may have been a small
22 dispute, it wasn't resolved timely, and it turned
23 into a delinquent account of more than a year.
24 Automated Meter Reading will virtually eliminate
25 that.

COUNCIL MEMBER REYNA: So did you

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3 by any chance follow Comptroller DiNapoli's
4 recommendation from that audit report where he's
5 recommending a formal plan be developed by DEP to
6 replace old meters--

7 COMMISSIONER LAWITTS: Yes.

8 COUNCIL MEMBER REYNA: --and apply
9 a surcharge penalty?

10 COMMISSIONER LAWITTS: Yes, Council
11 Member, one of the mystifying things about that
12 audit report was that, by the time it was
13 published and it--

14 COUNCIL MEMBER REYNA: You had
15 already--

16 COMMISSIONER LAWITTS: --we had
17 already awarded the contracts and we were already
18 well underway.

19 COUNCIL MEMBER REYNA: So can you
20 just express to me, just so that I have some
21 accountability of figures, the total amount of,
22 you said 50% of the meters have to be replaced
23 because the other 50% are new. They don't need to
24 be--

25 COMMISSIONER LAWITTS: Right,
they're newer and they're not near the end of

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3 their useful lives yet.

4 COUNCIL MEMBER REYNA: Correct. So
5 what is the total amount of meters that were
6 projected to be replaced?

7 COMMISSIONER LAWITTS: Well, again,
8 under this program it's approximately 400,000,
9 which is approximately half the meters in the
10 entire city.

11 COUNCIL MEMBER REYNA: And out of
12 the four--

13 COMMISSIONER LAWITTS: Over a two-
14 year period.

15 COUNCIL MEMBER REYNA: Over a two-
16 year period--

17 COMMISSIONER LAWITTS: Yes.

18 COUNCIL MEMBER REYNA: --beginning
19 in...?

20 COMMISSIONER LAWITTS: Now.

21 COUNCIL MEMBER REYNA: Beginning in
22 2009.

23 COMMISSIONER LAWITTS: Yes.

24 COUNCIL MEMBER REYNA: Or beginning
25 in 2008?

COMMISSIONER LAWITTS: Beginning in

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2009.

3 COUNCIL MEMBER REYNA: And of the
4 400,000, how many have already been replaced?

5 COMMISSIONER LAWITTS:
6 Approximately 10,000, we just began rolling this
7 out in the last few months and the pace is
8 actually accelerating dramatically. So it's been
9 10,000 in a relatively small number of weeks and
10 it will grow by tens of thousands by the end of
11 this summer.

12 COUNCIL MEMBER REYNA: And so--

13 COMMISSIONER LAWITTS: And continue
14 for the next two years.

15 COUNCIL MEMBER REYNA: --and so at
16 the end of this calendar year, in December of '09
17 you would be expected to have replaced 200,000
18 meters.

19 COMMISSIONER LAWITTS: I would say
20 somewhere over a hundred. Again, the pace is
21 accelerating with each month, but at least
22 100,000, I can get you a precise number later, I
23 just don't have it here.

24 COUNCIL MEMBER REYNA: I would like
25 to see--

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2 COMMISSIONER LAWITTS: Sure.

3 COUNCIL MEMBER REYNA: --some type
4 of timeline--

5 COMMISSIONER LAWITTS: Yeah.

6 COUNCIL MEMBER REYNA: --with
7 projected goals and are we meeting these goals,
8 and, obviously, this is supposed to reflect a cost
9 savings, correct?

10 COMMISSIONER LAWITTS: It's
11 supposed to generate additional revenue, it will
12 save us the \$4 million a year that we pay to Con
13 Edison to read our meters citywide.

14 COUNCIL MEMBER REYNA: How much?

15 COMMISSIONER LAWITTS: 4 million,
16 but more importantly than that, by eliminating
17 estimated bills, we expect to improve our on-time
18 collection rate from currently 88 or 89%--

19 COUNCIL MEMBER REYNA: Right.

20 COMMISSIONER LAWITTS: --to 98 or
21 99% as other cities have done.

22 COUNCIL MEMBER REYNA: Right.

23 CHAIRPERSON GENNARO: I have to
24 interrupt, we really--

25 COMMISSIONER LAWITTS: Okay.

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3 CHAIRPERSON GENNARO: --we have to
4 stop.

5 COUNCIL MEMBER REYNA: Chairman
6 Gennaro, I just need to--

7 CHAIRPERSON GENNARO: We have to
8 stop.

9 COUNCIL MEMBER REYNA: --
10 understand, I agree.

11 CHAIRPERSON GENNARO: We have to
12 stop.

13 COUNCIL MEMBER REYNA: Council
14 Member Gennaro.

15 CHAIRPERSON GENNARO: He has to get
16 to the Bronx, we have to get next door, the last
17 question--

18 COUNCIL MEMBER REYNA: We were half
19 an hour late--

20 CHAIRPERSON GENNARO: I understand
21 that, I understand that.

22 COUNCIL MEMBER REYNA: --and I just
23 want to go back to one particular point, which was
24 referring to the quantitative data that Council
25 Member Lou Fidler had requested.

CHAIRPERSON GENNARO: Last

1
2 question. Last question.

3 COUNCIL MEMBER REYNA: You had
4 agreed, Commissioner, concerning an analysis
5 between the demand of usage to a rate increase,
6 and so the quantitative data, that Council
7 members--

8 [Off mic]

9 COUNCIL MEMBER JACKSON: I have a
10 right--

11 [Crosstalk]

12 CHAIRPERSON GENNARO: Excuse me,
13 excuse me.

14 COUNCIL MEMBER JACKSON: --as
15 everybody else to ask questions. Well just take a
16 [off mic] minute--

17 CHAIRPERSON GENNARO: I'm just--no,
18 we're--

19 [Off mic]

20 COUNCIL MEMBER JACKSON: What are
21 you talking about?

22 CHAIRPERSON GENNARO: Finish your
23 question, finish your question.

24 COUNCIL MEMBER REYNA: Thank you.
25 The analysis--

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3 [Crosstalk]

4 MALE VOICE: ...downstairs.

5 COUNCIL MEMBER REYNA: The analysis
6 between the demand of usage to the rate increase,
7 will you be considering this analysis to conclude
8 any request for rate increases so that you have
9 quantitative data that you can measure your
10 requests?

11 COMMISSIONER LAWITTS: Yeah, as I
12 indicated before, Council Member, it's something
13 we'd like to do, it requires the expenditure of
14 money to do that. It's a market research study in
15 effect that requires some amount of money to be
16 spent to obtain those data, I--

17 COUNCIL MEMBER REYNA: But,
18 Commissioner, I just want to point out--

19 COMMISSIONER LAWITTS: Yes.

20 COUNCIL MEMBER REYNA: --last year
21 we had a 14% increase, this year we're requesting
22 another, and next year a projected 12% is what I
23 see on this chart that we've been given. Within
24 these increases, we can certainly spend money
25 wisely to make sure that we're investing in an
analysis that would assist us in providing

1
2 information where customers can actually see the
3 demand of usage in comparison to a rate increase,
4 if necessary.

5 COMMISSIONER LAWITTS: Right.

6 COUNCIL MEMBER REYNA: Right now,
7 we're just taking the word of the Water Board as
8 far as increases are concerned and how necessary
9 they are with no quantitative data.

10 COMMISSIONER LAWITTS: Agreed.

11 COUNCIL MEMBER REYNA: And so is
12 this something that's going to be applied as your
13 needs with projected increases as you have laid
14 out until the year 2012?

15 COMMISSIONER LAWITTS: I will have
16 to find a source of funds, Council Member.
17 Notwithstanding Council Member Vacca scolding me
18 for spending consultant money, but I will have to
19 find a source of funds to do that.

20 COUNCIL MEMBER REYNA: But amongst
21 those consultants, you don't have that particular-

22 -

23 COMMISSIONER LAWITTS: That's not--

24 COUNCIL MEMBER REYNA: Right.

25 COMMISSIONER LAWITTS: --under

3 contract currently.

4 COUNCIL MEMBER REYNA: Right.

5 Thank you.

6 COMMISSIONER LAWITTS: Thank you.

7 CHAIRPERSON GENNARO: Thank you. I
8 had other questions, which I will not ask, we will
9 have them submitted to you. As I indicated, it
10 has to do with the denial of access and theft of
11 service, I have some questions, we obviously do
12 not have time to enhance to ask those or for you
13 to provide answers, you have to go to the Bronx
14 for your hearing.

15 We will not be taking any break
16 whatsoever, we will be going next door to the
17 committee room, we will have Borough President
18 Marshall and the other panels of witnesses. My
19 apologies for having to move and to move people
20 along with their questioning, I thank everyone for
21 their patience and tolerance.

22 So we will reconvene right now next
23 door. I want to thank this panel for being here
24 today.

25 COMMISSIONER LAWITTS: Thank you,
Mr. Chair. Mr. Chair, thank you.

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2 CHAIRPERSON GENNARO: Commissioner
3 Lawitts and Chairman Moss, thank you. And we will
4 convene right next door right now.

5 MALE VOICE: Wait 'til these
6 members get mad at you and not me.

7 [END TAPE 1, SIDE A]

8 [BEGIN TAPE 2, SIDE A]

9 CHAIRPERSON GENNARO: Now you are a
10 calm sea in a storm and so I really appreciate you
11 being here for the entire hearing, for waiting
12 patiently to give us the benefit of your views on
13 behalf of the millions of people that you
14 represent. You're always very active on this
15 issue, year after year making sure that you do the
16 best for the people of Queens. We're very
17 grateful for that.

18 And with that, I would ask you to
19 identify yourself for the record and proceed with
20 your good and thoughtful testimony.

21 CHAIRPERSON WEPRIN: Yeah, I also
22 want to say on behalf of the finance committee
23 that we appreciate you sitting through the lengthy
24 testimony and you always do an outstanding job
25 representing the over 2 million people in the

3 great borough of Queens. I can say on behalf of
4 both Chairs, we are very proud of the borough of
5 Queens, and we do appreciate your leadership and
6 your coming here today and listening through all
7 the testimony.

8 BOROUGH PRESIDENT MARSHALL: I sat
9 where you sit for 10 years, so I well understand
10 the process and appreciate it.

11 I want to say good morning, it's
12 really now, good afternoon to the City Council
13 Committee on Finance Chair David Weprin, and
14 Committee on Environmental Protection, which I
15 served here for 10 years on, Chair James Gennaro,
16 and he was an excellent counsel to that committee.

17 Before I begin, I would like to
18 thank--and, of course, all the distinguished
19 members of the Council who were in attendance. I
20 would like to thank also the City Council for
21 holding this oversight hearing and affording us
22 the opportunity to voice our concerns regarding
23 the Water Board's proposed 14% rate increase.

24 Let me first begin by saying that I
25 am in strong opposition to the proposed water rate
increase that's on the table. Over the past

3 several years, I have adamantly opposed what
4 appears to be arbitrary increases in the city's
5 water rates. The cost of water has climbed more
6 than 40% in the past four years alone and this
7 latest proposal is almost beyond comprehension--
8 another 14% increase on top of the substantial
9 increases already levied--this would mark the
10 third consecutive year that a double-digit hike
11 will be imposed. And last year, the Board
12 approved a 14.5% increase, and now another one?

13 Additional increases would place
14 additional burden and hardship on homeowners,
15 small business owners, as well as seniors living
16 on a fixed income. Middle-class New Yorkers are
17 being bombarded with rate increases at every turn,
18 many of them have become unemployed and so,
19 therefore, it's really crucial that we sort of
20 stabilize things, at least where we can, when it
21 comes to rate increases. We've been bombarded
22 with increasing rates from electricity to the
23 water we drink and what we have here is a total
24 outrage.

25 I tend to agree with Comptroller
Bill Thompson that a substantial amount of money

1
2 is being diverted to other agencies and/or city
3 services and not being specifically utilized for
4 their intended purpose--preservation and
5 maintenance of the city's water and sewer
6 infrastructure.

7 In Southeast Queens, we could
8 surely use these funds to rebuild the entire sewer
9 project in Southeast Queens, where residents fear
10 every time there's a rain because they know that
11 their basements will be flooded. I held a special
12 meeting with our elected officials and also, at
13 the time, the Chairperson of DEP and I was told
14 that the cost of repairing the Southeast Queens
15 water system and also problems in Astoria, was
16 astronomical, that we couldn't afford it, it would
17 take 30 years to complete it. Well let me tell
18 you, we definitely need some of these funds to
19 start dealing with that. We're talking about
20 individual homeowners who, if you see the water
21 levels in their basement, they have to fight all
22 kinds of problems with it.

23 The latest proposal comes at the
24 very worst possible time when one considers the
25 state of our economy and the ever-rising costs,

3 fees, and taxes our citizens are being subject to.
4 Even Con Edison has again raised their rates--
5 that's not your responsibility--up to 6.1% for New
6 York City rate payers. I am once again requesting
7 that the Water Board do the right thing and
8 refrain from proposing another outrageous water
9 rate hike. We need to protect the middle class
10 and working class families that simply cannot
11 absorb another rate hike.

12 I think the Board should seriously
13 consider other alternatives to a rate increase.
14 Under the federal government's economic stimulus
15 bill, the New York State revolving fund will
16 receive approximately \$432 million for clean water
17 projects, in addition to \$82 million for drinking
18 water projects. I am projecting, I've already
19 turned that into the state, that I'm asking for
20 some of that stimulus money to help us with our
21 sewage construction. We have clean water projects
22 in addition to 82 million for drinking water
23 projects, however, under this plan, only half of
24 those funds are scheduled to be distributed by
25 means of direct grant or subsidy. There is
clearly some wiggle room here that we can

1
2 implement rather than raising the rate. I agree
3 with Comptroller Thompson who proposed reimbursing
4 excess rent that the Water Board pays to the city
5 under the current agreement, the board leases the
6 water and infrastructure to the city. Until
7 recently, it effectively reimbursed the city for
8 water-related debt service on bonds issued before
9 the Water Authority was created. However, since
10 2005, the formula has led to payments that
11 exceeded the city's underlying cost for the
12 system. Return the excess rent to the Water Board
13 to offset the cost of running the water system.

14 And finally, you can avoid another
15 whopping increase in the water rate if the
16 Department of Environmental Protection, which has
17 seemingly been held harmless during these trying
18 fiscal times, would reduce its operating budget by
19 5%. City agencies have all been asked to endure
20 hardships of cost cutting and fiscal restraints,
21 including my office, which is being forced to
22 absorb a 16% reduction. If implemented, the
23 proposed water rate increase could be wiped off
24 the table.

25 Throughout my tenure as a public

3 official, and it's a pretty lengthy time, I have
4 found that water bill problems are the most feared
5 by the citizens of our city. A lien could be
6 placed on your home, complications surrounding its
7 increase, and sometimes misreadings of its meters,
8 billing problems are the most stressful to our
9 citizens.

10 In closing, I would like to thank
11 you once again for allowing me to speak on this
12 important issue. Through a jointly collaborative
13 and cooperative effort, I think we can resolve
14 this issue. Raising the water rate again is
15 wrong, and it cannot be tolerated.

16 I thank you.

17 CHAIRPERSON GENNARO: Thank you,
18 Borough President Marshall, we appreciate your
19 being here and for giving voice to very important
20 things that had to be said.

21 The Water Board is a supposedly
22 independent entity, they don't report to us, we
23 don't control them, and so the best way to get
24 through to them is by being vigilant, as you've
25 been by being here, by testifying at the Water
Board hearing, which you always do, and I think

1
2 also by helping to compel the Bloomberg
3 Administration and, frankly, this Council as David
4 Weprin and I are going to try to do to indicate
5 that we should make this rental payment residual
6 situation a budget priority for the Council and we
7 should set a goal for reducing that rental payment
8 overpayment by working collaboratively with the
9 Administration to say how much can we reduce it,
10 because if the Administration takes less money in
11 the form of this rental payment, than that like
12 blows a hole in the budget. And if we commit to
13 sort of filling that hole once it's blown open by
14 taking less of a rental payment, that's what we
15 need to do. So we can't put it entirely on the
16 Water Board or entirely on the Bloomberg
17 Administration, the Council plays a role here too
18 and we're more likely to do that with testimony
19 and passion that you're providing here, and so we
20 greatly appreciate you being here. And, I thank
21 you.

22 BOROUGH PRESIDENT MARSHALL: Well
23 actually to see that some of the money is going to
24 the general fund we're already paying taxes,
25 everything is increased in cost, so that I don't

3 think we can be so flippant about just again
4 giving the people another increase in these rates.

5 CHAIRPERSON GENNARO: Absolutely.

6 BOROUGH PRESIDENT MARSHALL: Water
7 is essential.

8 CHAIRPERSON GENNARO: Sure, sure.

9 David, did you have anything for Borough President
10 Marshall?

11 CHAIRPERSON WEPRIN: Yeah, I just
12 also want to join with Chair Gennaro to thank you
13 and to urge you not to give up the fight, that
14 what's really happening here, let's call it what
15 it is, is an additional property tax where no
16 one's accountable. Where had the City Council
17 proposed, along with the Mayor, a 40% property tax
18 increase over three years you would hear outrage
19 in the streets, you would hear people hanging out
20 in the thousands, but what's happening here is the
21 Water Board is not accountable to anyone even
22 though they're all mayoral appointees, they are
23 really accountable to the Mayor, but there's
24 really people feel there's no use almost, that
25 it's not going to get anywhere and it's really
wrong. And once that money goes into the general

2 fund, it's really just another property tax and
3 that is wrong.

4 BOROUGH PRESIDENT MARSHALL: I'm
5 going to let other people speak.

6 CHAIRPERSON WEPRIN: Yes--

7 CHAIRPERSON GENNARO: Thank you.

8 CHAIRPERSON WEPRIN: --the next
9 witness is Deputy Comptroller Marsha Van Wagner
10 and then we'll have a couple of panels after.

11 CHAIRPERSON GENNARO: Yeah, let me
12 just call the panel that'll be on deck after the
13 Deputy Comptroller speaks.

14 We'll have Hershel Weiss, Ed
15 Korman, Jackie Monterosso, April Tyler, and Corey
16 Bearak will be in the next panel, they should get
17 ready. Once we formally call them, we'll give
18 their titles and everything else, but they are in
19 the next panel.

20 All other witnesses after that will
21 be in the final panel.

22 DEPUTY COMPTROLLER WAGNER: Okay.
23 Good afternoon, Chairman Weprin, Chairman Gennaro.
24 My name is Marcia Van Wagner, Deputy Comptroller
25 for Budget and I am appearing here today on behalf

1 of New York City Comptroller Bill Thompson.

2 We are pleased to have this
3 opportunity to share our views on the New York
4 City Water Board's proposed double-digit water
5 rate increase--the third in three years.
6

7 As Comptroller Thompson testified
8 recently before the Water Board, rising water and
9 sewer rates are gouging New York City families and
10 small businesses precisely at a time when they can
11 least afford it. If the Board sticks to the
12 projected 14% rate increase for FY 2010, an
13 average single family homeowner's rates will have
14 risen from \$571 to \$911 in just four years--that's
15 a 60 percent increase--over five times the rate of
16 inflation.

17 To address escalating rates,
18 Comptroller Thompson has recommended that the
19 Water Board focus on five areas immediately.
20 First, the Board must complete and make public a
21 promised million-dollar study of alternative rate
22 structures. That study was intended to help the
23 board set rates this year.

24 Number two, excess rent now being
25 paid by the Water Board to the City--to exceed 200

1 million by 2012--should be rebated back to the
2 water system, to be used for pay-go capital
3 spending and rate reductions.
4

5 Third, Governor Paterson must
6 support direct granting of all the federal
7 stimulus money that is projected to clean water
8 and drinking water projects in New York State--
9 nearly \$500 million.

10 Fourth, the city's Department of
11 Environmental Protection should be required to cut
12 its operating budget by 5%, as other city agencies
13 have been required to do.

14 And, fifth, we must ensure that the
15 New York City water supply west of the Hudson
16 River is protected from proposed gas drilling that
17 could necessitate the construction of a \$10
18 billion water filtration plant.

19 Let's begin with the rate study.
20 As many of you know, last year, the Water Board
21 committed a million dollars of rate payer money to
22 review how other utilities across the country
23 structure their rates, and to examine ways to
24 inject a greater deal of fairness into our system.

25 Then-DEP Commissioner Lloyd

3 promised that the fiscal year 2010 water and sewer
4 rates would take into account the results of this
5 study. During the Water Board's meeting last
6 June, member after member of the Board, from
7 current Chairman Moss to then-Chairman Tripp and
8 others, spoke to the study's importance in
9 addressing problems with the current rate
10 structure.

11 And yet here we are a year later.
12 As New Yorkers struggle to pay their bills in the
13 midst of an historic economic crisis, a million
14 dollars of their money has been committed to a
15 study that has not yet been released. Comptroller
16 Thompson has called that an outrageous breach of
17 responsibility. Even if the Board releases the
18 study this week or next month, it is too late to
19 affect the rate structure and rate levels this
20 year.

21 If delivered as promised, the
22 report will deal with complex matters that must be
23 absorbed and analyzed by government officials,
24 policy advocates, and the public. To do so
25 effectively, we should have had it weeks or months
ago. While it's too late for this year, the Board

1
2 must produce this study so that we may take
3 actions to avoid new rate increases next year.

4 One important issue that was to be
5 analyzed by the study is Comptroller Thompson's
6 longstanding proposal to rebate excess rent paid
7 by the Water Board to the City. The Board's
8 current rental payments to the City are based on a
9 formula that, until recently, simply reimbursed
10 the City for water-related debt service on bonds
11 issued before the Water Authority was created.

12 However, because of the way the
13 formula works, since 2005 those rental payments
14 have exceeded the amount needed to pay down this
15 old debt. This excess rent will be--our figure is
16 nearly \$123 million this fiscal year, although I
17 hear from the previous testimony that there are
18 revised figures, we haven't been able to have
19 access to that information yet--and to grow to
20 more than \$200 million by fiscal year 2012.

21 For the past two years, Comptroller
22 Thompson has proposed rebating the excess rent to
23 the Water Board to offset the cost of running the
24 water system. That excess rent would be split
25 equally for two purposes: one-half for pay-as-you-

1
2 go capital spending, which reduces costs over the
3 long term; and one-half to cut other water system
4 expenses so we can give ratepayers relief from
5 ever-escalating charges. Using the excess rent in
6 this way would save rate payers over \$350 million
7 between fiscal years 2010 to 2013, while
8 protecting our bondholders.

9 Another way to help our water
10 system is through the federal stimulus package.
11 Under the terms of the stimulus bill passed by
12 Congress, our state will get more than \$400
13 million for clean water projects and over \$80
14 million for drinking water projects.

15 Comptroller Thompson has written to
16 Governor Paterson to support direct grant
17 allocation of all of this stimulus money for
18 capital projects. This is critical given the
19 overwhelming needs of our state water system and,
20 particularly, New York City's Water Authority. A
21 direct grant program to the Authority would have
22 an immediate and lasting impact on New York City's
23 water and sewer rates. For every \$100 million
24 that is granted rather than loaned, we save debt
25 service costs of more than \$5 million per year.

1
2 We hope you will join us in calling on the
3 governor to take this common-sense approach.

4 At the same time, the portion of
5 the DEP's budget supported by water rates has not
6 been subjected to the same fiscal discipline as
7 other agencies, which have faced 5% cuts in the
8 wake of the current economic downturn. New
9 Yorkers are facing tough times. They are losing
10 their jobs and their homes and they are paying
11 more for less across the board. As New Yorkers
12 struggle to tighten their own belts, they have a
13 right to expect that their government will do the
14 same.

15 Finally, we must protect the New
16 York City drinking water supply west of the Hudson
17 from proposed gas drilling. Drilling near the
18 watershed threatens to contaminate New York City
19 drinking water and necessitate the construction of
20 a \$10 billion water filtration plant, further
21 increasing water rates. The state's Environmental
22 Impact Review process must ensure that any
23 drilling permits be tied to rules protecting our
24 water from contamination associated with the
25 drilling. Our office submitted recommendations to

3 the state in December and will continue to closely
4 monitor and participate in the review process to
5 protect our watershed and rate payers.

6 The Water Board has commissioned a
7 study of these issues, but we urge all of you to
8 ask them to take a more activist approach to this
9 threat. As custodian of our drinking water, the
10 Board should adopt an explicit policy to protect
11 the watershed from natural gas drilling.

12 In conclusion, our water system
13 cannot continue with business-as-usual in the face
14 of tremendous economic and environmental threats.
15 At the same time, we owe it to New York City rate
16 payers to do everything we can to keep rate
17 increases down as they struggle to keep up with
18 the rising cost of living in our city and proposed
19 hikes in transit fares, as well as sales and
20 payroll taxes. Thank you very much.

21 CHAIRPERSON GENNARO: Thank you,
22 Deputy Comptroller Van Wagner, and I noted with
23 great interest your comments regarding the natural
24 gas drilling, it's been a real passion of mine.
25 On the last page of the statement, this is one of
the passages here, it was the Comptroller's

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2 PROTECTION

3 testimony that the state's Environmental Impact
4 Review process must ensure that any drilling
5 permits be tied to rules protecting our water from
6 contamination associated with the drilling. That
7 would seem to suggest or at least intimate that,
8 in the view of the Comptroller, that there could
9 be drilling within the confines of New York City's
10 drinking water supply and what's he asking for is
11 that there be rules that will protect the water
12 supply from drilling that is done within the
13 confines of the water supply, that's how I read
14 it. Is that a fair assessment?

15 DEPUTY COMPTROLLER VAN WAGNER:

16 Well we're veering into--

17 CHAIRPERSON GENNARO: Is that a

18 fair attempt--

19 [Crosstalk]

20 DEPUTY COMPTROLLER VAN WAGNER: --

21 an area where I don't actually have the--

22 CHAIRPERSON GENNARO: Okay.

23 DEPUTY COMPTROLLER VAN WAGNER: --

24 technical expertise, so I can get back to you with
25 the details.

CHAIRPERSON GENNARO: Okay. 'Cause

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2 what I'm looking for from sort of everyone that I
3 can convince to my way of thinking, my line of
4 thinking is that there cannot be any natural gas
5 drilling within the confines of New York City's
6 unfiltered drinking water supply 'cause such
7 activity is completely inconsistent with an
8 unfiltered drinking water supply and there is no
9 way to protect the water supply if that drilling
10 does take place within the water supply. Once the
11 bull is in the china shop kind of running around
12 or whatever, having a rule in the china shop that
13 says keep your bull from bumping into any of the
14 china, I don't think it's going to work and so the
15 bull's going to hit the china, china's going to
16 break and if we have drilling within the confines
17 of New York City's unfiltered drinking water
18 supply, there will be degradation, there will be a
19 filter mandate ultimately and so--but it's not
20 quite clear here, but--

21 DEPUTY COMPTROLLER VAN WAGNER:

22 Well I'm--

23 CHAIRPERSON GENNARO: --that is my
24 position--

25 DEPUTY COMPTROLLER VAN WAGNER:

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Yeah.

CHAIRPERSON GENNARO: --and I would like to get as many people sort of on like the Jim Gennaro bandwagon as possible, but I will recognize the fact that the Comptroller and others have been outspoken on the gas drilling issue, which I'm deeply appreciative of. And I want to thank you very much for being here and representing the Comptroller and thank you.

DEPUTY COMPTROLLER VAN WAGNER:

Thank you.

CHAIRPERSON GENNARO: And the next panel Hershel Weiss of Water Watch Blog. Hershel, I know, does other things as well. Ed Korman, a representative of SPONY; Jackie Monterosso of Rent Stabilization Association. April Tyler, Neighborhood Economic Development, looks like, Advocacy Project, NEDAP, N-E-D-A-P; and the last witness for this panel, Cory Bearak, today representing the Queen's Chamber of Commerce.

[Off mic]

CHAIRPERSON GENNARO: So I thank you all very much for being in attendance today and thank you for your patience, I hope you

1
2 enjoyed the fireworks next door and glad nobody
3 got hurt.

4 And, with that said, why don't we
5 get right to the testimony? Perhaps we'll proceed
6 in the order that I called the witnesses, we'll
7 hear first from Hershel Weiss. I would ask all of
8 the panel as to stay on the panel until all of the
9 witnesses have finished making their statements,
10 after which I'll pose questions or comments to the
11 panel as a whole.

12 With that said, Mr. Weiss,
13 appreciate you being here today, if you could
14 state your name for the record and proceed with
15 your testimony, it'd be most appreciated.

16 MR. HERSHEL WEISS: Good afternoon,
17 my name is Hershel Weiss, I am a water
18 conservation consultant and the editor of a blog
19 on DEP water issues. Thank you for allowing me to
20 present testimony today regarding the proposed
21 fines for denial of access and theft of services.

22 As a result of soaring costs due to
23 excessive borrowing, poor real estate tax
24 negotiations with upstate towns, and a outrageous
25 lease agreement entered into with the City of New

1
2 York, the Water Board is faced with yet another
3 14% rate increase. In order to deflect criticism
4 from these rising costs, the DEP is focusing your
5 attention on its inability to gain access to water
6 meters and the fact that they're stymied by a
7 miniscule number of customers who are
8 intentionally stealing water from the system. To
9 solve this management problem and raise revenues,
10 the DEP is proposing new penalties termed Denial
11 of Access and Theft of Services. These penalties,
12 called rates, will subject innocent consumers to
13 multimillion dollar fines. The following are a
14 few examples: the owner of a three-family home who
15 paid every water bill on time, but has--

16 CHAIRPERSON GENNARO: Mr. Weiss, if
17 we could, I'm just going to--if I could call the
18 Council to my committee, Samara--this testimony is
19 of great interest to me and I want the benefit of
20 the Council [pause] protection and I want the
21 Council to the Environmental Protection Committee
22 to be here for this compelling testimony.

23 And so, sorry for the interruption,
24 but this is of great interest to me and--

25 [Crosstalk]

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3 MR. WEISS: I'm happy being called
4 compelling.

5 CHAIRPERSON GENNARO: Sure, okay.

6 MR. WEISS: The owner of a three-
7 family home who paid every water bill on time, but
8 has an obstructed meter or a cut meter seal, quite
9 possibly cut a long time ago, will be liable for a
10 four-year back bill in the amount of \$19,751, even
11 though there has been no theft of water and no
12 attempt to steal water.

13 Second case, an owner of a
14 warehouse with two 8-inch mains and an annual
15 water bill of \$500 who paid all water charges on
16 time and whose tenant inadvertently backed his
17 truck into a water meter and destroyed the meter,
18 even though he's destroyed government property,
19 but would be liable for a \$3.6 million charge.
20 The property owner would have no way to defend
21 herself. The fine, by the way, would be the same
22 amount if the tenant just obstructed the meter.

23 The third case is an example of
24 actual theft, but I think the fine is excessive.
25 If a 1,500 unit Mitchell-Lama subsidized housing
complex whose superintendent opened a fire hydrant

3 for the neighborhood children or tenants who used
4 the building's sprinkler system to wash their cars
5 would be liable for a back bill in the amount of
6 \$9.3 million--again, a four-year back bill. The
7 housing complex could reduce this charge if it can
8 prove that this was the first time a fire hydrant
9 or a sprinkler system was used for domestic
10 purposes. For some perverse reason it would be
11 the guilty party's responsibility to prove it did
12 not steal water at any earlier time. Of course,
13 when defending itself it can not offer any
14 evidence beyond DEP inspector's report. Simply
15 put, the Mitchell-Lama may not provide any
16 evidence that is not created by the party
17 prosecuting in it.

18 I honestly believe that is not the
19 DEP's intention to punish people, but to go after
20 the guilty few, but that's not the way the law is
21 supposed to operate in this country. Laws and
22 regulations are supposed to protect the innocent,
23 it is the DEP's responsibility to prove guilt
24 before defaming a customer's character with charge
25 of theft of services and the accused should have
the opportunity to defend himself. I respectfully

3 request that the DEP rewrite these regulations to
4 require the DEP to present conclusive evidence
5 that one is guilty of the theft before issuing a
6 verdict of theft of services. Furthermore, the
7 taxpayer must have the ability to refute any
8 charges.

9 In closing, I don't object to the
10 fines, what I object is to the very small evidence
11 that the DEP has to provide and the inability of a
12 customer to defend themselves in these cases. Thank
13 you.

14 CHAIRPERSON GENNARO: Thank you.
15 Thank you, Mr. Weiss. Certainly we'll be getting
16 back to you, I do have questions and comments on
17 this, so if you just stay at the panel until the
18 other members of the panel have made their
19 statement, but this is of great interest.

20 Next witness, Ed Korman.

21 MR. ED KORMAN: Good afternoon, Mr.
22 Chairman, members of the--good afternoon, Mr.
23 Chairman--

24 [Crosstalk]

25 CHAIRPERSON GENNARO: ...right into
the--

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3 MR. KORMAN: --members of the
4 Council. My name is Ed Korman, I'm the Executive
5 Vice President of the Small Property Owners of New
6 York, I'm a member of a Community Board, I am
7 involved with community affairs in my precinct, I
8 am also a working property owner, so I can give
9 you better observations since I am a person in the
10 field living the day-to-day experiences of my own,
11 as well as answering questions from members from
12 the community and the above-organizations that I
13 represent.

14 We read in the newspapers and hear
15 from the media about city agencies needing more
16 revenues, the affordable housing crisis, people
17 not being able to afford the rents, and that the
18 DEP cannot collect the money owed by their
19 customers.

20 Let's look at the picture in the
21 70s and 80s, abandonment was rampant because
22 owners could not afford to maintain their
23 properties, nor pay taxes, water bills, fees, and
24 the like simply because their expenses exceeded
25 the income, so they neglected the property,
leading to the deterioration of neighborhoods.

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3 By the way, may I just make a
4 comment--I have a different testimony, but
5 basically the facts that I will get your office
6 the corrected one if you miss following me.

7 In the last 10 years, things were
8 good in this city with all the rebuilding and the
9 revenues flowing in, there were modest increases
10 in water rates because the population grew and
11 more water was used. Why can't the DEP collect
12 their revenues? There are lots of errors in
13 reading meters, the owners must pay the incorrect
14 bill before he could appeal it and owners just
15 don't have the kinds of funds available to pay
16 before they can negotiate.

17 DEP hired Con Edison to read the
18 water meters, but Con Ed readers could care less
19 about the accuracy of their readings. I know
20 firsthand because I experienced an \$80,000 mistake
21 for a meter that was put out of service.

22 Some other reasons for the
23 inability of DEP to collect their bills: billing
24 goes to the wrong buildings, billings go out to
25 buildings that no longer exist, abandoned
buildings owned by banks, notice is sent to

1 incorrect owners and incorrect addressees,
2 buildings with no water mains, in some cases, they
3 have two water mains.
4

5 What is this trend? Logically, the
6 better the conservation, the less water that is
7 used, the less the bills will be. In response to
8 conservation and less usage and in response to
9 inability to collect bills, rates go up to make up
10 the deficit. Owners have a no-win situation, the
11 water rates are rising faster than our real estate
12 tax rates. How are we supposed to pay for this in
13 these hard economic times when it is difficult to
14 collect rents in many cases and many of us have to
15 lower rents to keep our tenants in place.

16 DEP would like to implement the
17 multi-family conservation program. It would bill
18 properties on a per apartment basis. A property
19 could only qualify if it has a minimum percentage
20 of leaks. With the increases we have gotten and
21 the proposed increases, a six-family house could
22 have an increase in excess of \$1,000 per year, it
23 would truly hurt property owners who are about
24 making it or just breaking even.

25 One question is: Why do DEP spend

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2 for postage when Department of Finance sends us
3 the bills and they go electronically to our banks?
4 Why do we have to have all this electronically
5 readed meter readings when we're all on a lot of
6 buildings are on frontage and they intend to put
7 us on the multi-family conservation program, which
8 does not have a meter reading? And why should we
9 have to continue to pay these high sewerage rates
10 if the flow of water has decreased means that the
11 sewerage is also being decreased?

12 Let me point out a personal
13 experience that I've had and in the past few weeks
14 visiting one of my properties, I noticed a fire
15 hydrant with parts missing and water running down
16 the street coming up from a DWS shut-off box. I
17 called 311 and reported this needed repair,
18 reference number 2108368. I visited the site
19 about five days later on April 20th and found
20 nothing was done. I forwarded this information to
21 your office, as well as Councilman Weprin's office
22 by e-mail. Sunday, April 25th, while putting the
23 final comments to this testimony, I called one of
24 my tenants to look out and see if the water was
25 running and the hydrant fixed--no, it hasn't.

3 Yesterday, I went to the property and I will
4 submit pictures of fire hydrants inoperable
5 conditions and if they pay the fire department to
6 correct the fire hydrants, why are they in this
7 case? If the fire department has so said before
8 testimony is there all the time checking?

9 Something is wrong, something is not correct.

10 There is water coming out of the street constantly
11 for the last three and a half to four weeks. 311
12 didn't do their job, DEP didn't do their job,
13 and/or the fire department didn't do their job,
14 and I think a rate increase is going to put this
15 city in dire straits according to affordable
16 housing.

17 Thank you.

18 CHAIRPERSON GENNARO: Thank you,
19 Mr. Korman, and we'll have questions for you.

20 Before we call Jackie Monterosso, I
21 just want to pay a little tribute to my colleague
22 Robert Jackson, where as I was trying to work the
23 hearing as best I could, he was just trying to do
24 his job and make sure his questions got answered
25 and I'm sorry things got a little bollocksed up
there, but I understand, but I just want to state

1
2 on the record that I love this man and that's what
3 I have to say. And so, thank you, Robert, for
4 being a good sport about the whole thing, I really
5 appreciate it and do absolutely love you.

6 Jackie Monterosso of the RSA, I
7 want to thank the RSA for being a great advocate
8 on behalf of sanity, with regard to water billing
9 and water rates. Jackie, may you and I both live
10 long enough to see that sanity actually happen,
11 that would be a good day.

12 So, please, just state your name
13 for the record and proceed with your testimony.

14 MS. JACKIE MONTEROSSO: Good
15 afternoon, Mr. Chairman. My name is Jackie
16 Monterosso, I'm here representing the Rent
17 Stabilization Association who, collectively, we
18 represent about 25,000 members who own or manage
19 about one million units of housing in New York
20 City.

21 In the interest of time, I will not
22 read through my entire four-page testimony this
23 afternoon, but will just briefly outline the main
24 points.

25 Yourself, Mr. Chairman, Council

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3 Member Jackson and Chairman Weprin did an
4 excellent job this morning of dealing with DEP and
5 the Water Board and so I think the point has been
6 made several times that the excess water rental
7 payment is a great disservice to the rate payers
8 of New York City and has caused a third year of
9 double-digit rate increases.

10 Just from a PR perspective, I'm the
11 Communications Director for RSA, a double-digit
12 increase could be avoided, it appears, by reducing
13 it five percentage points, so just in the interest
14 of a better newspaper article, I would submit that
15 they reduce their rate increase to 9%.

16 I will, however, turn your
17 attention to page three of my testimony which
18 covers some of the sentiments that Mr. Weiss
19 covered earlier about the theft of service and
20 denial of access charges, so I will read through
21 that for the record. Property owners may face
22 costs in addition to the 14% rate hike this year
23 as a result of the rules that the Water Board has
24 been asked to consider that would charge owners
25 steep fines if DEP determines that there has been
a denial of access to a building. The new rules

1 cover theft of services and denial of access and
2 may expose property owners to disproportionately
3 harsh consequences, especially when viewed
4 together with DEP's new efforts to replace
5 existing water meters with Automatic Read Meters.
6 The new rules would charge owners administrative
7 fees of \$250 if DEP fails to gain access to a
8 property following the first written request for
9 access. If there is no response to a second
10 notice, DEP may determine that there is a theft of
11 services and will be able to bill owners for an
12 attributed consumption rate equal to \$1,823 per
13 year for the first unit and \$1,550 for each
14 additional unit. They will be able to bill at
15 these astronomical rates retroactively for four
16 years.
17

18 The attributed consumption charges
19 are not based on historic charges for property or
20 estimated consumption. Instead, they represent
21 roughly double the average per unit charges and
22 are intended to be punitively high.

23 The problem here is that DEP can
24 impose attributed charges the same penalty as for
25 theft of services, even when an owner has

1
2 diligently paid appropriate charges simply on the
3 basis that they have failed to gain access to the
4 property. There is no requirement for DEP to
5 prove that any theft has taken place, the rules do
6 not state what notice period is required, the
7 rules do not require that the notice go to a
8 responsible party, rather than an escrow agent.
9 If an owner is out of town when the request is
10 made, owners may be punished unfairly.

11 We have asked the Water Board not
12 to enact the new rules until essential safeguards
13 are incorporated and we urge the City Council to
14 keep a close watch on these developments. First
15 there needs to be notification of a request for
16 access by certified mail to the owner or managing
17 agent, not the mortgage escrow company, before
18 there is any determination of a denial of access.

19 Second, the request for access must
20 provide a reasonable period of time for the owner
21 to arrange access.

22 Third, there shall be a finding of
23 intent on the part of the owner before a finding
24 of theft or services can be made.

25 Finally, when there is a denial of

3 access, penalties should be limited to
4 administrative fees and if consumption appears
5 low, attributed charges should not be punitive and
6 should be no higher than the average for the
7 structure class.

8 As representatives of a large
9 constituency of water and sewer rate payers, we
10 are frustrated as the City Council must be by the
11 lack of transparency and oversight that
12 characterizes the current structure of the Water
13 Board, the Water Authority, and DEP. We would
14 hope the steps outlined above will help correct
15 the situation and I'd be happy to answer any
16 questions.

17 CHAIRPERSON GENNARO: Thank you,
18 thank you, Ms. Monterosso. And, once again, we
19 hear about the same issue that Hershel Weiss has
20 brought up and, suffice it to say that you have
21 absolutely gotten my attention on this and I'll
22 have more on that once the panel concludes.

23 We'll hear next from April Tyler,
24 Neighborhood Economic Development Advocacy--

25 MS. APRIL TYLER: Project.

CHAIRPERSON GENNARO: --Project?

1
2 Okay. Do you have a written statement?

3 MS. TYLER: I do not.

4 CHAIRPERSON GENNARO: Okay, that's
5 fine.

6 MS. TYLER: We are planning to
7 testify at the Water Board hearing on Thursday, so
8 if you would like us to give you a copy of that--

9 [Crosstalk]

10 CHAIRPERSON GENNARO: No, it's
11 okay, you can just tell us your testimony, we'll
12 be happy--

13 MS. TYLER: Okay.

14 CHAIRPERSON GENNARO: --to listen
15 to it.

16 MS. TYLER: My name is April Tyler,
17 I'm the state and local campaigns coordinator at
18 the Neighborhood Economic Development Advocacy
19 Project, or NEDAP, and I thank you for holding
20 this hearing and inviting us to testify this
21 afternoon.

22 We are an organization that has
23 been around for 13 years and we've done a lot of
24 work around financial justice issues throughout
25 the city and even New York State. We've done a

1 lot of studying of studying research and advocacy
2 work around banking issues, access to financial
3 services that are fair and affordable, analysis of
4 credit and financial markets, and we've done a lot
5 of advocacy work around predatory lending. In
6 fact, we helped to get several bills passed on the
7 state level that damp down some of the predatory
8 lending practices in neighborhoods that we've
9 seen. And we've also done a lot of work around
10 the foreclosure problem and we study the rates of
11 foreclosure every year and publish maps and give
12 information out to community groups, elected
13 officials, and other advocates about the
14 foreclosure issue as we see it in the New York
15 City neighborhoods. We've recently been doing a
16 lot of outreach and informational work around the
17 tax lien sale and that's what brought me here this
18 afternoon to testify about the water rate
19 increase.
20

21 I've probably been to at least 35
22 meetings in the last month and a half about the
23 upcoming tax lien sale and I've given you a flyer
24 that we've sent out to advocates, as well as we've
25 done mailings to homeowners to alert them to the

3 possibility of their property tax or water lien
4 being sold on May 4th, the need for them to work
5 out a payment agreement if that's applicable, and
6 to alert them to possibilities for exemptions for
7 which they may qualify.

8 CHAIRPERSON GENNARO: Okay.

9 MS. TYLER: We've also done a map
10 to show the standalone water liens. As of the 30-
11 day list, there were more than 9,000 one to four
12 families across the city that had just water lien
13 and the potential for them to lose their homes
14 because of just a water lien. Now that relates--

15 CHAIRPERSON GENNARO: Okay.

16 MS. TYLER: --directly to this
17 proposed increase because the same neighborhoods
18 that are affected, that were affected by predatory
19 lending, that are affected now by the rampant
20 foreclosure rates are the same neighborhoods where
21 we see high rates of standalone water liens.

22 CHAIRPERSON GENNARO: Okay. So
23 what can we--what's the major point that you want
24 to make?

25 MS. TYLER: The major point is that
the residents, the homeowners, as well as the

1
2 renters who live in these neighborhoods are being
3 doubly hit, triply hit by this increased rate and
4 we realize that many people who have predatory
5 loans where they do not escrow for property taxes
6 have the choice, do I pay my property taxes, do I
7 pay my mortgage payment, do I keep that current,
8 or do I pay my water bill. Very often, they
9 decide not to pay their water bill. With an
10 increase, we will see higher rates of people not
11 being able to pay their water bill, not because
12 they don't want to, because they cannot afford to.

13 So we are against this increase
14 because we feel that it disproportionately affects
15 one to four family homes, it disproportionately
16 affects neighborhoods in the boroughs, and it
17 disproportionately affects African-American and
18 Latino communities.

19 We also realize that we know that
20 the City Council, in exchange for granting the
21 Department of Environmental Protection the right
22 to sell standalone liens, they agreed to institute
23 some measures to improve their billing and--

24 CHAIRPERSON GENNARO: Yes.

25 MS. TYLER: --their collection

3 methods and to general accountability, and at
4 least we've not gotten any information to show
5 empirically that they've done that, but
6 anecdotally, at least, we know that they have not.
7 At every--

8 CHAIRPERSON GENNARO: Have not done
9 what?

10 MS. TYLER: Have not improved their
11 accountability, improved their billing and their
12 collection methods, they still have confusing
13 bills, confusing and unaffordable payment
14 agreements that people are forced to sign or have
15 their liens placed into the lien sale or, in the
16 case of one families, have their water shut off.
17 We think that's an untenable position to put
18 homeowners in, so that's another reason that we
19 are against the 14% increase in the rate.

20 And just to wrap up because in the
21 interest of time, I know this hearing has gone on
22 for a long time, we understand the need for the
23 city to raise revenue for DEP to keep their
24 revenue flows constant and for the municipal water
25 and finance authority to make their bondholders
whole, but we do not think that it's sound public

3 policy for the city and the City Council on the
4 one hand to fund neighborhood preservation
5 organization and efforts and particularly
6 foreclosure prevention efforts and then on the
7 other hand institute increased fees and rate
8 charges that are going to sink these same
9 homeowners from another direction. We think that
10 there has to be more sound policy with respect to
11 this and we think this rate increase is only going
12 to sink these neighborhoods faster and drive more
13 people into foreclosure.

14 And I would just end by saying that
15 I would love to come to one of these hearings, I'm
16 recently back in the non-profit world, but I spent
17 many years coming to City Council hearings on
18 various legislative issues, and I would love to
19 see the advocates and the citizens go first and
20 let the agencies hear what we have to say for a
21 change, that would be refreshing.

22 Thank you.

23 CHAIRPERSON GENNARO: Thank you,
24 and that's duly noted, but I am here.

25 MS. TYLER: And I appreciate that.

CHAIRPERSON GENNARO: Thank you.

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3 Corey Bearak on behalf of the Queens' Chamber of
4 Commerce.

5 MR. COREY BEARAK: Right, actually,
6 Jim, I am here for both the Congress and the
7 Chamber if I can--

8 CHAIRPERSON GENNARO: Oh, fine, I'm
9 just reading off your slip, it says Queens--

10 MR. BEARAK: Oh, they only gave you
11 one, they told me to fill out two slips, but--

12 CHAIRPERSON GENNARO: Oh fine,
13 okay.

14 MR. BEARAK: --I'll do it real
15 quick on both cases.

16 CHAIRPERSON GENNARO: Sure.

17 MR. BEARAK: Jack Freidman is out
18 sick today, otherwise, he'd be doing the Chamber--

19 CHAIRPERSON GENNARO: Right.

20 MR. BEARAK: --piece. And the
21 essence of our Chamber testimony, and we testified
22 yesterday, as you know, at the--

23 CHAIRPERSON GENNARO: Yes.

24 MR. BEARAK: --the Water Board is
25 that this is really bad for business and that
really to go and charge us for costs of, you know,

1 through the rent for things that any other items
2 that are outside the water and sewer system is
3 just an outrage [off mic] seeking to work with you
4 to end these practices. And we further--we want
5 to point out again that these, as mentioned
6 earlier, how these hikes have really hurt the
7 business economy and at this particular time of
8 this very sensitive, fragile economy, it is not
9 the most intelligent thing to do.
10

11 And then, further, this is the
12 first time actually I recall, and I think you and
13 I have been looking at blue books for almost two
14 decades, I think it's the first blue book where
15 they've actually talked about the federal and
16 state mandates and identified that as a problem,
17 but as we've heard, that they still have not gone
18 out and asked for that money and we think it's
19 imperative that they do do that, but we do welcome
20 that fact that the blue book notes these needs.

21 And, finally, essentially what
22 we've heard from these discussions is most of this
23 water rate increase is really functioning as a
24 backdoor tax increase--

25 CHAIRPERSON GENNARO: Right.

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3 MR. BEARAK: --and we submit to you
4 that this perhaps what the Council can do and
5 really commend you for holding these hearings, if
6 you will, before the rate hikes take effect and
7 before there's a final deliberation about that is
8 perhaps use the Council's budget power to send a
9 message to City Hall and take some of these items
10 out of DEP's budget and force City Hall's hands
11 and, even if that doesn't take effect until the
12 next year, it would essentially move City Hall in
13 the right direction and, since this is a mayoral
14 campaign year, it's a way certainly to force City
15 Hall's hands.

16 And then to segue into the
17 Congress's testimony, that was the essence of our
18 testimony yesterday to the Water Board, we're
19 recognizing that essentially that City Hall is
20 calling the shots here and the message yesterday
21 was to City Hall that they have to really
22 intervene because they're the ones holding back on
23 going back, not just with this administration, but
24 the previous administrations of never asking the
25 federal government and the state government to
step forward to fund the mandates and, as the

1
2 Comptroller noted, there's actually money this
3 time that we don't even have to beg for in the
4 traditional sense 'cause it's out there to grab
5 and that's imperative.

6 And because there's just a failure,
7 really a policy failure of City Hall to do
8 anything and to really come with a comprehensive
9 thing, the Civic Congress and the Croton Clean
10 Water Coalition put together a plan and we've been
11 presenting it first in Queens and we've been going
12 outside the borough soon starting in the Bronx
13 'cause the Croton plant is there and last week and
14 we want to thank Borough President Marshall and if
15 she was here I would thank her in person for the
16 record, but the borough board unanimously passed
17 our 16 point resolution, which is attached to our
18 testimony so it could be part of the record, and
19 it's available also on our website online, as well
20 as the presentation that accompanied that.

21 And just to summarize, that
22 resolution includes eliminating the rental
23 payment; setting rates after the city budget
24 approval; federal aid for federal mandates; using
25 the capital budget for projects; no use of water

3 funds for unrelated expenses; more watershed land
4 investment; no inappropriate gas drilling in the
5 watershed, which I know is dear to you and I
6 really thank you for really being the first one to
7 raise that issue; the use of modern membrane
8 filtration instead of the antiquated system that
9 is just creating amazing cost overruns at Van
10 Cortland project. I think when you and I first
11 started out, it was going to be like maybe 500
12 million and now it's six times that amount and
13 growing every day.

14 And just thank you for your
15 consideration and for hearing us and I want to
16 thank you and David for the leadership that you've
17 exhibited on this issue.

18 CHAIRPERSON GENNARO: Thank you,
19 thank you, Corey. Okay, these are my comments,
20 and this is a note to staff now. With regard to
21 the testimony that was put forward by Mr. Weiss
22 and Ms. Monterosso about the issue on the denial
23 of access, theft of services, I think we have to--
24 what I'm going to direct staff to do, I know my
25 own staff is taking a look at this also through--
Mr. Weiss had reached out to us. I already said

1 that I was going to submit to Steve Lawitts some
2 questions that I had but didn't get a chance to
3 ask at the hearing. We should, maybe rather than
4 just do it as questions, I think that we should do
5 some staff work on this so if the Council to the
6 Environmental Protection Committee and to the
7 Finance Committee could interact with Mr. Weiss
8 and Ms. Monterosso on this and get some sort of
9 brain waves going on this thing, we should go to
10 Steve in his capacity with when he's wearing his
11 Water Board hat in addition to Mr. Moss and let
12 them know that our institution has a real problem
13 with this and it'd be our own sort of
14 institutional question whether does Jim Gennaro
15 have a problem or is it Jim Gennaro and David
16 Weprin has a problem, is it the Finance Committee
17 and the Environmental Protection committee has a
18 problem, or is it the Council as an institution
19 has a problem, that's something we have to kind of
20 have our thing to figure out like who's got the
21 problem. But I'm in on that and so let's endeavor
22 to do that and get to the Water Board in a timely
23 fashion so that they can have a chance to know
24 that we have a problem well in advance of the May
25

2 15th vote, 'cause after May 15th, at that point,
3 just get a pizza at that point because it will be
4 done.

5 MS. MONTEROSSO: Mr. Chair, if I
6 may, on behalf of RSA we appreciate your concern
7 to this matter and we would be happy to assist you
8 and your staff further.

9 CHAIRPERSON GENNARO: Thank you,
10 yes, and you will be hearing from the staff to
11 figure out--we have your testimony, we have Mr.
12 Weiss's testimony, but I think we need to flesh
13 that out into a formal document by the Council
14 that this is what we have found. You know, DEP
15 obviously, is going to come back and say, oh no,
16 no, it's not that way at all, but we will have to
17 have some banter with them, but at the end of the
18 day, we should go firmly on record that we have a
19 significant problem with what has been put forward
20 and we don't want people owing millions of dollars
21 just because like they tried to cool down a couple
22 of kids at like a Mitchell-Lama thing by putting
23 the sprinkler on a hydrant or whatever. Again,
24 sanity, this is--so that's that.

25 And with regard to Ed and his issue

3 with the multi-family problem and he's got some
4 concerns, he's got some questions, he's got some
5 issues, we should take whatever concerns Mr.
6 Korman has and vet those and have that part of
7 this letter or whatever it is we give to the Water
8 Board about our problem. If it's just a matter
9 getting some of his questions answered, we could
10 do that, but to the extent that the multiple
11 family conservation program is really problematic,
12 that should be included as part of the Council's
13 position as well.

14 And--

15 MR. KORMAN: Jim?

16 CHAIRPERSON GENNARO: Yes, I got
17 it.

18 MR. KORMAN: I will reformulate all
19 this and I'll send it to your Decostas [phonetic],
20 so you can get--

21 CHAIRPERSON GENNARO: That's fine,
22 also--

23 MR. KORMAN: --all my points a
24 little bit better.

25 CHAIRPERSON GENNARO: --you know
what, and don't leave here today, Ed, without

3 these good people's e-mail addresses also, make
4 sure that it goes to them as well--

5 MR. KORMAN: Would you like these
6 pictures to--

7 CHAIRPERSON GENNARO: --so it'll go
8 to--yeah, anything--

9 MR. KORMAN: It's yours.

10 CHAIRPERSON GENNARO: --you want to
11 give us, we'd be happy to have.

12 And with regard to Ms. Tyler, I
13 want to thank you for your advocacy on behalf of
14 your community and on behalf of all communities
15 that have these issues and any problems that are
16 part of the lien sale operation, the outreach or
17 whatever, specific instances of people not being
18 reached out to, any kind of information that you
19 can provide to the committee, we'll make sure that
20 DEP pays attention to you and the people that you
21 represent in a very special way. That's the least
22 that we can do.

23 MS. TYLER: Okay. I will
24 definitely get you information. I just wanted to
25 before we leave, in particular, if someone is
disputing their water bill--

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3 CHAIRPERSON GENNARO: Okay. I
4 don't really--okay.

5 MS. TYLER: --if someone is
6 disputing their water bill, if they don't make a
7 payment agreement, they will go into the lien sale
8 and we think that that is inherently unfair.

9 CHAIRPERSON GENNARO: But we're
10 dealing with a situation where the lien sale, like
11 the paradigm by which they use to do the lien sale
12 has been put in place and it's either a matter
13 that they're doing something that they're not
14 entitled to do or they're doing something that
15 they are entitled to do and it's wrong and we
16 should change it. So that's like the difference.
17 So, again, make sure that they have all of this
18 information so that we can take appropriate action
19 on that.

20 And, Corey, thank you for being the
21 voice of Queens. We join you in your crusade to
22 have more sanity with regard to this process, but
23 I think one thing that bears noting is that the
24 City Council is part of this too and we have to
25 make it an institutional issue that we want to
reduce the size of this rental payment. It's all

3 well and good for us to say that we want Mayor
4 Bloomberg not to take the \$136 million or whatever
5 it is and that's going to put like a \$136 million
6 hole in the budget and like what do we do about
7 that \$136 million hole. So we have to be part of
8 the solution too, not just people who are like
9 yiping all the time.

10 [Off mic]

11 CHAIRPERSON GENNARO: And so this
12 needs to be an institutional budget issue for the
13 Council.

14 Okay. So, with that said, I want
15 to thank this panel very much for all the--the
16 benefit that you brought to this hearing and you
17 guys are definitely in the running for best panel.
18 You know, you're in the running, you're in the
19 running for best panel.

20 And the final panel, Mary Ann
21 Rothman of Council of New York Cooperatives and
22 Condominiums; Heather Hughes of Ashokan Water
23 Services; Jessica Handy of BOMA; and Harold Shultz
24 of Citizens Housing and Planning.

25 [Off mic]

CHAIRPERSON GENNARO: Okay. Oh we

3 have three people with us, do we have the fourth?

4 Mary Ann Rothman is okay, Heather Hughes? Heather
5 Hughes? Okay. Jessica Handy? No. And I'm
6 betting you're Mr. Shultz.

7 MR. HAROLD SHULTZ: Good guess.

8 CHAIRPERSON GENNARO: Okay. Yeah,
9 okay. Why don't we go in the order that I called
10 the witnesses, we'll start with Mary Ann Rothman
11 of Council of New York Cooperatives and
12 Condominiums.

13 MS. MARY ANN ROTHMAN: Thank you,
14 Mr. Chairman.

15 And the Council of New York
16 Cooperatives is a membership organization for co-
17 ops and condos, we provide information, education,
18 and advocacy, and today, really I'm here to thank
19 you and to thank Chairman Weprin for these
20 hearings because I think you've shed an enormous
21 amount of light on real problems in our city.

22 Homeowners in co-ops and condos in
23 our city are concerned. Our costs are up, our
24 resources are down and we're deeply committed to
25 this city, we live here, it's our homes.

I testify every year to the Water

1 Board, so it means I'm sure I'll see you on
2 Thursday afternoon. Let me take two more minutes
3 just to support what's been said here today by so
4 many other people.
5

6 We're tremendously concerned about
7 the rental issue because we believe, as you do,
8 that the water rates paid should support the water
9 system and not peripheral systems. We're
10 concerned also about, let's give them the benefit
11 of the doubt, possible unintended consequences of
12 the present denial of access and theft of services
13 proposals, that has to be very carefully refined.

14 CHAIRPERSON GENNARO: Yeah, that
15 certainly has gotten my attention.

16 MS. ROTHMAN: Well I thank you
17 very, very much for this opportunity.

18 CHAIRPERSON GENNARO: Well thank
19 you, thank you, Ms. Rothman, appreciate your being
20 here today and all of your longstanding advocacy
21 for a very important constituency. Thank you,
22 thank you.

23 Heather Hughes.

24 MS. HEATHER HUGHES: Hi, my name is
25 Heather Hughes, and I'm a water consultant at

Ashokan Water Services, which is a water consulting and advocacy group. I, too, object to the DEP's proposed regulations, denial of access and theft of services. These regulations are unfair and the fines associated with them are excessive.

Under the denial of access, building owners who do not let the DEP in to read the water meters are presumed to be stealing water, even without any knowledge that the notice to inspect has actually reached the owner.

Under theft of services, the DEP states that a theft of services has occurred when any meter has been tampered with, with or without the owner's knowledge.

Consumers are denied substantial justice and due process by these new regulations. The major problems are--and I'll quickly outline, the DEP has no requirements to prove theft of services; rather in their case, suspicion equals guilt. Customers are not entitled to defend themselves from the changes through a review of DEP evidence or through providing their own. The penalties that will be imposed do not fit the

1
2 supposed crime--they are arbitrary and they have
3 been designed to bring maximum revenue to the DEP.
4 For instance, someone with a 10-inch water main
5 would receive a fine for almost 1.9 million. The
6 penalties are also presented ambiguously to
7 consumers.

8 And the denial of access two-notice
9 protocol is not enough. The DEP simply sends out
10 letters to the owner via regular mail. If the
11 penalties for this charge are to be so extreme,
12 then the process should be more regulated.

13 Suggestions to those problems would
14 be that the DEP should not be able to prove
15 someone guilty based upon suspicion, regulations
16 need to be set forth in protocols for consumers to
17 defend themselves, and the DEP should revise the
18 penalty amounts in order to reflect the actual
19 levels of consumption. And, since the DEP's
20 records are outdated or incorrect many times, the
21 DEP needs to take action to confirm that the
22 notices actually reach the owners and not someone
23 who's previously owned the building. Our
24 suggestion is that the notices should be sent by
25 certified mail. And, in addition, the customer

3 should be given windows of dates and times for the
4 DEP's inspections to be arranged.

5 With that said, I understand that
6 fines and penalties are necessary to prevent
7 actual theft. These penalties the DEP is
8 suggesting are anti-consumer and too extreme,
9 revisions should be necessary.

10 So I just sincerely hope that you
11 closely examine the new regulations and the
12 effects that it will have on building owners and
13 New York City residents.

14 Thank you so much for your time.

15 CHAIRPERSON GENNARO: Thank you,
16 thank you, thank you, Ms. Hughes, thank you for
17 being here and being patient and staying for the
18 whole hearing, we appreciate that. And you've
19 tapped into, as I've said several times, an issue
20 that's really gotten our focus, so thank you.

21 Mr. Shultz.

22 MR. SHULTZ: Yes, thank you, Mr.
23 Chairman. Actually the Committee has done an
24 excellent job and the witnesses have done an
25 excellent job of raising all the issues, so for
the most part, I'd just like to submit my written

2 testimony to the Committee for consideration and
3 confine my oral comments to one point.

4 With regard to the rental payment,
5 it's my belief, as a lawyer of 32 years, that, in
6 fact, the City Council does have authority to
7 direct OMB not to exercise the 15% option in the
8 rental agreement, thus, eliminating the excess
9 rental payment. I think you've already stated
10 here--

11 CHAIRPERSON GENNARO: How would we
12 do that?

13 MR. SHULTZ: Well you'd simply pass
14 a law that says that OMB cannot request under the
15 rental agreement the 15--cannot request a payment
16 in excess of the cost of servicing the preexisting
17 debt is in fact I think how you would phrase it.

18 And I think--and I'd be happy to
19 discuss with your counsel that issue--

20 CHAIRPERSON GENNARO: Right.

21 MR. SHULTZ: --I think you've got
22 the authority to do that.

23 CHAIRPERSON GENNARO: Right.

24 MR. SHULTZ: That would end the
25 rental payment, of course, the Council as a whole

3 as with the City--

4 CHAIRPERSON GENNARO: Right.

5 MR. SHULTZ: --would then have to
6 bite the bullet for the foregone revenue--

7 CHAIRPERSON GENNARO: Right.

8 MR. SHULTZ: --but, frankly, I also
9 believe that that revenue is basically tax revenue
10 and should come from a much broader base taxed
11 than from the water rate payers, so that's my
12 contribution.

13 CHAIRPERSON GENNARO: Sure and I
14 will direct counsel, first of all, of my committee
15 and the Finance Committee, who's counsel I don't
16 actually direct, but I will ask her and I think
17 she'll say yes, to having that conversation with
18 you so we can start the exploration of legislative
19 power that we may possess and can yield towards
20 slaying this dragon.

21 So, Mr. Shultz, thank you very much
22 for being here and I look forward to hearing back
23 from counsel once they have that conversation with
24 you.

25 Because of the fact that I've got--
my 2 o'clock meeting is patiently waiting for me,

1 COMMITTEE ON FINANCE AND ENVIRONMENTAL¹⁸⁹
PROTECTION

2 I should have told that meeting that it's like 2
3 o'clock Central Time would have protected myself,
4 whatever, I meant Central Time.

5 Anyway, and so thank you one and
6 all for being here for this hearing. This hearing
7 is hereby adjourned.

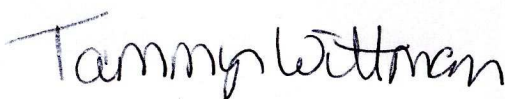
8 [Off mic]

9 CHAIRPERSON GENNARO: Yeah, but I
10 mean we could at least explore that. Hey,
11 Hershel.

12

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.



Signature_____

Date May 22, 2009