

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUB COMMITTEE ON LANDMARKS,
PUBLIC SITING AND MARITIME USES

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June 2, 2009
Start: 11:23am
Recess: 1:19pm

HELD AT: Council Chambers
City Hall

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

COUNCIL MEMBERS:
Maria del Carmen Arroyo
Charles Barron
Leroy G. Comrie, Jr.
Elizabeth Crowley
Julissa Ferreras
John C. Liu
Miguel Martinez
Annabel Palma

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

Gregory Shaw
Principal Attorney for Real Estate
New York City School Construction Authority

Tammy Rachelson
Deputy Director for Real Estate
Department of Education and New York City School
Construction Authority

Steven Goldberg
Environmental Consultant, IEH Department
New York City School Construction Authority

Antoine Avucollette
Resident
Bay Ridge

Janette Sadik-Khan
Commissioner
New York City Department of Transportation

Galileo Orlando
Deputy Commissioner, Division of Roadway Repair and
Maintenance
New York City Department of Transportation

David Woloch
Deputy Commissioner for External Affairs
New York City Department of Transportation

Anastasia Song
Chief Executive Officer
Hoglin Group

Richard Davidson
Canal Asphalt

Dan Scully
Willets Point Asphalt

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

Robert Carballal
Flushing Asphalt

Kyle Wiswall
General Counsel
Tri State Transportation Campaign

Wendy Neu
Environmental Entrepreneurs

Joan Byron
Director of the Sustainability and Environmental
Justice Initiative
Pratt Center for Community Development

Henry Garrido
Assistant Associate Director
District Council 37

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2 CHAIRPERSON LAPPIN: Good morning.
3 Welcome to the Land Use subcommittee on Landmarks,
4 Public Siting and Maritime Uses. I'm the Chair,
5 Jessica Lappin joined today by members of the
6 Committee, Councilwoman Annabel Palma from the
7 Bronx, Councilwoman Maria del Carmen Arroyo from
8 the Bronx, Council Member Miguel Martinez from
9 Manhattan, Council Member John Liu of Queens and
10 Council Member Charles Barron of Brooklyn.

11 We have two items on the agenda. I
12 know most of you are here for the second, the
13 Grace Asphalt Plant but we're going to do the
14 school first since it's a little bit less
15 controversial and we can get through it more
16 quickly. So I'm going to ask Gregory Shaw from
17 the SCA to come up and testify. It is a school
18 that is in Council Member Gentile's district, P.S.
19 331K. It does not have a Land Use item number,
20 pre-considered Land Use item. I was going to ask,
21 Mr. Shaw, why don't you introduce yourself and
22 begin. We'll open the hearing on this item.

23 GREGORY SHAW: Thank you
24 Chairperson Lappin. My name is Gregory Shaw. I'm
25 principal attorney for Real Estate for the New

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2 York City School Construction Authority. Gregory
3 Shaw, Council Member Barron, thank you. To my
4 immediate right is Tammy Rachelson who is Deputy
5 Director for Real Estate for the Department of
6 Education and the School Construction Authority.
7 And to her immediate right is Steven Goldberg who
8 is the Environmental Consultant that investigated
9 the site.

10 Again, good morning. The New York
11 City School Construction Authority is undertaking
12 a site selection process for the proposed 680 seat
13 primary school facility that will be located on
14 tax Block 5891 Portion of Lot 48, located on a
15 block bounded by Fourth Avenue, Ovington Avenue,
16 Third Avenue and 72nd Street in the Bay Ridge
17 section of Brooklyn. The proposed school site is
18 also located in community school district 20 and
19 Brooklyn community board 10. The project contains
20 approximately 36,480 square feet of lot area. The
21 site consists of a small unoccupied school
22 building and an adjacent area with a recently
23 demolished Bay Ridge Methodist Church was located.

24 Under the proposed plan, the SCA
25 would acquire the privately owned property. The

1
2 existing structure would be demolished and the SCA
3 would construct a new 600 seat primary school,
4 serving students in Pre Kindergarten through fifth
5 grade in community school district 20. The new
6 facility would provide relief from overcrowding at
7 primary schools in the district.

8 The proposed school would contain
9 approximately 91,566 gross square feet and
10 approximately 3,000 square foot play area for the
11 early childhood grades and 12,500 square foot play
12 ground for the upper grades would be developed
13 west of the school building. The plan for the
14 school provides for the main entrance to be
15 located on Fourth Avenue. The design program for
16 the school facility includes classrooms, a
17 library, gymnasium, auditorium, cafeteria and
18 kitchen, office space and storage rooms.

19 The notice of filing for the site
20 plan was published in the New York Post and the
21 city record on January 14, 2009. Brooklyn
22 community board 10 was also notified of the site
23 plan on that date and was asked to hold a public
24 hearing. Community board 10 held its public
25 hearing on the site plan on January 26, 2009 and

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2 submitted written comments that recommended in
3 favor of the proposed plan. The City Planning
4 Commission was also notified of the site plan on
5 January 14th and it also recommended in favor of
6 the site.

7 The SCA has considered all comments
8 received on the proposed site plan and affirms the
9 site plan pursuant to Section 1731 of the Public
10 Authorities Law. In accordance with Section 1732
11 of the Public Authorities Law, the SCA submitted
12 the proposed plan to the Mayor and Council on May
13 28, 2009. We look forward to your sub committee's
14 favorable comments concerning this plan and we're
15 here to answer any questions that you might have.
16 Thank you.

17 CHAIRPERSON LAPPIN: Thank you. I
18 should note Council Member Gentile, who's not here
19 today, is in support. In fact my understanding is
20 he found the location for the school and did ask
21 me to share with my colleagues that there is sever
22 overcrowding in CEC 20 and that he wholeheartedly
23 supports this new school site. Is 331 an existing
24 school or this is a new school number.

25 TAMMY RACHELSON: It's a new school

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2 number.

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CHAIRPERSON LAPPIN: I'm sorry, you have to introduce yourself for the record.

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MS. RACHELSON: I'm sorry. My name is Tammy Rachelson from School Construction Authority. 331 would be a new school number.

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CHAIRPERSON LAPPIN: And has a principal been identified?

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MS. RACHELSON: I'm not aware of a principal being identified. The school is still under design so it wouldn't be ready until 2013.

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CHAIRPERSON LAPPIN: This will relieve overcrowding from existing schools through redistricting or how exactly? Who will be admitted to this school?

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MS. RACHELSON: As far as I know, the Department of Education has not determined that but the district as a whole operates at over 105% utilization. In this particular portion of the district, the Bay Ridge area, most of the schools are operating well over a 105%, probably in the 120s or 130s.

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CHAIRPERSON LAPPIN: I know how that goes. I'm sorry did you say K through 5 or K

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2 through 8?

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MS. RACHELSON: Pre K through 5.

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5 going to be a green building. Is there any
6 contamination on the site?

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8 MS. RACHELSON: There's limited
contamination. I will let my colleague...

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10 CHAIRPERSON LAPPIN: Discuss
remediation?

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MS. RACHELSON: ...answer that.

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13 MR. GOLDBERG: Yes, my name is
14 Steven Goldberg. I am an Environmental Consultant
15 for the IEH Department at the School Construction
16 Authority. We did a phase two investigation at
17 the site which consisted of a number of soil
18 borings. We took soil samples and we measured
19 both soil and soil vapors. There is some slightly
20 elevated metal constituents in the soil that not
21 attributable to any release from the site. It's
22 typical of urban fill that we see a lot in the
23 five boroughs. We do not feel that there's any
issues with environmental conditions at the site.

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25 CHAIRPERSON LAPPIN: Okay. Any
questions from my colleagues? I want to note

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2 we've been joined by Council Member Comrie.
3 Great. I don't have any other questions. Thank
4 you very much. There is one other person signed
5 up to testify, I believe. Antoine Avucollette,
6 please.

7 ANTOINCE AVUCOLETTE: My name is
8 Antoine Avucollette. I'm a resident of Bay Ridge.
9 Again, here's my statement. My name is Antoine
10 Avucollette a long time resident and building
11 manager of property that is across the street from
12 the proposed school site. I've managed the
13 property since 1981 and know the area very well.

14 First and foremost we oppose the
15 proposal for the school of 680 seats, primary
16 school on the site of the Bay Ridge United
17 Methodist Church location. The location on Fourth
18 Avenue and Ovington is already very high
19 pedestrian and traffic location. We have a subway
20 one block away with high foot traffic from
21 residents who live below Fourth Avenue to Narrows,
22 who use this path to get to the subway. Also
23 Fourth Avenue is well known for its high traffic
24 and it's a four lane street.

25 As a long time resident, we already

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2 endure the bumper to bumper traffic on Fourth
3 Avenue in the morning due to cars going to the
4 city, double parked trucks delivering to stores,
5 double parked cars dropping their kids to two
6 schools, IS 30 and Lutheran School that's only 200
7 yards away from the proposed school site. Then
8 you add another five schools for a total of eight
9 schools in only a three block radius.

10 On January 15th at the community
11 board 10 meeting, members of the NYC School
12 Construction Authority stated that they needed to
13 build the new schools due to that seats were
14 needed for students from area P.S. 102 and P.S.
15 70. I have personally went to P.S. 70 and spoke
16 to the enrollment administrator and stated
17 concerns of overcrowding in the schools and her
18 statement was, and this is a quote "We are not
19 overcrowded. We may have classes with 26 kids but
20 we can hold up to 32 in a class."

21 P.S. 102, my son goes to the
22 school, and I know for a fact there is no
23 overcrowding. We feel due to the school
24 enrollment had dropped 2,000 last year and over
25 70,000 in the last decade we also with the state

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2 of the economy that the population in the area
3 will decrease and there won't be a dramatic need
4 for a school now or in the near future. As we see
5 it, the New York School Authority thinks that this
6 will be the last large property that they will be
7 able to purchase and want it anyway. Even when
8 you have two primary schools only two blocks away
9 from this location.

10 We feel that P.S. 70 would be
11 better served with the option of building on the
12 school front left side that has a lot size of 88 x
13 113 feet that can accommodate a five story
14 building with a total square footage of 50,000
15 square feet. That will be able to hold over 350
16 kids and save taxpayers over \$40 million. As with
17 P.S. 102, it has a lot size of 30 X 150 that can
18 also be used without losing any needed school yard
19 space that is needed for the kids.

20 We have a petition that is signed
21 by residents that oppose the school. The facts
22 don't support the need for the proposed school in
23 this area. The area's already at the max in
24 capacity in traffic, pedestrian and schools.

25 Last but not least, we ask the Land

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2 Use committee and the Council Members not to
3 approve the purchase of this land by the SCA for
4 the following reason. They have already passed on
5 this land a couple of months ago before due to the
6 church was a historic registered property and they
7 could not demolish the church, also to the request
8 of Councilman Gentile. Public Law 89-665 enacted
9 in October 1966 that states no government funds
10 can be used to pay for the demolition of any
11 national registered historical property, which the
12 Bay Ridge United Methodist Church was on the
13 registry.

14 If the SCA purchased the property,
15 part of that payment would go directly to pay for
16 the cost of the demolition of the church due to
17 the developer who has not closed on the deal or
18 own the property yet, gave a loan to the
19 congregation for the demolition of the church so
20 that the school board could purchase it. That
21 loan would be paid directly with the funds from
22 the SCA purchase that would possibly violate
23 public Law 89-665. We ask the Land Use Committee
24 and the Council Members, in a time that the city
25 needs federal money to keep teachers from being

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2 laid off should we not be wise with the funds we
3 have and how to use them. Thank you very much.

4 CHAIRPERSON LAPPIN: We also need
5 new schools. I think there's a difference of
6 opinion. And the community board, I do want to
7 note, voted in favor of this application. I think
8 Council Member Barron has a question.

9 COUNCIL MEMBER BARRON: Yes. What
10 business did you say you were in or are you--

11 MR. AVUCOLLETTE: I manage a
12 property right opposite.

13 COUNCIL MEMBER BARRON: You manage
14 property?

15 MR. AVUCOLLETTE: Yes. I used to
16 be the owner. It's family owned but I manage it
17 right now.

18 COUNCIL MEMBER BARRON: And is
19 there a business of yours on that property?

20 MR. AVUCOLLETTE: The business of
21 managing the property.

22 COUNCIL MEMBER BARRON: Just
23 managing the property.

24 MR. AVUCOLLETTE: I represent the
25 owners of the property.

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2 COUNCIL MEMBER BARRON: And is this
3 new school, will it hurt your management of the
4 property?

5 MR. AVUCOLLETTE: Oh, definitely.
6 We already--

7 COUNCIL MEMBER BARRON:
8 [interposing] So your main interest is that it
9 will hurt your business?

10 MR. AVUCOLLETTE: No, no, it won't
11 hurt the business but it will lower the quality of
12 life in that area. With P.S. 70 last year, I had
13 to go stand outside to get the kids off the corner
14 because they congregate right there. It's already
15 very congested. Old senior citizens couldn't even
16 walk through. That's only 300 kids in that school
17 and then you have Lutheran School that's right up
18 the block that has probably about 250.

19 COUNCIL MEMBER BARRON: let me ask
20 you this, also you said the other school that you
21 visited said that they had 26 children in the
22 classroom...

23 MR. AVUCOLLETTE: Some.

24 COUNCIL MEMBER BARRON: ...and they
25 can go up to 32.

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2 MR. AVUCOLLETTE: Yes, some of
3 them.

4 COUNCIL MEMBER BARRON: Do you
5 realize that that's overcrowded?

6 MR. AVUCOLLETTE: My son has about
7 anywhere from 19 to 20 in his school but I feel--

8 COUNCIL MEMBER BARRON:
9 [interposing] Some educators say 15 children in a
10 classroom is manageable. So when you're in the 26
11 and you're in the 32, that is overcrowded.

12 MR. AVUCOLLETTE: Well, everybody
13 could say tomato, tomahto but the point is I want--
14 -

15 COUNCIL MEMBER BARRON:
16 [interposing] No, it's not tomato, tomahto.

17 MR. AVUCOLLETTE: I went to public
18 school.

19 COUNCIL MEMBER BARRON: It's
20 overcrowded. I went to public school, too. And
21 it's not something--

22 MR. AVUCOLLETTE: [interposing] And
23 we had almost 30 kids in our class and I grew--

24 COUNCIL MEMBER BARRON:
25 [interposing] And that's not good and probably 20

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2 of them have problems in life afterwards. But let
3 me just say this, that it's not tomato, tomahto.
4 It's not that. It's not that simplistic. We have
5 a very serious problem of overcrowding and 26
6 children, 32 children, some classes have 35
7 children in a class. Because a few can make it in
8 that kind of environment doesn't make that
9 conducive for educating educable children. We
10 have a real crises in education. I'm not saying
11 that you should be for or against the project and
12 take the position that you've been taking. But
13 don't think that we're not having a problem of
14 overcrowded classrooms in Brooklyn schools.

15 MR. AVUCOLLETTE: That's why
16 there's the other option. I understand that P.S.
17 70 is in that limit where they should have
18 students about 20 in a class or less. And that's
19 why the other option of to build on the property
20 that they have already that could accommodate 350
21 kids and save. They purchased that property, of
22 course over \$10 million for the property, over \$50
23 to build the school where they could build on that
24 additional lot right there for \$15 million to \$20
25 million. Save taxpayers over \$40 million and

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2 accommodate the school with needed space. Then
3 you won't have three primary schools in the
4 vicinity of four blocks and spend for three
5 principals and all these teachers, janitors.
6 Where that property could be sold to accommodate
7 senior citizen housing or even condos where it
8 would generate tax revenue that the city needs
9 desperately.

10 COUNCIL MEMBER BARRON: But you
11 would still have the same kind of congestion and
12 everything else you're talking about no matter
13 what else you build there.

14 MR. AVUCOLLETTE: Not really
15 because it's two blocks up, the P.S. 70.

16 COUNCIL MEMBER BARRON: Two blocks,
17 okay.

18 MR. AVUCOLLETTE: Two blocks. If
19 they would build condos or senior citizen we would
20 not because it's not a mad rush. If you ever pass
21 down Ovington where P.S. 70 and the Lutheran
22 School is, you can't get through because
23 everybody's double parked and dropping their kids
24 off.

25 COUNCIL MEMBER BARRON: Madam

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Chair, would you? Madam Chair.

CHAIRPERSON LAPPIN: Your colleagues on the committee want to know if I can make you stop.

COUNCIL MEMBER BARRON: I doubt it seriously Madam Chair.

CHAIRPERSON LAPPIN: That's what I said.

COUNCIL MEMBER BARRON: I don't want to prolong this but is there anyway I can hear the response from the School Construction Authority to his concerns?

CHAIRPERSON LAPPIN: Mr. Shaw, could you give a very brief rebuttal. Thank you Antoine, thank you Mr. Avucollette. Brief rebuttal please.

MR. SHAW: I'll be very brief. All of the information we have in terms of demographics is that the overcrowding situation throughout district 20 is not something that's going to be meliorated in any time in the future without producing more new schools of which we have several in the pipeline. I can't speak to the issue of his congestion other than to say this

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2 is an elementary school, kids will be dropped off,
3 especially the kids in the lower grades. I don't
4 see them hanging around or walking around,
5 especially when we're talking about Pre K through
6 fifth grade.

7 CHAIRPERSON LAPPIN: Thank you very
8 much.

9 COUNCIL MEMBER BARRON: Thank you.

10 CHAIRPERSON LAPPIN: I think we're
11 going to close the hearing on this item. Despite
12 the testimony of Mr. Avucollette and with all due
13 respect to his views, I'm going to recommend a
14 favorable vote on this item. And I'm going to ask
15 for the Counsel, Christian Hilton to call for a
16 vote.

17 asphalt: Chair Lappin.

18 CHAIRPERSON LAPPIN: Aye.

19 asphalt: Council Member Barron.

20 COUNCIL MEMBER BARRON: Aye.

21 asphalt: Council Member Comrie.

22 COUNCIL MEMBER COMRIE: Aye.

23 asphalt: Council Member Liu.

24 COUNCIL MEMBER LIU: Yes.

25 asphalt: Council Member Martinez.

1 COUNCIL MEMBER MARTINEZ: Yes.

2 asphalt: Council Member Palma.

3 COUNCIL MEMBER PALMA: Aye.

4 asphalt: Council Member Arroyo.

5 COUNCIL MEMBER ARROYO: Aye.

6 asphalt: Council Member Crowley.

7 COUNCIL MEMBER CROWLEY: Aye.

8 asphalt: By a vote of eight in the
9 affirmative, none in the negative and no
10 abstentions, the previous item is approved and
11 referred to the full Land Use committee.
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13 CHAIRPERSON LAPPIN: Thank you.

14 We're going to now open the hearing on the next
15 item which is on the agenda, 1085, which is the
16 Grace Asphalt Plant. We've been joined by
17 Commissioner Janette Sadik-Khan who will be the
18 first witness. She will be joined by David
19 Woloch, the Deputy Commissioner of DOT and Galileo
20 Orlando who is another Deputy Commissioner at DOT.
21 Before I potentially lose any of the other members
22 of this subcommittee, I wanted you to know that
23 there will be another meeting on June 10th at 9:45
24 in the morning. We will not be voting on this
25 item today. Welcome Commissioner, thank you for

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joining us today.

JANETTE SADIK-KHAN: Thank you Madam Chairperson. Good morning, Madam Chair and members of the subcommittee. I'm Janette Sadik-Khan. I'm Commissioner of the New York City Department of Transportation. With me here today is David Woloch, DOT's Deputy Commissioner for External Affairs and Galileo Orlando, acting Deputy Commissioner for DOT's Division of Roadway Repair and Maintenance. Thank you for inviting us to discuss DOT's interest in acquiring the Grace Asphalt Plant in Queens.

Despite the current economic climate, DOT remains committed to achieving a state of repair for the city streets and to do so in a sustainable, cost effective and reliable manner. As we've described at a previous hearing acquiring the Grace Plant is an integral part of our efforts in Queens. With the second municipally owned plant we will be able to increase our use of recycled asphalt, achieve a substantial cost savings, protect the city from future cost increases and supply disruptions, maintain the infrastructure jobs so crucial to our

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2 economy, all with minimal impact on the asphalt
3 and construction industries.

4 Unfortunately, there are those that
5 have questioned our ability to achieve these
6 objectives so we thank you for the opportunity to
7 present our case as clearly as possible. We have
8 before us a unique opportunity, a chance that we
9 can not afford to let pass by. Deputy
10 Commissioner Orlando will run through some of the
11 details shortly, but I'll first provide an
12 overview of why the purchase of this plant is so
13 essential.

14 Over the last 20 years DOT has been
15 the national leader in exploring asphalt
16 recycling. Today the asphalt produced at our
17 Hamilton Avenue Plant in Brooklyn is made of high
18 quality materials and contains 40% reclaimed
19 asphalt pavement, otherwise known as RAP. This
20 results in the reuse of nearly 200,000 tons of
21 milled pavement that would otherwise be refuse,
22 decreasing dependence on foreign oil, reducing
23 greenhouse gas emissions and achieving a
24 significant cost savings to the city. Our in
25 house operations are less expensive than our

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2 vendor procure asphalt largely due to these
3 aggressive recycling efforts and has allowed the
4 city to save \$10 million a year.

5 While we've made great strides in
6 asphalt recycling we continue to explore new
7 technology to further increase the RAP content
8 that we produce now. We've recently tested warm
9 mix asphalt which only requires heating it to 200
10 degrees as opposed to the 325 degrees that's
11 required of conventional asphalt. This will
12 permit our ability for us to apply it at a cooler
13 temperature and allow us to incorporate an
14 additional 10% or more RAP content in to our
15 production and importantly to extend our paving
16 season into the colder months.

17 Given the success of our greening
18 efforts at the city's Hamilton Avenue Plant, we
19 will use the same model to enhance the
20 environmental and cost saving benefits by
21 operating and opening another plant in Queens,
22 which Deputy Commissioner Orlando will describe
23 shortly. Yet our experience with private vendors
24 shows that while some can achieve similar
25 recycling models and cost efficiencies, others do

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In fiscal year 2008 our private vendors only average 15% RAP in the asphalt they sold to the city at a cost of nearly \$14 more per ton than the city produced asphalt. And while some vendors say they will do more, our question is will they. Will they likely increase their use of RAP even more in the future as we expect them to? Will they pass the cost savings on to the city? And are these chances that we should be taking for the roads of Queens and for the taxpayers of the city?

These questions are particularly important when we consider the volatility of energy and material markets that we've seen and that we will expect to see going forward. With less control ourselves, we would be more likely impacted by price increases in the market and our ability to meet our resurfacing lane mile targets would be jeopardized as a result.

Historically DOT has employed two or more private vendor plants to meet asphalt needs in Queens. No single privately owned plant has the capability to provide sufficient

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2 quantities of asphalt given their time capacity
3 constraints and because they serve both the public
4 and private sectors. Most recently only two
5 Queens based plants submitted bids for our
6 contracts, Grace and Tully. Ultimately while
7 Grace went bankrupt their plant was sold to the
8 present owner, which is indicated it does not
9 intend on staying in the asphalt business for the
10 long term, which is of great concern to DOT as we
11 anticipate future needs.

12 Should only one vendor be
13 available, a shortage of asphalt in the borough is
14 inevitable as additional private companies will
15 depend on that one facility as well. In this case
16 DOT would have to depend on Bronx based vendors
17 for the Queens work, which would increase traffic
18 and emissions and decrease productivity requiring
19 our resurfacing allocation to be reduced.

20 Beyond ensuring stable adequate
21 supplies of asphalt, the acquisition of the Grace
22 Plant would result in additional efficiencies due
23 to its proximity to our Harper Street facility.
24 Accordingly, we'll be able to stockpile sufficient
25 RAP supplies to maximize recycling, reduce truck

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2 trips from our Kew Loop yard and begin daily
3 operations with little mobilization time and
4 expense.

5 The acquisition of the Grace Plant
6 is beneficial to the city in many ways beyond
7 those enumerated. It will increase jobs at that
8 location from 10 to 12 and will allow for
9 additional resurfacing. But we're also sensitive
10 to the impacts on the private asphalt industry as
11 well. By purchasing an existing plant rather than
12 introducing a new one into the market, we are
13 minimizing the impact on private industry. The
14 Grace Plant's annual production of asphalt has
15 been essentially split between the city and non-
16 city asphalt purchasers. And the amount of Grace
17 Asphalt sold to other purchasers virtually matches
18 the amount of asphalt DOT currently purchases
19 through Queens vendors.

20 In other words this one for one
21 swap of private and public business should result
22 in a net zero impact on the asphalt industry as
23 the overall production capacity and demand for
24 asphalt would remain essentially unchanged. Also,
25 this acquisition would not eliminate the need for

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2 DOT to purchase some asphalt privately. Over one
3 quarter of DOT's citywide need will continue to be
4 contracted out to privately owned plants.

5 Given the many environmental and
6 cost saving benefits, the long term stability
7 afforded this city and the minimum disruption to
8 the industry, we strongly urge you to support the
9 ULURP action before you today. As you know, this
10 action has received approvals from the community
11 board and the City Planning Commission, is
12 strongly backed by the Queens borough president,
13 is supported by DC 37, the Natural Resources
14 Defense Council and other environmental advocacy
15 groups.

16 The Grace Plant is key to our
17 ability to efficiently supply queens with a stable
18 supply of asphalt to meet its needs for years to
19 come. Your favorable consideration of this
20 application is crucial to ensure the city realizes
21 the many benefits of this acquisition. Thank you
22 for inviting us here to testify today. And after
23 Deputy Commissioner Orlando's brief presentation,
24 we'll be happy to answer any questions you may
25 have.

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GALILEO ORLANDO: Chairperson

Lappin, members of the Committee. I'm going to run through a brief presentation on the overview of this project and then I'd be happy to answer any questions you may have.

This project involves the acquisition of a second municipal asphalt plant. We currently operate an existing municipal asphalt plant in Brooklyn and we've done so for the last 30 years. Some of the considerations for this second municipal asphalt plant was to secure--

MS. SADIK-KHAN: [interposing] Hold a second while we turn.

[Pause]

MR. ORLANDO: Can everybody read that? Okay, some of the considerations for a second municipal asphalt plant was to secure the stability of supply and pricing, especially in the borough of Queens. We wanted to consider making resurfacing operations more sustainable through increased recycling. Of course, since we're spending taxpayer dollars it had to be economically viable and the location is a vital concern. Lastly, it had to have a minimal impact

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upon the asphalt and construction industries.

The consideration for securing the stability of supply and pricing is, as our Commissioner mentioned, there's two private vendor asphalt plants right now serving Queens. Because of an alternate loading arrangement we would need two vendor plants. One municipal plant since we're the sole customer would satisfy that need. There's been responsibility issues in the past and asphalt vendor, vendexing responsibilities issues on city big contracts. Some plants are unable to meet this city's vendexing responsibility requirements.

Also the Grace Plant in the last two years has gone bankrupt and is no longer available under the own owners. It's merged with a new owner under bankruptcy and it's been expressed they're not looking to stay in the asphalt business in the long term.

The effort to make resurfacing operations more sustainable is to increase the recycling of asphalt pavement or RAP. The resurfacing program generates roughly 1,000 tons of RAP per lane mile and our city plant recycles

1
2 40%. On average the asphalt that we purchase has
3 been recycled on 15% on average. This chart will
4 sort of visually demonstrate the differences in
5 relative amount of recycled asphalt.

6 The Queens vendor pricing versus
7 the city, the city has always lagged behind and
8 it's roughly now about \$14 a ton, that's nearly a
9 30% savings in price. This shows the potential
10 for savings in the borough of Queens. For FY08,
11 the last year we had complete records, the Queens
12 vendor prices average \$61.37 a ton, the city price
13 was \$47.72 a ton. Again, the savings of \$13.62 a
14 ton on average, representing nearly a 30% savings.

15 This is a demonstration of how we
16 actually come up with our pricing of asphalt.
17 It's a summary and in your hand out is a much more
18 detailed, comprehensive back up of the actual cost
19 calculation, that I leave for you guys to take a
20 look at when you have a chance. And certainly we
21 would answer any questions.

22 You could see that the raw
23 material, the OTPS, the other impersonal services
24 cost I the largest component here. We save our
25 money by deferring virgin raw material cost with

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2 recycled material; it's as simple as that. We're
3 not the only ones that do it. There's other
4 people north of us, on the Bronx/Westchester
5 border who recycle at a comparable rate and charge
6 a comparable price. This is a graphic showing the
7 asphalt course in Queens relative to the city
8 price and it shows the potential for savings there
9 in the future.

10 The location is vital. Currently
11 to maximize our savings we stage the trucks for
12 Queens in the borough of Brooklyn. We do that so
13 we could stop and we have a depot in Brooklyn at
14 the Brooklyn Army Terminal. We also, at our
15 existing municipal asphalt plant is a little bit
16 north of that on Hamilton Avenue. So we started
17 our day at the Brooklyn Army Terminal and we stop
18 at our asphalt plant in Brooklyn to load up our
19 trucks for that initial round and take advantage
20 of the cost differential. We then go to a paving
21 site in Queens, this hypothetical site is in the
22 center of Queens. And we would dump our first
23 load and then we would make round trips to the
24 nearest Queens vendor in the effort to maintain
25 productivity.

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2 We would do this several times over
3 the course of a day. Most trucks will make
4 several rounds. We then end the day by going back
5 to our starting point in Brooklyn. While this
6 saves us some money, it also results in a
7 significant amount of vehicle miles travel. Over
8 a season, this arrangement alone results in
9 160,000 vehicle miles traveled, which is basically
10 a trip to Florida every day.

11 COUNCIL MEMBER MARTINEZ: Can you
12 move that little truck again.

13 MR. ORLANDO: Excuse me?

14 COUNCIL MEMBER MARTINEZ: The
15 little truck, do it again.

16 MR. ORLANDO: You want to see it
17 again?

18 COUNCIL MEMBER MARTINEZ: Yes.

19 MR. ORLANDO: Okay. We start in
20 Brooklyn, all right? We go to our asphalt plant.
21 We go to the paving site, all right? Why do we go
22 to our asphalt plant? Because it saves us money;
23 we then go to the Queens plant. And we make our
24 round trips. And then we go back to Brooklyn at
25 the end of the day. This, by having a location

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2 provide the balance in Queens--

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COUNCIL MEMBER MARTINEZ: I just wanted to see the truck move back and forward.

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MR. ORLANDO: I gathered that. The location in Queens gives us efficiencies because the Grace Asphalt Plant is also situated in close proximity to an existing fleet service maintenance facility there, where we could stage our trucks and reduce our mobilization efforts should we be successful in granting your approval.

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Since the location is vital, this Grace location provides that logistical balance to our existing plant in Brooklyn. The proximity of the location to our Harper Street creates a significant efficiency for staging. The water front access, where we can deliver the virgin raw materials by barge provides for an economic delivery for materials. And of course it's zoned as of right, which is very attractive.

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We now come to the impact on the asphalt industries. As the Commissioner mentioned, it essentially is a one for one swap of public and private business will result in a minimal impact on the asphalt industry. The

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2 acquisition of an existing plant has less impact
3 than building a new plant because the overall
4 capacity and demand for asphalt remains unchanged.
5 There's a positive impact, the city run plant will
6 actually generate 12 jobs while the current
7 private one has 10. And a lower city asphalt cost
8 would translate into more resurfacing.

9 I prepared this graphic to try to
10 visually show that one for one swap. Currently at
11 the Grace Plant we get about 125,000 tons annually
12 and there's the other municipality private 125,000
13 tons. We're about half of their business. We
14 also procure for Queens from the other Queens
15 vendor roughly the same amount, 125,000 tons, and
16 they have another unknown other quantity for
17 private or other municipalities.

18 If we were successful in getting
19 the approval in acquiring the Queens plant, the
20 city business from the other Queens vendor would
21 come to this plant in that quantity. But it would
22 be transplanted with an equal amount because at
23 our municipal plants we do not sell to the
24 private; we're our only customer, the government
25 or New York City DOT. That amount would go over

1
2 to the other Queens vendor, essentially making
3 them whole. That's why we believe it would have a
4 minimal impact.

5 Just a recap, the benefits of
6 having a Queens based second municipal asphalt
7 plant will secure the stability of supply and
8 pricing, will make resurfacing operations
9 significantly more sustainable, increase the
10 recycled content in the city's overall solid waste
11 diversion rate, is economically viable. The vital
12 location provides a logistical balance for
13 production and has a minimal impact on the asphalt
14 and construction industries. Thank you.

15 CHAIRPERSON LAPPIN: Okay. So I'm
16 going to cut to the chase in my questions and I
17 know that at least three of my colleagues have
18 questions. I think the heart of the debate is
19 whether or not this is going to save the city
20 money. I'm going to just accept, and I do accept,
21 your argument that at Hamilton you're producing at
22 \$47.72 a ton. So you're clearly demonstrating in
23 the Brooklyn plant that you are doing it cheaper
24 than your current contract in Queens.

25 Before I go into your cost benefit

1
2 analysis, I have an overall question which is if
3 that's the cheapest you can do it. And you're
4 doing it at \$47.72, that doesn't include the cost
5 that we're going to have here in terms of site
6 acquisition, site upgrade, and the other
7 associated costs to this project. So I guess my
8 question is if \$47.72 is what you're doing in
9 Hamilton without those costs built in, then how is
10 it that with this plant you get to an overall cost
11 per ton of whatever it is that's going to save you
12 \$13.62 on average?

13 MR. ORLANDO: We can produce
14 asphalt at \$47, let's call it \$47 a ton. Okay?
15 That we could save \$14 ton by producing it
16 ourselves and not buying it. That savings will be
17 applied to the purchase of this plant. While
18 certainly it won't pay off in a year or two,
19 within a certain number of years, as this is a
20 real estate transaction we feel there is a
21 significant potential to save money and pay for
22 itself off.

23 I'd like to remind the Committee
24 that next year we'll be entering our 30th year of
25 operating Hamilton Avenue Plant. Initially we

1
2 started in the same place. We are now where the
3 plant is pretty much paid off. The amortization
4 rate is basically some small equipment that we
5 have left. 30 years ago the powers that be has
6 the foresight and the fortitude to establish that
7 plant and enjoy those savings today. We feel we
8 can accomplish and mimic the same success over in
9 Queens.

10 CHAIRPERSON LAPPIN: No, if you're
11 doing it in Brooklyn I would believe that you
12 could do it in Queens. I just want to understand
13 exactly what the savings are. So let's go through
14 the cost benefit analysis a little bit more
15 detailed.

16 MR. ORLANDO: Okay.

17 CHAIRPERSON LAPPIN: Because you
18 are saying, I want to make sure I understand that
19 within 10 years you're going to save between \$9
20 million and \$10 million.

21 MR. ORLANDO: Right. This cost
22 benefit is a demonstration. We haven't
23 established a purchase price. We're looking to
24 gather the approval from the Council so we can sit
25 down and negotiate so we assume the price. We

1
2 amortize that price over 30 years, like a mortgage
3 would, and we come up with a yearly payment on
4 that. We also come up with some vendor savings.
5 We would build a new plant there to increase the
6 recycled content. We would have some savings from
7 not paying for the disposal of RAP that we are now
8 incorporating in this new plant.

9 We recognize that there's a real
10 estate tax issue and we compensate for that. And
11 we come up with a yearly cost--

12 CHAIRPERSON LAPPIN: [interposing]
13 Can you stop for one second? Sorry

14 MR. ORLANDO: Sure.

15 CHAIRPERSON LAPPIN: Because the
16 privates accept the asphalt, the RAP for free now.
17 So what's the cost? Is it really \$39 a ton?

18 MR. ORLANDO: It's \$15 a ton. The
19 \$39 was two years ago, our current bid right now
20 is \$15 a ton. This cost demonstration reflects
21 that. The savings is that we will recycle more.
22 The vendors have averaged 15%; we will do 40%.
23 And when we do 40% in the third year, you'll see
24 the significant savings come up.

25 CHAIRPERSON LAPPIN: I understand

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2 that. I just want to understand clearly how much
3 it costs DOT to dispose of the RAP. Right now
4 it's \$15 a ton.

5 MR. ORLANDO: In Queens it's \$15 a
6 ton.

7 CHAIRPERSON LAPPIN: Okay. Let's
8 go through your chart. When you say savings from
9 RAP disposal, is that column \$15 a ton or that
10 column--? Let's be clear on what that represents.

11 MR. ORLANDO: You'll see Footnote 4
12 that the savings of RAP disposal is based on
13 225,500 tons annually of 10% RAP for the first
14 three years and 40% onward, at a cost of \$15 a ton
15 minus the 30,000 tons that was recycled by the
16 other Queens vendor.

17 CHAIRPERSON LAPPIN: Right now that
18 column in the first three years is saying the 10%
19 that we are going to utilize, we would have
20 otherwise disposed of and that will save us at \$15
21 a ton X.

22 MR. ORLANDO: Right.

23 CHAIRPERSON LAPPIN: In years four
24 through ten after we retrofitted the plant, when
25 we are recycling 40%, we're not disposing of that

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RAP anymore and that's going to save us \$900,000.

MR. ORLANDO: Correct.

CHAIRPERSON LAPPIN: Okay. So let's go to the savings on vendor asphalt. I think there's been some confusion of some sense that this fifth column, the RAP disposal savings is being double counted.

MR. ORLANDO: It's not. The savings on asphalt, asphalt is the difference from the price we can make it. We save money when we make it by deferring the cost on raw material, on virgin raw material. I don't include the deferring of RAP disposal in the price I do at Hamilton. That's not factored in there.

There's a very itemized, detailed cost calculation and you won't find a savings on RAP disposal in the \$47 a price. The savings that comes from that is on the deferring, the cost of buying virgin raw material. Okay? And we will continue with that volume and that recycle rate at Hamilton.

I want the Committee to be clear that we have an excess of RAP in the city. The only way for me to be made whole on RAP is to

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2 recycle at 100%. What I remove from the street I
3 would put back but we're not quite there yet.
4 Hopefully one day we may be, but we're not quite
5 there; we're at 40%.

6 CHAIRPERSON LAPPIN: At the end of
7 each year repaving cycle, do you have any RAP left
8 over or do you empty your storage shed?

9 MR. ORLANDO: We pay to dispose of
10 it.

11 CHAIRPERSON LAPPIN: I guess my
12 question is do the privates accept everything or
13 is there--?

14 MR. ORLANDO: [interposing] The
15 privates are only required to accept what they
16 declare in their recycling under our contracts.
17 Okay?

18 CHAIRPERSON LAPPIN: Okay. I want
19 to keep going through this chart.

20 MR. ORLANDO: Sure.

21 CHAIRPERSON LAPPIN: \$5 million,
22 there's some people who say that's a very
23 unrealistic figure. Where did you come up with \$5
24 million for the plant replacement costs?

25 MR. ORLANDO: We have gotten a

1
2 price proposal for replacing Hamilton Avenue plant
3 in the next couple of years. I believe the price
4 proposal was about \$4.5 million to replace that
5 plant. This is something that we're working
6 through on a capital project. So we feel the \$5
7 million is a good round figure. We would be
8 replacing the Grace Plant with a sister plant to
9 Hamilton so we can achieve the same savings.

10 CHAIRPERSON LAPPIN: Okay. I think
11 when you and I met on Friday, you thought you'd be
12 able in three months to do a complete retrofit,
13 new plant.

14 MR. ORLANDO: The vendors, the
15 equipment on an asphalt plant comes in at Skid
16 Mountain. They're basically equipment that comes
17 in and puts up. There's no building, it's not an
18 indoor facility. It's basically modular
19 components that come in and then are hooked
20 together. The vendors are assured--the three
21 month period is the off season for paving. The
22 industry is geared up to replace plants in the off
23 season. And that's something a lot of
24 manufacturers make a claim to do.

25 CHAIRPERSON LAPPIN: Are you down

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in the off season anyway?

MR. ORLANDO: We make material at Hamilton for maintenance purposes, like potholes. With having two plants we would be able to offset that off season so we wouldn't have an impact.

CHAIRPERSON LAPPIN: Because I just want to be clear because your numbers show no down time. Right?

MR. ORLANDO: Correct.

CHAIRPERSON LAPPIN: You have your first three years and you go boom right to year four. Do you think that's a little overly aggressive not to factor in any down time?

MR. ORLANDO: I'm being told that you could replace a plant in three months by the manufacturers.

CHAIRPERSON LAPPIN: Okay. Will you continue to send RAP to the privates if this plant is built?

MR. ORLANDO: I want to be clear that if this plant is built, we will still need privately purchased asphalt, certainly in the Bronx and in the borough of Staten Island. In those places we would still have our contracts and

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2 their structure are on us providing the material
3 for free to provide the incentive for them to
4 recycle, to make it the most economical benefit
5 for them to pass those savings on to us. We would
6 continue to do so.

7 CHAIRPERSON LAPPIN: If you were to
8 build this plant and lower the cost, even over
9 some period of time, does that mean you're going
10 to repave more?

11 MR. ORLANDO: We're certainly
12 hopeful to.

13 MS. SADIK-KHAN: It's our intention
14 to plow the savings associated with the cost
15 efficiencies that we see at the Grace Plant into
16 the resurfacing efforts in the city. Yes.

17 CHAIRPERSON LAPPIN: So that would
18 translate for residents in Queens into better
19 roadways?

20 MS. SADIK-KHAN: Yes.

21 CHAIRPERSON LAPPIN: Is that a fair
22 assumption?

23 MS. SADIK-KHAN: Yes.

24 CHAIRPERSON LAPPIN: Would you be
25 at full capacity at this plant? You would be

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using it to its full capacity, right?

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MR. ORLANDO: Well I want to clarify the capacity issue because you're probably going to hear talk about capacity. There's a capacity of a plant written on a permit for air resources purposes and emission purposes to cap emissions. So DEC will permit your plant says you can only produce so much and people use that term as capacity. But the real limiting factor is what you can get out the door in an eight hour shift to load a truck.

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We will not increase our current need in Queens for that resurfacing and we certainly would not exceed the permit. We intend to stay within the current permit capacities.

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CHAIRPERSON LAPPIN: From what you said earlier, I just want to be clear, would you continue to need a private contract in Queens or no, only in the Bronx and Staten Island. My question is this would fulfill your needs for Queens, you would no longer need a private contract in Queens.

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MR. ORLANDO: The capability to fulfill the need in Queens certainly exists there.

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2 I could foresee a possible transition period while
3 opening that plant. But that all remains to be
4 seen on assessing the equipment and that will be
5 worked out in negotiations when we buy this plan.

6 CHAIRPERSON LAPPIN: Okay. My last
7 question, I think Commissioner you mentioned in
8 your testimony that there were only two companies
9 that had responded to the last RFP for this work.
10 I know more than two are going to testify for us
11 today. Do you have any insight as to why that
12 might be, that only Grace and Tully responded with
13 interest?

14 MR. ORLANDO: Grace and Tully have
15 responded for the last several years. There was
16 another vendor in Long Island who bid Queens in
17 the past but he had some issues in Long Island due
18 to responsibility integrity so he no longer bid.
19 As far as the other vendors out there, they have
20 not bid in at least over 10 years. So I wouldn't
21 expect a bid from them or I would be surprised if
22 that course would change.

23 CHAIRPERSON LAPPIN: Okay. Council
24 Member Comrie to be followed by Councilwoman
25 Arroyo.

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2 COUNCIL MEMBER COMRIE: Is the
3 plant operational today and who is the owner
4 today? You said the bankrupt up until two years
5 ago.

6 MR. ORLANDO: The prior owners, the
7 Grace owners, Grace Industries went bankrupt about
8 two years ago. The plant is operational today.

9 COUNCIL MEMBER COMRIE: And who is
10 the new owner?

11 MR. ORLANDO: The owner is an
12 individual named Bill Hoglin or I believe the
13 Hoglin Group or Hoglin Acquisition. I don't know
14 the corporate structure.

15 CHAIRPERSON LAPPIN: And we're
16 going to hear fro somebody representing the owner.

17 COUNCIL MEMBER COMRIE: Okay.

18 MR. ORLANDO: I believe they're
19 here.

20 COUNCIL MEMBER COMRIE: This plant,
21 would this be a plant that's operational 24/7 or
22 what would the hours of operation be on the plant?

23 MR. ORLANDO: We intend to operate
24 it on the eight hour shift in the day and on small
25 occasion the need might be to operate it at night.

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2 We do have a night program in Queens. As you may
3 be aware, certain places can't be resurfaced
4 during the day such as commercial strips so to
5 minimize that we do a small program to do that at
6 night.

7 COUNCIL MEMBER COMRIE: Are you
8 going to displace the present workers that are in
9 the plant? What happens to the personnel that are
10 working in the plant now?

11 MR. ORLANDO: No. We would make
12 attempt to acquire that experience.

13 COUNCIL MEMBER COMRIE: And what
14 does that mean exactly?

15 MR. ORLANDO: Well we would see if
16 we could hire them or somehow utilize their
17 services in some kind of contractual agreement.

18 COUNCIL MEMBER COMRIE: Is that
19 considered a high school level job for the people
20 that are inside the plant doing the work now?

21 MR. ORLANDO: Currently some of the
22 positions are operating engineers, which would be
23 considered a high school level job.

24 COUNCIL MEMBER COMRIE: Operating
25 engineers?

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MR. ORLANDO: Correct.

COUNCIL MEMBER COMRIE: Any other unions that are in there at the moment?

MR. ORLANDO: There are other unions that are like laborers that deal with asphalt. Again, it's skilled trades.

COUNCIL MEMBER COMRIE: Your plant in Brooklyn, you said you're doing about \$47 a ton, \$47.72 a ton. Do you have operating engineers in the trades that are operating in the plant on Hamilton Avenue?

MR. ORLANDO: Yes, we have operating engineers and we have laborers that have prevailing wage with the outside asphalt laborers. But they're DC 37 titles outside of the operating engineers.

COUNCIL MEMBER COMRIE: How do you get to have such a lower cost per ton?

MR. ORLANDO: Very simple, we recycle more and defer costs on virgin raw material by utilizing the material we generate when we, as part of our resurfacing operations.

COUNCIL MEMBER COMRIE: What is the raw material for asphalt? I'm sorry.

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2 MR. ORLANDO: Asphalt is basically
3 aggregates and asphalt cement; it's basically
4 stone bound together with asphalt cement. That's
5 the virgin raw materials we refer to. The RAP is,
6 our resurfacing operation basically goes and does
7 a milling where we remove the existing surface and
8 grind it up and replace it with new. That
9 material that we remove we attempt to recycle to
10 the greatest extent.

11 COUNCIL MEMBER COMRIE: Isn't that
12 rubberized material?

13 MR. ORLANDO: No, sir.

14 COUNCIL MEMBER COMRIE: No rubber
15 in the asphalt at all>

16 MR. ORLANDO: No, sir.

17 COUNCIL MEMBER COMRIE: So it's
18 all--

19 MR. ORLANDO: [interposing] It's
20 aggregates and asphalt cement.

21 COUNCIL MEMBER COMRIE: Where do
22 you get the material from? You said it's shipped
23 by barge to the plant?

24 MR. ORLANDO: The raw materials
25 come mostly from Hudson River Quarries which has

1
2 been a traditional long time supplier to the
3 construction industries in New York. We've also
4 gotten some from as far away as Canada on
5 occasion. The asphalt cement comes from locations
6 either in New Jersey or in Westchester.

7 COUNCIL MEMBER COMRIE: And this
8 plant would give you an ability to keep up with
9 all of your repaving that needs to be done
10 throughout the borough?

11 MR. ORLANDO: Yes, sir.

12 COUNCIL MEMBER COMRIE: But you
13 said at one point you would still need to purchase
14 more asphalt.

15 MR. ORLANDO: Certainly in the
16 Bronx and in Staten Island. Asphalt is a time
17 sensitive material and also you're more productive
18 when the plant is closer to the paving site as you
19 can make greater round trips.

20 COUNCIL MEMBER COMRIE: You're
21 going to maintain all the union jobs that are
22 there now and you're going to maintain the
23 opportunities for continuing to allow the
24 personnel that are there now to work in the same
25 capacity?

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2 MR. ORLANDO: Yes, we would pursue
3 that.

4 COUNCIL MEMBER COMRIE: And this
5 site is the site that's just north of the Willets
6 Point area?

7 MR. ORLANDO: It's not part of the
8 Willets Point but it's just north, correct.

9 COUNCIL MEMBER COMRIE: And has any
10 environmentalists been done on this site? How long
11 has that site operated as an asphalt plant?

12 MR. ORLANDO: I believe it's been
13 an asphalt plant for at least 20 years.

14 COUNCIL MEMBER COMRIE: All right.
15 I just had those general questions. I don't have
16 any other specific questions. I would want to
17 make sure that whatever's done, we could increase
18 at the end of the day the street paving in Queens.

19 As you know my area in Southeast
20 Queens, we always need street paving. In fact, I
21 could give you--the Commissioner is here. I'll
22 just say Commissioner McCarthy is responsive but
23 if she still can't keep up with the need. We
24 have, with our high water table and high traffic,
25 we always need our streets repaved. Merrick

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2 Boulevard, Liberty Avenue, Farmer's all need major
3 repaving now. I see the need to have an on site
4 plant in the borough.

5 I'm a little confused as to some of
6 the other issues. So I think I need to hear from
7 the other side.

8 MS. SADIK-KHAN: Council Member, we
9 understand completely your concern there. Part of
10 what we're trying to get done here is get a
11 stable, cost effective supply of asphalt so that
12 we can do more paving in Queens.

13 COUNCIL MEMBER COMRIE: All right.
14 That would be my ultimate goal to see more paving.
15 I would also want to see the jobs of the people
16 there that are protected now, especially the
17 operating engineers and other skills trades that
18 are there. I was just wondering if there would be
19 an opportunity to also train other people since we
20 need to do more for job training and job
21 opportunity. So those would be my concerns off
22 the top of my head.

23 And I'm looking forward to hearing
24 testimony from other people so thank you. I'll
25 congratulate and than Commissioner McCarthy again

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2 for being a good commissioner. Don't move her.

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Thank you, thank you.

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MS. SADIK-KHAN: We won't.

5

CHAIRPERSON LAPPIN: I want to note

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we've been joined by Councilwoman Ferreras and

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this is in her Council district. Councilwoman

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Arroyo had to go downstairs to a meeting, it is

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budget time for us so you'll see people floating

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in and out. Delegations are meeting today.

11

Council Member Barron.

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COUNCIL MEMBER BARRON: Thank you.

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Presently in a split way you purchase about

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250,000 tons?

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MR. ORLANDO: Correct.

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COUNCIL MEMBER BARRON: Of asphalt

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and half of it in Grace and the other half in

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other Queens vendors.

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MR. ORLANDO: The other Queens

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vendor, yes.

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COUNCIL MEMBER BARRON: Right. So

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when you do this new site then all 250,000 tons

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will be in one site, the site that you're going to

24

build.

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MR. ORLANDO: Correct.

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2 COUNCIL MEMBER BARRON: And then
3 the private sector that was purchasing from Grace
4 will then all purchase from the 125,000 that you
5 removed from the other Queens vendors.

6 MR. ORLANDO: Correct.

7 COUNCIL MEMBER BARRON: You're
8 thinking that that makes it basically fair and
9 balanced. It wouldn't be taking anything from
10 anybody.

11 MR. ORLANDO: Certainly in terms of
12 tonnage.

13 COUNCIL MEMBER BARRON: Tonnage?

14 MR. ORLANDO: And possibly price.

15 COUNCIL MEMBER BARRON: And price.
16 And then you're thinking also that the pricing,
17 because of what you do with the RAP and the
18 recycling and other things, it will enable you to
19 keep the price down, better than the private
20 sector?

21 MR. ORLANDO: Correct.

22 COUNCIL MEMBER BARRON: Then the
23 workers will be protected as well. What about
24 benefits and all of that, will there be equal
25 benefits or will the benefits change?

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2 MR. ORLANDO: I want to remind you,
3 currently we are the government, these are civil
4 service positions. Our labor title is in fact
5 apprenticeship series jobs and that's what would
6 be the titles there, our laborers so yes.

7 COUNCIL MEMBER BARRON: So cost
8 effective, more resurfacing and hopefully filling
9 of potholes. What's that other term they have,
10 trenches or something? There's another...

11 MS. SADIK-KHAN: Trenches?

12 COUNCIL MEMBER BARRON: In East New
13 York, trenches or something?

14 MR. ORLANDO: Cave ins, maybe.

15 COUNCIL MEMBER BARRON: In East New
16 York we be on pot holes, I think we have craters.
17 The trenches, hopefully that we'll get to the
18 trenches as well as the potholes and the
19 resurfacing. This is unrelated and I'll probably
20 get in trouble for this and everybody's going to
21 get mad but do you have any Black people on staff?

22 MS. SADIK-KHAN: Yes, we do.

23 COUNCIL MEMBER BARRON: What, do
24 you hide them in the office or something? You
25 didn't even front to bring one or two, even as a

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2 front.

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MS. SADIK-KHAN: Our Deputy
Commissioner for Sidewalk Repair is who's
basically behind us on the street--

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COUNCIL MEMBER BARRON:
[interposing] I was concerned when commissioners
come and they bring their best and I don't see any
Black people. I get concerned about that in
agencies. I know this is off the point but it's
always a concern of mine.

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MS. SADIK-KHAN: I just, Council
Member, want you to know these are not all DOT
people here.

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COUNCIL MEMBER BARRON: Okay. I'm
just trying to find.

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MS. SADIK-KHAN: But your comment
is well noted.

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COUNCIL MEMBER BARRON: All right.
Are they your friends?

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MS. SADIK-KHAN: Some of them, some
of them I don't know.

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COUNCIL MEMBER BARRON: All right.
I'm looking to hear from the other side as well
just to see what the other issues are but thank

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2 you very much.

3 MS. SADIK-KHAN: Thank you.

4 MR. ORLANDO: Thank you.

5 CHAIRPERSON LAPPIN: Council Member
6 Ferreras.7 COUNCIL MEMBER FERRERAS: Good
8 morning.

9 MS. SADIK-KHAN: Good morning.

10 COUNCIL MEMBER FERRERAS: Or good
11 afternoon. I have a question, do the private
12 companies need to get prior authorization to
13 increase the percentage of RAP that they use?14 MR. ORLANDO: Our contract allows
15 for a certain amount and to go over, they would
16 present. In the asphalt business you present a
17 formula mix, basically a recipe for it. We would
18 review it. While we encourage recycling we also
19 need to make certain that it's...

20 MS. SADIK-KHAN: Quality control.

21 MR. ORLANDO: ...able to meet a
22 quality standard.23 COUNCIL MEMBER FERRERAS: So the
24 quality, you've already identified the quality
25 standard at 40% that you can do in Brooklyn at the

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2 Hamilton site.

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MR. ORLANDO: It's pretty much the same quality standard. It's the quality standard for asphalt. When you make recycling, as we might have mentioned prior, there's the equipment, there's the materials and then there's a technique that you have to develop. We want to make certain that you have the equipment, the materials and the technique to make a quality product.

COUNCIL MEMBER FERRERAS: I'm trying to just get a better understanding that if the privates were allowed to use more recycling or do to the 40% RAP, would it be more affordable at that point?

MR. ORLANDO: That's only if the cost savings would be passed on to the city.

COUNCIL MEMBER FERRERAS: Okay. And then can you kind of explain to me a little bit better your concerns about stability in the production?

MR. ORLANDO: Well we traditionally had two vendor plants in Queens. Tully has been a long standing vendor and Grace was a long standing vendor. Grace went bankrupt two years ago, just

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2 virtually overnight. While somebody bought them
3 out, they expressed interest that they don't want
4 to be in the asphalt business for the long term.
5 We've gotten concerned about the stability of
6 supply there as these things can happen to large
7 companies.

8 COUNCIL MEMBER FERRERAS: Okay.

9 Thank you.

10 CHAIRPERSON LAPPIN: Let's talk
11 just for a minute and I'm going to wrap up and
12 then we'll move to the other witnesses. Is there
13 a risk associated with this, too, for the city?

14 MR. ORLANDO: Is there a risk
15 associated with the city. Based on our history,
16 for over 30 years at Hamilton Avenue, I would say
17 the risk is virtually nil. We've been a proven
18 producer of asphalt at very economical prices.

19 CHAIRPERSON LAPPIN: I had one sort
20 of technical question because I've had different
21 versions of this chart at different points in
22 time. In terms of the tax base lost column, at
23 one point were you planning to purchase three lots
24 and now you're only purchasing two? Is that what
25 happened here?

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MR. ORLANDO: Yes.

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CHAIRPERSON LAPPIN: Because I see only Lot 52 and 68 listed, were you going to purchase Lot 72 at one point and then decided not to?

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MR. ORLANDO: Correct. Lot 72 is a small sliver of land that was ultimately determined, that has a Con Ed facility on it and is in fact owned by Con Ed, after an extensive title search. It's not important to the production of asphalt and we are talking to Con Ed about sharing our lots and leaving their lot to them.

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CHAIRPERSON LAPPIN: Right, cheaper for us.

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MR. ORLANDO: Right.

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CHAIRPERSON LAPPIN: Does this tax base loss include income taxes? I know it, obviously, is real estate taxes but what about the income taxes or is that a wash?

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MR. ORLANDO: It refers to real estate taxes.

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CHAIRPERSON LAPPIN: Is it a wash in terms of income tax or is there an additional

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2 loss in terms of corporate tax revenue?

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MR. ORLANDO: I'm not prepared to answer that question as far as the corporate tax revenue. The corporate that owns Grace Asphalt may be bigger than the asphalt plant itself and I don't know exactly how that structure works. There are certainly no sales tax on the sale of asphalt even though the profits may be taxed, if they are a business located within the city, I'm not certain of that structure.

CHAIRPERSON LAPPIN: I guess the profit margin that I was thinking of, not the... But it's good to know there's no sales tax. My last question,, I just want to drill down one more time because this savings from RAP disposal is a significant part of this cost analysis. The \$15 a ton, what is that? I mean, what does that represent? What are you paying for?

MR. ORLANDO: We are paying \$15 for me to bring RAP to a facility and then to take it off my hands and dispose of it.

CHAIRPERSON LAPPIN: I mean, what does it mean? They're taking it for free, right? So what is that \$15, who are you paying it to and

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what for?

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MR. ORLANDO: The asphalt contract from our vendors requires to take a certain amount of RAP. Again, at the recycling rates that they have, I still end up with an excess amount of RAP and I'm forced to dispose of it by paying someone to come and take it. Now you mentioned a \$39 a ton. In the past we paid \$39 a ton. Our recently solicitation has brought that price down to \$15 a ton. But there's still a cost in disposing them.

CHAIRPERSON LAPPIN: When you were speaking earlier I thought you were saying that that's the cost you're spending to deliver it to Tully.

MR. ORLANDO: No, no, no. It's a contract that we have for the disposal of RAP that we pay someone to dispose of it for us, our excess RAP that we have.

CHAIRPERSON LAPPIN: I just want to be very clear, after you distribute to the contractees that you work with, every year you've had excess RAP left over.

MR. ORLANDO: Correct.

CHAIRPERSON LAPPIN: Okay. And

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2 this column represents the cost to dispose of that
3 excess RAP not the cost to take it to the private
4 contractors.

5 MR. ORLANDO: Correct, correct.

6 Correct.

7 CHAIRPERSON LAPPIN: Okay, that
8 wasn't clear. Okay. Thank you very much.

9 MR. ORLANDO: All right. Thank
10 you.

11 CHAIRPERSON LAPPIN: Let's hear
12 once again from Miss Anastasia Song, who is here
13 representing Grace. It's like dejavu. And then
14 we'll hear from folks in opposition. Thank you
15 very much, Commissioner. I would suggest Mr.
16 Orlando, I wouldn't expect the Commissioner to
17 stay for the duration of the hearing but that you
18 stay so that if we need to call you back for
19 further questions after we hear from those in
20 opposition, we have you here.

21 MR. ORLANDO: It would be my
22 pleasure.

23 CHAIRPERSON LAPPIN: Before we hear
24 from--Miss Song, please.

25 ANASTASIA SONG: Good afternoon.

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2 My name is Anastasia Song and I'm Chief Executive
3 Officer of the Hoglin Group, which is representing
4 the owner of the Grace Asphalt Plant. I'm also on
5 the Board of Trustees of Grace Asphalt.

6 As you are aware, we have not taken
7 a position, probably surprising on this somewhat
8 controversial proposition. As we said before, the
9 first round of this process, we're reasonable
10 business people and if the city is prepared to
11 make us a reasonable offer and pay us a reasonable
12 premium for our investment, we're willing to
13 discuss an amicable negotiated sale of the plant.
14 That's still our position.

15 I did want to correct a few things
16 as I've done this process before. The record
17 about some of the facts and circumstances of our
18 ownership, however which somehow continue to be
19 misrepresented. First of all, we are a stable
20 supplier of asphalt to the city and have been
21 since we've owned and plan to continue to be.

22 We bought the plant out of
23 bankruptcy, the assets. We invested \$5 million of
24 equity cash, which says to me the type of
25 investment that someone's planning to stay in the

1
2 business. It's not something you'd spend if you
3 were planning to dispose of it in some other way.
4 So I'm just not sure where this is emanating from.
5 We are a stable supplier of asphalt. We're long
6 term investors in this plant but we're willing
7 sellers like business people in any business. So
8 I just wanted to put that, for some reason, to
9 bed.

10 With respect to Mr. Orlando's
11 economics, frankly I don't really care. We're
12 business people, we make a profit. As far as I
13 last checked that was still a legal activity in
14 these states. We run a reasonable business, we
15 work hard, we run a business, we make money;
16 that's our job. I think the whole decision about
17 whether the city want so to acquire this facility
18 is really a policy decision. I honestly don't
19 believe it's an economic decision.

20 If you take apart any basic
21 economic arithmetic the city, putting productivity
22 aside, should be able to manufacture pretty much
23 anything cheaper than the private sector since it
24 doesn't pay taxes, doesn't have to accrue a
25 profit, can bond tax exempt capital. The

1
2 arithmetic points to a cheaper production cost, a
3 schematically. I think it's sort of a
4 disingenuous argument to say whether or not it's
5 cheaper or not. Probably they can manufacture it
6 cheaper.

7 I think the policy question is does
8 the city want to appropriate a private business,
9 not for a change of use, but to stay in the same
10 business that is currently being done by the
11 private sector? I'm agnostic as to that argument.
12 Again, I'm a business person if the city's going
13 to make me a fair offer for my business, I'm going
14 to talk to them.

15 Since our last round we really have
16 not had any extensive conversations further with
17 the city on this matter. We've gone through this
18 ULURP process part two. I've continued to attend
19 the hearings and monitor them and correct the
20 record when I thought it needed correcting. We're
21 willing to discuss but at this point we still have
22 not had any discussions with an appraiser, which
23 we were told would come and visit our plant to
24 talk about valuation. We've had no discussions on
25 value.

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2 Again, for the record the only
3 number that was entered into the public record was
4 when the Department, the DCAs made an offer that
5 was below what we paid in bankruptcy court. Which
6 on the face of it was unreasonable and we thought
7 there must have been some mistake and Mr. Numerar
8 was incorrect. Mr. Orlando has subsequently
9 indicated that there would be a proper specialty
10 appraisal done on our property, which we're still
11 waiting to have done.

12 We're willing to be reasonable
13 business people but I just wanted you to
14 understand where we were in this fact pattern.
15 And we'll continue to be reasonable but we
16 appreciate having a better line of communication
17 than people just talking to us like normal
18 business people and citizens of the city.

19 CHAIRPERSON LAPPIN: And just so
20 you understand, what we would be voting on in this
21 committee is giving the city the authority to
22 begin to really have those discussions with you,
23 giving them the authority to acquire the plant. I
24 don't have any questions. Thank you very much Ms.
25 Song.

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2 The next panel is Richard Davidson
3 from Canal Asphalt, Robert Carballal from Flushing
4 Asphalt, Daniel Scully from Willets Point Asphalt.
5 We'll do those as a panel and the next panel will
6 be Wendy Neu and Rich Kassel who are in favor. So
7 obviously we are alternating panels. I'm not
8 going to use the timer because it doesn't seem
9 necessary but we'll all just try to be respectful
10 of each other's time. So you can go in whichever
11 order you prefer, introduce yourself for the
12 record and begin.

13 RICHARD DAVIDSON: Hi, I'm Richard
14 Davidson. I work for Canal Asphalt. We are an
15 asphalt supplier and manufacturer in lower
16 Westchester and I've been with the company for 22
17 years. A couple of things that are being
18 discussed I guess by Mr. Orlando regarding an
19 asphalt tonnage swap.

20 In order to hold your \$47 price or
21 \$48 price or whatever it is, there are certain
22 fixed costs no matter what you produce you're
23 going to have. I know he's using those figures
24 from Hamilton but, I believe even though I don't
25 have my glasses on I couldn't see that clearly,

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2 but they did about 470,000 tons out of Hamilton
3 Avenue. If that's correct or 407 or 470. If he's
4 planning to do the 250, which is the 125 swap
5 thing it's not going to be \$48. I'm here to tell
6 you if we do 240,000 tons one year versus one year
7 we do 380, our fixed costs are spread over a
8 larger tonnage so it's not going to be the same.

9 As far as availability and
10 stability of asphalt, we're starving to supply the
11 city and more notably the DOT which is completely
12 abandoned their resurfacing program. I know
13 there's a lot of concern about the roads. Instead
14 of investing time and money in a plant, I think
15 they should invest time and money in manpower,
16 hiring people, to put other people to work and
17 actually fixing the roads. There used to be a big
18 resurfacing program annually and I haven't seen
19 two bids a year at this point. We would be very
20 competitive and very interested in that kind of
21 work. We not only supply asphalt for those jobs,
22 we also install the asphalt.

23 As far as recycled material and,
24 again, agreeing with Ms. Song, the city can
25 probably do just about everything cheaper. They

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2 haven't cornered the market on the recycled system
3 or the recycled idea. We would use upwards of 40,
4 50, whatever does hold the integrity of asphalt.
5 We have a quality control technician in our lab.
6 We've hired outside labs and we do whatever we can
7 to not only recycle but also produce the material
8 at a cheaper cost to our business. So there is no
9 casual attitude towards recycling or finding
10 cheaper ways to make the product. Of course,
11 being a business, it's not going to be all passed
12 to the city but invariably it's passed to the
13 consumer because we're able to control our price
14 and our cost so we remain competitive in a
15 competitive market.

16 CHAIRPERSON LAPPIN: Can you remind
17 me, are you from Flushing or Canal?

18 MR. DAVIDSON: We're actually from
19 Canal.

20 CHAIRPERSON LAPPIN: Okay, I just
21 wanted to be clear.

22 MR. DAVIDSON: And that's the last
23 thing. We are a Westchester plant and we are one
24 of the two plants, "Bronx" plants that Mr. Orlando
25 refers to. The city annual bid is broken into

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2 five zones and normally what happens is for the
3 best price to the city. There's two Queens
4 vendors and there's two vendors from the Bronx but
5 we're in Westchester. Our zone right now is lower
6 Bronx and Southern Bronx and Northern Queens. If
7 the city was to move there, what used to be about
8 one-third to one-quarter of our business, right
9 now is one-sixth of our business. It will
10 probably virtually disappear.

11 As far as, again, being a swap for
12 replacement, we'll end up with probably nothing.
13 I can't even see that the city in Northern Queens
14 would come up to us and take any material. As it
15 was last year, that was our all time low. Like I
16 said, we're desperate for these jobs, we're
17 desperate to hire more people. And the roads just
18 aren't being built. I think that's where the
19 focus should be.

20 DANIEL SCULLY: Hi, my name is Dan
21 Scully. I'm with Willets Point Asphalt. We
22 appreciate the opportunity to speak to you again.
23 Obviously we're here in objection to this purchase
24 but the city. We feel that the three main issues
25 that the city has presented for the reasons are

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2 highly flawed.

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Number one is the capacity issue.

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They've expressed a problem with just only having

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if it came down to it, one plant in Queens. Tully

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has just built a brand new state of the art

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facility which is right across the river from the

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plant that the city is now looking to purchase and

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rebuild at a tremendous cost to the city. They

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tell us that we can't supply them with sufficient

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volumes.

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Just as a comparison, the city's

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plant in Hamilton has the ability to store 600

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tons in three silos. And for the last year

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they've been operating with only two of those

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silos so they've only been able to store 400 tons.

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Yet they've been able to produce 480,000 tons for

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their operations. In contrast, Willets has 1,500

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tons of storage capacity and five silos that we

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could put up for the city. They're only looking

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for half the volume that they're producing out of

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their Hamilton Plant.

23

This whole idea of capacity and

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being unable to service the city out of one plant

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is just a fallacy. Capacity, again, is plentiful

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2 in Queens. There's a brand new plant that's been
3 proposed in College Point, Co-Fire, that's going
4 to be producing 200,000 tons a year. The idea
5 that the city is somehow in jeopardy of losing
6 capacity in Queens is again just an exaggeration.

7 The recycling, they've told you
8 that the privates only recycle 15%. At our plant
9 alone last year we took 60,000 tons, which is
10 30,000 tons more than we were required to take
11 under our contract with the city. That only
12 represented the city volume that we received. We
13 actually recycled well over 100,000 tons at our
14 plant. At the end of the year we're asking DOT to
15 please save millings for us, we needed more
16 millings. So the idea that there's this big
17 disposal problem out there and that's going to be
18 solved by this Grace Plant, that's something that
19 we argued from the beginning.

20 The industry took 80,000 tons of
21 RAP last year from the city at no charge. Now
22 they're saying that they're going to save money
23 because they're going to recycle 80,000 tons at
24 this new plant. They're just counting this cost
25 twice. It doesn't cost them to dispose of that

1
2 80,000 tons. They're recycling 40% asphalt.
3 We've put in for 40% and 45% asphalt mixes and
4 we're currently approved for 30% with them. Our
5 plant is state of the art and we're capable of
6 doing anything that the city can do at their
7 facility.

8 The last issue is this costs
9 savings. Rich touched on it a little bit. This
10 idea that they produce asphalt at \$47.72 a ton is
11 also misleading. They've said that they're not at
12 the end of their amortization so they've had the
13 foresight to buy this plant and now they don't
14 have any costs. But in the next breath they told
15 you they're going to have to replace that plant in
16 the next couple of years at a minimum cost of \$5
17 million.

18 We're here to tell you as industry
19 experts that it's going to be more like \$10
20 million to replace that. When you take that added
21 debt that the city's going to have and throw it
22 back on top of that \$47 a ton that they have,
23 you're going to push them well towards the \$60 a
24 ton number. The amortization that they're talking
25 about with this plant, they're amortizing it over

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2 30 years not 10 years. So it's \$1.6 million a
3 year in cost to the city over the next 30 years to
4 buy this plant.

5 Other things that have been left
6 out of their costs are the private industry has
7 worker's comp, liability insurance, equipment
8 repair. We looked at their numbers and we didn't
9 see anything accounted for for equipment repair.
10 Basically what we see is that the city's numbers
11 from the last meeting, which I believe was in
12 March until now, only a few months. They've gone
13 from we're going to save \$40 million over 10 years
14 to now maybe we think we're going to save \$9
15 million. We're here as experts in the industry to
16 tell you those numbers are inflated, those
17 savings.

18 The city has created this whole
19 capacity problem by insisting on doing all this
20 paving with its own crews. If they were to bid
21 out more contracts they wouldn't have to worry
22 about capacity. The private vendors would be
23 responsible for finding their own asphalt and
24 going out and bidding it competitively. But the
25 city wants to monopolize this whole industry and

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2 have this kingdom out there where they're the only
3 ones who can pave the streets.

4 We've all seen the stories in the
5 news of DOT proves the inefficiencies that you see
6 out in the street. Why not take some of this
7 capacity and give it back to the private industry?
8 And let the private industry bid competitively for
9 this; that is a way of solving this threat that
10 they perceive if the Grace Plant were to close.
11 That concludes my comments. Thank you.

12 ROBERT CARBALLAL: Okay, my name is
13 Robert Carballal and I'm here to represent
14 Flushing Asphalt. By the way of background, my
15 own experience I was a banker for seven years and
16 for 27 years I was president of a company called
17 Mount Hope Rock Products. We were a quarry and an
18 asphalt producer. We made between 1 million and 2
19 million tons of asphalt annually in four asphalt
20 plants on one piece of property, probably more
21 than anyone has ever made before or since. We
22 were the largest supplier of material to the Port
23 Authority, to the State of New Jersey and to most
24 of Northwestern towns and counties. So I know
25 something about asphalt and something about money.

1
2 New York, as you may be aware, is
3 one of only two municipalities in the country that
4 actually makes and lays down its own asphalt. The
5 only other place that does this is Los Angeles,
6 California and they also have financial problems
7 and this isn't helping them. There are now six
8 plants bidding city work and those plants involve
9 very competitive bidding. The city averages about
10 \$60 a ton that it pays for material. I can tell
11 you that's pretty close to 20% below what the
12 average price paid by other agencies for whom we
13 work and private vendors. The city gets a really
14 good price on what it buys. This has always been
15 the case.

16 DOT has really given two basic main
17 justifications to justify this acquisition. The
18 first is environmental and this concept of that
19 the city is greener in the manufacturing of
20 asphalt than private manufacturers would be. This
21 is a myth. Asphalt manufacturing is one of the
22 few areas where being green or being
23 environmentally conscious costs you less money
24 than if you make the material without using the
25 green recycled asphalt method.

1
2 For very 10% RAP that I can use to
3 make asphalt, I reduce my cost by 10%. It's a no
4 brainer. You will use as much RAP as you possibly
5 can. When they say they use 40%, we'll use 40% in
6 mixes that we make for the city or as much as we
7 possibly are allowed. The only reason our
8 averages are lower than the city is we make
9 material for the Port Authority and other agencies
10 which don't allow you to use RAP or only allow
11 very much smaller amounts. There's no possibility
12 that the city saves more money on making asphalt,
13 using RAP than private manufacturers do.

14 The other issue is the idea that
15 there may potentially be shortages of material
16 because of the bidders. The fact is there is a
17 huge over capacity in the ability to make asphalt
18 by the private manufacturers in the area
19 immediately surrounding the plant that you're
20 looking to acquire. There's over a million tons
21 of excess capacity there and there will always be
22 enough asphalt for the city.

23 This acquisition is going to wind
24 up being a condemnation because it just seems to
25 me that to get together on price, from the numbers

1
2 that I've heard, is going to be very difficult.
3 And it's a condemnation without really a good
4 public purpose. It's basically empire building in
5 its most basic form. And the people who are going
6 to support this or who allow it to happen will
7 have to answer, at some point, to the public and
8 the press. Thank you very much.

9 CHAIRPERSON LAPPIN: I just want to
10 be clear. I don't think we're talking about
11 condemnation. But I do have a couple of questions
12 for Mr. Davidson and for Mr. Carballal. I've been
13 told by DOT that Flushing Asphalt has never bid
14 for this work in Queens. Is that true?

15 MR. CARBALLAL: Flushing Asphalt
16 was purchased by new owners in January of 2008.
17 Last year was its first year of operation. It
18 only went into business at the time that the 2008
19 bid was already out. It didn't bid on city
20 supply.

21 CHAIRPERSON LAPPIN: And in your
22 prior incarnation did you have some integrity
23 issues?

24 MR. CARBALLAL: Prior incarnation,
25 as far as I know, did not bid on the city work.

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2 CHAIRPERSON LAPPIN: Okay. And Mr.
3 Davidson, you said that you're desperate for jobs
4 but your company didn't bid either?

5 MR. DAVIDSON: No, we bid and we
6 have a zone but what--

7 CHAIRPERSON LAPPIN: [interposing]
8 You bid in Queens?

9 MR. DAVIDSON: Well there's certain
10 limitations on what zones you can bid depending on
11 the location of your plant. I forget what the
12 radius, it might be 20 miles from the central
13 point or something so we bid on whatever zones we
14 were permitted to. The zone that was closest to
15 our plant we weren't the low on so we got the next
16 closest one, which was an overall savings to the
17 city.

18 CHAIRPERSON LAPPIN: I guess I just
19 don't see how this would impact your work since
20 you're not doing work in Queens. But I did want
21 to ask about your price because I want to make
22 sure this is accurate. DOT says that you are
23 recycling 40%?

24 MR. DAVIDSON: Yes.

25 CHAIRPERSON LAPPIN: You are?

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MR. DAVIDSON: Yes.

CHAIRPERSON LAPPIN: That's
fantastic.

MR. DAVIDSON: Yes.

CHAIRPERSON LAPPIN: I'm very happy
to hear that. And that in FY08 your cost was
\$50.43 a ton, is that correct?

MR. DAVIDSON: It might be. I
haven't been able to look at what number. \$50.43
might be.

CHAIRPERSON LAPPIN: Okay. Just
because to me, that says that you are producing at
a pretty similar cost to what the city is
producing at Hamilton, which is great. But also
makes me believe that the city can do it at that
price.

MR. DAVIDSON: Again, I don't know
what the \$50.43 came from. And again, when you
talk about overall price or cost per year and if
you're going to spread it over 10 years and you're
going to use a certain amount of tonnage, you have
to take into account how much you're producing.
Because your fixed costs are your fixed costs;
they're not going to change. So if you have the

1
2 ability or you have the intentions to produce
3 470,000 tons, you'll do that cheaper doing the
4 same very thing doing 200 a year. So that's what
5 was my point on that.

6 CHAIRPERSON LAPPIN: Okay.
7 Councilwoman Ferreras.

8 COUNCIL MEMBER BARRON: You had
9 some interesting testimony from the--

10 CHAIRPERSON LAPPIN: [interposing]
11 I'm sorry. I think I said Councilwoman Ferreras.

12 COUNCIL MEMBER BARRON: Oh, I'm
13 sorry. I'm so sorry. You looked at me. I'm
14 sorry.

15 COUNCIL MEMBER FERRERAS: Because
16 I'm the new kid.

17 CHAIRPERSON LAPPIN: Yes, just
18 because it's her district but you can ask the next
19 question.

20 COUNCIL MEMBER FERRERAS: I have a
21 question. So if the city were to move forward
22 with the purchasing of Grace, would that mean then
23 and I guess either one of you could answer this
24 question, that the work that they're talking about
25 that you do in the Bronx. You currently provide

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asphalt in the Bronx, is that correct?

MR. SCULLY: Yes, our zone consists of what the city calls Southern Bronx, Northern Queens and there's a dividing line.

COUNCIL MEMBER FERRERAS: So then that means that now he could potentially become your competitor for that?

MR. SCULLY: Yeah. What's happened over the last eight years since Hamilton has increased their production, our I guess sales to the city has gone steadily down, steadily. As low as last year we did less than 50,000 tons even though we won the bid.

COUNCIL MEMBER FERRERAS: Okay.
Thank you.

COUNCIL MEMBER BARRON: I just hear interesting testimony from the current person representing Grace, who is mostly like I'm a business person. Whatever the price is and if the city wants to do it, they shouldn't do it but if the price is right, hey. It's business. You say, hey, if you'll do this, have to answer to the public and the press like that's a threat or something. First of all we're not afraid, if it

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was a threat, I don't think it was.

MR. CARBALLAL: Oh, no, no.

COUNCIL MEMBER BARRON: But it just doesn't sound good when you come--I'll be with you in a second. It just doesn't sound good when you come off like that. We're trying to understand. I appreciate the testimony that you put forward. I'm trying to understand. I just don't think that helps your cause when you come off like that. You certainly didn't help the cause when you come off so cold, calculating and business. We're trying to say bottom line, we want our roads resurfaced, we want our potholes filled and our trenches or whatever filled and done. And done at a cost that's effective for everyone and at a high quality.

Will this acquisition, will it put you out of business? What would it do to your business? What would it do to workers? What would it do to the quality of work that has to be done in the city?

MR. SCULLY: It would probably effect our plant the most since we're the other supplier to the city. What this contract means to

1
2 us, it's 25% of our business at our plant
3 currently. We bid it at a lower cost than we
4 charge the outsiders because it's a critical
5 quantity. We know that we're going to have an
6 order from the city on a fairly daily basis so it
7 helps us sort of edge out the peaks and valleys
8 that happen in the industry naturally.

9 You heard testimony from the city
10 that well we're going to send all the privates
11 from Grace back into the private sector. If that
12 were the case and we knew we were going to get one
13 for one ton, we'd be very happy. But the fact is
14 that there is a lot of capacity in Queens.
15 There's a lot of battles going back and forth for
16 that private business. I think you've heard
17 testimony from my competitors here.

18 It's a critical part to our
19 business to enable us to maintain a steady flow.
20 It's expensive to go and turn on a plant and not
21 have any customers sitting there waiting for you.

22 COUNCIL MEMBER BARRON: I was just
23 concerned about the over simplification of what
24 would happen. Now we'll do 250,000 but don't
25 worry about it, they'll go here and everybody will

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be happy. It's never that neat in life.

MR. SCULLY: No.

COUNCIL MEMBER BARRON: I was looking forward to hearing that testimony. I have a lot to think about to see how we come down on this. But I just want to say I appreciate you're testimony and I'll give it some serious, serious thought.

MR. SCULLY: We've have had meetings with DOT. There's been a lot of conflict on what the numbers are and how this cost really does lay out. We think that the best way to resolve that is to have some independent person take a look at these numbers from both sides and determine what the real numbers are.

COUNCIL MEMBER BARRON: Thank you very much.

MR. CARBALLAL: Excuse me, may I say one more thing please?

CHAIRPERSON LAPPIN: Yes.

MR. CARBALLAL: I'm sorry I did not mean to say but my reference was this. There was a time when the city owned an asphalt plant in every borough. There was one in every borough.

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2 At the time in 1966 and I just saw the city plant
3 as I came down the Harlem River Drive here. When
4 the plants were all closed it had to do with a
5 terrible scandal about the fact that the city was
6 paying almost five times the price to make asphalt
7 as the private manufacturers.

8 The city at that time just closed
9 all its plants and put out all its bid. We see
10 all this as sort of like the camel's nose under
11 the edge of the tent. Now we're going to have a
12 plant in Queens, now we're going to have a plant
13 in the Bronx, now we're going to have a plant.
14 And that little empire just builds and builds and
15 we really want to try to avoid seeing that happen.
16 We don't see that the city should really be in a
17 private business; it's just not America.

18 COUNCIL MEMBER BARRON: With that,
19 that position I'm going to have to answer to the
20 public and the press, not good.

21 MR. CARBALLAL: Okay.

22 CHAIRPERSON LAPPIN: I think we've
23 covered this. Thank you very much. I want to
24 move on because we have two more panels.

25 MR. SCULLY: Just one more thing,

1
2 though about the jobs and the situation. Because
3 I know one of the things Mr. Orlando pointed out
4 is that they're going to gain two jobs. Again,
5 when I say desperation I'm talking about the
6 city's abandonment of the resurfacing program
7 where they're doing all the lay down. There used
8 to be dozens of resurfacing bids put out by DOT.
9 I think that's where the money and the focus
10 should be spent because then you'd have hundreds
11 of jobs created.

12 CHAIRPERSON LAPPIN: Thank you.
13 The next panel is Wendy Neu, Rich Kassel and let's
14 bring up Kyle Wiswall as well. Then the following
15 and final panel, Henry Garrido, are you still
16 here? Okay. And Joan Byron, are you here Joan?
17 Great, so you two will be the next and final
18 panel.

19 KYLE WISWALL: Good morning again.
20 My name is Kyle Wiswall, I'm the staff attorney
21 and general counsel with the Tri State
22 Transportation Campaign. Tri State is a non
23 profit watchdog group that, among other
24 initiatives, works to reduce truck traffic on the
25 city streets.

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2 Tri State urges the Committee to
3 support the acquisition and operation by the New
4 York City Department of Transportation of the
5 Grace Asphalt Plant in Queens. The acquisition
6 would allow the DOT to deliver better and greener
7 streets to the people of New York and contribute
8 to the city's sustainability goals. The DOT plans
9 to modernize the Queens plant in order to produce
10 a higher percentage of the RAP, recycled asphalt
11 pavement, using materials culled from road
12 resurfacing projects, materials that would
13 otherwise end up in landfills.

14 The DOT's a national leader at this
15 time in the production and use of RAP at the
16 Brooklyn Plant where 40% of the output is RAP
17 currently. The city has cut costs, saved 840,000
18 barrels of oil annually and avoided nearly 321,000
19 miles annually in local truck trip miles traveled.
20 This results in lower diesel emissions, lower
21 traffic volumes and less wear and tear on the
22 streets from these trucks.

23 Between modernization and potential
24 gains from DOT's experimentation with warm mix
25 asphalt, the DOT could produce asphalt at the

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Queens plant that is up to 60% RAP, amplifying these benefits even further. The Queens plant is an existing land use that requires no additional zoning changes or special permits. Approval would mean only cleaner, more efficient and lost costly asphalt production and road maintenance. The transfer would ensure the continued availability of materials for the DOT and ensure resurfacing and plant jobs remain, all of this while cutting the local truck traffic in Queens neighborhoods.

Again, we strongly urge you to support the DOT's goal of operating a municipal asphalt plant in Queens. Thank you very much.

RICH KASSEL: Good afternoon.

Chairwoman Lappin, Councilwoman Ferreras. My name is Rich Kassel. I'm a senior attorney with the Natural Resources Defense Council. As you know, NRDC is a national non profit environmental organization based here in New York City. We represent more than 1.2 million members and online activists of who more than 100,000 live in New York City or New York State.

Today I'm very pleased to testify in support of LU 1085, the proposed acquisition of

1
2 the Grace Asphalt Plant. Included in my testimony
3 is a letter that was delivered to Speaker Quinn
4 today from the New York Council of NRDC and
5 Environmental Entrepreneurs, from whom you'll hear
6 in more detail in a moment.

7 NRDC supports the acquisition
8 because it will significantly increase the use of
9 locally recycled asphalt in DOT repaving projects.
10 And it will provide other important environmental
11 benefits to the city. Today's action and the
12 proposal by DOT can be seen and is seen by us in
13 the context of PlaNYC. NRDC was and remains a
14 strong supporter of PlaNYC when it was released.

15 One of the many reasons we
16 supported it is its emphasis on strategies that
17 provide multiple benefits on numerous
18 environmental issues simultaneously. The proposed
19 recycled asphalt project will do that and
20 therefore it earns our support and we hope yours.

21 As a solid waste strategy, we
22 expect the Grace Plant will eventually produce
23 pavement with 50% recycled asphalt content. This
24 will help the city reduce its need for virgin
25 asphalt. It should roughly double the 174,000

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2 tons of used asphalt that is currently saved from
3 landfills each year and further cement the city's
4 reputation as the nation's leader in the use of
5 recycled asphalt. The pun was intended.

6 As an energy strategy, the Grace
7 Plant will help reduce the city's dependence on
8 petroleum since virgin asphalt is a petroleum
9 product. It's literally the bottom of the barrel.
10 Today's DOT recycled asphalt program at Hamilton
11 Avenue Plant saves 840,000 barrels of oil every
12 year by reducing the need for virgin asphalt. The
13 Grace Plant under DOT control should roughly
14 double this number.

15 As a transportation strategy, the
16 Grace Plant will help by reducing truck travel to
17 distant landfills which will reduce congestion,
18 air pollution, noise and road wear and tear
19 throughout the city. Together with an existing
20 Hamilton Avenue Plant, this two plant program will
21 but more than 600,000 miles in truck travel every
22 year. That will help the city achieve many PlaNYC
23 goals but particularly the air quality and
24 congestion goals.

25 In addition, by increasing the use

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2 of recycled asphalt content the city will avoid
3 additional truck traffic from the delivery of
4 crushed rock and virgin asphalt cement from the
5 Hudson Valley and beyond. We've heard about that
6 already earlier today. These are trucks that
7 won't have to deliver to the city, won't have to
8 be part of our congestion because the city will be
9 making and using more of its own recycled asphalt
10 and locally.

11 In short, by doubling the use of
12 recycled asphalt, by reducing the need to import
13 virgin asphalt by truck, by reducing the need to
14 truck asphalt refuse from its paving projects to
15 either other plants or far away landfills. NRDC
16 believes the Grace Plant will help the city meet
17 its solid waste transportation and other
18 environmental objectives of PlaNYC. Therefore we
19 support it and we encourage you to support it as
20 well.

21 One note I would make is since
22 we've heard from the private sector, testifiers,
23 there interest in recycling as much as possible, I
24 do look forward to returning to you on another day
25 perhaps before another Committee to talk about how

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we can make sure that happens as well. Thanks.

WENDY NEU: Good Afternoon. My name is Wendy Neu and I'm pleased to testify today on behalf of Environmental Entrepreneurs, E2. E2 is a non partisan community of business people who believe in protecting the environment while building economic prosperity.

Working with NRDC, E2 serves as a champion on the economic side of good environmental policy by taking a reasoned, economically sound approach to environmental issues. In New York, E2 has more than 100 members who are in the mainstream of business and job creation.

Today I'm pleased to testify in support of LU 1085, the propose acquisition of the Grace Asphalt Plant by the New York City Department of Transportation. This acquisition will significantly increase the use of locally recycled asphalt in DOT repaving projects and will provide other important environmental and economic benefits to the city.

A cornerstone of Mayor Bloomberg's PlaNYC 2030 is a comprehensive approach to solid

1
2 waste, transportation and environmental
3 performance. Recycled asphalt is a win-win-win on
4 all three issues. The proposed Grace Plant could
5 eventually produce pavement with 50% or more
6 recycled asphalt content. Because asphalt is a
7 petroleum product, increased reuse and recycling
8 helps the city to reduce its alliance on oil, both
9 by reducing truck travel to distant landfills and
10 by reducing the raw petroleum needed for the
11 city's repaving needs.

12 In fact, we understand that the
13 Grace Asphalt Plant proposal would roughly double
14 the city's already impressive recycled asphalt
15 program benefits, which include, and some of these
16 have been mentioned earlier, 174,000 tons of used
17 asphalt saved from landfills each year. These are
18 avoided costs. Avoided consumption of 840,000
19 barrels of oil per year required to produce new
20 asphalt cement. And reductions of nearly 321,000
21 miles annually in local truck miles traveled.
22 Taken together, these benefits will save the city
23 money, keep the city's roads resurfacing crews
24 working and reduce diesel emissions, congestion,
25 noise and roadway wear and tear.

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2 On behalf of my partners in E2 I
3 strongly urge you to endorse and support the
4 city's proposed acquisition of the Grace Asphalt
5 Plant. Thank you for the opportunity to testify
6 today.

7 CHAIRPERSON LAPPIN: Thank you.
8 You each spoke so eloquently and to the point. I
9 don't have any questions. Do you? Great. Thank
10 you very much for coming and for waiting.

11 ALL: Thank you.

12 CHAIRPERSON LAPPIN: Okay. Mr.
13 Garrido and Ms. Byron, you get the last word.

14 JOAN BYRON: Madam Chair,
15 Councilwoman Ferreras. Thank you for the
16 opportunity to testify. I'm Joan Byron. I'm
17 Director of the Sustainability and Environmental
18 Justice Initiative at the Pratt Center for
19 Community Development. As you may know, we work
20 with community organizations throughout the city
21 on issues of social, economic and environmental
22 justice. We're also happy to testify in support
23 of New York City DOT's development of an asphalt
24 plant through the acquisition of the Grace site on
25 Flushing Creek in Queens.

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2 This project advances the city's
3 sustainability goals in several important ways
4 that other witnesses have touched on. They will
5 allow DOT to resurface more of the city streets at
6 a lower cost than would be possible if asphalt has
7 to be sourced from private suppliers in what will
8 remain a volatile market for as long as anyone can
9 foresee.

10 Using asphalt milling recovered
11 from resurfacing projects is a smart, closed loop
12 sustainability strategy that enables the city to
13 avoid consuming significant amounts of oil.
14 Avoid landfilling hundreds of tons of pavement
15 millings and avoid millions of truck miles that
16 would otherwise be needed to transport new asphalt
17 both in to and across the city as well as millings
18 out of the city.

19 The resurfacing program itself is
20 key to keeping the city streets in a state of good
21 repair. Resurfacing is a cost effective way of
22 addressing where traffic and weather--and avoiding
23 the much more costly full reconstruction that's
24 too often been necessitating with resurfacing is
25 deferred or neglected. The city has raised its

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2 targets for resurfacing from 700 lane miles in
3 2006 to 900 miles today.

4 Acquiring the Grace site will
5 enable us to set and reach a goal of resurfacing
6 1,000 lane miles per year. And that's the level
7 we need to reach if we're going to keep the whole
8 street network in good repair. Achieving this
9 goal matters to everybody; it's not only drivers.
10 It matters to businesses, it matters to people who
11 depend on the bus system, especially seniors. It
12 matters to people who ride bikes. It matters to
13 pedestrians. Having the streets in good condition
14 is essential if shopping areas are going to thrive
15 for people, especially children and seniors to be
16 able to walk safely and comfortably and for
17 cyclists to be able to ride safely.

18 The resurfacing program isn't just
19 an investment in transportation infrastructure,
20 though it is that and it's a very prudent one.
21 It's an investment in quality of life because our
22 streets are recognized more and more as essential
23 public spaces. Acquiring the Grace Plant serves
24 not only the city's sustainability goals but the
25 goals of environmental justice. Without this

1
2 plant, Queens resurfacing projects will rely
3 heavily on private vendors in the Bronx and in
4 Westchester. And we've heard it's going to add to
5 truck traffic through neighborhoods that are
6 already burdened.

7 Using the Grace site will reduce
8 mileage, it will reduce diesel emissions along
9 highway corridors. And as we know well, those
10 corridors are disproportionately the homes and
11 workplaces of low income communities and people of
12 color. Keeping asphalt production on this site
13 and increasing its utilization of recycled
14 material will enable the city to produce asphalt
15 for resurfacing as close as possible to the
16 locations where it will ultimately be used without
17 creating any new environmental burdens in any
18 neighborhood.

19 In sum, acquiring the Grace site
20 and ensuring that its capacity will continue to be
21 available to meet ambitious targets for street
22 resurfacing makes economic and environmental
23 sense. The Pratt Center applauds New York City
24 DOT for taking this opportunity to advance the
25 goals of sustainability and environmental justice

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2 in a way that is cost effective and smart. Thank
3 you.

4 HENRY GARRIDO: Good afternoon. My
5 name is Henry Garrido. I'm the Assistant
6 Associate Director of District Council 37. I
7 won't go through the testimony as many of the
8 arguments have already been made.

9 CHAIRPERSON LAPPIN: Thank you for
10 that.

11 MR. GARRIDO: I will just simply
12 say we represent 125,000 members and 50,000
13 retirees and over 1,000 titles. And the titles
14 that are being discussed here, I represent the
15 buyer union. We represent the millers and the
16 motor vehicle operators and the highway repairers
17 that have been discussed here. We stand in full
18 support of the second plant for reasons that we
19 believe make economic sense and good environmental
20 sense.

21 But I'd like to take a moment to
22 address something that was said here by the
23 vendors. Because it's been part impartial to a
24 lot of the work that we've been done. I think one
25 of the largest questions that has been raised is

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2 what is the role of public sector and the public
3 sector workers in providing services for the city.
4 I don't begrudge the vendors for kind of doing
5 what they're supposed to do, which is protecting
6 the businesses and ensuring the profitability of
7 their business.

8 Our perspective is different. Our
9 perspective is ensuring the services of the city.
10 There was a comment made, recommendations that the
11 city should spend the use of private vendors. We
12 believe that it's not only a bad proposition from
13 an economic point of view but it will also create
14 even further delays.

15 Part of the problem we have with
16 this is that the issue of procuring services in
17 the City of New York was only intended to create a
18 competitive environment, to just competitive
19 between vendors who are talking to each other but
20 competitive about the city service. In fact, the
21 very nature of Local Law 35 in Section 312 of the
22 Procurement Law says that before you enter into a
23 contract a comparative cost analysis must be made.
24 If the comparative cost analysis is even the same
25 and if you are in fact having city workers do it,

1
2 you're supposed to go to city workers. That's
3 what the law says. So to imply that the city's
4 policy to do that would be in violation of the law
5 if there is no cost analysis made.

6 This much I can tell you. We
7 represent over 1,000 members in the area. We also
8 represent quite a large constituency in the
9 district and we're very happy that Councilwoman
10 Ferreras is here because we are also concerned
11 with the jobs of the people in our community.
12 What we found by a lot of these vendors is that
13 the jobs that are coming in are not coming from
14 the people in the community. We're very concerned
15 on other levels including enforcement of
16 prevailing wages and benefits.

17 This concept that the private
18 sectors needs business and in desperate need for
19 jobs falls short to the amount of people that we,
20 in the public sector, are going to be losing over
21 the next couple of years through lay offs and
22 attrition. In fact, we lost a very large part of
23 our market share of the businesses on this
24 particular area. So we're very concerned with it.

25 We are in support of the plant. We

1
2 want to make sure it makes complete economic sense
3 and we're going to support it from the beginning.

4 We believe that this is the right way to go.

5 Thank you.

6 CHAIRPERSON LAPPIN: Thank you very
7 much. I don't have any questions. This hearing
8 is now closed. Meeting adjourned.

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C E R T I F I C A T E

I, Amber Gibson, 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 Amber Gibson

Date June 18, 2009