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NEW YORK CITY CAMPAIGN FINANCE BOARD

"DOING BUSINESS" HEARING

42 West 44th Street

New York, New York

Tuesday, April 5, 2005, 1:13 p.m.

B E F O R E :

CHAIRMAN FREDERICK A.O. SCHWARZ, JR.

Reported by: Marc Russo

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2 A P P E A R A N C E S:

3 Members of the Board:

4 Frederick A.O. Schwarz, Jr., The Chair

5 Dale C. Christensen, Jr.

6 Joseph Potasnik

7 Katheryn C. Patterson

8

9 Campaign Finance Board Staff:

10 Nicole A. Gordon, Executive Director

11 Amy LoPresti

12 Carole Campolo, Deputy Executive Director CFB

13 Andrea Lynn, Press Aide

14

15 ALSO PRESENT:

16 Anthony Crowell, Special Counsel to the Mayor

17 Gino Menchini, Commissioner, Department of

18 Information Technology and Telecommunications

19 Teryn Moore, Director of DoITT's Office of

20 Strategic Technologies

21 Elisa Velazquez, General Counsel

22 Frank Barry

23 Other CFB Staff

24 The Public

25 The Press

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P R O C E E D I N G S

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CHAIRMAN SCHWARZ: Okay, so
come on forward and we're going to start.

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And I have a little opening
statement, then we have Mr. Crowell and I guess
then you.

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MR. MENCHINI: Commissioner
Menchini.

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CHAIRMAN SCHWARZ: Good, very
good. You're now going to have to prove that or
disapprove that.

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So I'm Fritz Schwarz,
Chairman of the Board. And on behalf of the
Board and the staff, we welcome everybody.

17

This is the third of our
preliminary hearings into the subject of doing
business with the City.

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We have been holding those
hearings to both build a factual record and to
get opinions from people on the best ways to
address this subject of doing business.

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The first hearing was quite
general and then also focused on contracts.

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2 The second hearing had some
3 more general testimony and focused on lobbying.

4 And the principal purpose of
5 this hearing is to focus on land use; although I
6 know you got some -- a report to us on what's
7 happened on VENDEX.

8 I should just observe that
9 the testimony thus far has been, that while doing
10 business vis-a-vis contracts is definitely
11 important, and for example, is something that the
12 State of New Jersey has taken a little bit of a
13 lead on the City of New York - which is not a
14 position that we wish to be in or anybody in New
15 York City should wish to be in, but the contracts
16 are important - but I think it's clear from the
17 testimony that we have gotten, that lobbying -
18 which we talked about last time extensively and
19 land use - are areas where the potential for
20 impropriety or the appearance of impropriety is
21 every bit as big as with contracts. And indeed,
22 I think the testimony and my personal view is
23 actually greater. But they're all important.

24 So, and I want to say that
25 I'm disappointed that the Commissioner of the

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2 Planning Commission is not here. We had invited
3 her and scheduled this date, I'm told, in order
4 to accommodate her ability to come.

5 I don't know if you're going
6 to be able to answer all our questions on land
7 use or any of our questions on land use. But,
8 you know, we're proceeding because the Charter
9 Commission in the late 90s asked that we look
10 into the subject.

11 And after there was a
12 breakthrough with this Administration on data, it
13 seemed that it would be possible to do so.

14 But in that Charter provision
15 it said that the City agencies have an obligation
16 to cooperate with this Commission. And I am
17 disappointed that nobody from City Planning is
18 here.

19 Okay, now, I do want to say
20 that the work that the Commissioner, and I'm sure
21 under your guidance, Mr. Crowell and along with
22 our staff, have been doing on trying to work on a
23 database with respect to contracts that becomes
24 useful on the disclosure side for showing where
25 there may be donations from people who have a

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2 financial interest in a contract, to people who
3 are running for office in the City.

4 And there was a great
5 breakthrough that was made by this Administration
6 in actually putting its minds and computers to
7 work in trying to get a database that would be
8 useful to the public, to the press, to
9 candidates, in determining the area of contracts
10 where there may be gifts coming from people who
11 have an interest with doing business with the
12 City.

13 So we're congratulating you
14 guys on that.

15 As you know, it is the
16 Board's view, and I think any person's view would
17 be that what one wants eventually is a database
18 that talks to our computer so that we, in making
19 reports, or opposing candidates in analyzing what
20 they might want to say by way of criticism or the
21 press in performing their role, can immediately
22 in effect, push a button and say, "We can tell
23 who has an interest in a contract and has made a
24 contribution to a person running for office in
25 the City."

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2 So, as you know, that it's
3 very much our objective to get to that point.

4 But it's good that progress
5 has been made and so I turn it over to you for
6 your testimony.

7 MR. CHRISTENSEN: Mr.
8 Chairman, before we do that, can I ask one
9 question?

10 Did we have any explanation
11 for why the Planning Commissioner is not here
12 today? Was there any provided?

13 MS. GORDON: No. All I know
14 is that we had a message yesterday that she
15 wasn't going to come and I don't know anything
16 more than that.

17 MR. CHRISTENSEN: Was it
18 according to her schedule?

19 MS. GORDON: I don't want to
20 assume anything one way or the other about the
21 reasons. I don't know the answer so I don't want
22 to read anything into it one way or the other.

23 CHAIRMAN SCHWARZ: You might,
24 you know, you're an important lawyer with the
25 City, you're on the Charter Commissioner so you

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2 know that Charter Commissions are important.

3 You once were the person who
4 was the mastermind behind various charter issues
5 so I know you take seriously the Charter
6 requirements.

7 And, you know, I would urge
8 you to get back to the City and say it's
9 inappropriate not to have someone from the
10 Planning Commission come and answer our questions
11 and then your --

12 MR. CHRISTENSEN: Or if Mr.
13 Crowell knows the reason that they --

14 MR. CROWELL: Well,
15 prospectively the Planning Commission and the
16 City will respond to your questions on land use
17 matters.

18 It's a little premature right
19 now as we've been focusing on contracting and
20 some other areas. But I think through our
21 testimony today, Commissioner Menchini will be able
22 to elucidate some issues that affect land use
23 through his experience with franchises, it's very
24 similar.

25 CHAIRMAN SCHWARZ: And I

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2 don't think it's premature because, you know, the
3 -- and I'm trying to be just as fair and frank as
4 I can, but I don't think it's premature because
5 we set up this hearing for the purpose of talking
6 about land use and that doesn't mean we're not
7 highly interested, as we are, in what you're
8 going to say.

9 But the purpose of this
10 hearing was to talk about land use and it is
11 disappointing that no one from the City came to
12 talk about land use.

13 MR. CROWELL: Okay, we will
14 convey that.

15 Let me begin delivering my
16 testimony.

17 Good afternoon.

18 For the record my name is
19 Anthony Crowell, I'm Special Counsel to Mayor
20 Michael R. Bloomberg.

21 With me today is Gino
22 Menchini, Commissioner of New York City's
23 Department of Information Technology and
24 Telecommunications known as DOITT.

25 And Teryn Moore, Director of

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2 DoITT's Office of Strategic Technologies.

3 We thank you for the
4 opportunity to testify before you today.

5 In a few minutes,
6 Commissioner Menchini will be unveiling an
7 important development in our efforts to provide
8 the Campaign Finance Board with electronic,
9 web-enabled data on City contractors.

10 For the last five months,
11 Commissioner Menchini has been spearheading this
12 initiative, and we are pleased to announce that
13 later this week we expect that the City's VENDEX
14 database will be live on the web, accessible by
15 all members of the public, journalists,
16 candidates and Board Members and staff.

17 The database is a
18 ground-breaking achievement that allows us to
19 ask, "How can this information be used by the CFB
20 to begin fulfilling the mandate of the 1998
21 Charter Amendment?"

22 This question puts New York
23 City at the forefront of the national effort to
24 diminish pernicious influence of "pay-to-play"
25 campaign contributions.

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Commissioner Menchini will be demonstrating how the database works and we will discuss the significant new possibilities it creates, as well as its limitations.

Before turning to this exciting project however, I would like to take a few minutes to discuss the now urgent issue that we raised in our January testimony, that of disclosure of contributions by those doing business with the City.

As you know, the referendum passed by City voters in 1998 requires candidates in the Campaign Finance Program to disclose which of their contributors do business with the City and it grants to CFB the authority to restrict or prohibit such contributions.

As we said in January, we respect the CFB's concern that it may be too late to impose restrictions or prohibitions on such contributions --

CHAIRMAN SCHWARZ: Just to interrupt you on that. That's not only our concern, Mayor Bloomberg said he thought it would be inappropriate to have restrictions this year.

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2 So it's not just our concern.

3 MR. CROWELL: As we said in
4 January, we respect the CFB's concern that it may
5 be too late to impose the restrictions or
6 prohibitions on such contributions for the 2005
7 election cycle, but we believe that strides can
8 and should be made towards realizing the
9 Charter's disclosure mandate this year.

10 And that certainly reflects
11 Mayor Bloomberg's feelings.

12 At January's hearing, we
13 proposed - consistent with the language of the
14 Charter Mandate that for this election cycle -
15 the Board require candidates participating in the
16 Campaign Finance Program to ask their
17 contributors whether they do business with the
18 City, just as they ask them for employer
19 information.

20 Board Members seemed very
21 receptive to this modest proposal, and no doubt,
22 the intervening months have provided Board
23 Members and staff ample time for discussion and
24 consideration.

25 CFB staff has expressed a

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2 concern that such a question may intimidate
3 contributors who may be giving only \$10 or \$20.

4 To address this concern, we
5 are proposing that the universe of contributors
6 affected by this rule be narrowed to
7 contributions above a threshold amount, perhaps
8 \$100 or \$200.

9 We believe that this approach
10 warrants your support. You may choose to exempt
11 small campaigns - which, for reporting
12 requirements, the CFB currently defines those
13 that raise or spend less than three times the
14 contribution limit.

15 We support any rule that
16 exempts small campaigns, whatever that threshold
17 may be. But we believe it should be set as high
18 as \$500,000, which was first proposed in the
19 CFB's 1999 draft rules.

20 CHAIRMAN SCHWARZ: You say
21 again, it slipped by me there, the proposal which
22 you were making with respect to small campaigns?

23 MR. CROWELL: Our proposal
24 for small campaigns, we were suggesting that the
25 rule be narrowed to contributions above the

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2 threshold amount like a \$100 or \$200.

3 CHAIRMAN SCHWARZ: I get
4 that.

5 MR. CROWELL: Okay.

6 CHAIRMAN SCHWARZ: But then
7 you went ahead and I thought you were saying
8 something about limiting the campaigns themselves
9 as opposed to the size of the donation that would
10 be covered.

11 MR. CROWELL: I think the
12 next part of my testimony will clarify this.

13 It goes to the concept that
14 I'm going to introduce next.

15 And we said alternatively,
16 the CFB may consider exempting all City Council
17 candidates.

18 If the CFB exempts Council
19 candidates, it should consider requiring the
20 winning Council candidates to obtain and file
21 this information after the election. Thus, the
22 site of the campaign would be determined
23 certainly with winning, or at that point what,
24 you know, the amount that was raised during the
25 campaigns.

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Under this scenario, Council Members would be required to make a good-faith effort to contact each contributor who donated more than the threshold amount and obtain from them information about whether they do business with City.

If the CFB were to pursue this route, it makes sense to allow Council candidates to collect this information contemporaneously.

The option, it seems, should be theirs.

Later, I will discuss how a question to contributors might be structured. But now let me turn to the new vendor Information Exchange System know as VENDEX, the primary database for City contracts.

VENDEX stores information for New York City's franchises, concessions, and for many, but not all, contracts and subcontracts held by vendors who do more than \$100,000 in annual business.

The new web version of VENDEX includes this basic information about who holds

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2 or held City contracts and the worth of those
3 contracts.

4 However, as you will also
5 see, the information on each company's principal
6 is limited.

7 For instance, while the CEO
8 of a company may be listed in VENDEX, generally
9 speaking, most senior level personnel and
10 management are not.

11 Commission Menchini and Teryn
12 Moore will walk you through a brief demonstration
13 of the new system.

14 MR. MENCHINI: Actually, can
15 you see that behind you or do you need to turn
16 around?

17 CHAIRMAN SCHWARZ: We can move
18 I think.

19 (Whereupon, all Board Members
20 move to the front row.)

21 MR. MENCHINI: Actually, I
22 should mention that this system is a test system,
23 the actual production system will be -- will be
24 in place by the end of this week. So we are
25 going directly against the production system,

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2 directly against the VENDEX file themselves.

3 And there's really just two
4 statements: It's a very simple system in that
5 actually it gives us entry into the public,
6 public available portion of the VENDEX database.

7 So what we have the ability
8 to do is either to see if a principal exists by
9 entering a last name on the left side, or look at
10 the name of a company or entity that exists by
11 entering that information on the right side of
12 the search pattern.

13 This actually, this utility
14 will be in place I think, I believe, nyc.gov in
15 general, the Campaign Finance Board's website and
16 you'll be able to link to that from the Campaign
17 Finance board's website, as well as from the
18 Mayor's Offices of Contract Service's website.

19 So they'll be a number of
20 ways to get into this actual search utility.
21 And Teryn Moore, who put this together, will
22 demonstrate; she's entered Bell and Howell mail.

23 MS. MOORE: (Using
24 projector.)

25 Yes, there's actually a few

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2 things I'd like to point out on the first page.

3 There is a help guide for
4 this application, and in addition, you can also
5 call the Mayor's Office of Contract Services,
6 they have a phone number that's open during
7 regular business hours of 9:30 to 5:00.

8 So if you questions about the
9 data or if you're having issues, we work with
10 them so their staff is available to answer
11 questions.

12 There's also a contact form
13 if you want to send out an e-mail to use and
14 we'll get back to you, okay?

15 So as Gino said, we typed in
16 a company's name, we hit search. The way that
17 the search work is that your most exact matches
18 will come back first. So you can see that you
19 got Bell and Howell mail, mobile; Bell and Howell
20 mail messaging. And then as you keep coming
21 down, you'll see more Bell and Howell.

22 And this will go on --

23 MR. MENCHINI: I think for as
24 many instances as appears in the VENDEX data.

25 MS. MOORE: Right. It can

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2 come back with hundreds of them. It's a very
3 large database. There's -- I think that we found
4 out there's 45,000 vendors in here.

5 MR. MENCHINI: So now having
6 selected one of the companies that was returned
7 in the original search, that is drilling down
8 into the information that exists in VENDEX.

9 MS. MOORE: Right. So on
10 this screen, we see obviously the information
11 about the business, including its address.

12 Some information about its
13 profitability, whether it's nonprofit, or
14 for-profit and the business type.

15 One of the things to point
16 out is you've got these little "H's" which
17 indicates that there is a some help text
18 available for you on that particular field, which
19 is pulling up. So this gives a description.

20 And this is information that
21 comes out of VENDEX so that it just describes
22 some of the information that may not be as clear.

23 MR. MENCHINI: Using the
24 definition-specific terms.

25 MS. MOORE: Yes.

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MS. PATTERSON: Question:

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When you get to do a search of other entities,

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would it actually be entities or it just sends

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you to a help box that tells you what the control

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is?

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MS. MOORE: I can show you

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that right there. So you got control and you got

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subsidiaries.

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MS. PATTERSON: Right.

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MS. MOORE: You can click on

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this "view link" which is related entities. And

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it pulls them up and it shows you the name of the

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entity, the relationship that it has.

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So here it will say whether

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it's a parent or a subsidiary and whether or not

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that company does business with the City.

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MS. PATTERSON: Okay, and

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similarly with principals, the individuals, you

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have nothing identified there for principals?

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MS. MOORE: That's right, but

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because it has this -- it's because of the amount

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of information that can be pulled.

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MR. MENCHINI: We had set up

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a bit of a hierarchy to be able to make it

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2 viewable.

3 MS. PATTERSON: But in other
4 words, you can hit the view from there and then
5 you get the identity of principals?

6 MS. MOORE: Exactly. Right
7 from here. So anywhere that you see a hyperlink
8 which is the blue underlined text, you can click
9 on that, see we can click and see the information
10 for Brendan who is the former -- former CFO.

11 And here we pull up the
12 information that we have on Brendan, which is --
13 we worked very closely with the Campaign Finance
14 Board to understand how much information was
15 really necessary, and we'll pulling back a very
16 small subset of data that's collected in VENDEX.

17 MR. CHRISTENSEN: Is this
18 documentation a deviation of existing VENDEX
19 information or is it, you know, the very same
20 thing?

21 MR. MENCHINI: It's the same
22 data. So literally this system is going in to
23 the VENDEX the same way that the people in the
24 Comptroller's Office of the Mayor's Office of
25 Contracts would be doing.

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MR. CHRISTENSEN: So there's

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no interpretation?

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MR. MENCHINI: No

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interpretation, no delay as well. If there's an

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update that's made, now when we go in, we will

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see that as well.

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MS. MOORE: That's correct.

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MS. PATTERSON: On a

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real-time basis?

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MR. MENCHINI: By the way,

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we're very happy about having this tool available

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for them as well.

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Up until this point, anyone

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who wanted to see VENDEX for any purposes, even

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by the way, principals and people that were

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filing to see what was in the system, now have a

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way of being able to go in. So it's got benefits

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from a number of different perspectives.

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CHAIRMAN SCHWARZ: Can you --

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you found the name of someone called Sullivan,

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Raymond Sullivan; can you search name or do you

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have to kind of look at the company --

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MS. MOORE: Back on that

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phone page there were searches, one for searching

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2 by an individual's last name and one for
3 searching by company.

4 So we chose the company, but
5 you could go in by --

6 MR. MENCHINI: And it will
7 get you to exactly where you will be having gone
8 through the company.

9 CHAIRMAN SCHWARZ: Now, if
10 that's true, then the -- even the press and an
11 opposing candidate could push the right
12 buttons --

13 MR. MENCHINI: Right.

14 CHAIRMAN SCHWARZ: -- with
15 respect to either all the candidates or an
16 opposition candidate and get all the information
17 that is in VENDEX?

18 MR. MENCHINI: That is in
19 VENDEX.

20 CHAIRMAN SCHWARZ: Now, if
21 that's true, I mean, just some thinking out loud,
22 I wonder what the purpose of asking a contributor
23 to answer the same question, which does have
24 ambiguities in it, and even if your cut off is
25 \$100 which helps, or \$500 which helps, still, you

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2 have a worry about deterrents.

3 So the best combination
4 question of given the facility that's here, why
5 can't the press and the opposition candidate form
6 the watchdog roles without risking any burden on
7 people's willingness to contribute?

8 MR. MENCHINI: Well, respond
9 to that or, we get to that a little bit later in
10 the testimony.

11 CHAIRMAN SCHWARZ: But then
12 that's my question.

13 MR. MENCHINI: Well, that's a
14 good question. Actually, if you like, we can
15 answer the questions now, we're going to show you
16 the system for you to understand and then we're
17 going to describe it.

18 But I think to answer your
19 question in terms of it, the bottom line is that
20 that's something to be able to get from both
21 directions. Because there will be still some,
22 and under the best of circumstances, VENDEX was
23 not designed to do this. I mean, VENDEX was a
24 very different purpose and I think in that it's
25 great that we're able to put this in place, but

2 it really wasn't designed to do this.

3 And there are other types of
4 entities that may not be able to capture some of
5 this.

6 MR. CROWELL: We actually
7 expressed this very sentiment in, I think both
8 our testimony before the Council and before you
9 back in January, about the role of the press and
10 other candidates as watchdogs as well. But it is
11 best again to come at it from both ways, because
12 it's the most effective way to enforce and to
13 monitor.

14 MR. MENCHINI: And also I
15 think that the advantages that would cost the
16 Campaign because they would know whether or not
17 they were accepting a contribution rather than
18 having to even be part of a process before
19 submission to the Campaign Finance Board, or for
20 them having to then be subject to the watchdog.
21 So they are seeing the contribution that comes
22 in.

23 MS. PATTERSON: Let me ask
24 you another question: I'm John Q. Block, I don't
25 know anything about VENDEX and don't know

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2 anything about New York City politics, but I love
3 to plod and gossip about politicians or the
4 candidates, for political candidates, because
5 that's what going on.

6 MR. MENCHINI: Right.

7 MS. PATTERSON: I do a Google
8 search, do I get this?

9 MR. MENCHINI: Will you get
10 individual's name or the VENDEX on --

11 MS. PATTERSON: If I do a
12 Google search for Bell and Howell for mail, will
13 this show, will the Bell and Howell mail show up
14 as --

15 MR. MENCHINI: No.

16 MS. PATTERSON: So you really
17 do have to be very sophisticated about New York
18 City politics in order to get into this?

19 MR. MENCHINI: Yes. You have
20 to know that this is -- the availability of this
21 tool will come up in a search on Google.

22 If you wanted to see about,
23 you know, doing business with City of New York,
24 those facts and dates would show up and then
25 would you get to that screen.

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MR. CROWELL: It's too far removed from what you're thinking though. It's just knowing you go to Google that will bring you here, we know that this exists at nyc.gov.

MS. PATTERSON: Well, that's my point is that it is not as accessible to the general public as if I pay \$9.99 for Info Search or if I punched in, you know, for example, John Gotti's name, in Google.

I'm not saying that it's a negative, I'm just saying, you know, this is --

MR. MENCHINI: If the mechanism to get there is Google, we will not get there --

MS. PATTERSON: You might actually get there but you might, if you type in the appropriate search for doing business with New York City, eventually you'll get actual vendors and then you get VENDEX and then you'd be able to do that.

MR. MENCHINI: Which is not unusual for these types of utilities. There are rarely more databases like this and it opened up to a Google search. But you're absolutely

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2 correct, that's just a reality.

3 MS. PATTERSON: I wouldn't
4 necessarily call it a limitation. I was pointing
5 out the fact that, you know, normally like the
6 process as a plodder may not be able to get
7 access.

8 MS. MOORE: So we just have
9 one last piece to show you which is the business
10 with New York City which asks, actually takes you
11 to the information that we're collecting through
12 FMS, which is the Financial Management System on
13 all the contracts and purchase orders for this
14 particular company.

15 So here you can see that
16 you've got purchase orders and contracts. C
17 stands for contract so we'll just click on one.

18 And this takes you to the
19 information about that particular contract.
20 Gives you the contract number, tells you the
21 agency who had this contract with this vendor.
22 It gives you the dollar amounts and tells even
23 the award method.

24 CHAIRMAN SCHWARZ: So that's
25 historical information; do you have -- I forget,

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2 when VENDEX gets someone to fill out the form,
3 but when an entity is applying for a contract, I
4 believe people have to fill out VENDEX before
5 they're granted contracts; is that right?

6 MR. MENCHINI: Well, I look
7 at the Mayor's office of Contract, my
8 understanding is that if I'm responding to an RFP
9 for example, I'm not required at that point to be
10 able to complete a VENDEX form --

11 MS. VELAZQUEZ: That the
12 VENDEX --

13 MR. MENCHINI: -- prior to a
14 contract.

15 This is Elisa Velazquez.

16 MS. VELAZQUEZ: Hi.

17 The VENDEX requirement -- the
18 VENDEX requirements -- VENDEX is required, it's
19 the responsibility tool. It's the tool that the
20 agencies use to make responsibility
21 determinations.

22 So at the point in the
23 procurement that they are ready to make that
24 responsibility determination, it could be if it's
25 an RFP process, after the RFP has come in, if

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2 it's a bid, it could go out with the bid and be
3 part of the return for a big package.

4 If it's the sole source, it
5 could be during the negotiations of that
6 particular procurement. But at some point the
7 agency says to the prospective vendor, "Have you
8 done a VENDEX? Are your forms up to date?"

9 And at that point they are
10 required under the statute to update the
11 information in VENDEX for that award.

12 MS. PATTERSON: And that's
13 prior to the award?

14 MS. VELAZQUEZ: Prior to, yes.
15 It is the pre-award concept. We have to find you
16 responsible before you are awarded contract.

17 MR. CHRISTENSEN: How is the
18 information in question inputted into this? Is it
19 your people that input the data?

20 MS. VELAZQUEZ: Yes.

21 MR. CHRISTENSEN: And is
22 there some, I mean, this is just a concern of
23 mine given, you know, the use of the data
24 afterwards, is there some effort to double-check
25 or proofread the inputting later on? Because,

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2 you know, to make sure that someone doesn't
3 forget a digit or?

4 MS. VELAZQUEZ: We do. I
5 understand that we have a very small staff that
6 inputs thousands of forms and information every
7 year. So we try very hard to, you know, quality
8 control what goes in, but there will be errors
9 and it's just unavoidable.

10 MR. MENCHINI: Actually, one
11 of the reasons why I like the system, with any
12 information where you put up on the web, is that
13 those types of errors can now be caught by the
14 person that filed. Because in the past, I would
15 fill out a paper form if I'm not mistaken, right?

16 MS. VELAZQUEZ: Uh-huh.

17 MR. MENCHINI: It would go to
18 your people, to be entered into the VENDEX
19 system. And if I was the -- whoever the
20 principal was that was there before, I would not
21 see what actually exists on the system.

22 Now I can actually go in and
23 see what exists in VENDEX for me.

24 MR. CHRISTENSEN: My concern
25 though is in the timetable in some political

2 campaigns, if you have a news story that goes out
3 that says that there's a 100 million dollar
4 contract and someone photographs the thing and
5 then it's corrected after the fact, the damage
6 will already be done.

7 MS. VELAZQUEZ: Well, usually
8 what happens is we get -- we have a public access
9 center and the public access center is a
10 heavily-traveled place by reporters and vendors
11 and the like.

12 What also happens usually is
13 is the reporters very routinely ask for contract
14 information or ask for copies of VENDEX forms.

15 The thing about this - and
16 hopefully if a reporter goes in and reads the
17 help screens, as they should, where you see the
18 contract of code, you know, the dollar amounts -
19 they need to understand what they're looking at.

20 If they call and they ask a
21 question, we'll be able to explain it to them if
22 they don't see it in the help screens.

23 But I mean, we would
24 encourage them to actually, you know, foil the
25 physical document and then going to do the story,

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2 because that's really the most complete set of
3 information. Because remember, this is taking
4 certain pieces of what we actually have.

5 MR. CROWELL: It's a
6 distillation.

7 CHAIRMAN SCHWARZ:
8 Commissioner Menchini said this, and then you
9 elaborated on it, actually raised the issue
10 that's come up in the litigation in New Jersey.
11 And the obvious issue was the difference between
12 bid contracts and with law firms and to know that
13 in New Jersey, at least one court's holding that
14 New Jersey couldn't regulate bid contracts as
15 opposed to sole source and other ones, are you --
16 and in fact, a bid contract, you know, doesn't
17 actually raise issues of apparent corruption in
18 the same that a contract is sort of, but the --
19 are you able to distinguish in the searches
20 between bid contracts and other contract?

21 MS. PATTERSON: Address the
22 award method.

23 MR. CROWELL: The award
24 method.

25 CHAIRMAN SCHWARZ: So what

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2 would that say? Can you show where it would be a
3 bid contract? Let's see what that says.

4 MS. MOORE: Let's try to find
5 contracts. In this particular vendor here I
6 won't have it. We have to go back and find
7 another. We can do another vendor search.

8 CHAIRMAN SCHWARZ: Mr.
9 Crowell, I assume that in your concept of donor
10 disclosure you weren't intending to have someone
11 who has a bid contract, say they're doing
12 business with the City, because it's not getting
13 at the subject that we're all concerned about?

14 MR. CROWELL: Well, I'm not
15 so sure. There's a variety of ways to look at
16 it.

17 Certainly the way you're
18 speaking of because it's a concern. But it
19 doesn't mean that prospectively someone who is a
20 contractor through a competitive bid wouldn't be
21 a contractor through a different procurement
22 method. Which then means, you know, you took a
23 lot of interaction between a vendor and City
24 officials.

25 So it is -- it's something

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2 that we have to have discussion about and I think
3 to look at it in those terms about levels of
4 access and other alternate procurement methods
5 that may occur.

6 CHAIRMAN SCHWARZ: Okay. I
7 mean, there's some great saying about "wait
8 today" or something like that.

9 MS. LOPRESTI: I have just a
10 question about how the current contract data, how
11 often that's updated. Because I think that may
12 -- that may -- I know that comes from FMS and may
13 help -- they don't actually come from the Mayor's
14 Office of Contracts, they come from when purchase
15 orders are entered by each FMS --

16 MS. VELAZQUEZ: That's
17 correct.

18 MS. LOPRESTI: -- for
19 contracts, right?

20 MS. VELAZQUEZ: Right.
21 Contract data is pulled, and I'm sorry if I
22 misspoke before.

23 The contract information that
24 you see here is actually pulled from the FMS
25 system. Everyday FMS sends to VENDEX information

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2 about contract information, stuff that has been
3 entered in FMS that day.

4 That gets fed everyday to
5 VENDEX. That is what populates this field. So
6 no, that is not inputted directly from that box.

7 Any information about the
8 principals and the entities that come from the
9 forms, that is inputted physically by MOCS, yes.

10 MR. MENCHINI: Teryn, is
11 there anything else that we need to put down?

12 MS. MOORE: I don't think so.

13 MR. MENCHINI: The other
14 thing we should probably mention is the effort
15 that was taken, to thank Teryn and also the folks
16 from the Campaign Finance Board staff that helped
17 to be able to procure the requirements for this.

18 This is was done in about 12
19 weeks. And I really think it's important to note
20 that this reflects the first step in what we're
21 committed to do to be able to form this effort.

22 And I think it's also going
23 to be a lot of benefits for us beyond just this.

24 MS. PATTERSON: If I could
25 just ask one thing: In the -- this obviously

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2 only picks up principal people who work for the
3 company.

4 Given the front page article
5 in The New York Times today, is there a way under
6 the -- to enable registration or the
7 administrative code that governs VENDEX, for you
8 eventually to require disclosure of spouses and
9 minor children?

10 MS. VELAZQUEZ: It would
11 require legislation.

12 MS. PATTERSON: It requires
13 legislation?

14 MS. VELAZQUEZ: Well, you
15 know, like with all legislation, the legislation
16 is a floor -- it's a floor, it's not a ceiling.

17 At some point in time there
18 were the forms that we used and it asked for more
19 information.

20 What we've done, and actually
21 gone, streamlined it because the forms were very
22 long. It was very onerous for the vendors to do.
23 And quite frankly, again, this a responsibility
24 tool. This is for the procurement people at the
25 different agencies to gauge whether or not the

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2 people that they want do to business with are
3 corrupt, not corrupt. They have, you know -- so
4 the types of stuff we're looking for for that
5 purpose, which is what VENDEX is for, is a little
6 different.

7 Technically the answer could
8 be yes, you could. But it's not something that
9 we -- we've actually moved in the opposite
10 direction to make the forms as close to the
11 legislation as --

12 MR. MENCHINI: But that's
13 true in the VENDEX process.

14 MR. CROWELL: There's
15 certainly a way to do it through rulemaking for
16 you to require the question to be asked.

17 MS. PATTERSON: Again, from
18 rulemaking or from an administrative agency, or
19 whether it's the Campaign Finance Board, I'm just
20 wondering, does not necessarily then need City
21 Council legislation?

22 MR. CROWELL: No, the
23 authority to the extent that you require that
24 it's out there.

25 MS. PATTERSON: Okay.

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MR. CROWELL: But it's just
not through VENDEX. It's not through the local
office.

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MS. PATTERSON: But there
could be rulemaking done on an administrative
basis on some light?

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MR. CROWELL: Right, for the
budget to be asked in some form. And we
certainly, the Administration certainly did take
note that The Times, quite interestingly,
dead-center on top of the fold, just in City, in
the City Election Campaign season.

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CHAIRMAN SCHWARZ: Kitty, you
know, that was a very interesting story. But the
one I wrote in 1986 was a proposal to get at
people who were doing business with the City and
limiting discretionary grants to those who had
spouses in it.

20

And the law - depending on,
what I'm now about say is something that Nicole
told me - the law when it was first passed, had a
presumption or an automatic rule that the spouse
was - and the co-spouse were treated as a single
entity - then the law was changed to require that

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2 the spouse be treated differently than the other
3 spouse.

4 And I think that bites not on
5 where, from a public policy point of view one
6 should come out if there were legislation, but I
7 think it bites on our authority to rule-make.

8 I think we probably are stuck
9 with that. I think we might want some more legal
10 analysis, but we're probably stuck with the
11 requirement that the two spouses be treated
12 separately.

13 MS. PATTERSON: For purposes
14 of imputation of contribution limits, yes. But
15 not necessarily for information disclosure.

16 CHAIRMAN SCHWARZ: For
17 disclosure it may be different.

18 MS. PATTERSON: But that's
19 just why I was curious whether there was
20 something in there that would enable
21 administrative rulemaking to require that level
22 of disclosure.

23 MR. CROWELL: Right.

24 Certainly my research and
25 working with the Law Department, we believe that

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2 for information gathering purposes, it's done at
3 a minimum available as an option too.

4 CHAIRMAN SCHWARZ: And Kitty
5 was getting at whether VENDEX rules can be
6 changed by rulemaking and what's your analysis of
7 that?

8 MR. CROWELL: I think we -- I
9 think that at the local level would actually need
10 to exclusively authorize that.

11 And VENDEX is a cumbersome
12 statute and is very particular about what's
13 required. And Elisa if she has a different take
14 on it, which I don't believe she does, that's
15 where we're at.

16 MR. MENCHINI: And also from
17 just a --

18 CHAIRMAN SCHWARZ: Are you
19 finished with this?

20 MR. MENCHINI: Yeah, we have
21 finished it. You can go back to your seat.
22 Thank you for getting up.

23 Actually, I should mention
24 that in regard to this discussion, VENDEX is not
25 the only avenue that we have to be able to gather

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2 this information. It may very will be rather
3 than modifying the vendor of the VENDEX system
4 and the rules for the VENDEX system, that we put
5 other systems in place that can be interfaced
6 with that same tool.

7 You would be able to go to
8 VENDEX as well as go to another repository
9 information for example, about spouses and
10 present back as though it's in the same systems.

11 It's clearly delineated, it's
12 not one to present confusion but in terms of the
13 in affect of, or in respect of a tool, they can
14 be presented through that one interface
15 irregardless of what the source of the data might
16 be.

17 CHAIRMAN SCHWARZ: What do
18 you know, Mr. Menchini about the computerization
19 of data with respect to applications before the
20 City Planning Commission or decisions by the City
21 Planning Commission?

22 MR. MENCHINI: There's
23 another system that we are actually, that they
24 maintain, that we are looking at to see whether
25 or not we can again, in a similar fashion, we can

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2 begin to bring that data in.

3 I should mention that this is
4 really the first effort; we've been at this for
5 about 12 weeks, but we are also working with the
6 City Clerk and getting data from them with the
7 lobbyists again, with an eye towards having a
8 one-name look-up.

9 And then that one name
10 look-up being able to bring data in from VENDEX
11 or from the City Clerk's system.

12 CHAIRMAN SCHWARZ: When the
13 City Clerk was here a month ago, he first said
14 there wasn't data, but then he corrected himself
15 and says there is data, but it's not timely data
16 on lobbyists.

17 MR. MENCHINI: It's --

18 CHAIRMAN SCHWARZ: But I'm
19 not sure it's even -- I mean, it looks like it's
20 a little -- it's not as current as it ought to
21 be. And you know, I think you've been doing a
22 great job in getting this contract side going and
23 we hope that you can continue to do such a great
24 job on land use and lobbying.

25 MR. MENCHINI: Thanks.

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2 You know I think, this is
3 sort of, it's the chicken and the egg. I think
4 once you make the data available, the data gets
5 better and it's actually --

6 CHAIRMAN SCHWARZ: You mean
7 because it would be the embarrassment factor?

8 MR. MENCHINI: No, because I
9 think the lobbyist or the vendor themselves can
10 see it and see that. And because other people
11 are using it.

12 When it goes into a system
13 and it just ends up sort of parked there, whether
14 it's actually -- whether it's timely or not is
15 what's relevant.

16 When it's being used, there's
17 -- there is, first of all, for the first time in
18 many instances, a reason to make sure that it's
19 up-to-date and that again, there are a number of
20 aspects of sort of mechanisms. I mean and,
21 again, the press or someone who's looking at it
22 to ensure that it's correct, will put a certain
23 amount of pressure on the entities to make sure
24 that --

25 MS. PATTERSON: Ironically,

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2 this database will be a -- would be an ideal
3 business development tool for a lobbyist.

4 MR. MENCHINI: It will be.

5 Well, I cannot speak to
6 Commissioner's Bern's issues in regard to land
7 use and permits. And I can, from my agency, we
8 administrator franchises for cable services as
9 well as for high-capacity fiber optics and a
10 number of other areas, including public pay
11 telephones.

12 And we have about, I have 11
13 actual contracts with cable companies and there's
14 only two, but they're level contracts, we have 18
15 high-capacity fiber contractors, over 60 public
16 pay telephone franchisees and we issued
17 franchises for pole top antennas.

18 So all of those -- in fact,
19 all of those franchisees and contracts are in
20 VENDEX and you'll be able to see them through
21 this system.

22 MR. CHRISTENSEN: Mr.
23 Menchini, you mentioned that the Planning
24 Commission has their own alternate structure.

25 Could you just, to the extent

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2 you know it, if you could just describe it.

3 MR. MENCHINI: Well, what we
4 typically have are systems that are in place to
5 support an agency's function. And this is very
6 different than those agencies -- then the way
7 that those systems were intended.

8 As I understand, there is a
9 system that the City Planning, that the
10 Department of City Planning actually manages.
11 And it goes to give them basic information about
12 -- about entities that come before them or have
13 issues that are being presented to them.

14 Again, the extent of that and
15 we -- I don't know that it's going to be as
16 effective for us as what we've seen here, that's
17 one of the reasons why we really haven't put this
18 on the front burner.

19 We felt that the City Clerk's
20 Office was actually a way to be able to make more
21 progress sooner.

22 MR. CHRISTENSEN: I understand
23 not putting it on the front burner, but is there
24 a determination at this point in time that that
25 information should be integrated into the VENDEX

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2 or is that still a determination that is being
3 examined or is it one that's been ruled on in the
4 negative?

5 MR. MENCHINI: Well, I think
6 one of the questions that we'd be dealing with is
7 whether or not it makes sense and is cost
8 effective and is even feasible from a legal
9 perspective, to require this information in the
10 systems.

11 What does it mean to
12 implement a new system? That's not unlike VENDEX
13 and doing business with the City system that
14 would be set up. And any agency that determines
15 that some, in a certain state or certain point in
16 a process needs to file, would then be able to
17 file directly into that system rather than trying
18 to have each agency system somehow meet the
19 requirements of this disclosure reporting
20 capability.

21 So what I'm really saying is
22 it might make sense to put literally, just build
23 a system specifically to have those that we
24 determine, you know, determine were in the
25 process that we need to be aware of us, have a

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2 new system for them to follow directly rather
3 than again, modifying existing systems and older
4 technologies. And again, systems that may not
5 have been intended to ever do this.

6 CHAIRMAN SCHWARZ: Go ahead
7 Dale.

8 MR. CHRISTENSEN: No, I was
9 just going to say to follow-up on some of the
10 comments that the Chair made at the outset.

11 I mean, I think from my
12 perspective anyway, the land use area, at least
13 with anecdotal evidence, is something that we
14 should be proceeding with a pace, you know, on
15 equal footing on the contract.

16 And, you know, we understand
17 that maybe the databases aren't reconcilable, but
18 I guess we don't quite understand, you know,
19 particularly now that the Commissioner has said
20 she was going to appear, doesn't appear and that
21 we're, you know, we haven't made any effort to
22 integrate this into what that all means.

23 Maybe there is a policy
24 consideration that we are not aware of that, you
25 know, should take into account. But, you know,

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2 it just seems like a three-legged stool at this
3 point. To me anyway.

4 MR. MENCHINI: Well, I will
5 work with CFB staff to again, what will make
6 sense over here and be able to implement it as
7 rapidly as we can.

8 MR. CROWELL: Right. We do
9 intend on pursuing the land use, very, you know,
10 in the very near future.

11 MR. CHRISTENSEN: Okay.

12 MR. CROWELL: We're not at
13 that point right now.

14 MR. MENCHINI: And that
15 system doesn't lend itself towards that.

16 MR. POTASNIK: Any other
17 states using this? Any other localities using
18 this?

19 CHAIRMAN SCHWARZ: Using this
20 being what John?

21 MR. POTASNIK: The VENDEX
22 system as a whole?

23 MR. MENCHINI: That is unique
24 to New York City.

25 MR. POTASNIK: You can't

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2 share with us that?

3 MS. VELAZQUEZ: Well, that's
4 not true. VENDEX -- the system exists and
5 basically there's a lot of state and federal
6 agencies that actually have access.

7 They can go to VENDEX and
8 they can read about State DOT; different law
9 enforcement agencies; they are actually all are
10 able to go in and to see what's there, the
11 information is there.

12 Do other jurisdictions have
13 this kind of a mechanism to determine vendor
14 responsibility? I don't know, but --

15 MR. MENCHINI: They certainly
16 don't use this system.

17 MS. VELAZQUEZ: No. You know,
18 and again, like you mentioned in January, the
19 information that is in VENDEX comes from City
20 agencies, not City-affiliated agencies. So some
21 of your City-affiliated agencies that you might
22 be interested in, like the CSA or NYCHA, they use
23 their own forms, if you will, to determine vendor
24 responsibility and they act on information on
25 them.

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The other two which is HHC and the Department of Ed. do use VENDEX but they don't forward their information for processing to us. That may change at some point in the future but that's not the case now.

So that information is not contained in VENDEX and unless those contractors are doing business with the Mayoral agencies.

MR. CROWELL: I think the City of Chicago has on their website vendor information but it may not be the same as VENDEX. So there's one jurisdiction at least who has similar information, but it may not be as good as VENDEX.

CHAIRMAN SCHWARZ: So Commissioner Menchini, forgive me if I use the wrong terms because I'm enormously proud if I can use e-mail, but that's about the level of my sophistication.

But if what we ultimately want, and I think you're also working towards, is that the City computers with the data about doing business, contracts, land use, whatever, can communicate with the CFB computers that have who

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2 has given what amounts of money to whom, is and I
3 know that isn't possible yet or I've been told
4 that isn't not possible yet, A, is that something
5 that's technically feasible?

6 B, assuming it's feasible,
7 what is the process of getting there? How
8 difficult is it? How long does it take?

9 MR. MENCHINI: And the answer
10 is it's feasible. I don't know if we see any
11 technical barriers to anything you want to do,
12 especially again if you're afraid from having to
13 work with some of the older systems and work with
14 some new systems.

15 We can begin to interface and
16 we know if we get this up as a first step, we can
17 begin to interface these systems into the
18 Campaign Finance Board's information system and
19 been able to do at, you know, to company name
20 matches.

21 My concern with this is that
22 it's the matching that we'll get and how much of
23 a burden we might put on the Campaign Finance
24 Board staff to be able to reconcile that.

25 CHAIRMAN SCHWARZ: Explain

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2 what you mean.

3 MR. MENCHINI: In other
4 words, if I -- we were talking about this earlier
5 today, if I, as I'm making my contribution to
6 someone, I write down IBM. We all know these
7 three letters, we all know what that means, but
8 in VENDEX it might appear as International
9 Business Machines. So the computerized match may
10 come up with IBM, with International Business
11 Machines and a number of others. In fact, we saw
12 today when we did the search for Bell and Howell,
13 that it didn't -- even though that was -- it was
14 pretty specific, we used the ampersand as the
15 "and" and we ended up with a number of hits.

16 So one of the challenges for
17 a system-to-system match like that without having
18 something as specific as a federal tax ID, for
19 example, which gets specific and is easier to
20 match against, would be the reconciliation that
21 would have to occur in those systems.

22 CHAIRMAN SCHWARZ: That's the
23 form that --

24 MR. MENCHINI: And that's
25 simply -- again, we've been discussing some other

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2 methods to be able to deal with that.

3 CHAIRMAN SCHWARZ: "We" being
4 you and Nicole?

5 MR. MENCHINI: With the
6 Campaign staff, right.

7 And one thing might be to
8 begin to move sort of like jump ahead a step or
9 sort of a quantum leap in the technologies that
10 we're using here and even begin to have the
11 campaigns themselves filed on-line, interfacing
12 to the systems so that at the time that I am at a
13 campaign, entering a particular contribution, an
14 interface is occurring behind the scenes to the
15 system and presenting the names. And the names
16 of the individuals like this is the Gino
17 Menchini, that's a principal in IBM - not if I
18 were, I probably wouldn't be here. But certainly
19 to see if IBM was there and then be able to have
20 the campaign pick that off.

21 We've discussed that and I
22 know the Campaign staff has had the interest in
23 moving towards an on-line system. This might be
24 the catalyst to be able to move us down -- ahead
25 a step or two and be able to put that type of

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2 capability in place so that the Campaign can make
3 that determination at the time that they're
4 actually doing the filing, with the benefit of
5 these systems and the interfaces that we can
6 provide there.

7 But otherwise to do it in a
8 batch, like a process, the only issue I have is
9 how successful, and to the extent to which
10 technology we can apply that intuitive aspect.
11 But is this Bell and Howell, that Bell and Howell
12 from the list of six or seven or 20 that might
13 come back, that's just the challenge.

14 MS. PATTERSON: You were
15 saying that there is going to be a link to VENDEX
16 on the Campaign Finance Board public web --

17 MR. MENCHINI: The home page.

18 MS. PATTERSON: The home page.

19 MR. MENCHINI: So you will be
20 able to see if you choose to implement this, you
21 know, look up, you can call it what you want to
22 call it, but look up VENDEX, see if someone is
23 campaigning. And when you click on that you wind
24 up in that.

25 MS. PATTERSON: So presumably

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2 any finance director of a campaign who has gone
3 through CFB training can -- will have seen that
4 and will know how he can do his due diligence as
5 a finance director --

6 MR. MENCHINI: Absolutely,
7 absolutely.

8 MS. PATTERSON: -- by just
9 pointing and clicking. It's not as simple as
10 sort of guys correlating the names of the CFB but
11 at least --

12 MR. MENCHINI: It's a
13 mechanism that can be done.

14 MS. PATTERSON: It is a
15 mechanism that allows for someone who is not a
16 CFB person and not a VENDEX person to do the due
17 diligence.

18 MR. MENCHINI: That's a good
19 point.

20 MS. GORDON: Just to be
21 clear, I think, but correct me if I'm wrong,
22 right now we don't have in place a, what you're
23 talking about would be a name-by-name exercise.
24 It's not a -- there's not a way notwithstanding
25 any links that we can put up to the other system,

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2 you would still have to go through a process of,
3 you know, Jane Doe --

4 MS. PATTERSON: Right, but if
5 you're -- I'm just saying if you were the
6 secretary to the Finance Chair of a particular
7 City Council campaign, and you are even
8 moderately computer literate, you can click on a
9 link at the CFB website which is a website you're
10 supposed to be familiar with.

11 It will send you to VENDEX
12 and you will have a campaign contribution form
13 with some names on it.

14 MS. GORDON: What you'll have
15 is an opportunity to check any name you want to
16 and to see whether it appears in the VENDEX
17 system.

18 MS. PATTERSON: Right, just
19 as if you were in a Google search for that
20 person, just you can do it.

21 MR. MENCHINI: That's
22 correct.

23 MS. PATTERSON: It's not
24 automatic, but somebody with the fluency that
25 will be able to do it.

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MR. MENCHINI: But it's not

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that you can take ten names and submit them at

4

once. Because again, the problem with that is

5

that if you put the ten names in, you're now

6

dealing with ten lists of potential hits on

7

vendors.

8

MS. PATTERSON: It's

9

cumbersome but it's --

10

MR. MENCHINI: Well, it's

11

certainly doable.

12

MS. PATTERSON: And I think

13

that --

14

MR. CHRISTENSEN: I had one

15

question just as a cautionary note, I think that

16

if we proceed along these lines, it seems to me

17

important since the documentation data that you

18

have is no longer being described in some corner

19

of a basement, it's now being disclosed, it's

20

being intentionally provided to journalists and

21

to other campaigns for news purposes. It seems

22

to me that it's the City's obligation to make

23

sure that that documentation is as accurate as

24

possible, becomes more important because of the

25

possible misuse of the data. And also potential

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2 liability for the City in the event that there is
3 some, you know, thing that's deemed to be
4 defamatory or whatever, as a result of the
5 misdescription of the documentation.

6 So it would seem to me in
7 light of the comment about, you know, not maybe
8 having a large enough staff, this should be an
9 argument for you to get additional employment
10 lines for fact-checking purposes.

11 MR. MENCHINI: Well,
12 actually, I should also mention that we wanted to
13 do this rapidly for your time frame but there are
14 -- we have plans underway to begin to replace the
15 VENDEX system that you're looking into here with
16 new technology, correct?

17 MS. VELAZQUEZ: That's
18 correct.

19 MR. MENCHINI: We have a
20 project underway now to actually bring a new
21 VENDEX system in place.

22 I mean, one of the aspects of
23 that, that we've very interested in is the
24 ability for - not unlike what we're seeing here -
25 for information to be viewed on-line but for

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2 electronic filing so that a company can actually
3 do their own data entry in the on-line VENDEX
4 system and enter that themselves.

5 One would think that that
6 would result in a better, more accurate
7 information.

8 But also to be able to update
9 it themselves and be able to view rather than a
10 subset of the VENDEX information that we see
11 here, but the entire VENDEX record.

12 MS. VELAZQUEZ: And just one
13 other comment just to address what you said in
14 terms of liability. I mean, the information with
15 the exception of that comes from FMS, the vendor,
16 it's a self-disclosure form they have to sign
17 under penalty of perjury.

18 They pretty much try to do
19 the best job that they can making sure that what
20 they're giving us is accurate.

21 I mean, I think some of the
22 issues around liability and the defamatory issues
23 would come up via substance. And the substance
24 is being provided by the vendors.

25 MR. CHRISTENSEN: But you

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2 would be deemed to be -- I don't want to get too
3 legal, to be publishing the information and that
4 the point is, you know, there should be an effort
5 to guard against false positive and false
6 negative information in the database. And I
7 think there should be maybe more fact-checking
8 for your own protection than there currently is.

9 MR. POTASNIK: I'm just
10 curious about, because it's a stupid question,
11 but for every measure there's always a
12 counter-measure. There's always somebody
13 thinking about some devious scheme to get around
14 it.

15 How do you work with, if you
16 got someone who's devious who can outsmart the
17 system, thinking like how can someone else
18 outsmart what we're doing?

19 MS. VELAZQUEZ: Do you mean
20 technologically?

21 MR. POTASNIK: Yeah, whatever
22 the procedure is. I know years ago when you
23 walked out the store, they used to have these
24 tags, you know, if you try to take a garment, the
25 alarm would go off.

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2 CHAIRMAN SCHWARZ: Do you
3 want to have counsel before you make this
4 comment?

5 MR. POTASNIK: Then they
6 found those, if you wrap those things with
7 aluminum, the alarm wouldn't go off.

8 In other words, for every
9 measure you implement, there was a
10 counter-measure. And I just, you know --

11 MR. MENCHINI: I think that
12 speaks to, I think the need for the contributors
13 themselves to be able to basically say, "I do
14 business with the City of New York." Because
15 again, where there will be -- there's all sorts
16 of issues here, this is one of those systems that
17 has a million issues around it.

18 Do we want to ever get to the
19 point where besides someone who has a contract
20 today, people that are in front of agencies don't
21 have contracts yet. And so I think ultimately --

22 CHAIRMAN SCHWARZ: Frankly,
23 it's more important from the point of view of
24 what we're really doing.

25 MR. MENCHINI: So, I mean,

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2 ultimately that's one of the reasons why, to
3 answer your question from before, I think that
4 ultimately, and 99.9 percent of people that go
5 through department stores don't wrap aluminum
6 foil around those, the best way is to be able to
7 actually have a process in place is to have clear
8 rules, know where the front door is and where the
9 garment can't pass. And to have those
10 law-abiding and those people again who would,
11 under, you know, under absolute uncertainty would
12 operate legally and would indicate yes, I do
13 business with the City.

14 CHAIRMAN SCHWARZ: You know,
15 actually the --

16 MR. MENCHINI: And that would
17 be subject to --

18 CHAIRMAN SCHWARZ: That
19 dialogue and also your comments in response to my
20 technology question about batch matching,
21 actually both show why our objectives should be
22 to get legislation that bites on the company
23 doing business with the City and has the sanction
24 that if they make a donation over a certain
25 amount, they can't do business with the City.

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Now, we don't have power to

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do that and you don't have power to cause it to

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be done.

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MR. CROWELL: Right. There's

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a state law concerning that, as we articulated in

7

the past, but the mechanism is easy to solicit.

8

CHAIRMAN SCHWARZ: That's an

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easy way to take care of it. I can spend five

10

minutes with you and Michael Cardozo and we can

11

take care of that.

12

And also the City Law but

13

there's a question of whether there's a will to

14

pass a law and that would be a good thing.

15

MR. CROWELL: Even if that is

16

equally a big question.

17

MR. MENCHINI: I have a

18

couple of other issues that I need you and

19

Michael Cardozo to sit down and spend five

20

minutes.

21

(Laughter.)

22

CHAIRMAN SCHWARZ: Do you

23

know the history of DoITT?

24

MR. MENCHINI: A bit but

25

probably not as extensively as you do.

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CHAIRMAN SCHWARZ: I mean, it

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came out of the 1989 Charter. It was pressed by

4

Commissioner Fred Friendly who was one of the

5

great CBS journalists in sort of those

6

roundtables, and it was just that issue. And it

7

was a great issue and Jean Russ and a couple of

8

others supported it.

9

But Fred Friendly was really

10

the father of your department, your agency.

11

MR. MENCHINI: My agency.

12

We're actually now starting

13

to see some aspects that make sense. The public

14

pay telephones and the cable, all of that is felt

15

to be a nice synergy at this point that these

16

technologies are beginning to converge.

17

CHAIRMAN SCHWARZ: Nicole, do

18

you have some questions?

19

MR. CROWELL: Do you want to

20

do the rest of it?

21

MR. MENCHINI: I can; I think

22

we touched on most of it. A lot of this is

23

repetitive, but I'll complete my testimony.

24

Okay, I'll go through it

25

quickly because your probably --

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I'm just going to say it

3

again, this initiative has been significant with

4

many hours devoted by talented DoITT members.

5

And I want to thank everybody at DoITT and the

6

Mayor's Office of Contract Services as well as

7

the Mayor's Office of Contract Service Director,

8

Marla Simpson and general counsel Elisa

9

Velazquez. And again, the Campaign Finance Board

10

staff and Nicole and everyone who worked so

11

diligently with us on this.

12

As we move forward, the City

13

is committed both to expanding the database of

14

those who do business with the City beyond

15

VENDEX, while at the same time, working with the

16

CFB to integrate this information fully into it's

17

own data systems and processes.

18

Expanding the database will

19

include adding registered lobbyists, their

20

clients, information that the City Clerk

21

currently collects that we are in the process of

22

putting on-line, which we expect to happen within

23

about a month. And at that time, we will be able

24

to work with the CFB to develop plans and

25

identify ways to begin more tightly to integrate

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2 these different system with the doing business
3 databases and the CFB's databases.

4 We're anxious to -- I'm
5 sorry?

6 MS. PATTERSON: Sorry, just
7 in the timing with the City Clerk and lobbyist
8 list then. So you would expect that by, let's
9 say the beginning of June, that lobbyists that
10 are registered with the City Clerk would be
11 similarly searchable?

12 MR. MENCHINI: It would be
13 searchable; our goals -- when you described the
14 campaign workings, and we've talked about this,
15 it would be workable to have to go to one system
16 for lobbyists, one system for VENDEX.

17 So our plan is to actually
18 use the same tool and just have it have when we
19 got that hit on the name of a company, it would
20 show this is through VENDEX, this was with,
21 through the City Clerk's Office.

22 MS. PATTERSON: If I was not
23 with VENDEX or MOC or the City Clerk's Office,
24 again, if I were someone like a Finance Board
25 staff or a finance director of a campaign and I

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2 wanted to find out whether someone is a
3 registered lobbyist and is doing the due
4 diligence, it would be necessary to make sure
5 that the disclosure was proper by, let's say June
6 of this year, I can click on the same link that
7 you're going to have on the front page of the CFB
8 website and do a search for Mr. X, Y, Z and come
9 up with a -- with something that you would
10 identify them as a lobbyist or his firm as a
11 lobbyist?

12 MR. MENCHINI: In the end as
13 well as the public information, appears in the
14 City Clerk system, it would look good from what
15 we've seen today.

16 MS. PATTERSON: But it would
17 be sourced through the same link and the same
18 search engine and the same search mechanism?

19 MR. MENCHINI: Right. And if
20 you appear at both, you come up twice which is --

21 CHAIRMAN SCHWARZ: So Nicole,
22 you have some questions?

23 MS. GORDON: Well, you were
24 in the middle of finishing your --

25 MR. MENCHINI: There's no

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2 technical obstacle preventing us from building
3 the comprehensive database sought by the CFB of
4 individuals and entities that do business with
5 the City.

6 Doing so, however, may
7 require the City to collect more information than
8 is now currently collected.

9 Again, spouses is a good
10 example of that.

11 The current VENDEX system,
12 for instance, often does not contain the names of
13 many senior level managers, account executives
14 and others who might do business with the City,
15 the City Government, and little information is
16 collected from lobbyists about their clients.

17 Obtaining this information
18 may require various agencies to ask those who do
19 business with the City for more information about
20 its staff and ownership.

21 Even then, requiring firms to
22 identify every management position may prove
23 difficult. And moreover, staff and interests
24 change frequently.

25 CHAIRMAN SCHWARZ: By the

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2 way, on that subject, I take it nobody is
3 suggesting - and I'm really directing this to you
4 - that a business be required to list every
5 manager?

6 I mean, for example, an
7 investment bank would have 500 or 1,000 vice
8 presidents and I take it you're not seeking to
9 have those people when there ultimately is some
10 kind of restrictions to have those people
11 restricted?

12 MR. MENCHINI: Not per say,
13 no.

14 CHAIRMAN SCHWARZ: And you
15 would agree that there has to be some kind of
16 rule and reason of people who are at the top of
17 an organization?

18 MR. CROWELL: Well, at the
19 top or perhaps somebody who is an account manager
20 for the -- you know, within the senior managerial
21 ranks of the organization who is an account
22 manager and the account rep for the department of
23 Information Technology or, yes.

24 MR. MENCHINI: And I feel as
25 if --

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3 MR. CROWELL: I think the
4 rule of reason is very good, it's a good way to
5 capture what we're seeking.

6

7 MR. MENCHINI: In many
8 instances, people on a much lower level of
9 organizations, especially large organizations,
10 get fair gain, can gain if I'm one of the chief
11 executives.

12

13 CHAIRMAN SCHWARZ: If I can
14 observe, Mr. Crowell made a good point there,
15 that it was appropriate to --

16

17 MR. CROWELL: Right, right.

18

19 MR. MENCHINI: So while we
20 could require firms that do business with the
21 City to update their information periodically, a
22 potential burden on both private organizations
23 and City agencies, it's still likely that changes
24 will still go unreported.

25

26 In short, even if we build a
27 perfect database and established strict data
28 collection procedures, it's inevitable that data
29 will be incomplete.

30

31 If the CFB's system of
32 disclosing and regulating doing business

33

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2 contributions is to have integrity, information
3 from one side of the equation is simply not
4 sufficient.

5 Information gathering must
6 occur at both ends of the transaction - we
7 believe from the City - which interacts with
8 representatives of firms with which it does
9 business, and from the two different campaigns
10 which interact with contributors who may do
11 business with the City.

12 I cannot stress enough that
13 the failure of one side to make a strong effort
14 at data collection, no matter how comprehensive
15 the data collected by the other side, will lead
16 to an incomplete disclosure and impediments to
17 enforcement.

18 We are sympathetic to your
19 interest in minimizing the burdens placed on
20 candidates. Indeed, in the last few years, the
21 Bloomberg Administration has made huge strides in
22 reducing the reporting requirements for City
23 contractors. But if asking those who do business
24 with the City to complete additional disclosure
25 forms and requiring various City agencies to take

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2 on additional responsibilities relating to this
3 task, is what it takes to implement the 1998
4 referendum, we are ready to do it.

5 And like you, we will look
6 for ways to minimize the impact of new reporting
7 requirements on our customers. How each side
8 should structure its questions and processes is a
9 policy matter that I will leave to the CFB and
10 the Administration.

11 Thank you.

12 CHAIRMAN SCHWARZ: When you
13 made the comment about impediment to enforcement,
14 you were -- you were sort of jumping ahead to the
15 point where there may be actual regulation in
16 addition to disclosure; am I right?

17 MR. MENCHINI: Right, that's
18 right.

19 CHAIRMAN SCHWARZ: I mean,
20 just to be candid with you, I think that's
21 exactly the right question to ask and I think the
22 -- to have -- and what you're doing on VENDEX is
23 a public service and it's great and the press and
24 so forth can get at it.

25 But before one has made the

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2 decision on how to enforce, EG, spouse or not,
3 EG, bid contract are not, I think to get
4 regulation of disclosure as opposed to
5 facilitating disclosure, to me is a leap that I
6 think that requires some real thought.

7 And I think Mr. Crowell, you
8 probably want to argue against what I just said,
9 I'd love to hear.

10 MR. CROWELL: I think I
11 talked about that in my -- as part of the
12 testimony.

13 But sure. I think that part
14 of the rationale for us going forward and putting
15 this all together is that, you know, you need to
16 have both the disclosure and the regulation and
17 all the administrations' effort to amass the
18 data, put it into a format that if the computer
19 system talk to each, it lends itself to that kind
20 of system.

21 CHAIRMAN SCHWARZ: With me
22 you're pushing at an open door in making that
23 point.

24 Now, the Board, and I saw in
25 your comments that you want the Board to make a

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2 commitment that it was going to do regulation. I
3 think that's not fair when the Board hasn't
4 finished its process.

5 But if you had someone
6 attending all of the hearings, I think you get an
7 impression that there's a substantial likelihood
8 that the Board is going to want to explore
9 actually issuing regulation if there isn't
10 legislation.

11 I don't think it's
12 appropriate for you to ask the more definitive
13 question which is "tell us right now that you're
14 going to regulate" because we haven't finished
15 our process that we have to go through to
16 responsibly answer that question.

17 But --

18 MR. CROWELL: I don't know
19 we're saying that.

20 CHAIRMAN SCHWARZ: That's how
21 I read your statement.

22 MR. CROWELL: Well, I haven't
23 read it yet so.

24 CHAIRMAN SCHWARZ: But I read
25 ahead.

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MR. CROWELL: I know you did,

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I was gauging your reaction.

4

No, I understand that. But I

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think what we're saying is that, you know, we

6

anticipate you, at some point in the future,

7

concluding your deliberations on this. And I

8

think our work on both sides here is being

9

informed whoever's goes next.

10

And I think that for the sake

11

of everyone, it's better to move ahead, you know,

12

sooner rather than later.

13

So let me conclude my

14

testimony and then if there's any questions, I'd

15

be happy to entertain them.

16

The Bloomberg Administration

17

strongly supports the creation of a comprehensive

18

database for use in post-2005 elections, that

19

includes information currently not captured by

20

the City or the CFB, but we also want to be

21

certain that its expense is justified.

22

If the Board decides not to

23

regulate contributions by those who do business

24

with the City - for instance, by making them

25

ineligible for public funds - then the need for

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2 the comprehensive database is lessened because
3 the need for enforcement would necessarily be
4 lessened.

5 The CFB does not maintain a
6 database of every employer in the City, yet it
7 still requires candidates to make a good-faith
8 effort to obtain employer information.

9 The same should be true of
10 "doing business" contributions.

11 We believe that the expense
12 of building a comprehensive system that will
13 allow the CFB to regulate and enforce doing
14 business contributions, will be re-paid many
15 times over in savings that result from
16 eliminating abuses in the Matching Funds Program,
17 as well as savings that result from strengthening
18 the integrity of the political process.

19 For that reason, we will work
20 to secure capital funding to build this
21 exceptional database and enforcement tool, and we
22 have recently requested that the Office of
23 Management and Budget place up to three million
24 dollars in capital funds for DoITT for the FY
25 2006 Executive Budget.

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The Administration believes

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however, that such an expense would not be

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justified if the CFB's only intention is to

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require disclosure, a very important step

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forward, but one which does not carry the same

7

need for enforcement and which can largely be

8

achieved through other means - a combination of

9

candidate disclosure and use of existing doing

10

business data, soon to be on the web.

11

In sum, we are ready, willing

12

and able to work with you to produce a

13

comprehensive database that is integrated with

14

your systems, but to move forward, we need a

15

concomitant commitment from the Board that it

16

will join us in data collection and in making use

17

of its new enforcement tool to restrict doing

18

business contributions.

19

Now, whether the CFB opts to

20

restrict doing business contributions for

21

elections that take place post-2005, the

22

Bloomberg Administration urges the Board to act

23

swiftly to put in place for this year, the modest

24

disclosure requirement that we have proposed so

25

that a second citywide election does not pass

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2 without the 1998 referendum being implemented, at
3 least in part.

4 Adopting a rule that requires
5 candidates to ask their contributors whether they
6 do business with the City, requires the CFB to
7 adopt a question for candidates to pose to
8 contributors.

9 Attached is a draft proposal
10 that we believe is straightforward and will be
11 easy to understand by the vast majority of
12 contributors.

13 We are not, however, wedded
14 to every word and we have been anxious to have
15 the Board propose its own language.

16 We know that the challenge of
17 creating a user-friendly question has long been
18 viewed as an almost insurmountable obstacle by
19 CFB staff. But the time to confront this
20 challenge head on is now here.

21 I cannot stress strongly
22 enough that we must find a solution to this
23 issue, and we are prepared to sit with the Board
24 staff for whatever length of time it takes to
25 come up with language that the Board considers

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2 acceptable.

3 We must not allow a "can't
4 do" approach to torpedo our best hope for a full
5 and effective disclosure system.

6 We have said on a number of
7 occasions that, for too long, the perfect has
8 been the enemy of good. Working together we can
9 change that dynamic.

10 Finally, I would like to draw
11 your attention to the calendar for rule
12 promulgation, as set forth in Charter Chapter 45
13 known as the City Administrative Procedure Act,
14 also CAPA. Which, with limited exceptions,
15 generally takes a minimum of 60 days.

16 As you know, under CAPA, the
17 CFB must publish a proposed rule in the City
18 Record, seek public comment and hold a hearing no
19 sooner than 30 days after the first date of
20 publication.

21 After the hearing, the CFB
22 must publish a final rule which cannot take
23 effect for at least another 30 days.

24 However, the CFB may, if it
25 were to find a substantial need to implement the

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2 rule prior to the expiration of the second 30-day
3 period, request that the Mayor waive that period
4 and allow the rule to take effect earlier upon
5 notice.

6 Therefore, if the Board
7 intends to have a rule in place by its June 1st
8 certification date, or for the filing period that
9 begins July 12, it is essential that the Board at
10 its upcoming April 14th meeting, approve for
11 immediate publication, draft rules implementing
12 this requirement.

13 We hope that, particularly in
14 light of the fact that nearly seven years have
15 passed since the voters expressed their will,
16 that the Board will take will steps necessary to
17 ensure that another election does not pass
18 without achieving the disclosure mandated by the
19 City Charter.

20 Failure to do so would be a
21 missed opportunity to learn - as the Board
22 considers additional regulations that would apply
23 following the 2005 election - which contributors
24 do business with the City.

25 Thank you for your time today

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2 and we look forward to further discussions.

3 MR. CHRISTENSEN: Just a
4 couple questions.

5 I want to thank you for your
6 admonition on the schedule and I think that
7 actually is helpful to be aware of that.

8 One of the sort of
9 overarching questions that I have in my mind and
10 I'd be interested in seeing, you know, to what
11 extent you've evaluated this in terms of your own
12 recommendations, is that my understanding is that
13 the Campaign Finance Law has a number of public
14 policy objectives.

15 One of which, you know, out
16 of necessity - because it's not something that we
17 can impose upon candidates, we can't impose it on
18 the Bloomberg Administration - is that the
19 balance between regulation and encouraging
20 participation has to be maintained.

21 Have you done any analysis of
22 whether the imposition of these doing business
23 prescriptions or any type of regulation, I'm not
24 talking about disclosure now, but moving forward,
25 you know, along the lines of talking, would have

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2 any negative affect on participation in the
3 program?

4 MR. CROWELL: We don't
5 believe that they would have any negative --

6 MR. CHRISTENSEN: I believe
7 you don't believe it, but have you done any
8 analysis?

9 MR. CROWELL: I think we've
10 had extensive discussions and we certainly looked
11 at the issue and certainly I feel that his
12 testimony was very helpful in informing how these
13 types of programs with regulation did occur.

14 Of course, the G37 Program is
15 slightly different, but largely similar in
16 format.

17 And obviously, you know, the
18 press stories that are out there in abundance on
19 these issues, I think show that there is a need,
20 first and foremost, to have these types of
21 regulations in place. And I think that making
22 sure that whenever regulations are put in place
23 that their sensitivity, that you're not
24 discouraging people from making contributions.

25 I know that in staff meetings

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2 with Nicole, we discussed it at length and I
3 think it's certainly in our minds, a proposal
4 here today, we have more than taking that into
5 consideration and how to achieve that or to
6 consider.

7 And we have no reason to
8 believe that putting all those factors in place
9 and taking, you know, putting the right steps in
10 place, that it's going to discourage anyone from
11 participating.

12 MR. CHRISTENSEN: Okay.

13 MR. CROWELL: I think with
14 any change, you obviously have to have an
15 appropriate level of public information,
16 education about what's going on and someone
17 readily available to answer question should such
18 questions arise.

19 Again, what we're also
20 talking about here is setting new thresholds so
21 the vast majority of campaign contributions are
22 low dollar value. And we propose in here
23 actually exempting them and so what you do, you
24 categorize or tier an implementation approach and
25 you can, in large measure, make sure that those

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2 people who just want to give small contributions
3 and who may have more difficult understanding
4 regulation for the sake of regulation -- I'm
5 sorry, regulation for the sake of getting at our
6 public policy goal.

7 But they won't have to
8 necessarily do a lot of thinking and they'll be
9 able, you know, unrestrictedly to make those
10 contributions.

11 So I think we certainly have
12 embraced the notion that you have to not
13 discourage, but continue to input and then we've,
14 you know, taken out obstacles in your
15 recommendations.

16 CHAIRMAN SCHWARZ: But isn't
17 the whole purpose, I mean, I don't think you're
18 pushing hard enough, isn't the whole purpose of
19 addressing doing business to discourage and
20 ultimately prohibit contributions over a certain
21 amount from people who are doing business with
22 the City; isn't that right?

23 MR. CROWELL: Yes, but what I
24 believe Mr. Christensen's question to me was
25 that, in seeing to do that, not discouraging

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2 people who are not doing business with the City,
3 and that was our discussion at length with Nicole
4 and that's what I was addressing and I thought
5 his question was.

6 MR. CHRISTENSEN: Actually,
7 the point I was making was not discouraging
8 candidates to thinking that it's better for them
9 to opt out of the program, not participate in the
10 program because all of these regulations
11 including this one become so burdensome, at some
12 point there's a tipping point that they decide,
13 why bother.

14 And the consequences of that
15 will be to, you know, have certain candidates
16 withdraw, particularly candidates who have more
17 ability to self-fund. And I'm not saying just,
18 you know, at the level of the current Mayor, but
19 others who may just decide that they can get more
20 in the way of contributions including
21 contributions from people doing business with the
22 City, then they can if they participated in the
23 program. And that's not a mitigated good for
24 us.

25 MR. CROWELL: Well, you're

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2 also -- no, it's not. You're not requiring
3 disclosure in candidates who are self-funded or
4 not participated in the program.

5 CHAIRMAN SCHWARZ: Do we
6 technically, Anthony have the power to actually
7 on the -- under the Charter Provision, I doubt
8 that we have the power to affect people --

9 MR. CROWELL: I'm not
10 suggesting that you do. I'm explaining why
11 you've taken the program in very recent months in
12 terms of disclosure and of course, we may not be
13 able to achieve what Chair Schwarz was just about
14 to state, but the idea is that there is no reason
15 to believe that you will have a massive amount of
16 people opting out of the program.

17 It is by far the most
18 sophisticated and generous program in the nation.

19 There's no reason to believe
20 that people aren't going to participate and I
21 don't think we would ever want to put or see any
22 regulations put in place that discourage people
23 from participating. But at the same time, given
24 that, you know, the Matching Funds Program is
25 significant and that it even enhances when you're

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2 going up against a self-funded candidate
3 depending on certain levels, that someone, you
4 know, that's it's not reasonable to expect that
5 there will be regulations.

6 And I don't think what we're
7 asking for you or what the Charter mandate
8 requires is anything that is too burdensome to
9 actually implement in a thoughtful and rational
10 way.

11 CHAIRMAN SCHWARZ: So Mr.
12 Crowell, I wanted -- you probably diverted my
13 question into finishing your answer to Dale's
14 question. But I want to push my question a
15 little bit more.

16 Because now I'm, as
17 individual, one member of the Board and not
18 speaking for the Board, but my own view is that
19 if one doesn't get legislation, which will would
20 be best the solution, we should regulate, and we
21 should say that people who are doing business
22 with the City however that's defined, and it's a
23 complex matter, but ought not to be allowed to
24 give more than X dollars.

25 Now, the affect of addressing

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2 this subject is to discourage, indeed to prevent,
3 certain contributions from being made.

4 And the one thing that
5 troubles me about your thoughtful suggestion is
6 that when you disengage the regulation by the
7 Board, which this particular Commissioner thinks
8 is a good idea, but I have no idea what the
9 majority of the Board thinks or not, when you
10 disengage the regulation and disclosure from this
11 and simply say to candidates this year, in this
12 election, you have to when you make your
13 contribution, disclose whether you're doing
14 business with the City of New York, I think it's
15 naive to believe that that will not discourage
16 some contributions.

17 So do -- how far -- where did
18 you fall off, if at all, from what I have said?

19 MR. CROWELL: Well, I think
20 by the same token then any efforts to regulate, I
21 mean, would otherwise discourage contributions
22 and you're saying that, you know, on the one hand
23 you may, you may favor such regulation.

24 I think if you put in place a
25 rule that's properly drafted and thoughtfully

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2 implemented with a, you know, I don't think that
3 that will have an affect. I mean --

4 CHAIRMAN SCHWARZ: Well, you
5 mean as matter of fact --

6 MR. CROWELL: Well, it's
7 alleging that it won't have an affect. The idea
8 of regulation is to have an affect as you were
9 saying.

10 However, in this case, I mean
11 what we're aiming at is to stop people from
12 paying to play.

13 I mean, to the extent it
14 discourages contributions or people trying to get
15 back-doored to contributing because they're
16 seeking those goals, and that's a good thing.

17 CHAIRMAN SCHWARZ: It's a
18 good thing but it's only a good thing, it seems
19 to me, if one has gone through the process of
20 deciding that one is going to regulate.

21 And as I've told you, I favor
22 doing it. But if we haven't gone through that
23 process to disengage the contributors' action
24 with respect to confessing they're doing business
25 from the regulation, is probably being unfair and

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2 indeed, it may be particularly unfair in a
3 context like this election where you've got one
4 candidate who's outside the program altogether
5 and the other candidates who are inside the
6 program.

7 I'm just being very candid.

8 MR. CROWELL: The Charter
9 requires disclosure, and the idea is --

10 CHAIRMAN SCHWARZ: It
11 requires disclosure so long as it's not harmful
12 to the program.

13 MR. CROWELL: Right. And so
14 therefore, what we have come up with here is a
15 means that we believe, and after extensive
16 discussions with Nicole on various
17 considerations, would not have a harmful affect.

18 As I said, we're not wedded
19 to this, but it's a concept that I think is very
20 worthy of your consideration and adapting if you
21 don't this works, something to that.

22 And I think that there's, you
23 know, we're not just talking about the Mayoral
24 Campaign, there are -- every other office is up
25 for election and we do propose here approaches to

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2 dealing with the City Council that could be
3 adapted for other offices as well. But I don't
4 think -- don't think we can look at the Mayoral
5 race and say well, huh? You know, and then
6 decide not to do it because you think it would
7 have some harmful affect. Whereas, you know,
8 there's no indication that it would indeed have
9 any harmful affect; and then forsake the entire
10 intention of the '98 Charter Revision as it
11 applies to every single City-elected office.

12 CHAIRMAN SCHWARZ: As long as
13 it didn't undermine the campaign --

14 MR. CROWELL: Well, no one at
15 this table -- no one at the Administration wants
16 to see anything undermine the Campaign Finance
17 Program. However, we also don't want you to
18 undermine the intent of the Charter Revision that
19 was made part of the Campaign Finance Program and
20 that the Campaign Finance Board has not been
21 implemented.

22 CHAIRMAN SCHWARZ: That is
23 something that happened many years ago, not
24 recently. But the --

25 MR. CROWELL: That's the whole

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2 point.

3 CHAIRMAN SCHWARZ: You're
4 colleague, Mr. Cunningham made a suggestion, as I
5 understand it, of after the election, disclosure
6 by people who have been elected --

7 MR. CROWELL: Right, and that
8 is in here.

9 CHAIRMAN SCHWARZ: Do you
10 have that?

11 MR. CROWELL: Oh, sure.
12 That's what I'm referring to, about the tier
13 approaches and I think it was in the first part
14 of my testimony.

15 Yeah, that's something that
16 we are very, very interested in pursuing. And
17 that question that we wrote, that actually could
18 come after or it could be done contemporaneously,
19 it could be given, you know, it's the option of
20 the elected official who would have to ultimately
21 do the disclosure, how they gather that
22 information. But it certainly could be done
23 after.

24 I'm not saying that this has
25 to be given to everyone the moment they give a

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2 donation, it could be done after the November 8th
3 election. And between the time of the
4 candidate's deemed a winner and the day they're
5 inaugurated into office.

6 CHAIRMAN SCHWARZ: That's an
7 item that's -- I think that's helpful.

8 MR. CROWELL: I'm sorry I
9 didn't pick up on that. We are embracing a range
10 options for you that we don't believe would have
11 any affect of undermining the system.

12 I mean, in the context of --
13 the options that we are talking that Chairman
14 Schwarz talked, spoke about is from the CITY
15 Council.

16 CHAIRMAN SCHWARZ: And the
17 concept could exist --

18 MR. CROWELL: The concept
19 arguably could be that, we thought it worked best
20 with the Council.

21 CHAIRMAN SCHWARZ: Who is
22 your colleague that you gave you that?

23 MR. CROWELL: This is Frank
24 Barry (indicating.)

25 MR. BARRY: I just wanted to

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2 be clear that that was what was discussed in the
3 testimony, I didn't want that point to be lost.

4 MS. GORDON: First of all, to
5 just go back to some pervious subjects.

6 I want to make public my
7 personal thanks for Commissioner Menchini and his
8 terrific staff and really put an amazing effort
9 into this project and our staff who are much more
10 competent than I am to comment on it.

11 But as a layperson in the
12 field of technology, I had an opportunity to see
13 how this looked before today and we were really
14 deeply impressed with the simplicity and ease of
15 use of what you have developed.

16 And I wanted to compliment
17 you on a great job.

18 MR. MENCHINI: Thank you.

19 MS. GORDON: Secondly, I also
20 wanted to remind everyone, which I think has been
21 pretty clear today, but just so that everyone
22 again remembers, and thank you also to the
23 Mayor's Office of Contracts for helping to
24 clarify some of these issue.

25 What has been presented today

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2 is phase one, there's a plan, but not fully
3 developed obviously but there's discussion about
4 how one might find ways to integrate the two
5 systems.

6 And on a separate point, what
7 VENDEX does and doesn't have was developed for
8 reasons other than disclosure, and carries with
9 it over and over, inclusiveness that would at
10 some point have to be a focus of the Board's
11 concern, the definitions and the cut-offs about
12 who appears on that list, from the point of view
13 of disclosure-relevant campaign contributions may
14 not be really congruent. And those are issues
15 that we'll have to grapple with at some point.

16 Now, I had a narrower
17 question about the proposal on the back of your
18 item here.

19 MR. CROWELL: Yeah, sure.

20 MS. GORDON: And I wanted to
21 narrow what I thought Board Member Christensen
22 and Chair Schwarz was talking about on the
23 impact.

24 It seems to me, and I think
25 you accurately reflected this, that the core

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2 question more than whether it's going to
3 discourage candidate participation or discourage
4 people who do business with the City from making
5 contributions, is whether people who don't do
6 business with the City will be intimidated into
7 not making campaign contributions unnecessarily.

8 And I think it is a very
9 tough, hard thing to do to develop a question
10 that doesn't have that side affect.

11 Now, people can disagree
12 about, you know, whether the side affect is
13 important enough or if there are other
14 overwhelming concerns. But I think that's an
15 area that I think needs a lot of attention.

16 And one thing that caught my
17 eye about, and I understand there's not
18 necessarily -- you're not wedded to this language
19 in some way, but one thing wearing my
20 administrative hat that caught my eye was at the
21 bottom is that "if you have any questions, please
22 call the Campaign Finance Board Candidates
23 Services Unit."

24 And since nobody in the
25 Campaign Finance BOARD knows anything about

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2 lobbyists or applications for City grants, land
3 use, permits, concessions, franchises or
4 contributions limited to \$1000, I guess I
5 wondered what service you are anticipating our
6 staff would give to people who had questions
7 about whether they really fall within this
8 definition?

9 MR. CROWELL: I think it's
10 simple, that the Administration obviously would
11 have the expertise in helping you identify that.

12 We'd have to see what the
13 ultimate rule looked like and then we could
14 assist you in terms of doing a Q&M as to what
15 would fall and who to call if there's follow-up
16 information required.

17 The databases are designed to
18 assist in answering these very questions, by the
19 way. So I think --

20 MS. GORDON: It's not going
21 to be -- I mean, it's not going to look like
22 this, even in our wildest dreams.

23 MR. CROWELL: But you know,
24 quite honestly, we can just like have someone,
25 you know, where the information comes from.

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MS. GORDON: I'm trying to be

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really very practical about this because let's

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pretend that we're really only trying to protect

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people who don't in fact do business with the

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City, but who are at an evening fundraiser

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someplace and they want to make a contribution;

8

they have some confusion, whatever it might be

9

and they need to know the answer to whether they

10

are covered by this or not.

11

Now, that raises a whole

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separate question whether there's going to be

13

help available post-business hours and so on.

14

And I can hear the screams right now from

15

candidates about the viability for their efforts

16

of delaying getting that contribution to some

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other time than at the actual fundraising event,

18

et cetera, et cetera.

19

And I understand the

20

Administration is interested is having

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after-hours help, and so on and so forth. But

22

our staff, Candidate Services Unit is designed to

23

assist candidates who comply with the Campaign

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Finance Act.

25

We don't customarily deal

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2 with contributors at all. And we don't, as I
3 say, have expertise in those other areas which
4 you know are not simple areas.

5 To me it's one thing if you
6 can punch your own name into a list and say "oh,
7 now I know I can't do this" or "I should do this"
8 or "I have to disclose." I think -- but it's a
9 whole other thing if you have to make a second
10 step and answer the question and get definitions
11 and so on, which I don't think our staff is
12 competent to respond it.

13 So I just wonder if you have
14 any reflections on that side of it?

15 MS. CHRISTENSEN: Nicole, I
16 have that point, the answer it also seems to me
17 that it's probably not appropriate in the midst
18 of the incumbent running for re-election to be
19 referring to questions like that to the
20 Administration. I can see problems with that.

21 MS. GORDON: I wasn't really
22 focused on -- I had a narrower problem in my head
23 which was, how do we fit in and is that required
24 of us to do?

25 MS. PATTERSON: Can I ask a

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2 very mundane question? In the other questions
3 that are asked of contributors and then end up in
4 the database --

5 MS. GORDON: Right.

6 MS. PATTERSON: -- is there
7 any line that says, "please call Campaign Finance
8 Board Campaign Services Unit?"

9 MS. GORDON: No, for the
10 candidates there is but for --

11 MS. PATTERSON: But not for
12 the contributor?

13 MS. GORDON: Yeah, but this
14 is for the contributor.

15 MS. PATTERSON: I understand
16 that, but why do you need those two --

17 MS. VELAZQUEZ: They know the
18 answer to the question, they know their name and
19 address and they know who they're employed by.

20 Whether or not they do
21 business with the City is --

22 CHAIRMAN SCHWARZ: The
23 questions don't get interpretive.

24 MS. PATTERSON: Except for
25 those who have a convenient approach to what

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2 their home address is.

3 MR. CROWELL: And we do
4 address matching.

5 MS. GORDON: And we address
6 that and we catch those people. But, you know,
7 for the instant giver, the information that is
8 now in access within their immediate ability to
9 answer, I'm just questioning, you know, you said
10 that you're not wedded to this language, but I'm
11 just questioning how we're going to deal in a
12 practical, fair way both from the point of view
13 of the candidates' needs and the contributors'
14 needs with questions that do arise about either
15 -- I mean, I can -- let's just taken one example.

16 Let's say it hasn't been in
17 in the past year and you want to be able check on
18 that. I mean, that might be one --

19 CHAIRMAN SCHWARZ: Or do you
20 know everything that you're employer's doing?

21 You know, to me, all of this
22 illustrates that where you were before,
23 apparently when your colleague came up and
24 whispered to you, is a more truthful way to think
25 about this because we haven't, and you haven't

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2 heard your testimony before the City Council yet,
3 come up with the right definition of doing
4 business.

5 There are very complex
6 questions.

7 Assuming we go in the
8 direction that I think we will, we will have to
9 wrestle with that to do that and come out with
10 proposals.

11 If we're able to do that
12 before the post-November whatever it is, period,
13 then I think the device of asking those who are
14 elected to find the answer to questions, is a
15 good one and it helps get more data on the public
16 record and probably supports the fact that there
17 should be regulation I guess.

18 But again, I like always to
19 be candid with people and I think the specific
20 use proposed, if its something to be done right
21 away, before those difficult questions of how to
22 define doing business, is a mistake and would
23 have affects, adverse affects on potential people
24 giving, that Nicole was referring to.

25 Bill, whatever his name is,

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2 what's his last name? Cunningham, Bill Cunningham
3 that you embraced and then qualified that you
4 did, but it might be more feasible.

5 MR. CROWELL: But this
6 actually dovetails with that.

7 CHAIRMAN SCHWARZ: Except you
8 were saying that it should be done right away.

9 MR. CROWELL: Well, it should
10 be done right away and the reason it would need
11 to be done right away is because you want to make
12 sure that the candidates have noticed that this
13 is a new requirement on them for the campaign
14 season, even though the information may be at a
15 later time.

16 MS. GORDON: That's a
17 different categorization.

18 Let me make sure I understood
19 what you've just said.

20 You're saying that this card
21 (indicating), when the answer to this question --

22 MR. CROWELL: Well,
23 conceivably, conceivably.

24 MS. GORDON: -- might not
25 happen at the fundraiser that I just described?

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MR. CROWELL: Or it might,

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what he's saying there is that it's the

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candidate's choice.

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CHAIRMAN SCHWARZ: Well, it's

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a difficulty. If we haven't determined and you

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haven't come forward with your own ideas on how

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to actually define doing business - and I read

9

your testimony or heard your testimony or heard

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about your testimony before the City Council

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several months ago, and you took to Co-council's

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bill and inside it you say it doesn't make sense

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and it has to be worked with - but how can one

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responsibly put in front of a donor, a question

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which you don't know the answer to and not a

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single member on the Board knows the answer to,

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that can't be a responsible thing to do.

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MR. CROWELL: Well, I think

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you can do it responsibly, I think that, you

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know, in doing this you can come up with a

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definition of doing business or you can come up

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with, you know -- I think it's possible in the

23

short term to come up with some sort of

24

definition of doing business.

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CHAIRMAN SCHWARZ: But let's

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2 take land use and come back to the fact that we
3 have an incomplete record on land use. How could
4 we responsibly define what land use actions ought
5 to be included within the concept of doing
6 business?

7 We haven't had a hearing on
8 it, we haven't heard from the person who's going
9 to be one of the most important witnesses on it,
10 so it wouldn't be responsible for us to use that
11 word "land use permits," it's too much to know.

12 You may agree with me and
13 then we'll able to go in a way that there's
14 consensus instead of disagreement.

15 MR. CROWELL: I think it
16 would be helpful in the next few days that we sit
17 down with staff and actually try to hash out some
18 of these bigger issues. Because I'm confident
19 there is an approach here.

20 I don't think it's -- I don't
21 think it's necessarily going to arise from our
22 discourse here right this minute.

23 CHAIRMAN SCHWARZ: Yes, but
24 that's not responsible to sit down with staff. I
25 mean, we need a public process --

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MR. CROWELL: Well, no, I

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think it is though. I think it is because

4

there's a multitude of considerations and I

5

understand that you have -- you want a public

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process on the land use issue. Here what we're

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doing is just asking whether or not people have

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done some business with the City.

9

It's how you decide to

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qualify or define certain things right now that I

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think obviously it's important, but it doesn't

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necessarily mean that you can't do anything for

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this election.

14

I just -- I don't think it's

15

acceptable to say that there's no possibility of

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doing something for the 2005 election cycle

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because you don't have enough information.

18

I think there's enough

19

information to make some smart choices, interim

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choices on how to do this and then to implement a

21

full-blown program for the next general election

22

cycle.

23

CHAIRMAN SCHWARZ: One of my

24

mentors when I was starting at Cravath gave this

25

expression to me and I'm sure Dale, you've heard

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2 this too, "when you've won, get out of court."

3 And we, one person at least
4 was saying to you, there is a method maybe that
5 we can get something. But you would be smarter
6 to say okay, let's pursue that and not do
7 something where we're asked to have contributors
8 saying whether they do or do not do business
9 before the words "doing business" are understood
10 by us, by you, or by the contributor.

11 MR. CROWELL: I understand
12 what you're saying about winning but that's why I
13 think it would be helpful to sit down with staff
14 and actually hash this out.

15 MS. PATTERSON: This -- the
16 entire way of looking at the doing business issue
17 now is an incrementalist approach. I mean, we've
18 abandoned the concept of coming up with a
19 broad-brush series of regulations, proposed
20 legislation or anything of that sort that would
21 deal with the entire issue presented. Because it
22 is, we just don't have the time and you don't
23 have the data.

24 I don't, again, speaking
25 personally, I don't see anything wrong with an

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2 incrementalist approach to disclosure. It's only
3 disclosure, it is not prohibition, it's not
4 regulation.

5 If by June 1 we have data on
6 everything except City grants and land use
7 permits, I mean, I'm hearing concessions,
8 franchisees, and contracts for more than \$100,000
9 and lobbyists will be -- but that information
10 will be publicly available through the -- your
11 database by June 1. And half of one is better
12 than none.

13 MR. POTASNIK: I mean, I
14 don't see the problem sitting down, seeing about
15 possibly coming back and discussing it.

16 I don't think we should rule
17 out the possibility of sitting down and talking
18 about other possibilities.

19 MR. CHRISTENSEN: Mr.
20 Crowell, let me ask you in that regard, I mean, I
21 think this is disclosure-plus if you put
22 something like this in here.

23 But from your perspective,
24 I'm not asking you to speak for the
25 Administration right now, I'm just asking you of

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2 your own judgment, if this is -- if this
3 statement that would be included in here, was in
4 a subjective as opposed to an objective format,
5 "I believe that I do," would that be satisfactory
6 to you or is that a place you don't want to go
7 in?

8 I mean, you want an
9 affirmative, objective statement by a person who
10 may or may not know whether they're doing
11 business?

12 MR. CROWELL: Well, if the
13 requirement is disclosure, I don't know if saying
14 "I think" or "maybe" is really disclosure.

15 It's disclosure of --

16 MR. CHRISTENSEN: It's more
17 information than having nothing. I mean, if a
18 person forthrightly believes that they do
19 business with the City, that's some ability --

20 MR. CROWELL: I certainly
21 wouldn't rule it out but I would want to somehow
22 qualify, perhaps would want some qualifying
23 language on here about if someone -- if there is
24 uncertainty, that they may be subject to
25 follow-up questions or something like that, in

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2 terms of, you know, if someone's at a party and
3 they want -- or a campaign, you know, event and
4 they want to give a donation and it's like that,
5 maybe there is some mechanism to put in here
6 where they can give a contribution, but, you
7 know, that can later update whatever information
8 it is on there if they -- if they have or are
9 given the option of doing it.

10 CHAIRMAN SCHWARZ: Joe, do you
11 have another question?

12 MR. POTASNIK: No, that's it.

13 MR. CROWELL: But, by the
14 way, this is just for this year. This is just
15 the mechanism for this year so I think, you know,
16 take the incrementalist approach as Board Member
17 Patterson said.

18 CHAIRMAN SCHWARZ: So thank
19 you both very much. And I want to reiterate with
20 what Nicole said, is that the lack of data was
21 what stopped the prior board; a number of us were
22 not on that and you guys at least made a real
23 good start in terms of data and the candidate
24 people.

25 Off the record now.

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(Discussion off the record.)

(The hearing was adjourned.)

(Time noted: 2:57 p.m.)

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C E R T I F I C A T E
STATE OF NEW YORK)
: ss.
COUNTY OF NEW YORK)

I, Marc Russo, a Notary Public within
and for the State of New York, do
hereby certify that the within is a
true and accurate transcript of the
proceedings taken on April 5, 2005. 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.

IN WITNESS WHEREOF, I have hereunto
set my hand this 28th day of April,
2005.

MARC RUSSO

1 114

2 ----- I N D E X -----

3 WITNESS PAGE

4 Anthony Crowell 9

5 Gino Menchini 66

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