CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FINANCE,
EXECUTIVE BUDGET

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CHAIRPERSON RECCHIA: Good morning and welcome to the opening day of City Council hearings on the Mayor's Executive Budget for Fiscal Year 2011. My name is Domenic M. Recchia, Jr., and I am the chairman of the Finance Committee.

At this time I'd like to introduce some of my colleagues who have joined us today. We have Rob Jackson from Manhattan. I'd also like to take a quick moment to thank the entire City Council Finance Division, especially Preston Niblack, Tanisha Edwards, Juliana Han, and Jeff Rodus for their work on these hearings.

The Finance Committee is responsible for recommending a budget to the full City Council in a few short weeks. These Executive Budget hearings provide one last opportunity for Council Members and the public to hear from agencies concerning the impact that cuts proposed in the Executive Budget may have on their ability to deliver essential services.

Also, to ensure that we address these important issues to the residents of the City of New York, the public will have an opportunity to voice their comments and concerns on June 7th at the conclusion of OMB's testimony, which Mark Page will be giving the final hearing.

Last week, on May 6th, the Mayor released his Fiscal 2011 Executive Budget, which totals $62.9 billion. This budget reflects the fact that national and local economic factors are improving, but that we have a long way to go to fully recover from the recession.

New York City is expected to post steady gains in indicators such as employment and wage earnings throughout 2010, but will still be below the 2008 levels. Because New York State has its own budget issues, New York City is expecting a huge drop in state support. As was the case during the preliminary budget hearings, the exact extent of these cuts is still uncertain.

Because the state has not adopted a budget for this fiscal year, which began over a month ago, in light of this uncertainty, the Executive Budget assumes that $1.3 billion in state funding cuts to New York City will be adopted as proposed.

At the same time, certain city

expenses are set to increase. Debt services will increase by $340 million between Fiscal Year 2010 and 2011, while expenses for pensions and fringe benefits will increase by $1.3 billion.

Given all of these difficult factors, the Executive Budget includes the following actions in order to balance the budget. A PEG program to cut spending in agencies citywide totaling $489 million for Fiscal 2010 and $1.3 billion in 2011, and a $493 million reduction in education spending, which will result in the reduction of planned headcount for Fiscal 2011 for fulltime positions.

Even with these actions, however, we are still left with a deficit of $3.3 billion in Fiscal Year 2011. This Fiscal 2011 gap will be filled using surplus funds accumulated in prior years, but the deficit for the out years will be even more devastating with a forecasted gap of $3.8 billion in 2012 and $4.6 billion in 2013 and $5.4 billion in 2014.

As we all know in this economy climate, we have the difficult task of ensuring that New York City makes reasonable responsible budget choices while still providing core services. The Council is concerned about certain programs, cuts and layoffs that are proposed in the Executive Budget which will affect the operations of this great city.

While painful cuts are necessary, the Council and the Mayor must continue to mitigate the pain for our most vulnerable residents and ensure that agencies can fulfill their core mandates.

Today we'll begin our Executive Budget hearings with the Department of Finance follow by the Department of Design and Construction. Then we'll be joined by the Committee on Environmental Protection, chaired by my colleague Council Member Gennaro, to hear testimony from the Department of Environmental Protection.

Let's start with the Department of Finance. The agency Fiscal 2011 budget is $220 million, a 3% decrease from the Fiscal 2010 adopted budget. The planned agency wide reduction to city spending for the Department of Finance is $32.2 million in 2011. The primary source of this spending reduction comes from new projected revenue of $23.1 million, mostly due to increased audit activities. The remaining $9.1 million will have to come through expense budget reductions throughout the agency, including layoffs in several departments.

Today we will hear from the Department of Finance to determine how they will be affected by the cuts and to receive updates on issues discussed in the preliminary budget hearings. Now the committee would like to hear from the commissioner of the Department of Finance David Frankel. But before you begin, I'd like to introduce some other colleagues who have joined us: Council Member Cabrera, Council Member Jimmy Oddo, and Council Member Fidler. You can begin, Commissioner.

DAVID M. FRANKEL: Good morning, Chairman Recchia, members of the Finance Committee and Council staff. I appear before you today proudly representing the more than 2,000 members of the Department of Finance as you begin hearings on the Mayor's final budget for Fiscal Year 2011. I appreciate the opportunity to testify.

Before taking your questions, I will briefly cover a number of topics. First, as part of an exercise meant to address the significant budget challenges we face, the Mayor asked us in March for another group of PEGs or programs to eliminate the gap. I will discuss these programs we expect to implement.

Second, I will update you on the processing of applications for the senior citizen rent increase exemption, or SCRIE, which I know remains a source of concern to you and your constituents.

Third, I want to report to you on an event I attended last week with small businesses concerned about some of the property tax issues raised by the chairman when I appeared before you in March. Finally, I will review the latest data on the assessment role and the annual lien sale.

When I testified a few months ago, I shared details of $20.4 million in PEGs that our agency absorbed as part of the effort to keep the city's finances in balance. As you know, the continued uncertainty in Albany where a state budget is today exactly six weeks late has continued to cloud a difficult budget picture. In March, another group of PEGs were requested.

We continue to do more with less and I will outline here our latest efforts to continue to increase collections and reduce expenses. For the next fiscal year, our largest PEGs come from increased collections anticipated from our audit division.

Data from recently closed audit cases indicate that our initiative to hire 29 new audit staff will generate at least $10 million more than the previous annual projection of $16 million. By using better data mining and modeling techniques, we are generating a larger than anticipated number of cases. Using what we believe is a more accurate revenue rate; we now project that each of the new auditors will generate about $750,000 of new revenue per year.

At the same time, the addition of these new auditors has allowed us to reassign more experienced auditors to the newly formed tax shelter group. That group has already identified 16 additional likely targets for audit, which will also help us exceed the original budgeted revenue estimates.

On the expense side of the ledger, our newest PEGs eliminate four positions, for a savings of $326,000. This will reduce staff in our assigned council plan unit and eliminate our graphic arts department. In another staff related change, we will move four deputy sheriffs to a grant funded warrant program that pursues parents who do not meet their legal obligations. This is funded by federal and state reimbursement program through HRA and will save $323,000.

Finally, we will eliminate the private cleaning contract for the Bush Terminal warehouse finances storage facility in Sunset Park. Going forward, we will expand the agency's use of work experienced program workers, or WEP workers, to clean the warehouse, saving $90,000 annually.

I also not that apart from specific PEG responses, we are constantly looking for ways to make the agency more efficient from both performance and budgetary perspectives. This is critical. Between the city issues with our noncontrollable expenses rising at an unsustainable rate, the difficult situation with the state budget that is only going to get worse and the federal budget deficits that we will all be affected by, we are going to have to do more with less for years to come.

I not that just yesterday the Treasury Department announced that the federal budget deficit hit a record for the month of April. Federal revenues are down significantly and the deficit is now at over $1.5 trillion. While the feds can print money, at some point this all catches up to us and we have to be prepared.

Turning to SCRIE, when I last testified we had approximately 13,150 SCRIE applications on hand. Since then, an additional 4,300 applications have come in, making the total 17,450. Of this, 12,500 are renewals and 4,950 are new applications.

As I discussed in our testimony in March, we have worked since then aggressively to overcome the resulting backlog. With respect to new applications, we have approved 1,600 and denied 750. Of the remaining 2,600 applications, we have reviewed 2,100 and determined these applications are missing information. All these new applicants have been sent letters and we await their response. The other 500 new applications were received in the past three weeks and are being reviewed. It is our goal to ensure we process the 200 to 250 new applications we receive each week in a timely fashion.

We have made even greater progress with the renewal applications. As of today, we have processed all of these applications received through last week and currently have a less than ten day turnaround time. Since March 1st, we have approved 8,050 and denied 40 applications. We still have 44 open incomplete applications, but all tenants have been sent letters explaining what is missing. We are currently waiting to hear back from them.

In total, from March 1st through last week, we have sent a total of 15,500 letters to applicants and 9,000 to landlords. These include approval and denial notices as well as letters informing applicants of how to fix an incomplete application. I expect these letters to lead to a reduction in concern calls to your offices from tenants and landlords about SCRIE benefits.

Moving forward, we are continuing to enhance the SCRIE process. One of the ways that we had hoped to make the process easier for applicants was eliminating the need for seniors to send us income tax returns since we already have this information on hand.

However, we now estimate that about 75% of SCRIE applicants do not file returns, probably because they fall below the filing threshold. We are looking at how these applicants can supply legally required income information to us in a way that makes sense. We will also be working with council to improve the application language and design as well as information provided on Finance's website.

Let me turn to an issue that came up when I last appeared before you. In March you described the frustrations of small businesses concerned about property tax increases. Last week, I appeared before the Economic Development Committee of Community Board 3 on the Lower East

Side of Manhattan. For two hours I had a lively discussion with a diverse group of business owners, property owners and engaged New Yorkers, in some cases enraged New Yorkers that could only have happened here.

Many of these business owners were concerned about property taxes. Since their leases require that they pay increase in property tax, they wanted to know how to find out if their landlords had received a property tax refund so they could ask for their share. I told the businesses that information on most assessment reductions is available online from the Tax Commission.

In addition, I pointed out that since 2007, the Mayor and City Council have enacted several pieces of legislation oriented to small businesses that reduce their collective tax burden by about $270 million.

While discussions around property tax questions and other tax related issues can get heated and emotional and have no easy solutions, I find discussions with community groups invaluable both as a means to correcting misconceptions and getting input from those most affected by the law and the process. As I mentioned last time, I and other members of my staff would be happy to accept similar invitations to appear before groups in your communities.

Let me turn to the assessment roll and the lien sale. Under the City Charter, Finance is mandated to release the final assessment roll by May 25th. While the roll is not yet final, we expect billable assessed value to be about $1.375 billion lower on the final roll than the tentative roll. This results from Tax Commission actions, changes by notice and the completion of exemption processing. This reduction is in line with prior years.

Also, I know you are aware of lien sale matters because you held a hearing on the subject just last week. The final day to pay notice debt in the lien sale was last Friday. We saw significant revenue collected during the notice period. In fact, a majority of the properties initially at risk of having a lien sold either paid in full, entered into a payment agreement or received an exemption that removed them from the lien sale.

Of the initial pool of 25,000, approximately 17,000 properties submitted payments totaling $95 million, which removed roughly $230 million of debt from the lien sale. Approximately 1,100 properties were pulled from the sale, most due to a senior citizen or disabled homeowner exemption or because it was part of an HPD program. There are currently about 6,800 properties with liens still qualified for the sale, representing $135 million in debt, $89 million of which is property tax.

Finally, one of the important things we do in Finance is administering exemptions and abatements. In Fiscal Year 2009, the city granted $3.9 billion in property tax exemptions and abatements to private properties. These actions are all mandated by state and city laws. $1.6 billion of that is dedicated to relief for residential properties and programs such as 421A, Mitchell Lama and J51 programs. Also in this group are the senior citizen and disabled homeowner property tax exemptions.

Another $500 million goes to the

ICIP/ICAP program which is dedicated to protecting jobs and encouraging commercial development. The remaining $1.7 billion is for institutional properties such as not-for-profit, religious, medical, educational and cultural facilities, which often serve as the anchors of our neighborhoods.

While it is important that we properly administer tax benefits that go to the deserving, we must also make sure that we hold those who do not pay their fair share accountable. That minority of businesses and individuals who evade their tax obligations or who don’t pay in a timely or accurate way create an unfair playing field and make victims of the rest of us. Leveling that playing field is a critical mission of the agency.

This leads me to my final point, one that I repeat whenever I speak publicly. I believe that the wonderfully dedicated staff of the Department of Finance, some of whom are here with me today should be considered heroes. They should be the heroes of the majority of individuals and businesses who meet their obligations to support all of the services you will be talking about through these budget hearings, from sanitation to public safety to education, all the services that we provide as a government. Thank you. I'll be happy to answer your questions.

CHAIRPERSON RECCHIA: Thank you, Commissioner. We've been joined by Council Member Brewer, Council Member Koppell, Council Member Van Bramer, Council Member Arroyo, Council Member Julissa Ferreras and Council Member Vincent Ignizio.

Thank you. There are a lot of things we have to say. You keep on talking about property taxes but I don’t hear you talk about the water increases at all in your testimony. That's very interesting. First I'm going to call on my colleagues to ask their questions because we have many other hearings going on and things we have to do. But I'll come back and ask you questions. First we'll start off with Council Member Lew Fidler.

COUNCIL MEMBER FIDLER: Thank you, Mr. Chairman. I will be very brief.

Commissioner, I wanted to say a very, very public thank you to you. I don’t know that we toss the word heroes around all that casually but I have found and my office has found your staff to be supremely cooperative. When we call with a problem on behalf of a taxpayer, we always get a resolution that's reasonable and prompt. That is a very refreshing thing when dealing with a city agency. So I want to start by saying thank you to you and your staff. We really very much appreciate it.

DAVID M. FRANKEL: I thank you for that. These are the people responsible for that, not me.

COUNCIL MEMBER FIDLER: As an old Jewish expression about the fish stinking from the head, the reverse is also true.

CHAIRPERSON RECCHIA: There are a lot of old Jewish expressions.

COUNCIL MEMBER FIDLER: Somehow I don’t think it's a Jewish expression either. I just want to ask you about the results you're getting from your auditors. I'm wondering if there is a particular area in which they are finding this revenue. If so, if a review of their work would give us some indication of ways we might be able to tighten the system so that the taxes are paid properly in the first instance.

DAVID M. FRANKEL: Most of the additional revenue is coming from the fact that we're able to do more cases with more auditors. But another significant part, as I've said in the testimony, it's been from our ability. Because we have these new auditors, we've now been able to transfer some of our more experienced auditors to a new unit we've set up that deals with tax shelters.

In the past we haven’t dealt with tax shelters in a particularly focused way. Primarily for many years, tax shelter abuse was mostly on the federal level. But over the past several years we find that businesses are getting more and more sophisticated and many of their tax shelters now are dealing with both state and local city tax issues.

So we now have a group of people who are focused greatly on that. And just in the last few months, we've come up with 16 additional cases that we're focused on and we expect to generate at least another $5 million from just the tax shelter group that we set up recently than we had anticipated three or four months ago.

COUNCIL MEMBER FIDLER: That's certainly good news in terms of looking at the more sophisticated tax dodgers. I'm sure that the average citizen in the City of New York appreciates that greatly. But the revenue generating from these audits, is this sales tax money, is it income tax? Where is all of this money coming from? Can you break it down at all?

DAVID M. FRANKEL: It's primarily both business taxes and sales tax issues. We're also looking at businesses that don’t pay any tax, that are part of the underground issue. And we can break it down a little bit more for you if you want and we can send you some specific information.

COUNCIL MEMBER FIDLER: I think that would be interesting. I also would then ask, and I don’t know if you could have the answer here today, in talking to your auditors, are they finding a repeated pattern? Is it just dishonesty or are there things that we could do on our business tax forms, on our sales tax returns that would tighten up the system? Is there a systematic problem that we could fix so that it didn’t need to get to the audit stage? If you could get back to me with that, I'd appreciate that too.

DAVID M. FRANKEL: Sure. I should just also point out that some of the audit revenue that we get has nothing to do with dishonesty. There are many taxpayers who fill out their forms and it's just wrong. Not necessarily because anybody was trying to be deliberately dishonest, it's just wrong or we have a different interpretation of a particular law than they do. I mean some of it is dishonesty and fraud and we will pursue that wherever we find it. But a great deal of it is also just essentially differing interpretations.

COUNCIL MEMBER FIDLER: That answer actually is exactly in line with the question I'm asking. Because if there is something in one of our forms that when you're looking at them you see a recurring pattern of people not understanding it correctly, maybe that's a problem we need to fix. Maybe as a Council we can fix it and allow you to take even more auditors off of simple stuff to the more sophisticated tax shelter kind of stuff. That’s exactly what I'm looking for.

DAVID M. FRANKEL: Fair enough. I think it's less the form than it is the interpretation of some very complex laws and how you interpret certain kinds of income and deductions. It's not necessarily just the form.

COUNCIL MEMBER FIDLER: Maybe we can fix that too. Thank you very much.

DAVID M. FRANKEL: Thank you.

CHAIRPERSON RECCHIA: Council Member Gale Brewer, but before that, I'd like to recognize Council Member Al Vann who joined us and Council Member Darlene Mealy. Go ahead, Council Member Brewer.

COUNCIL MEMBER BREWER: Thank you very much. I also want to echo the fact that your staff is great. Obviously Chris Brown I've known I don’t know how many years, but everybody is great. I want to talk about the SCRIE form, as you can imagine. I thank you for your support.

I'm the one that's probably bugging you the most.

So my question is you had indicated some of the ways in which you're trying to reform. How many people are working in that division is one of my questions now? Do you have enough to deal with this backlog?

DAVID M. FRANKEL: The answer is yes. I mean we have a permanent staff of eight there, but we've augmented that over the last two months with I think another 13 people. But we expect those people to go away when we've got the situation under control, which we're pretty close to. I think I said back in March that by the end of June we would do that.

COUNCIL MEMBER BREWER: You did.

DAVID M. FRANKEL: And I'm pretty sure that we're pretty close to that now and we will meet that target and we'll probably be early.

COUNCIL MEMBER BREWER: I guess some owners have complained that they can't get computer access to check on their abatements. Is that dealt with in the discussion you just mentioned about the website?

DAVID M. FRANKEL: We expect in the

next couple of months to have a lot more information online for people.

COUNCIL MEMBER BREWER: You mentioned that you send letters to seniors. What happens if they don’t answer, because seniors sometimes don’t? In other words, that's one communication. Is it something where you can call APS? What happens if they don’t answer? Sometimes they could have passed. Sometimes you just don’t know.

DAVID M. FRANKEL: It's a general rule if they don’t answer we don’t have a program in which we reach out to them on the phone.

COUNCIL MEMBER BREWER: Do you know if DFTA did? I don’t know.

DAVID M. FRANKEL: I don’t know the answer to that.

COUNCIL MEMBER BREWER: I mean, that's the issue where a little social work and a little Finance Department. I'm just saying that's the kind of work that sometimes with the seniors you have to work on. They may not be able to answer. Again, if DFTA did it, it would be good if you did it. If DFTA didn’t then maybe we need to think of something else. I throw that out because that's not your sort of normal taxpayer perhaps but it's somebody who might need some help.

DAVID M. FRANKEL: I appreciate that. On the other hand, I mean almost everybody has sent in an application. So we are dealing with a community that is used to using the mail and knows that they have to do this but I certainly hear what you're saying.

COUNCIL MEMBER BREWER: So if you have a large number I guess of non-responders, then that would be the time to look at it.

DAVID M. FRANKEL: Right. We generally don’t. But I hear what you're saying and I'll look into that.

COUNCIL MEMBER BREWER: Then the issue of income forms not being available for income tax. Is that something that DFTA had to deal with in addition? How did they handle that?

DAVID M. FRANKEL: DFTA always asks for your tax return. We were hoping that we wouldn’t have to ask for your tax return and make it easier. And we will in 25% of the cases.

COUNCIL MEMBER BREWER: Right.

DAVID M. FRANKEL: So 75% where they don’t file tax returns, we still need, by law, to get other verifying information as to what their income is.

COUNCIL MEMBER BREWER: And that's what DFTA did also?

DAVID M. FRANKEL: That’s what DFTA did as well.

COUNCIL MEMBER BREWER: And they got other kind of verifying information?

DAVID M. FRANKEL: Right.

COUNCIL MEMBER BREWER: The other question I have is Council Member Fidler had mentioned this last time because he'd had the MTA tax challenge in terms of how it was collected. I do hear the same thing from people who are paying it. Is that something that you have to deal with in terms of improving the collection of it?

DAVID M. FRANKEL: No.

COUNCIL MEMBER BREWER: That's all state.

DAVID M. FRANKEL: Yes.

COUNCIL MEMBER BREWER: Okay. Do

you any of your, and I should know this, returnable to Environmental Control Board or are they returnable to Finance? Parking tickets, et cetera, in other words, when you have to pay a parking ticket fine.

DAVID M. FRANKEL: When you pay a parking ticket you pay it to us.

COUNCIL MEMBER BREWER: Do you have any collection problems? Remember years ago there was a problem that nobody could read it and now it's clearer. All of those issues of making sure that the fine gets paid, obviously legibility, et cetera, is something that was a concern in the past. Is that no longer a concern?

DAVID M. FRANKEL: I think it's much, much better. That doesn’t mean we don’t have serious issues in collecting some parking tickets.

COUNCIL MEMBER BREWER: Right. What would some of those concerns be other than people just not paying? In other words, in the past some of the issues were that it wasn’t written correctly and so the person somehow managed not to pay it.

DAVID M. FRANKEL: I won't say that's not an issue. It's much less of an issue than before. But our primary issue is people not paying, by far.

COUNCIL MEMBER BREWER: Do you know if the police officers, who are doing it, or the parking ticket officers, do they all have handhelds now or you don’t know?

DAVID M. FRANKEL: I don’t believe they all have handhelds. We do send information to the police department, I think on a monthly or perhaps quarterly basis, describing by officer how many tickets were dismissed for various reasons. So they get that data.

COUNCIL MEMBER BREWER: Do you think they deal with that in a way that could be helpful in the future?

DAVID M. FRANKEL: I think they probably do just because we've seen a decrease in the number of tickets I believe that we're reducing. But I don’t precisely know what the police department is doing.

COUNCIL MEMBER BREWER: Thank you, Mr. Chair.

CHAIRPERSON RECCHIA: Thank you, Council Member Gale Brewer. I want to recognize Karen Koslowitz, who has joined us. The next to ask questions is Robert Jackson.

COUNCIL MEMBER JACKSON: Thank you, Mr. Chair and Commissioner and staff, good morning to you.

DAVID M. FRANKEL: Good morning.

COUNCIL MEMBER JACKSON: I want to ask questions regarding the earned income tax credits. Earlier this year, my understanding, the state issued its New York City residents earned income tax credit report for credits claimed in tax year 2008. Comparing the numbers in 2008 with 2007, there were 50,000 fewer New Yorkers claiming the credits in 2008 compared to 2007, which is about a 5.8% drop, from 862,000 to 812,000.

But in the preliminary budget hearings, we had asked if you had any thoughts on why there were fewer city residents claiming the EITC in 2008 than in the previous year. At that time, you were unsure. Have you had a chance in the intervening time to take a closer look at these issues and can you report on them at this time?

DAVID M. FRANKEL: The answer is yes, we've thought about them a lot more. My answer remains the same. I don’t really know. I appreciate that that's not a satisfactory answer. We really don’t have any specific data on why we might have fewer people filing their EITC requests.

We had a program that we administered in Finance for several years about sending actual returns to people that they could sign and turn in. The state did that last year. The state has indicated to us that they will not do it again this year. I can give you some stats on this. The state mailed amended returns statewide, including 4,256 city residents. Of these, 1,570 sent in their amended returns and 1,255 of them received $495,000 in federal credits.

In talking to their state, their view is that the work that they put into this program was essentially not worth, and I shouldn’t really put words in their mouth, but the return of essentially half a million dollars did not justify them continuing with the program.

I should tell you that we in the city at Finance are talking right now about restarting that program under our own auspices. We haven’t made a final decision yet. But that's in the middle of conversation.

COUNCIL MEMBER JACKSON: You said that you have reviewed that. Can you expand on that? You're still unsure. I guess in a further inquiry, what did you analyze in order to come up with the conclusion that you're still unsure? Another question is can you tell us how many constituents have claimed the EITC in 2009? Look at that number compared to 2008, compared to 2007 to see, if you have that number, whether it has increased or has it decreased more?

In essence, by not claiming the EITC, especially in the communities where we live, we are not pumping monies back into the community.

DAVID M. FRANKEL: Let me answer the last question first. We have no data yet on 2009. Tax return filings took place by April 15th and it's much too early to have any data for the previous year. So hopefully we'll get that in some period of time, but I'm not quite sure.

COUNCIL MEMBER JACKSON: When do you think you would have that data?

DAVID M. FRANKEL: I don’t know. I don’t know when we get it for every year? Does somebody have an answer? Sometime in the fall. So you can imagine, you filed your 2009 tax returns anywhere from January 1st to April 15th of this year and it takes some time to collect that data.

With respect to your first question I have to look at every new thing that we need to take on to see whether I have the resources to do all of it. That’s really the answer to that question. We would love to do it. We have to think about what results. EITC is just like any other program we have to take on. We have to think about the benefits and we have to think about the costs, particular in these times. We would love to do everything. I am telling you that right now we will likely do this.

COUNCIL MEMBER JACKSON: Right.

DAVID M. FRANKEL: But I can't assure you of that yet. We really have to look at our staffing and the budget that we have to do everything that we need to do.

COUNCIL MEMBER JACKSON: Let me say, I can appreciate looking at the cost factor in carrying out a program and what the benefit would be. Obviously that’s what we expect you and your staff to do, without a doubt. But I know that Council Member Reyna has suggested during the preliminary budget hearing process including information about the EITC in email to city employees encouraging them to file if they're eligible, much as a similar note that had been included back when employees received pay stubs. Have you had a chance to explore that idea?

DAVID M. FRANKEL: We did explore that a little bit. If my memory is correct, we don’t think that there are very many city employees who would qualify for EITC credit. So honestly we haven’t gone particularly far with it.

COUNCIL MEMBER JACKSON: Really? The average income for a city resident is about $50,000 if I'm not mistaken. Do you have a figure on that?

DAVID M. FRANKEL: No.

COUNCIL MEMBER JACKSON: I say that because I know that many employees earn, especially if it's a single family, a $50,000 threshold, if they have a family of four, they're entitled to EITC.

DAVID M. FRANKEL: I'm not saying there aren't a number. I don’t know quite what that number is.

COUNCIL MEMBER JACKSON: Obviously you said you're going to explore whether or not you will carry out this program yourself. I would just hope that I guess maybe that we have more statistical information so that we can have a more detailed response from you with respect to some information about that.

DAVID M. FRANKEL: As I'm saying, we would love to do this. I think it's a great idea. I just have to make sure I have the resources that I could do it and it doesn’t bump something else. That's really all it is. If we do it, we will do it in the fall.

COUNCIL MEMBER JACKSON: Let me thank you for your response for that. I just want to say that I appreciate the fact, and I was reading our briefing document, that you're going to in-source. In essence, you're going to get rid of a contract that you had for IT services and you plan to hire 29 information technology specialists who will perform the duties that were once performed by contractors, a savings of about $5.9 million in Fiscal Year 2011. I applaud you for that.

Because DC 37 as a union has constantly said that we, as the city of New York, outsource too much. And in fact when you can hire city employees and save $5.9 million with one contract, if we multiple that 100 times, that's a lot of money. So let me thank you and your staff for making the decision to go in that direction.

DAVID M. FRANKEL: I appreciate that. I will tell you that there are some jobs that we think should not be outsourced like these 29 others. There are some that we think probably work better that way.

In this particular case, the jobs that we are in-sourcing, we were paying about $345,000 per person and we are currently going to pay about $120,000 in salary. With benefits that comes to about $170,000 a person. So we're taking what we were paying a $345,000 job and cutting that to $170,000 plus getting another person on the city payroll.

COUNCIL MEMBER JACKSON: Congratulations.

DAVID M. FRANKEL: Thank you.

COUNCIL MEMBER JACKSON: Look some more and do some more of that.

CHAIRPERSON RECCHIA: Thank you, Council Member Jackson. Commissioner, I just want to turn your attention and ask you about the hotel tax. The hotel industry, they get to self-certify and the number of audits done on hotels are very small. The hotel tax has been going up, but the amount of income I thought would be a little bit larger.

The number of audits that you do on hotels is extremely small. Why do you let the hotel industry self-certify?

DAVID M. FRANKEL: I don’t know the answer to your question.

CHAIRPERSON RECCHIA: Does anybody on your staff?

DAVID M. FRANKEL: I don’t know.

CHAIRPERSON RECCHIA: This seems to be a problem to me. This seems to be a big issue. That the hotel industry, which is a large business in the city that we don’t have auditors auditing them constantly. We are letting them self-certify.

DAVID M. FRANKEL: I should just tell you that our projection for additional audit revenue from the hotel audits is about $5.5 million for the coming year. Or it was $5.5 million in 2010, which was up $4 million from the previous year.

CHAIRPERSON RECCHIA: How many auditors do you have working on this section?

DAVID M. FRANKEL: I don’t know the specific number of auditors on hotel tax issues.

CHAIRPERSON RECCHIA: Does anyone?

DAVID M. FRANKEL: I'm told about a dozen.

CHAIRPERSON RECCHIA: A dozen auditors?

DAVID M. FRANKEL: Right.

CHAIRPERSON RECCHIA: For the hotel

industry or a dozen auditors that do everything?

DAVID M. FRANKEL: No, for the hotel industry.

CHAIRPERSON RECCHIA: That's a small amount. I think that this is someplace that we might be able to pick up much more revenue. I would appreciate it if we would follow up in a letter to you with these questions. We would like an answer to them.

DAVID M. FRANKEL: We currently have about 45 open audits on the hotel industry which represents about 7% of hotel filers.

CHAIRPERSON RECCHIA: What's the number of audits that we've done over the year, like last year?

DAVID M. FRANKEL: We have 45 open ones. I presume those are most of the ones we did over the last year because they don’t close that quickly.

CHAIRPERSON RECCHIA: I think I've made my point and we will send you a letter asking for this information.

DAVID M. FRANKEL: I hear you.

CHAIRPERSON RECCHIA: I believe

this is an area that should be examined, should be looked at. I think just the way you hire 29 more auditors to do tax shelters and look at corporations; I think this is one part that we should really look at. I'd love to have a great conversation with you.

DAVID M. FRANKEL: Just let me say that we hired these 29 auditors. If I could hire another 29 or another 129, I'm saying if this is an area where we think we can bring in more revenue than it would cost us to fine, I have no doubt that we would get funded for that and will take a look at that.

CHAIRPERSON RECCHIA: I think we should definitely take a look at that. We've been joined by Council Member Diana Reyna from Brooklyn. Welcome. At this time, Oliver Koppell will ask the next questions.

COUNCIL MEMBER KOPPELL: Mr. Chairman, unfortunately I don’t have precise recollection of years, but some years ago there was a major scandal involving under assessment of large properties in New York. You may remember that. Do you have in place a robust program of investigation to assure us that that kind of situation wouldn’t occur again?

DAVID M. FRANKEL: I think that took place in the early 90s.

COUNCIL MEMBER KOPPELL: It was much more recent than that.

DAVID M. FRANKEL: I mean in the early 2000s.

COUNCIL MEMBER KOPPELL: Yes.

DAVID M. FRANKEL: So in about 2002?

COUNCIL MEMBER KOPPELL: Yes, that's more close to my recollection.

DAVID M. FRANKEL: At the time there were a number of arrests and convictions of some of our assessors at the time. The Department of Investigation did a report on some of the shortcomings in the agency in terms of systems and people and staff and reviews. I mean the answer to your question is yes, I think we have a robust program in place. I can never give you assurances that this would never, ever happen again.

COUNCIL MEMBER KOPPELL: I mean, do you do spot checks for instance? Do you pull out an application out of 500 and take a look and see what happened there?

DAVID M. FRANKEL: We do look at anomalies in the assessment system. If you get a building that one thinks should be assessed at a million dollars and it is $100,000 or ten times that, we will look at that periodically.

COUNCIL MEMBER KOPPELL: I mean not only anomalies; the problem is that you could have a loss of substantial revenue even if you had a 10% or 20% under assessment of one of these large commercial buildings.

DAVID M. FRANKEL: That's true.

COUNCIL MEMBER KOPPELL: So just looking t huge anomalies wouldn’t necessarily reveal what might be substantial fraud.

DAVID M. FRANKEL: We have assessors. They have managers. Those managers have managers. And particularly the big buildings are all reviewed and gone over a number of times before we put them on the final rolls.

COUNCIL MEMBER KOPPELL: That's why it was so surprising what happened some years ago. Also, and I don’t expect you to answer this now, but it would be interesting for me to know how the faulty assessments were corrected after that incident six or seven years ago?

DAVID M. FRANKEL: I don’t know the specifics of it.

COUNCIL MEMBER KOPPELL: Could someone get back to me on that?

DAVID M. FRANKEL: Sure.

COUNCIL MEMBER KOPPELL: As to whether those property owners were reassessed and did they pay back monies that they should have paid? I'd be curious to know. We read about these problems and then we never know what happened subsequently.

DAVID M. FRANKEL: We'll get you that information.

COUNCIL MEMBER KOPPELL: I'd appreciate that. I assume the Chair would be interested in that as well. Thank you.

CHAIRPERSON RECCHIA: Thank you, Council Member Koppell. Council Member Mealy is next.

COUNCIL MEMBER MEALY: Good morning, Commissioner. I just would like to thank you and your staff. I'm the chair of Contracts and just to see that you looked in-house to save money. If more commissioners would do that, this city will maybe have less layoffs or more jobs just by in-sourcing and making sure our city contractors, our unions will be able to survive also.

I only have one question. I would love to have you come to my district.

DAVID M. FRANKEL: Be happy to do it.

COUNCIL MEMBER MEALY: You said you love to speak to groups. I have a lively group that would love to talk with you and see how the small businesses in our area can get the right tax abatements.

The City Council was talking about amnesty on the parking tickets. Have you thought about that any further? How would that help the city? I know it's about $700 million overdue parking tickets since 2001.

DAVID M. FRANKEL: I should tell you that I am generally skeptical of amnesty programs. I think I said this the last time I was here. I particularly think that an amnesty program only works if there is very serious enforcement at the end of the amnesty program; otherwise you wind up in the same position. You know, I don’t have to worry about paying my ticket or anything else. The city is not really serious about it and I can just keep on holding onto it.

COUNCIL MEMBER MEALY: So you're really against amnesty programs?

DAVID M. FRANKEL: Excuse me?

COUNCIL MEMBER MEALY: You've against amnesty programs for parking tickets?

DAVID M. FRANKEL: No, I'm not necessarily against it. I'm just saying it has to be shaped in a way that it's really effective. It we ran an amnesty program every five years there'd be no reason for anybody to ever pay their ticket. Right? Just don’t worry about it; eventually the city will say we have an amnesty program.

So first of all, we have to be very careful about what we grant amnesty for. We have a very high collection rate on tickets that are relatively recent. There'd be no reason to give anybody amnesty if they're going to pay their ticket.

Then you say, well then we're going to reward people who never paid their tickets. Out of this $700 million, I think it's 40% or so of that is from out of state drivers. Another 30%, although actually there is some overlap of that, represents tickets that are I think two or three years old.

In many cases we will just simply never collect this. What we really have to do to begin with is to try to figure out what of the $700 million is actually collectable and come up with a real number. We have to do that in many cases in many places in the city with city debt. We currently have over $5 billion of city debt that remains to be collected, but much of that is just simply not collectable as many businesses have.

COUNCIL MEMBER MEALY: Do we really have a plan for the out of state? I guess diplomatic plates; they have about 40% tickets in the city. Do we have a concrete plan on how we're going to reap those revenues?

DAVID M. FRANKEL: With respect to

the out of state plates, and we should separate this into categories. There are out of state normal drivers. Within the city there are diplomatic plates which represent a relatively small, although painful situation, I would say for us. It just annoys me that diplomats think they can just park wherever they want.

We are constantly working with the Mayor's Commission for the U.N. to try to figure out how to collect parking tickets, collect property taxes that should be paid. I mean not all missions and everything else are tax exempt in the city. There are some countries that own property that they use for commercial purposes that should have property taxes associated with them and we're working on that.

The 40% of parking tickets that I was talking about that were out of state were basically normal drivers from Connecticut, New Jersey, Pennsylvania and other places like that who come into the city, get a parking ticket and we don’t have as good enforcement mechanisms for people outside the city.

We have recently contracted for

better information of just finding out who these people are and where they are and we are trying to go after them. I've forgotten the exact number but we have collected many millions of dollars more in the last six to eight months than we have at any time in the past from out of state drivers.

COUNCIL MEMBER MEALY: So it's getting better?

DAVID M. FRANKEL: It's getting better.

COUNCIL MEMBER MEALY: Thank you so much.

DAVID M. FRANKEL: Thank you.

CHAIRPERSON RECCHIA: Council Member Al Vann.

COUNCIL MEMBER VANN: Thank you, Mr. Chairman, and good afternoon, Commissioner. Reading over your testimony, and in the section four, dealing with assessment and lien sale, at the end of that section you indicated that there are currently 6,800 properties with liens still qualified for the sale and what it represents. Essentially you say that it represents $135 million in debt and $89 million of that is property tax. Can I assume that the balance of that would be delinquent water?

DAVID M. FRANKEL: Yes.

COUNCIL MEMBER VANN: Which means that leaves some $46 million in water debt. What number of properties would represent that $46 million?

DAVID M. FRANKEL: I don’t know. I can get you the information but some are one or the other and some are both.

COUNCIL MEMBER VANN: Some of them are just property.

DAVID M. FRANKEL: Right. Some are just property, some are just water and some are both water and property.

COUNCIL MEMBER VANN: So that $46 million would be either water or water and property?

DAVID M. FRANKEL: No, the $46 million is just water.

COUNCIL MEMBER VANN: That is just water.

DAVID M. FRANKEL: And the other number was just property. But one property could have a piece of both of those two numbers.

COUNCIL MEMBER VANN: Since last Friday, a lot of people took advantage of that date by either paying in full or going into a payment agreement. Yet, these $46 million represent properties who did not take advantage of that date. Do we have any idea who the owners of these properties are and why they wouldn’t take advantage of this opportunity? Do we have any demographic or any kind of information on these people?

DAVID M. FRANKEL: Well, we know where all the properties are. I can't tell you that we have information that tells us who owns those particular properties. Now we do have information on who owns them with respect to every particular property. But we don’t have any way of really collecting that information and saying 1,000 are this, 2,000 are that. We can tell you the neighborhoods they're in and we can do all of that. But I don’t have specific demographics on the individuals and what their characteristics are.

COUNCIL MEMBER VANN: Historically,

what can we expect with this group? Will they go into foreclosure? Will they make a deal with a third party that we sell their liens to? What is your prognosis of what will happen with this group?

DAVID M. FRANKEL: For the most part they'll eventually wind up paying their money. Very few properties go into foreclosure, certainly in the last four or five years. Out of the thousands and thousands that have been a part of the lien sale from 2002 to 2006, and the numbers, remember it takes several years to go through this whole process, so that's what we're looking at. I mean there have only been about 200 to 300 or so properties in the last four years that have actually been foreclosed on out of the hundred thousand or so, or more that we started with. So it's a very, very small number.

COUNCIL MEMBER VANN: Of course, any one is bad. I lost my train of thought. Those who have entered into a payment agreement, what does the experience indicate? That they will complete that? Do we expect those who entered into a payment agreement will indeed maintain their payments and will not be subject to the sale?

DAVID M. FRANKEL: Most maintain their agreements. The ones that don’t, they can go right back into the sale. And any agreement we had in the past then all their taxes are due and owing immediately again. Sometimes we have that. I don’t know the exact rate of default on payment agreements but I can get that for you as well.

COUNCIL MEMBER VANN: Earlier in your testimony you mentioned SCRIE and your attempts to simplify the application and so forth. Do we actually know the seniors or the people who qualify for SCRIE that they may not apply for the exemption?

DAVID M. FRANKEL: I'm sorry.

COUNCIL MEMBER VANN: Those who apply for the SCRIE exemption can we identify them other than at the time they apply? Is there other information we have that determines who is eligible even though they may not apply for the exemption?

DAVID M. FRANKEL: We don’t generally currently do that now, although, there are city agencies that reach out. On our websites and in other ways we try to tell people what our abatements are and what different programs you can apply for are. We don’t look at the demographics particularly of an issue and say we can identify the people who are over x age with this kind of income. We don’t affirmatively reach out to those people and do that.

COUNCIL MEMBER VANN: But we do know who they are? I mean we know from the data?

DAVID M. FRANKEL: We probably have data, and I'm careful here because whenever I think something is easy to find, it always turns out to be a six month or a six year plan. So I'm saying that certainly somewhere in the city, probably a lot of it at DOF, although I'm not sure we have all of it, we have data that if you pieced it all together you could probably figure out who might be eligible for any particular program. Sometimes they're easy to do and sometimes they're incredibly difficult to do. So that's where we are on that.

COUNCIL MEMBER VANN: One last question in another area. I think it was back in

March when you mentioned the over 60 layoffs, I guess in regard to meeting your PEG quota. I don’t recall. But I noted in today's testimony you mentioned four more as a part of your PEGs. It's kind of unusual to have layoffs in finance since you're really a revenue agency. I guess you ought to be commended for that. Do you have plans for any more layoffs other than those?

DAVID M. FRANKEL: We had 61 layoffs with respect to the first PEG. We had four related to this one. We are reducing our staff by another 23 people in relation to just general efficiency matters. I am constantly looking at this agency and trying to figure out how we can make it more efficient and most cost effective.

In specific answer to your question, do I have a plan right now to lay off anybody else, the answer is no. Do I expect that over the coming years we will continue to reduce our staff? I think the answer is yes. We will probably need a very different mix of people to make the agency more and more efficient. But I can't tell you today precisely what we're doing.

I've hired some fantastic people who are helping me do that. Like any good business, we are going through our agency piece by piece to try to figure out how to get the core function in the most efficient way that we possibly can.

COUNCIL MEMBER VANN: Just clarify for me the difference in terms of a layoff for efficiency and a layoff to meet a PEG.

DAVID M. FRANKEL: When we get a PEG, we're told by the Office of Management and Budget here's what you have to do. Here is your target. And we figure out how to reach that target.

I would do most of these things whether I had a PEG or not. As a matter of fact I sometimes think, quit honestly, that many places in the city wait for a PEG to think about their agency and how to reduce their costs. That's not what we're doing quit bluntly.

So absent PEGs we are constantly looking at this agency and trying to figure out where we need fewer costs. I know it sometimes translates into people but sometimes it's not people, and where we might need more people.

As I've said, we've hired 29 new auditors. We've increased our staff in that respect by 29 people because we thought that was a revenue efficient thing to do. If there are other places we're not providing the services that people need, we may have to do that as well.

Although, quite honestly, with the budget situation that I described on the city, state and federal level, my guess is that over the coming years we are going to see agencies that have to significantly decrease their costs that may include affecting some services that are provided.

I mean just look at what the governor did. He was going to furlough everybody for a day a week. And agencies in there were planning whether they were going to shut down for a day or what they were going to do. I hope that doesn’t come to pass in the city. But I think undoubtedly as we try to look to do things our first job is to try to figure out how to do much more with much less. At some point you can't do that anymore and you're going to do a little bit less with much less. But we haven’t quite reached that stage yet.

CHAIRPERSON RECCHIA: Council Member, can you just wrap it up?

COUNCIL MEMBER VANN: Yes, I can, sir.

CHAIRPERSON RECCHIA: Thank you.

COUNCIL MEMBER VANN: You did mention you hired new auditors, and yet in terms of efficiency you've laid off some people. It's almost like a wash isn't it? You added auditors but you're laying off in another area. It's not a criticism; it's just trying to understand.

DAVID M. FRANKEL: Well, as I said, we're changing the mix. We hired 29 new auditors because we could show that the cost of those auditors were x and they would bring in 10 or 20 times x in revenue. We hired another 29 people in our technology unit because we showed that we could hire them at half the cost we were paying to have outside people. So in those kind of cases we will hire people constantly if we can show those kind of savings and those kind of efficiencies.

COUNCIL MEMBER VANN: Got it. Thank you, Commissioner.

DAVID M. FRANKEL: Thank you.

CHAIRPERSON RECCHIA: Thank you, Council Member. Council Member Karen Koslowitz is next.

COUNCIL MEMBER KOSLOWITZ: Thank you, Mr. Chair. I noticed that the new applications for SCRIE are 4,950. Can you tell me if that's a large increase from previous years?

DAVID M. FRANKEL: I don't think so. But I don't have the specific data for previous years. But we can go back and I can give it all to you.

COUNCIL MEMBER KOSLOWITZ: I would really be interested to see that. Also, on the renewals, I noticed that four applications were denied.

DAVID M. FRANKEL: I think it was more than four. I think it was 40.

COUNCIL MEMBER KOSLOWITZ: Forty, I'm sorry, out of 8,050. What are the reasons, since it's a renewal and they have been getting it? It is because their income has gone up?

DAVID M. FRANKEL: Probably in most cases.

COUNCIL MEMBER KOSLOWITZ: In the application process, is there a way if someone can't fill out the whole thing or doesn’t understand it that they can get help for this?

DAVID M. FRANKEL: Sure. You could call 311 and they'll give you help. You can call 311 and they may be directed to us. We'll try to help anybody if they have trouble filling out an application. I mean no one should be denied benefits simply because they can't fill out an application.

COUNCIL MEMBER KOSLOWITZ: Right. The time that it takes for an application to be processed, how long is that process?

DAVID M. FRANKEL: To go back, I will tell you what I said in March. We took this process over in September and we did a terrible job taking it over. By January we had backlogs of what I've reported in our testimony.

Since that time, the staff has done a spectacular job in reducing this backlog until now for the most part you're going to get a response to a renewal or a new application within weeks from us. Now it may be that we tell you that you haven’t provided all of the information you can and we'll tell you what you still need to do. Maybe we grant it or deny it based on what information you sent to us. But certainly by the end of June we will be all caught up and have a program where you shouldn’t get very many complaints unless we mess up on a few from time to time.

COUNCIL MEMBER KOSLOWITZ: Is there any method of giving someone if it takes longer, let's say a month or two months, to give them retroactive?

DAVID M. FRANKEL: That's what happens.

COUNCIL MEMBER KOSLOWITZ: They do?

DAVID M. FRANKEL: Yes, that's what happens.

COUNCIL MEMBER KOSLOWITZ: Thank you.

DAVID M. FRANKEL: Thank you.

CHAIRPERSON RECCHIA: Council Member Gale Brewer.

COUNCIL MEMBER BREWER: I'm sorry. I'm still on SCRIE. Laurie is helpful, Chris is helpful and I think we have 50 cases that they're kindly looking at just right now in terms of the SCRIE in my district. One of the issues is rent control. Rent control tenants do not have a lease. You apparently are asking for a lease. Do you know anything about that? They don’t have a lease; they're statutory tenants. Maybe we only have rent control left on the west side, but there's no lease. So I'm just saying that's one of the pieces.

CHAIRPERSON RECCHIA: We have rent control in Brooklyn too, Council Member.

COUNCIL MEMBER BREWER: You do?

CHAIRPERSON RECCHIA: Queens also.

COUNCIL MEMBER BREWER: You got them in Queens. Statutory tenants.

CHAIRPERSON RECCHIA: These are west side people.

COUNCIL MEMBER BREWER: I know they're so obnoxious.

[Laughter]

COUNCIL MEMBER BREWER: They're statutory leases and so that might be one of the pieces of information that you're missing. But you're not missing it because it doesn’t exist.

DAVID M. FRANKEL: I don’t know the answer to your question.

COUNCIL MEMBER BREWER: I know you don’t. But I'm just saying, that's one of the issues that's holding up some of my 50, apparently, is that they don’t have a lease but they don’t have a lease.

DAVID M. FRANKEL: So you're saying that we are asking for a lease that doesn’t exist.

COUNCIL MEMBER BREWER: Correct.

DAVID M. FRANKEL: And shouldn’t exist.

COUNCIL MEMBER BREWER: It never will, yes. Number two is the 311 that Council Member Koslowitz responded to. I'm just saying that these are seniors and they're social workers. They don’t get 311. I call 311. It doesn’t work for the seniors. They've got to have a direct person to talk to. I'm just saying. This was the issue that I wrote to you about a long time ago. It's not Finance; it's more a different discussion and an oversight with Council Member Lappin, et cetera. But I'm just throwing that out.

Either get 311 to be more sensitive on this issue because they don’t want to talk to 311. They are complaining to me about 311 because they had the comfort of DFTA for a long time. I know you're not DFTA. I know you're trying. I got all of that. But you need some humanity with these seniors. They get panicked, absolutely panicked.

DAVID M. FRANKEL: Just because we're not DFTA doesn’t mean that we don’t appreciate the problem and will try to help them.

COUNCIL MEMBER BREWER: I understand that. They've been told to call 311 and then they call us because they do not want to call 311. I'm letting you know that's the complaint that’s out there.

Is there a place that they can go and get their applications document stamped? There was something that they did at DFTA where they went in. They like to go see people. They don’t like to deal with the phone and impersonal. So they used to get their application stamped knowing that they had been received. This is a senior thing.

DAVID M. FRANKEL: Well there isn't now but it's an interesting idea.

COUNCIL MEMBER BREWER: They want to go somewhere. They get it stamped. They put it in the mail and they're worried that you never get it because they never hear. Then they call us. They call every Council Member and they panic because they're so afraid of being evicted. And the landlord sends them a letter and it starts this spiral.

DAVID M. FRANKEL: I appreciate that. The one thing I hope is that you should have many fewer people telling you that they haven’t heard anything.

COUNCIL MEMBER BREWER: I understand that. I'm just saying in case.

DAVID M. FRANKEL: I hear you.

COUNCIL MEMBER BREWER: Believe me, seniors, even if they wait three weeks, they want to go someplace. Three weeks to them is still a long time. They used to go talk to the people at DFTA and they'd get it stamped. That's something to think about, where they could go and get it stamped and even in three weeks time, it's an eon for them.

DAVID M. FRANKEL: Okay.

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

CHAIRPERSON RECCHIA: Before I turn it over to Jessica Lappin, Commissioner we've been hearing a lot from senior centers that there is a problem with the whole operation, with the SCRIE forms, with the applications. You’ve been working with the City Council and I appreciate that. But a problem is that 42% of the new applications are missing information. Only 32 were accepted. That's a relatively small amount. I think one thing you have to look at is that right now you have approximately somewhere between 8 and 13 people working on this. Correct?

DAVID M. FRANKEL: That's right. Right now we have between 8 and 20 some odd people working on it. We will only have 8 at some point soon.

CHAIRPERSON RECCHIA: How many people do you have working on this? You testified between 8 and 13.

DAVID M. FRANKEL: That's not what

I think I said, Mr. Chairman. I said my permanent staff is 8 people. We have moved an additional 13 people into the unit to help catch up on the backlog. But my anticipation is that we'll go back down to 8.

I will tell you that the main problem that we have with applications is that we get leases that are not signed by both the tenant and the landlord. We are required to get that. We send somebody a letter back saying please you sent us the lease, it's not in the form that we need it. We need it signed by both. That’s the main issue that we get with applications that are incomplete.

CHAIRPERSON RECCHIA: But I just want to point out to you that the big issue here is that DFTA had 30 people working on this and that alone just barely got by in servicing the people of the city. I just think that you need to increase your staff in this area.

I also believe that when missing information goes out there should be some follow up in this whole process. I just want to bring this to your attention, because it's a large amount that is missing information.

The instructions are longer than the application. The instructions are for SCRIE and also for the disability. A lot of people got confused. I just think that this application could be handled better. It could be simplified.

In addition to that, I think that we have to come up with a solution because if they get a letter back saying that the lease was not signed, a lot of them don't know where to go to get the lease signed, or the landlord won't sign the lease. So I just want to bring that to your attention. Jessica Lappin is next.

COUNCIL MEMBER LAPPIN: Thank you, Mr. Chair. I wasn't here for your testimony, although I read it and had a chance to go through it. I think you said to Council Member Brewer or somebody else that you had done a terrible job of taking this over.

Your testimony makes it sound as if you are caught up with your backlog and that you've dealt with all of the new applicants except for those who have come in the last three weeks and that all renewals are being processed in ten days. It's not true. I don’t think you're intentionally trying to mislead us. But there are six cases that I want to mention today that I've brought to the attention of the agency. It's just six that I happen to know of. Council Member Brewer knows about a lot more.

In terms of new applications, a woman named Grace who applied in October of 2009. In February she was asked for a copy of her social security benefits statement which she provided back in February. She then inquired in March what was happening and was told the case was at DFTA which made no sense for a whole host of reasons, not the least of which was that she had a DOF SCRIE docket number. So she is still waiting for a response.

A woman named Marie who applied in December of 2009 who is still waiting for a response. A woman name Alice who sent her information in February of 2010, who resent her application on April 13th. So that's been two months and she is still waiting for a response.

In terms of renewals, a woman named Ermguard who sent in her paperwork in February and has been told that it was approved in March, but neither she nor her landlord have received that information. Another woman who applied in November of last year and she was told that she needed to send in a copy of her lease, which she did in March. She still hasn’t heard anything.

So you make it sound like you have dealt with them but you haven’t. What makes me really sort of upset is there are two people in particular that we're dealing with who are about to get evicted because either they don’t have the right paperwork or they have been approved and payments haven’t gone to their landlord.

One is in a pretty sort of dire circumstance, a woman named Luba. We're trying, obviously, to keep her from being evicted. But she's somebody who has been going back and forth for quite some time, and certainly since April has had extensive back and forth with your agency. So this woman could end up out on the street.

I just don’t understand what's going on. I mean, honestly, I don’t know how else to say it. There's been a lot of discussion here today but how is it that we have people who have been waiting since October, November and December and people who are about to get kicked out on the street. If you guys can't handle it, then we need to go in another direction.

You sort of said that you're there and you have the staff and you're handling it but you're not handling it. So I don’t even know what my question is other than how are we going to fix it? You first have to admit that there's a problem and the chair just discussed the application which is very confusing still. It would be nice if you separated them out. I'd like to know if you're planning to do that. But I'd also like to know how we're going to really get through these applications where people have been waiting for months.

DAVID M. FRANKEL: Well, I'm not going to respond to any particular instances that you give me. We are happy to go over all of these with you. So I can't say for sure whether I agree with your description of what's happening or not.

As I said when I testified in March, I thought we had a big problem in the agency back in September through January when we took and as of March we still had a big problem. We've worked for the last two months diligently to reduce this backlog and I think we have to a tremendous extent.

If there are still some cases out there where we have screwed up and we're not doing our job, then we will take care of them. In these six instances, if you're right and the data shows that I don’t see those, then I may have a bigger problem. I don’t think that that's the case. So I'd like to take a look at these six cases.

COUNCIL MEMBER LAPPIN: We sent them to Chris Brown on May 5th. We're still awaiting a response. So we would very much like to discuss these cases with you.

DAVID M. FRANKEL: Now we have them, and I'm going to find out about them in the next day or two so I can understand what happened on them.

COUNCIL MEMBER LAPPIN: Are you going to split the application up so that people can maybe understand what they're filling out?

DAVID M. FRANKEL: We haven’t decided.

COUNCIL MEMBER LAPPIN: I think the committee and certainly the chair has made it clear that that would make a lot more sense. In terms of the existing application, I've met with folks at your agency and I know there's been a lot of discussion about putting some kind of new application in place. Have you made a decision about that and when that would be available? Do you have a timetable?

DAVID M. FRANKEL: We're working on a new application. It should be shortly. We're going to discuss it with Council. We'll show it all to Council before we put it in place. And we'll take any of your suggestions. We may agree with them and we may not, but we're happy to do that and are doing it.

COUNCIL MEMBER LAPPIN: Thank you.

CHAIRPERSON RECCHIA: Thank you very much. Next, we will hear from Council Member Diana Reyna.

COUNCIL MEMBER REYNA: Thank you, Mr. Chair. I just wanted to take an opportunity to understand further. Council Member Jackson just graciously referred to the preliminary budget season when we asked about perhaps looking into EITC reminders in pay stubs for city employees. But I wasn’t too sure if you had answered the question as to how many would have qualified for EITC. Was there ever an attempt to flush through who is eligible and what were the results of that?

DAVID M. FRANKEL: No, we didn’t specifically look at all the data.

COUNCIL MEMBER REYNA: So we don’t know how many are eligible for EITC.

DAVID M. FRANKEL: We don’t know for sure, no.

COUNCIL MEMBER REYNA: So the work has not been completed. Will it continue to be something that you're going to work on?

DAVID M. FRANKEL: My hesitation sort of gives you the answer I think to a certain extent. I'm not sure.

COUNCIL MEMBER REYNA: I just wanted to relate to a study that was conducted, I believe by the Council with the help of DC 37, in an effort to address those city employees that were living under a certain level of income and were eligible for food stamps. It was an effort to qualify more people in the City of New York that could be food stamp eligible but were not aware or had never been informed of what the requirements were. There was new information that arose as far as the percentage of city employees that do qualify for food stamps.

Therefore, the suggestion of EITC to be another venue of a service and that perhaps city employees are not aware of under a certain criteria. So what attempts, if not the message through their payroll, have you attempted to communicate such an outreach?

DAVID M. FRANKEL: As I said, we haven't done anything specifically with city employees. When we ran the program several years ago, we mailed completed returns to anybody through our screening program we thought might be eligible for EITC. I assume that would have included any city employees that we found. And I assume that the state did that in the program last year.

When we determine whether to do that this year, which as I've said, I think we will do, that will include whatever the screening mechanism comes up for those city employees that we think would qualify.

COUNCIL MEMBER REYNA: So the attempt of capturing any city employee will be through your mailer?

DAVID M. FRANKEL: It's not really a mailer. What we do is we actually mail returns to people and essentially say sign them and send them in. We don’t eliminate any particular class of people. So that would include anybody in the city who might qualify.

COUNCIL MEMBER REYNA: Fall under the criteria.

DAVID M. FRANKEL: Right.

COUNCIL MEMBER REYNA: And the mailer was already sent out, the return?

DAVID M. FRANKEL: No.

COUNCIL MEMBER REYNA: No. It will be?

DAVID M. FRANKEL: It's been sent out every year, either under the Department of Finance for I forgot which years. Last year it was done by the state. We will likely do it again this year. It won't be until the fall.

COUNCIL MEMBER REYNA: What was the projected number the year that that Department of Finance did it?

DAVID M. FRANKEL: I don’t know what the numbers are for when Finance did it. I gave you the numbers when the state did it last year. I think there was about half a million dollars that was collected in EITC credit on 1,000 or more returns.

COUNCIL MEMBER REYNA: Was there a comparison whether or not the city had greater success than the state?

DAVID M. FRANKEL: I don’t have the stats at my hand, but as I recall, there were more when we did it. Let me put it that way.

COUNCIL MEMBER REYNA: Right.

DAVID M. FRANKEL: There were significantly more when we did it.

COUNCIL MEMBER REYNA: Correct. So I would have assumed the same but I wanted to just hear from you as the commissioner of Finance to see if there was such an analysis.

DAVID M. FRANKEL: That's why I'm anxious to do it again.

COUNCIL MEMBER REYNA: Of course.

DAVID M. FRANKEL: If we can, we will. I'm hesitating to promise anything at this stage right now. I hate to keep on focusing on this, but as I look at my resources, I can't say 100% sure. I'm the commissioner, I can say go do it, but that's an easy thing for me to say. Then I have to choose what I won't do. I think we're going to be able to do this. I think we will hopefully do it more effectively than it was done last year. If we can't do it, then we will come back to you and tell you. If we can do it, we will come back to you and tell you as well.

COUNCIL MEMBER REYNA: I appreciate that. My next and last question is I just wanted to understand as far as the 421-A tax credit, obviously there is a tax credit that applies for a certain number of years. Do you by any chance have the information of how many properties have already had those tax credits expire so that they now start paying the full tax on their property?

DAVID M. FRANKEL: No. I mean I don’t have them today, no.

COUNCIL MEMBER REYNA: Can that be

supplied to the Finance Committee so that we have a sense of what number of properties will no longer be eligible for 421-A that are rolling back into the property tax payment?

DAVID M. FRANKEL: Let me answer the question in this way. If you would send me a note of an email asking specifically what you want, I'll be able to tell you whether we can provide it or not. It sounds like we should have that information, but I'm not exactly sure how our data is separated. Before I answer, I just want to make sure I understand specifically what the question is and talk to my team to make sure we can give you what you need. If we can't give you what you need, we'll sort of tell you how we can get closest to what you're looking for.

CHAIRPERSON RECCHIA: I think you might have to also check with HPD.

DAVID M. FRANKEL: I'm sure there's a bunch of that.

CHAIRPERSON RECCHIA: We'll put that in writing.

DAVID M. FRANKEL: That's fine.

COUNCIL MEMBER REYNA: I appreciate

that, Chair. Thank you, Commissioner for the work that you hope to continue on EITC in the fall.

CHAIRPERSON RECCHIA: Commissioner, I want to thank you. Before you leave, I just want to say there are a lot of issues and hearings to move forward on. There's one issue that I think that eight people to handle SCRIE is not going to be enough considering that DFTA always had 30 people. I think you should keep that in the back of your mind when planning for the budget for next year. We want to thank you for coming here today. We'll be in touch.

DAVID M. FRANKEL: Thank you all very much.

CHAIRPERSON RECCHIA: Without any further questions, thank you very much. That ends the Department of Finance. Next we will have the Design and Construction. We'll take a two-minute break.

[Pause]

CHAIRPERSON RECCHIA: Next, we will continue the Finance Committee hearing. We're going to hear from Design and Construction. Commissioner Burney, welcome. Glad you took the time out to join us.

DAVID J. BURNEY: Thank you, Mr. Chairman. I'm David Burney, commissioner of the Department of Design and Construction. I'm happy to be here today. I have a brief statement, after which I will be happy to answer any questions.

The agency's current Fiscal Year 2010 Operating Budget is $106.5 million. Of that, $83.9 million is for Personal Services and $22.6 million is for Other Than Personal Services. The projected Fiscal Year 2011 Operating Budget is $106.6 million. Of which, $86.1 million is for Personal Services and $20.5 million is for Other Than Personal Services.

In an effort to reduce operating expenses and improve staff efficiency, by the end of this Fiscal Year DDC will have closed its borough offices in the Bronx, Staten Island and Brooklyn, relocating all three operations to our headquarters at 3030 Thompson Avenue in Long Island City. As a result, we expect to realize a savings of approximately $432,000 in fiscal year 2011, which will increase to more than $1 million in fiscal year 2012.

With about six weeks remaining in Fiscal Year 2010, I am pleased to report that DDC expects to meet or exceed the major statistical indicators that reflect our mission to deliver the City's construction projects in an expeditious, cost-effective manner, while maintaining the highest degree of architectural, engineering, and construction quality.

Of the ten DDC critical performance indicators included in the City's CPR, which has appeared on NYC.gov for the past two years, nine that relate to DDC are categorized as green, meaning stable or improving compared to the same period last year. These nine indicators reflect improved plan versus actual schedule performance for all infrastructure and structures projects both active and completed.

Also reflected are reduced average cost changes for all completed construction projects, plus favorable responses to Post-construction Satisfaction Surveys.

The remaining indicator, which is in the yellow category, shows a minor downward trend with on-time performance for completed structures design projects.

DOC continues with the urgently needed rehabilitation and modernization of the 200-year-old landmark building in which we are sitting, to assure its safe, continued use. The first priority, as you know, has been to stabilize and repair the existing deteriorated conditions in various areas of the building. That effort included the scaffolding in the Committee Room which was put in place to support the plaster ceiling.

Since I last addressed you in March, the elevator replacement and the sub-cellar contract has been awarded, and mobilization began earlier this month. Further work on the east wing will commence following the City Council's move, in July, to your temporary swing space.

The overall scope of the City Hall work includes life safety repairs to various building components including reinforcement of deteriorated wood roof trusses, as we've noted as being completed. Fire safety measures including installation of a building-wide sprinkler system. Repair of the ceiling in the council chamber where we sit now. It also includes replacement of the elevator, along with repairs and reconfiguration of Council areas on the ground floor and basement, building-wide fire alarm system and mechanical components. Solar panels to partially serve the electrical load borne by the existing, outdated system. We expect and we hope that the building will achieve LEED Silver certification from the U.S. Green Building Council when all of this work is completed.

As a brief follow-up to my previous testimony concerning capital projects on non-City owned property, our staffs continue to work together, along with the OMB task force, to facilitate progress on these projects.

Since the program's inception, 85 projects have been registered with 10 or more now ready for registration by the Comptroller's Office and there are additional projects in the pipeline for this fiscal year. We continue to be available to meet with recipient organizations, provide assistance and answer questions.

That concludes my prepared remarks and I will be happy to answer any questions. I have with me today my chief of staff Analyst Barrio, my general counsel David Varoli, deputy commissioner Jeff Bonne, Bruce Rudolph whom you are well familiar with and also Joe Spratley [phonetic] and Matt Monahan.

CHAIRPERSON RECCHIA: Thank you, Commissioner for your comments. I just have to say your staff has been doing a great job. I have to give a shout out to Bruce Rudolph for doing a great job on projects. He's just spectacular and very pleasant to work with.

DAVID J. BURNEY: Thank you.

CHAIRPERSON RECCHIA: Could you just go into when construction of when the City Council's share of City Hall is going to begin and what the plan is there? How long is it going to take and what's the cost?

DAVID J. BURNEY: As you know, certain parts of the work have already begun. The emergency work above the Council Committee room has been ongoing.

Currently, we are in the process of awarding what we're calling phase one, which is to build a new sub cellar below the current cellar in the east wing which is necessary to provide room for incoming power service. One of the big problems with this building is that it's chronically underserved with power.

The current incoming power is in the corridor in the basement which is not a happy situation. So we need a place to put a new incoming power service and some other utility rooms. So that will be in a new sub cellar. We will start work on that as soon as we get our building permits, as soon as we get mobilized.

You will begin to see work going on actually outside of the building. One of the first things we have to do in order to create a sub cellar is reinforce and underpin the existing walls. If we just start digging without doing that, we're in danger of causing cracks and problems with the foundation.

So you'll see them excavating on the outside of the building in order to grout through the existing foundations. Once we've done that work, then we'll be able to come inside and start excavating inside in order to crate the new sub cellar.

At the same time, the elevator here will go out of commission because the room we're creating is going to be under the elevator and we'll be putting in a new elevator. So by July 1st, we'll be at the point where we really need to vacate the east wing. The elevator will down. There will be a lot more heavy work going on.

So between July 1st of this year and the end of July next year, we would have the building vacated. We will issue a second package of construction work to do more extensive work throughout the rest of the east wing. When you all return at the end of July next year, there will still be some work going on. Less disruptive and more repair and minor work and finishing and painting. But the bulk of the work will take place between now and July 2011.

CHAIRPERSON RECCHIA: Thank you very much. Gale Brewer has a question.

COUNCIL MEMBER BREWER: I know you do much more than City Hall, but my question is how will the technology change? When you're doing some of this, are you working to make this something that is 21st century in terms of technology?

DAVID J. BURNEY: Yes. There are several aspects to the technology side. One is just the energy efficiency of the building. The building will become much more energy efficient.

COUNCIL MEMBER BREWER: We won't freeze.

DAVID J. BURNEY: You hopefully will not freeze.

COUNCIL MEMBER BREWER: We have the air conditioning going, the windows open and it's 20 degrees outside.

DAVID J. BURNEY: Right. We will have a central HVAC controlled system, balanced, and far more energy efficient. All of the perimeter heating and cooling units will be replaced. We're even adding solar panels to the roof so that we can at least provide some power and it'll cover about half the lighting in the building.

The new incoming power system will help the technology. There will be new AV systems in the Council Chambers to serve the public meetings here. So a fairly extensive upgrade in that respect also.

COUNCIL MEMBER BREWER: Wireless?

DAVID J. BURNEY: Wireless for computers? That's not actually directly my domain.

COUNCIL MEMBER BREWER: We'll make it somebody else's.

DAVID J. BURNEY: That wouldn’t be a part of the construction contract.

COUNCIL MEMBER BREWER: I know this is silly, but what happens to the curtains? My constituents would like to buy them on eBay. I'm not kidding. They are driving me crazy. They have cut out each little council New York City insignia and they would like to buy that for $100. They have it priced.

DAVID J. BURNEY: Is that right?

COUNCIL MEMBER BREWER: I'm not kidding.

CHAIRPERSON RECCHIA: The people in Brooklyn wanted to pay $400.

COUNCIL MEMBER BREWER: I really believe you could sell them on eBay. I believe people will buy them.

DAVID J. BURNEY: You probably could. The final design for the chamber and actually the other committee rooms here has not yet been finalized. So we will be discussing with you exactly what we will be doing and what we'll be retaining and what will be available on eBay. So watch this space.

COUNCIL MEMBER BREWER: I never would have thought of it but I have tons of emails to that effect. Are you doing PSAC Bronx or is that another department?

DAVID J. BURNEY: We are doing the new PSAC 2 in the Bronx, yes.

COUNCIL MEMBER BREWER: What is the status of that and how much is it costing, et cetera?

DAVID J. BURNEY: The status is that we've started construction. We've awarded a foundation package. They're driving a foundation wall right now. The total construction, if I remember rightly, is around $650 million for that project.

COUNCIL MEMBER BREWER: And the timing on that?

DAVID J. BURNEY: It will be completed at the end of 2013. It may not be fully operational at the end of 2013 because when we're done with the building, there's a very complex system integration package that DoITT will be administering to provide all the telephone services for the 911 call takers. But the building itself will be completed at the end of 2013.

COUNCIL MEMBER BREWER: Is that on budget/over budget? What realm?

DAVID J. BURNEY: Currently it's on budget.

COUNCIL MEMBER BREWER: Okay. Thank you, Mr. Chair.

CHAIRPERSON RECCHIA: Council Member, the question is how much would your desk go on eBay?

COUNCIL MEMBER BREWER: I don’t want to sell the desk. But these curtains have got to go somewhere.

CHAIRPERSON RECCHIA: Bob Jackson has a question.

COUNCIL MEMBER JACKSON: Thank you,

Mr. Chair. Commissioner, and staff, good afternoon.

DAVID J. BURNEY: Good afternoon.

COUNCIL MEMBER JACKSON: Are there any monies from funding that the City of New York received that Design and Construction is dealing with from the federal government as for stimulus money? If so, how much and what's being done?

DAVID J. BURNEY: We are not recipients directly of the federal stimulus money. What's actually been happening is the federal stimulus money is going primarily to DEP and DOT. They are applying it directly to projects that they're managing. The benefit that we receive is that they are funding projects that we're managing that would not otherwise be completed timely with those displaced funds. So the federal funds fund the project, they take the money that they were going to apply to that project and apply to a project that we're doing.

So we currently have nine projects that we call displaced funded projects. The total dollar value of that is about $148 million. DEP is funding about $10.9 million in displaced funds and DOT about $61.7 million in displaced funds. So you can see that, if you wish, as the benefit of the federal stimulus money coming to the projects that we're managing.

COUNCIL MEMBER JACKSON: So in essence the money is not coming to you directly. It's going to DEP, DOT and other agencies and you're managing some of those projects that are being funded for the agencies through the federal stimulus money. Is that correct?

DAVID J. BURNEY: That's correct.

COUNCIL MEMBER JACKSON: I know that going back to the wall collapse in my district on 181st Street and Riverside Drive a couple of years ago, I noticed that in my district there are quite a number of walls like that.

I noticed that for example there is a project on the retaining wall on Riverside Drive between the George Washington Bridge and 181st Street in my district that's currently being worked on. I just read something recently about a retaining wall on 155th Street.

I guess my question is not necessarily specific about my district because I'm always interested in my district, but overall since at that point in time we as a city started to look at all of these retaining walls around the city, do you know how many of these projects as far as retaining walls and approximately how much are we spending on that overall. I know that currently there may be at least two projects in upper Manhattan that you're dealing with.

DAVID J. BURNEY: Yes, the 181st Street wall just north of the George Washington Bridge is one of our active projects. That came to us as a result of a survey that was conducted after the Riverside Drive collapse. The city looked at, I think it was about 2,400 retaining walls all over the city. Some under the jurisdiction of DOT, some of them privately owned, and some of them under the jurisdiction of the Parks Department.

The result of that initial assessment, a subset of that number was deemed to be at risk and in need of some sort of repair or reconstruction. The ones that were under the jurisdiction of Parks I believe the Parks Department has a program to address that.

Obviously some of them were private and will be dealt with by private owners. DOT has been funding the replacement and repair of the ones under their jurisdiction in accordance with the degree of severity of the condition.

So one of the first ones that came to us was the 181st Street one. We did a further survey, a more detailed survey. We found a couple of things had to be done. There's an existing water main that was leaking causing deterioration. There was a sewer main that was in the way, so we've taken care of those. We're now in the process of grouting the wall, injecting concrete grout into it to stabilize it. So it's more of a repair than a replacement.

I can get back to you on the total portfolio. I know we have a number of other retaining walls that are in the pipeline that are going to be getting work over the next several years. I can certainly get back to you with that.

COUNCIL MEMBER JACKSON: I'm more curious knowing that of that major situation that occurred and then we as a city overall looking at all of them and in essence assessing, like you just explained, how many are city, how many are private, how many are Parks and coming up with an action plan based on the severity of them, so forth and so on. I guess I wanted the information, for example, how many of these are we dealing with, meaning the city, and how much is it costing us overall. So if you have that information you can subsequently submit it to us.

DAVID J. BURNEY: I do believe there's a report. It may be with DOT but we can get that to you.

COUNCIL MEMBER JACKSON: That's it for now. Thank you, Commissioner. I know that there is an issue overall as far as the amount of contracting out that the city is doing and cries from the various unions, especially DC 37 as far as we should be contacting in more so than contracting out.

I don’t know if you were here but the Commissioner of Finance had indicated that they are eliminating a contract for IT work and hiring 29 employees. As a result of that action, for one contract, they're going to save $5.9 million. That's fantastic, but that should have been done all along, especially now when everybody is squeezed so tight.

So I ask you have you taken any action like that or are you looking at that in order to save the city money and try to make sure that we do in-house rather than easily just contracting out?

DAVID J. BURNEY: Councilman, the situation at DDC hasn’t really changed significantly since its inception. That is that on the infrastructure side, which is about half of our staff, pretty much all the work is done with in-house design engineers, both on the sewer and water mains, and that's partly because when DDC was established, a lot of the design engineers came over from DEP and DOT and were retained. They specialize in that work. So the bulk of that work is done in-house.

On the structure side, on the building side it's almost the opposite. Virtually no work is done in-house. The reason for that is really that with buildings there are not just one set of designers. There's a fairly complicated team, even more so these days as design becomes more and more specialized.

So any typical building that we're doing will have an architect, a structural engineer, a mechanical engineer, electrical, plumbing, acoustics, lighting, and landscape. So these are very complex teams and it's very difficult for the city to retain that level of expertise on a consistent basis.

Studies that have been done have shown that there isn't any significant cost saving in going to in-house versus private design. So we've not sought to change. What we do, of course, is we hire project managers to manage that process. The design, of course, is only a small portion of the whole process in getting a project from inception to completion.

So our policy is to specialize in the project management and then bring in the specialized designers to the project as we need them.

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

CHAIRPERSON RECCHIA: Thank you, Council Member Jackson. Commissioner, could you just give us an update about the project, the largest one which is the new policy academy in Queens?

DAVID J. BURNEY: The police academy is on pretty much the same schedule track as the PSAC 2 project that the Council Member asked about. We've started construction. We have site work going on. We're preparing the first package for foundations that will go out shortly.

This, of course, is phase 1-A, if you like, of what's a very large 35-acre campus.

CHAIRPERSON RECCHIA: How many phases are there?

DAVID J. BURNEY: That depends on how the funding comes in. Right now we have about $600 million.

CHAIRPERSON RECCHIA: This is for the main building?

DAVID J. BURNEY: This is for the main building. That will give us the academic portion of the building, the classrooms. It'll give us the central mechanical plant.

CHAIRPERSON RECCHIA: What's the approximate cost for this first part?

DAVID J. BURNEY: It's about $600 million for the first phase. That's one the same track. We expect that to be completed toward the end of 2013.

CHAIRPERSON RECCHIA: 2014?

DAVID J. BURNEY: 2013.

CHAIRPERSON RECCHIA: 2013. That job is going to go out to bid?

DAVID J. BURNEY: We have STV Turner Construction Managers are managing the project. They've already awarded the contract for the site work package. The next package will be full foundations and then we'll go on into the rest of the building. But it'll be a series of construction packages that will be bid and managed.

CHAIRPERSON RECCHIA: Do any other Council Members have any questions? With no further questions, we're going to end this portion of the Finance Committee. We're going to take a 5-10 minute break. Then we're going to hear from the commissioner of DEP and we're going to start the Environmental Protection portion. Thank you.

DAVID J. BURNEY: Thank you, Mr.

Chairman.

[Pause]

CHAIRPERSON RECCHIA: We're about to begin. We've been joined by Council Member Helen Diane Foster of the Bronx. Welcome. Welcome, Commissioner. This is the hearing on Environmental Protection. We're going to first due the capital part of the budget. We can do the capital and expense all at the same time. We've just been joined by the chairman of the Environmental Protection Committee, Jim Gennaro.

CHAIRPERSON GENNARO: Thank you, Mr. Chairman. Thank you, Commissioner. It's a pleasure to be here. Sorry I'm few moments late. When Domenic is looking for you, he's really looking for you. I got a call saying that Domenic is ready. Then I got another call saying that Domenic is absolutely ready. I wanted to get here before I got the third call because I don’t know what kind of adjective he would have used.

Good afternoon, I'm Council Member Jim Gennaro, chair of the Committee on Environmental Protection. This is a joint hearing, as everyone knows of the Environmental

Protection and Finance Committees on the Fiscal 2011 budget. Today we'll testimony from the Department of Environmental Protection about it's expense and capital. Domenic just said that. I won't say that again. Domenic said that.

We're going to talk about issues relating to the department's baseline OTPS reduction and it's economy sustainability going forward, how the cost of mandated projects and programs can be controlled in the future, how we can make the agency as cost conscious as possible so we can keep water rates down.

I must say, Commissioner, when I was getting the briefing from the Finance folks here at the Council in preparation for this hearing, it was a lot of Cas is doing this very well and Cas is doing that very well and the agency is cutting costs here and cutting costs here. I had to make sure the person giving me the presentation wasn’t working for DEP. So that was a good briefing to get.

It's a pleasure to see you, Cas, and have you here. It's always a pleasure to see Steve and all the good folks from DEP. I thank you very much for being here. I think now it's about time that I let you do what you came here to do, which is give us your good testimony. Thank you very much and we look forward to hearing your statement.

CASWELL F. HOLLOWAY: Thank you very much, Chair Gennaro and Chair Recchia and other members of the committees.

I am Cas Holloway. I'm the Commissioner of the Department of Environmental Protection. With me here this afternoon is our Chief Financial Officer Steve Lawitts. I appreciate the opportunity to testify today about our Fiscal Year 2011 Executive Budget. As Chair Recchia said, I'm just going to cover capital and expense at the same time. Then I'll be happy to take any questions that you have.

As I think you know, this hearing coincides with a series of six public hearings hosted by the New York City Water Board in each of the five Boroughs. We held two in Manhattan. One in the afternoon and one in the evening. The hearings are on the water rate proposal for fiscal year 2011 that I presented to the Board on April

9, 2010. I have attended each of the hearings thus far to make a brief presentation on the proposal and to hear people's testimony firsthand.

At those hearings and half a dozen meetings I hosted earlier this year in all five boroughs, I have tried to explain the tremendous amount of work that nearly 6,000 DEP employees do to supply, distribute and treat more than a billion gallons of water every day, to show examples of the $14 billion of capital work we currently have in design and under construction, and to explain our operating and capital costs and how they form the basis for DEP's water rate proposal every year.

The main concern I am hearing, and I've also heard it expressed chairmen, by each of you and other members of this committee, Council Member Vann, is that water rates are too high, and that this increase is especially difficult to bear in the current economic climate, particularly in light of the recent water rate increases that have been necessary to operate, maintain, and build the water system.

At the same time, I have been

gratified to hear that customers are generally pleased with the service they are getting from DEP through our dedicated employees on matters large and small.

New Yorkers also understand that water and sewer services cost money, and that we need to continually invest in the system to ensure that we continue to deliver some of the best drinking water in the nation. In fact a couple of speakers, and there really were only two, pointed out that the cost of water here is quite low compared to other major cities in the country and around the world, and that our quality is among the best.

Nonetheless, the 12.9% increase proposed for this year is unwelcome, and I have been asked to do everything I can to mitigate the impact of future increases. At DEP we are committed to doing that, and I'll talk about the steps we're taking internally, and how the City Council can assist in the effort.

My testimony today will cover three subjects: first, a summary of DEP's expense and capital budgets and their connection to the water rate proposal for this fiscal year 2011; DEP's unprecedented capital program and the debt-service increases that have been required to fund it; and finally, the tools DEP needs to ensure that everyone who can afford to pay their water bill actually pay, so that all New Yorkers contribute their fair share to maintain one of the City's critical capital assets and precious resources and so that water rates can remain as low as possible.

As I noted at the outset, DEP has proposed a 12.9% water rate increase for fiscal year 2011. Why are water rates projected to increase? The basic reason is that projections for next year show revenues declining and costs increasing, creating a gap that we need to fill by increasing the water rate. The two largest components of DEP's budget are operations and maintenance, that's the expense side, and the debt service we pay to fund our enormous capital program.

The good news is that we expect operations and maintenance costs to decrease by $170 million next year from $1.35 billion to $1.18 billion.

The first thing I did as Commissioner was ask my senior management team to implement an across-the-board, 8% expense budget reduction for Fiscal Year 2011 and beyond, and I'm happy to report that we will achieve that. We expect to reduce headcount by more than 200, and we'll make some operational changes that, taken together, will generate approximately $87 million in recurring savings, some of which we've already seen this year. These cuts, combined with changes in chemical pricing and conservative budgeting, add up to a combined $170 million in operations and maintenance savings next year.

While we have made cuts to reduce the system's expenses, these savings are partially offset by other critical needs such as settling long-outstanding labor agreements; beginning to hire the staff that we'll need to operate the $2.8 billion water filtration plant that we're building for the Croton Watershed in the Bronx and the $1.6 billion Ultra-Violet disinfection plant currently under construction for the Catskill-Delaware Watersheds; and uncontrollable expenses such as recent increases in the price of oil and gas.

While operations and maintenance costs are expected to drop, we project that our debt service costs will increase from an estimated $837 million this year to $1.2 billion next year, which includes some rollover. That's a 47% increase, much of it necessary to fund ongoing work at massive, legally mandated capital projects. This, along with other components to run the system, require us to raise $2.95 billion for fiscal year 2011.

$144 million of that need will come from upstate and other non-city revenues, but the remaining $2.8 billion must come from New York City water ratepayers. If we applied the fiscal year 2010 rate next year, we would expect to raise $2.5 billion which is about $320 million short of what we need to cover the costs of running the water system next year.

That translates to a 12.9% water rate increase. Now, that increase is 1.4% lower than the 14.3% that we thought would be necessary last year. We were able to both reduce the water rate increase and settle two long-standing labor disputes that affected more than 1,000 essential employees.

Our water rate proposal also offers a 1 % discount to customers who sign up to pay their bills through direct debit, which you can do through our website: www.nyc.gov/dep. We've proposed a storm water pilot for stand-alone parking lots that are not receiving any water or sewer services. These parking lots generate a tremendous amount of storm water, which severely taxes our sewer infrastructure, and can contribute to combined sewer overflows when it rains.

However, because these lots receive no water service and are not paying a sewer charge, they are not paying their share to help deal with the problem of treating storm water that they create.

Let me turn to the capital program and unfunded mandates. It should be clear from my testimony so far that the primary driver of rate increases New Yorkers have seen in the past several years is debt service to fund our capital program. And the spectacular growth in capital work is largely attributable to projects that the City is obligated to build on a specific timeline, because of state and federal rules and laws.

In fact, of the over $19 billion in capital commitments that DEP has made in the last ten years, $13 billion or 68% has gone to fund mandated projects imposed by federal and state regulators with negligible federal or state funding for DEP to do the required design and construction work.

Between FY 2002 and FY 2010, DEP's debt service obligations rose 65%, from $500 million to $837 million a year. In the last four years alone, debt service has grown 27%, from $658 million to $837 million.

To give you an example of how these mandated projects drive debt service, consider two of our largest projects, the filtration plant in the Bronx and the UV disinfection plant up in Westchester. While these investments will further enhance the quality of water delivered, the quality changes will be largely transparent to our consumers, and the City was required to build both of them at the same time, regardless of relative risk and we'll be required to pay more than $61 million per year to operate the plants by the time both are operational in 2013.

Put simply, these projects are being built now to be in compliance with federal and state regulations, timetables built into federal rules without regard for local need, competing water infrastructure demands, or the cumulative cost of building and operating massive infrastructure.

In the years between fiscal years 2002 and 2011, these projects alone cost over $4.4 billion in design and construction, and annual debt service costs ratepayers $134 million. On a household basis, these projects, plus other unfunded mandates, have increased the price of water and sewer service for the average homeowner by $177 per year.

Now this is not to say that legally mandated projects are categorically unnecessary. We would likely choose to make at least some of the same investments, at some point based on our own assessment of public health and environmental impact.

For example, this year we announced that the City's 14 Wastewater Treatment Plants are meeting monthly Clean Water Act standards for the first time ever-and that's due in large part to the $5 billion reconstruction of the Newtown Creek Treatment Plant that is currently underway.

But federal and state mandates, and the consent orders that come with them dictate when and how investments get made, and they are too often applied in a one-size-fits-all manner that can result in unnecessary cumulative burdens.

Going forward, the largest components of our current mandated projects have already been bid out and budgeted and, barring any unexpected new unexpected mandates, the capital budget will return to more manageable levels this year. DEP's capital plan for Fiscal Years 2011 to 2014 is $5.7 billion, as compared with $12.2 billion for the previous four fiscal years.

Not only does the size of our capital budget decrease over the next four years, the percentage of the budget attributable to mandated projects declines as well. That means more of our capital dollars can go to discretionary projects such as building sewers and water mains, and keeping our dams and wastewater infrastructure in good repair. And we must address long-standing issues, like the leak in the Delaware Aqueduct that we want to be sure is not indicative of larger structural problems.

Note, however, that even as our annual capital commitments normalize, the bonds that were sold to pay for mandated projects that are in construction or recently completed will be paid off for the next 30 years and so they will continue to exert pressure on water rates for many years to come.

In addition to mandated projects, we are making critical investments to ensure that the water system is viable for the next 100 years. Mayor Bloomberg has made the city's infrastructure a top priority, and investments such as City Water Tunnel Number 3, the Staten Island Bluebelt and Siphon, and the Avenue V Pump Station in Brooklyn, all of these are essential to DEP's core mission to supply, distribute and treat the more than a billion gallons of water that 9 million New Yorkers need every day. That's in city and up in counties outside of the city.

And we are continuing to fund

critical projects in each of the five boroughs to maintain and improve the 6,600 miles of water mains and 7,400 miles of sewer mains that make the system work . I'm just going to hit like one project in each borough.

In Queens, we have budgeted an additional $1.7 billion for Fiscal Years 2010 through 2014, including $330 million for sewers, $200 million for water mains and more than $800 million for upgrades to Queens wastewater treatment plants and CSO facilities.

In the Bronx, we project spending $592 million in capital spending from FY 2010 through 2014, including $382 million for the Croton Filtration Project, $28.4 million for a seven-mile force main from Mosholu to the Hunts Point Wastewater Treatment plant, and $57 million to finish upgrades at the Hunts Point Wastewater Treatment Plant. I've been there a couple of times and the plant has improved dramatically. We have further to go, but I think it's going to be quite good when it's done.

In Brooklyn, we have budgeted $1.54 billion from fiscal year 2010 through 2014, including $142 million for new sewers, $153 million for the Gowanus Pumping Station upgrade, and $548 million in additional costs at the Newtown Creek Wastewater Treatment Plant. That's our largest plant and treats about 240 million gallons of wastewater every day and when it rains, at least twice that.

In Manhattan, we have budgeted $425 million in additional capital spending. $252 million will go for water supply purposes, including the funding to complete ten shaft sites for City Tunnel number 3.

In Staten Island, to improve the reliability of that water supply, we'll begin a $300 million project to put a new tunnel siphon in place. We're working with the Army Corps of Engineers to do that. And because Staten Island lacks storm and sanitary sewers in some areas, an additional $361 million is budgeted from FY 2010 through FY 2014 for sewers. The budget also includes $258 million for remediation of the closed Brookfield landfill, a joint City/State project.

We're also funding important

capital improvements upstate. The reconstruction of the Gilboa Dam is funded for $347 million for fiscal years 2010-2014. Massive projects like this which aren't in the city and which many New Yorkers don’t see are critically important to ensure that the massive reservoir, in fact we have about 568 billion gallons of storage capacity, stay just as secure as they are.

The planned reconstruction work for Gilboa is intended to repair long-term deterioration of the spillway and is incredibly important for our operational capability.

So what are our options for reducing debt service costs going forward? Our first obligation is to do what is necessary to supply, distribute, and treat more than a billion gallons of water every day. But we must also be prudent in our capital investments, and we are in the midst of a detailed review of our capital plan to ensure that we have set the right priorities.

And we have to engage our regulators. Just in terms of internally what we're doing, I've already met personally one-on-one with all of our designer, design consultants and with our construction managers, with the new head of our capital division Kathryn Mallon to explain to them exactly what we're doing in terms of project controls, new aggressive project controls, de-scoping where possible because I think we can bring down the capital costs for some of our existing projects, and we're doing that.

But we have to engage our regulators, the EPA and State DEC and the State Department of Health to ensure that the rules governing water quality, and the investments needed to comply with the rules, will achieve meaningful improvements on a timeline and in a manner that New Yorkers can afford. There must also be a willingness to look at existing mandates and make adjustments considering science-based assessments of public health risks and environmental benefits.

I have already begun to engage our State and Federal partners to build the kind of relationship that will, I hope, enable more agreements like the one Mayor Bloomberg and I announced on February 25th with State DEC Commissioner Pete Grannis and Chairman Gennaro.

Rather than spending time and money in a legal battle with environmental stakeholders and regulators over nitrogen discharges into Jamaica Bay, the City and the State, with federal EPA support, joined environmental stakeholders to develop a plan to dramatically improve water quality by reducing nitrogen discharges with $115 million of investments over ten years, giving the City much more flexibility in managing contracts and costs than we would expect from litigation.

This is an approach I hope to replicate, and with the cooperation of our regulators, and your help, I am confident that it can lead to more manageable capital budgets, and lower water rates going forward.

Finally, I've talked about the expense and capital and the rate proposal for Fiscal Year 2011. But for DEP, providing adequate funding for the water and wastewater systems, while keeping rates as low as possible, we must also have all the tools necessary to ensure that people who can afford to pay their bills actually pay.

In 2007, thanks to the leadership

of Speaker Quinn and the entire Council, DEP was authorized to sell water liens for customers who have had $1,000 or more of water debt for more than one year. The lien sale has proven to be a powerful tool to collect unpaid water and sewer bills from those customers who can afford to pay, but for some reason have not.

In short, the lien sale works. Very few liens are actually sold, because 89% of those eligible for the lien sale in 2008 and 2009 either paid their bill or entered into a payment plan well before any sale took place. In fact, in 2008 and 2009, DEP received $185 million from customers noticed on the 90-day list, and another $81.6 million in payment agreements. That translates to an additional 7.9% of water rate increases that responsible New Yorkers who pay their bills otherwise would have had to bear without the lien sale.

As you very likely know, DEP's lien sale authority will expire at the end of this year, and we strongly encourage the Council to authorize and expand it before end of the year. Just last week, I testified before the Finance

Committee and Community Development Committee on Intro 26, which would severely limit the pool of delinquent accounts eligible for the lien sale and with that, the revenues we can expect to collect for water and sewer service. Don’t worry; I won't repeat today all of the reasons why this proposal would be bad for rate payers and for DEP but my testimony is available online.

But I would like to make two general points. First, Mayor Bloomberg and DEP understand that particularly in these difficult economic times, we must do everything we can to help New Yorkers who face the greatest financial burden.

There are a number of exemptions to the lien sale that are designed to do this, and DEP's Water Debt Assistance Program which has more than 600 participants now, and that's a correction to my testimony that I hope is in yours. Mine says 500 but it's more than 600. It's an example of new initiatives for these extraordinary times that we've created to help people who are facing an extraordinary burden because we don’t want people to lose their homes. We want to give them ways to deal with it and work with us to pay their bills.

But limiting lien-sale eligibility is not a way to help those in financial difficulty, in fact, it exacerbates the problem. DEP's experience is that including accounts in the lien sale is much more effective way to incentivize New Yorkers to work with us to pay their bill rather than let it accumulate. It is far less costly than other measures, like water-service termination.

We think the best course of action is to re-authorize the lien sale as it currently is structured, and to expand it to single family homes to some extent. In 2008, concurrent with the first sale of water-only liens on multi-family homes, we began to enforce against seriously delinquent single-family homes by terminating water service pursuant to a long-standing authority to do so.

While most of those single family owners who received a termination notice have paid in full or signed payment agreements, and I think that number is about 98%, terminating service is a very labor-intensive and inefficient means of enforcing payment of water bills. The actual termination of service requires a crew to excavate the street and costs an average of about $2,700 per home.

In 2009, we served 15-day notices for shut off service to 3,500 single-family homes. We terminated service only 65 of them. Now, through those notices, we collected $2.75 million, but we spent $1.6 million to do it and we tied-up the equivalent of 10 full-time field staff, which could otherwise have been performing what would have been work that could have benefited many more New Yorkers, work that I know is dear to, Chairmen both of you, which is cleaning water mains, maintaining fire hydrants, or cleaning catch basins and sewers.

Currently, there are 8,500 single-family homes that would meet the eligibility criteria for a lien sale. If all of them had their service terminated, that would be the equivalent of 24 full-time DEP employees and cost $3.8 million for a return of about $18.2 million.

If those same homes were eligible

for the lien sale, we expect based on past experience that we would collect $25 million with virtually no additional operational expense. That is equivalent to a full point on the water rate.

The bottom line is that extending the lien sale authority would eliminate the threat and substantial cost of water service termination, and significantly increase revenue collection, at substantially no cost. It is difficult to think of a more efficient way to lighten the burden on the ratepayers and increase service in the field.

In closing, DEP will continue to find ways to reduce operating expenses, and we're taking a hard look at the capital program to find savings. I'd ask the members of both of these committees and the rest of the Council to work with DEP to encourage our federal and state regulators to embrace a new paradigm that focuses on cost-effective investments that increase water quality, and are built at a pace and scope that New Yorkers can afford.

I also strongly encourage the Council to reauthorize and expand the tools DEP needs to ensure that those who can afford to pay their water bills actually pay.

That concludes my prepared statement and I would be happy to take any questions.

CHAIRPERSON RECCHIA: Thank you, Commissioner. Before we start asking questions, I'd like to recognize Liz Crowley from Queens, and I already mentioned Helen Diane Foster, but I'll say it again, Helen Diane Foster.

At this time I'll turn it over to my co-chair Jim Gennaro.

CHAIRPERSON GENNARO: Thank you, Mr. Chairman and thank you, Commissioner, for your comprehensive statement. I'm sorry that I didn’t get to come to the hearing that was held last week in the Finance Committee about the Al Vann bill and that robust debate that took place. I don’t want to get into that too much, but I do want to pose a question regarding the cost of doing the shut-offs for the single-family homes.

You indicated that of all the people that got the shut-off notices, there was like a 98% response and if you do the math, 3,547 terminated service and that's just about 2%. So there was a total of $2.75 million that was brought in, but it cost $1.6 million in order to get the $2.75 million. But only 65 shut-offs were done. Is that to say that 65 shut-offs cost $1.6 million? Is 65 times 2,700, $1.6 million?

CASWELL F. HOLLOWAY: Actually, no. That number includes the $400 per home that it costs. There's a multi-step process when you do a shut off. Of course, people get noticed and then that's when we want them to come to us. Then when you send them the 15-day notice, then our crews have to go out to each home and actually mark where the shut off is going to happen.

CHAIRPERSON GENNARO: I see. Paint the lines and all of that.

CASWELL F. HOLLOWAY: Then tie that to the line. That costs about $400 per home. The number of homes that we had to do that for was all 3,500. So it's $400 times 3,500 plus 65 times $2,700. If you had the lien sale authority, just based on our historical experience, there would be some additional noticing that you would have to do.

We would have some truly marginal

increase in overhead costs just to deal with that population but we know how to deal with that and it's largely a paper central office function. So you basically entirely eliminate the operational impact on the Bureau of Water and Sewer Operations. That's a multimillion dollar contract that we're using to get the backhoe to go and break into the street. Then we have to have a BWSO crew out there monitoring every shut-off.

CHAIRPERSON GENNARO: So maybe just for the purposes of making the best case to the Council, there's the dollar amount, $2,700 to actually do the shut-off. But I think it would helpful in the debate that it costs $2,700 to actually do the shut-off but here's the dollar amount that is associated with something that's just short of a shut-off. So it'd cost us $2,700 to shut them off and whatever the dollar amount is to go up to like the next to last step, which is really what happens in 98% of the cases. It doesn’t get to that last step.

Quite frankly, when we first did the whole lien sale concept, which we were happy to really do anything we could do to get some better efficiency and get people paying their bills and to sort of spread the load over a larger group of ratepayers, which is what the lien sale was all about, getting more people to pay their bills on time.

The concept that we ultimately went with is to do the shut-offs for the single-family homes because we don’t want people to lose their homes. If you get shut off, you could always get turned back on. But if you lose your house in a lien sale, then that is what it is. So I think it would help in the debate that threatening the shut off that doesn’t actually happen causes some big dollar amount per home and that'll sort of register I think with members of the Council.

I look forward to the debate going forward on how we renew the authority. That'll be a big deal. If there needs to be changes that would bring us more money and cost the city less in getting that money, then I certainly want to be open to that. But it's going to be a big deal to try to get the Council to go down to the one-family home. But I'm more than happy to have that discussion and make the system overall more fair for homeowners that are paying their bills on time, which is really what we should do.

CASWELL F. HOLLOWAY: Thank you. We'll make sure that that's clear. In my testimony from last week, I think you're absolutely right, so I wish I had your help preparing my statement. But I'll make sure that the $400 is clear in terms of the costs. I really do look forward to working with the Council on this discussion.

I think that we are certainly sensitive to the difficulties of anybody who is facing financial difficulty and can't afford to pay their bills. One of the ways that we tried to bring a new thinking to the table this year was with the Water Debt Assistance Program. We think ways that encourage people to work with us, we are open to any of those and we'll continue to be. So that is more than a debate, I think a discussion and a way to try to figure out what's the right way to make sure that we're using the resources most effectively.

CHAIRPERSON GENNARO: That would be great. It's a tough thing for Council Members to sort of go back and say we're going for this concept for single-family home where you can get shut off to where we're going to theoretically sell a lien and cause everything that goes along with that. That's a delicate matter but not something that we can't figure out how to do.

I just want to go back to something that we talked about at the previous budget hearing on the preliminary budget with regard to something at the time that you had in your statement. It sounded like a very good idea and I said so at the time that you made your statement. Maybe something has changed since then. I don’t know what your current thinking is on it now.

With regard to doing the beneficial reuse, you came before us and said you had an idea to save some money. I was very sympathetic to that. I know since that hearing, people have come to you regarding the whole beneficial reuse thing and whether or not it makes sense to keep doing that. People have come to me. I was just wondering what the current thinking of the department is with regard to the proposal you made at the preliminary budget hearing to save $18 million or whatever the figure was. How is that looking now? People have come to you and come to me, so what's the state of affairs as of May 13th?

CASWELL F. HOLLOWAY: The state of affairs right now is that right now DEP has a contract with a company where they deal with a certain percentage of our sludge. The cost of that service has been going up pretty dramatically. As we have been looking for operational savings, we identified this at the time of preliminary budget and we are carrying through on terminating that contract. Our intent is to have that done by the beginning of the fiscal year, if not very soon thereafter.

However, where we want to end up is the sustainable option for biosolid waste is to try to do beneficial reuse. So we're committed to trying to get back to 100%. We will still have some substantial percentage of our amount that is beneficially reused. In fact, we have really accelerated drafting a new RFP that we are going to put out for proposals for beneficial reuse.

When we look at those proposals, we're going to be looking at not only what is the way that you propose to use this so that it's not disposed of in a landfill which I think everybody agrees over the long term is not the way to go, but how are you going to do it, what are the impacts going to be and where is it going to happen.

I'm encouraged because we have gotten some interest in this area. It's an area where people are investing money and time and research and I think there are some good options. I'm hopeful that that RFP, which we want to get out before the end of the summer so it's on a very fast track, is going to generate some great options for us for the long term.

But for the immediate term, we are going to move forward and we think we will in fact achieve those savings.

CHAIRPERSON GENNARO: With regard to the company that currently has that contract, will they be in the running to continue to do this? Because other folks want to come into the market and maybe they have different ways of getting this done. Is it thought that this facility that's currently being used now will still be part of it? Do we think that they're still going to be in this business processing sludge? Because if they're not processing ours, maybe they're going to be processing someone else's.

I know that there are noise issues and smell issues and whatever it is that are associated with that facility. That was another aspect of this whole thing, that there were other entities within state government working with that facility to try to get it to not have such an offensive smell.

One of the concerns that was raised was if they don’t have the city contract that it wouldn’t be able to have the means to make the plant better for the community. If they're processing someone else's sludge from some other jurisdiction or whatever. I just know that that was part of the discussion.

While the smell is not first and foremost your problem, as someone who is looking to manage dollars, I know it was a problem for the attorney general trying to figure out a way to get this plant that it would operate so it wouldn’t smell so much. I don’t know where all of that's at. I haven’t tracked it in a real dedicated way as your people might have.

CASWELL F. HOLLOWAY: I can tell you my perspective and what I know. First, it's important to say we have been working with that facility and that facility has accepted sludge from New York City for more than 15 years. While there are certainly many different aspects to running that business, they've been a good partner of DEP's. This was really that the economics don’t make sense. We want beneficial reuse, but the current way that it's structured to do it isn't cost effective and we need to find a different way.

In terms of whether or not that company or that facility will be in the mix, all I can say is that I hope that any company that has a viable proposal for beneficial reuse of the city's sludge will take a look at what we put on the street and will make a proposal. The more ideas and the more proposals we get, the more competition there is, so the better chance we'll get a good price and the more likely it is that we'll come up with a solution that'll work. In terms of the other issues, I would have to say certainly you can talk to the company about it. That's where we are on it.

CHAIRPERSON GENNARO: You already have a record of bringing other kinds of technologies into the mix like DEP did for nitrogen removal with the ARP.

CASWELL F. HOLLOWAY: Just signed that contract by the way.

CHAIRPERSON GENNARO: I heard that that was happening. That I think is an example where you have many folks who are in the nitrogen removal business that are going in one direction and that technology is going in a different direction, much less capital intensive.

I have seen you do this before with good results to figure out how we can use different technologies to get a better and less costly result. I wish you well in doing this for the sludge. I just want to follow up on that because I know it came up during the preliminary and then there was a lot of back and forth and meetings and so on. Now o see your position and

I'm fine with it.

Mr. Chairman, I actually have some other questions but there are other members here that may have to get on to things and I'd be more than happy to have some other folks be recognized. I could come back after that. I'm here for the long haul and maybe some folks here want to ask their questions and go.

CHAIRPERSON RECCHIA: First, I'd like to recognize that we've been joined by Council Member Peter Vallone and Council Member Levin. At this time we call on Gale Brewer.

COUNCIL MEMBER BREWER: Thank you very much. I know that you have an active noise control program and good staff working on it, new noise code, et cetera, and trying to turn it into a budget issue because I know that's a budget hearing. How many people are working on it? People paid fines, et cetera, and then is there a good collection? Do you feel the noise code is meeting your expectations? Obviously in my district it's a huge issue and I think still for 311 it's a big issue. Unfortunately, the police department doesn’t have always the meters and your staff gets called constantly I think to do the backup, the front up, et cetera.

CASWELL F. HOLLOWAY: Well it's on the first page of my question sheet, Council Member.

COUNCIL MEMBER BREWER: Oh good.

CASWELL F. HOLLOWAY: We currently have 46 inspectors responding to noise complaints. DEP is being honored for innovation in hearing loss prevention in the construction sector. We're getting an award for the work in developing and implementing the construction noise mitigation rules.

In terms of how effective it's been, looking at the number of noise complaints from 2008 through 2010 year to date, in 2008 the total number of complaints was 49,200. In 2009 that was down 10,000 to 39,371. Year to date we're at 22,238. So I think even if it's a noisy rest of May and June, this year is looking pretty good.

So I think the code and the awareness of the code, because I've worked with the unit that’s done that on some particular construction sites, is increasing. As that happens, I hope that we'll continue to see these numbers go down. It's something that we have that dedicated crew doing every day.

COUNCIL MEMBER BREWER: It's hard because it's somewhat subjective, somewhat social work and somewhat abiding by the code. Your staff does a great job, but it's hard.

The second issue is the upstate land. I've been up there a couple of times in previous jobs. So I just wanted to know the status of land acquisition. I know you have a FAD to comply with and the politics of the upstate community are challenging. I'm just wondering if this capital funding toward land acquisition and what kinds of purchasing methods are being used, et cetera. This is obviously an ongoing issue for many years in the past and many years into the future.

CASWELL F. HOLLOWAY: This is a critical issue. The FAD, filtration avoidance determination, is something that we worked very had with EPA to get in 1997, to renew in 2007. That was a ten-year renewal. In 2012 will be the five year review of that renewal. Part of that agreement is that city is able to demonstrate control over watershed lands.

So our land acquisition program has been aggressively making purchases, in fact since 1997 we've acquired more than 100,000 acres either outright fee or easements. The total amount that we have for the FAD budgeted between now and 2017 as part of that renewal in 2007; we added an additional $241 million to the $60 million we were already going to spend. So we'll have $300 million for land acquisition. This year we've already signed agreements for 10,700 acres. We've closed on half that number and closing just takes a while, but the vast majority of these closed.

It's a great group. We're aggressively trying to meet our purchasing goals. And at the same time, we want to make sure that we're clearly getting the most important parcels to get. Because the other thing that you mentioned is we have 40-70 partners in the upstate watershed and economic development is important to them. The city is a big taxpayer.

COUNCIL MEMBER BREWER: I'm

familiar with those local issues.

CASWELL F. HOLLOWAY: Right. So I have been up there many times already and we want to strike that balance. But in terms of our acquisition, it's going very well.

COUNCIL MEMBER BREWER: Something that I hear about and don’t know as much is the share, which is combined sewage overflow. Is that something that you keep working on, capital budget wise? How does that look into the future? Because that obviously has something to do with quality of the water. I want to swim in the Hudson. Like just go every night, every day, all the time.

CASWELL F. HOLLOWAY: I've been swimming in the Hudson a couple of times.

COUNCIL MEMBER BREWER: Me too, but not comfortably.

CASWELL F. HOLLOWAY: First of all, the mayor's goal in PlaNYC is to have 90% of the city's waterfront open to recreation.

COUNCIL MEMBER BREWER: Recreation is good.

CASWELL F. HOLLOWAY: And as much

swimming as possible.

COUNCIL MEMBER BREWER: I know.

CASWELL F. HOLLOWAY: In terms of combined sewer overflows, that is an issue that we are working on and it's a multi-year process. In fact, we have plans to do over a billion dollars of additional investments in combined sewer overflow, but we're at a period where some big investments are about to be completed. So we just finished a combined sewer overflow facility in Flushing that has a good capacity.

There is a 50 million gallon CSO facility in Brooklyn at Paerdegat Basin. That will be turned on before the end of the year. That's going to reduce combined sewer overflows into that one tributary at Paerdegat Basin from 61 to 21 and it'll be in full compliance there.

There is a big challenge here though, which is that New York City, as you know, is severely space constrained. So building these large tanks and burying them underground takes a lot of land and it costs a lot. That Paerdegat Basin facility I just mentioned cost $357 million. One question that we're asking is what is the overall water quality benefit to that investment even if you can say that you've stopped a certain amount of combined sewer overflows in one particular place?

One thing that I did as soon as I came onboard was create a new position and appoint a Deputy Commissioner for Sustainability, Carter Strickland. He has worked for the last couple of years with Rohit Aggarwala on the mayor's PlaNYC. In fact, he was the primary author of the long-term storm water management plan. I asked him to come over to DEP on the theory that you really need to make these things a reality, you really need to make them part of the way our capital planning and our operations people operate and building.

So he right now is working on basically a comprehensive CSO plan. We've already engaged state DEC and the EPA. That's not to say that we don’t already have a plan. I just described a bunch of investments. We have a billion dollars in the budget.

But we need to strike a balance between green infrastructure and less invasive, more taking advantage of existing environmental features like we're doing in Staten Island with the Bluebelt, and like we're trying to do in Queens with Alley Pond Park. And then also try to create incentives for homeowners and business owners to do the same to deal with the issue so that we can have a more collective, less intensive and hopefully less costly approach to dealing with this problem. But it is at the top of the agenda.

COUNCIL MEMBER BREWER: Thank you. Then finally, I'm glad you met with Pete Grannis, that's a huge effort, he's our friend. Your real problem is my friend who's in charge of DEC's New York Office. Susan will kill you before you are successful with her efforts. Just so you know Pete Grannis is a pushover compared to her. Thank you very much.

CASWELL F. HOLLOWAY: Thank you.

CHAIRPERSON RECCHIA: Council Member Al Vann.

COUNCIL MEMBER VANN: Thank you, Mr. Chair. Good afternoon, Commissioner.

CASWELL F. HOLLOWAY: Good afternoon.

COUNCIL MEMBER VANN: Water is essential to life. I've had difficulty accepting the fact that we must tax those of us who use water. I understand it. I resent the fact that as a matter of public policy we tax for the use of water. It's regrettable that unfunded mandates, whether federal or state, while they may be well intentioned, forces an undue burden on those of us who live in New York City who own homes who have to use water, that that cost also must be borne by us, because water is essential to life.

Now my concern, and what seems to drive your policy, is that those who can afford to pay should pay. So whatever we can do to get those to pay, we should do that. I can understand that you have to do that. As a Council Member, I have to be and hopefully we will be protective of those who cannot afford to pay, which is why there is an Intro 26, if you will.

Not only those who cannot afford to pay, but those who may be driven to become destitute in their attempts to try and pay their taxes and the water bill and so forth. So it's not only to get the money that we need to run our system that may drive you, understandably, you're the commissioner, but as a councilman concerned with the totality of a person's life and environment, we have to make sure that they also can live a quality life.

No one wants to just live to pay water tax and real estate tax and other taxes, given where we are in our country and this world at this point in time with the world recession and the failure of our economic system. All of those things impact on the quality of life of just ordinary people trying to make it.

We want you to be mindful of the impact that it's having on the average citizen trying to live who may own a property and is trying to live a decent life with their family. So Intro 26 I think is good.

But there are two things that I think are necessary. Number one is that we make sure that you and the Department of Finance do everything possible to identify those who are eligible for exemptions. We should not be strict or increase that number who cannot be exempt as you would want to include the one-family homes. I disagree, hopefully for the reasons I've tried to express in my earlier comments.

But number one, there has to be an extensive outreach that perhaps we can improve upon. My position is that we have the intelligence and the resources and the creativity to get people to pay their taxes without putting them at risk of losing their homes. I've lost that battle because we did pass the legislation.

So second to that, since we lost that battle, we must do everything to identify those who really cannot and should not and exempt them. Even when you're using the argument that if we let these people exempt then you're going to have to pay a little more and that scares people because nobody wants to pay more taxes.

I think in the overall scheme of things that in reality in order to protect people from losing their homes and becoming destitute, yes, those who can pay should pay a little bit more. So I don’t like your argument that you're pushing, and understandably, that if we don’t do this we're going to have to pay a little more.

We're paying more because of the

unfunded mandates, not because a few people are being exempt because they are unemployed or they're poor or they're old and they've paid their dues to society and they're now senior citizens. You get my drift there.

So I understand what it is you're trying to do. You're a very efficient person doing a good job. But be mindful of, and I hope our Council will remain very committed to making sure that we protect those who should not and cannot pay, as we support measures to make sure that we indeed have a water system that's working well throughout. I may not have a question, but if you have a question, I'd be prepared to respond to it. Thank you, Mr. Chairman.

CASWELL F. HOLLOWAY: Thank you, Council Member. Just a couple of things. Number one, I agree that notice, identification, outreach to everybody to make them aware, whoever they may be, of any program for exemption that they can take advantage of, we want to do.

As I said last week, you in particular have been very helpful working with us to ensure in your district. But let me just say now that any additional outreach that you want to do we'll certainly work with you directly to do.

I think that the question as we enter into this discussion about the tools and the liens and what's available is if you're trying to focus and target who you want to identify and identify those people who can't afford to pay and are they eligible for an exemption, we need to do that.

I think what we don’t want to do is in the process of doing that then unintentionally exempting a whole other group of people who can afford to pay and because they're only getting their bill once a quarter or they just figure we aren't going to come around that they don’t pay their bill.

I think some of the numbers show that there is a substantial percentage of people who can come and work out either a payment plan with us or pay outright because we've gotten pretty high percentages over the last two years.

I just want to acknowledge Joe Singleton who is here, who's the Deputy Commissioner for Customer Service. I do think what we try to do is really work as much as possible on a case by case basis with people. But the first step is they need to come to us and tell us where they are. So we'll continue to do that. I would love to work with you, and I appreciate the issue.

COUNCIL MEMBER VANN: Thank you. I appreciate your attitude and your words in that regard. I agree, we're not trying to find a pass for those who can afford to pay. I believe there will come a point where you have to make the decision. It cannot be so precise that we get everyone that can afford and we exempt everyone who cannot. There is going to be a point there where we're going to have to go one way or the other.

Like the criminal justice system, we tend to try and provide for the innocent even though we know there may be a few who are guilty and will get off. But in order to protect the innocent, we allow some leeway. This is what I'm asking here is that we come to a point where we recognize there may be a few that's gaming the system and will get away with it, but so be it if that will allow us not to have a person lose their home or become poor because we're forcing them. Do you get my drift?

With that kind of sensitivity I think we will obviously work together. I think there are some other things we can do with outreach. It just occurred to me that we have not probably been working through our senior citizen centers enough to have outreach to a lot of seniors who have not taken advantage of the exemptions through qualifying for the different programs. So that's another avenue that we work together. Joe has worked very well with us and is very committed to this outreach and we appreciate that.

CASWELL F. HOLLOWAY: Thank you.

COUNCIL MEMBER VANN: Thank you.

CHAIRPERSON RECCHIA: Thank you, Council Member Al Vann. Just by the commissioner's statement, it sounds like you're ready to negotiate and come to an agreement on Al Vann's bill. Right, Al? That's what it sounds like to me.

CASWELL F. HOLLOWAY: I thought he

was ready to come to an agreement on our ideas.

CHAIRPERSON RECCHIA: On page 14 in your testimony, in the second to the last paragraph, you talk about the single-family homes. You lay out for us about 24 fulltime DEP employees and the cost would be $3.8 million in order to collect $18.2 million. Do you see that?

CASWELL F. HOLLOWAY: Yes.

CHAIRPERSON RECCHIA: If we had to do a lien sale, how much would it cost us and how much would DEP get? You’re saying that we should do a lien sale on single-family homes. Because right now you have a remedy to terminate water but you say it costs too much. It if costs this much money you only wind up with 14.4. What I want to know is if you were to have a lien sale, how much would you wind up with and how much would it cost?

CASWELL F. HOLLOWAY: Sure.

CHAIRPERSON RECCHIA: If you can't give me the answer right now, it's fine.

CASWELL F. HOLLOWAY: I can give you the outlines of the answer and fill in one or two details after. The way that I've structured this is the reality is we are not able to do shut-offs to everybody who would be eligible to have their service terminated. That's just because the full cost of that, if we were to fully fund being able to do that for every home. So we draw lines internally in terms of how you allocate operational resources.

It would be $3.8 million. That's the $2,700 plus the $400. This is just extrapolating our numbers based on the last two years of experience to collect what we think would be about $18.2 million from the shut offs.

If those 8,500 were eligible for the lien sale, just based on applying what our percentages of people entering payment plans and making payments are, we think we would collect about $25 million.

In terms of the cost, the cost there would be an increase in the customer service staff and some paperwork costs needed to have Joe Singleton's organization absorb that versus the crews and the hard operators out in the street costs of doing the turnoff. So I can get you the exact number but it's substantially less. I don’t have the number in front of me. In other words, we would get the efficiencies of adding that additional number of people to the lien sale, a couple of people would have to be added. I can give you a full breakdown.

CHAIRPERSON RECCHIA: We'll send you a letter requesting that information because I think that would be very advantageous for us to have those numbers.

CASWELL F. HOLLOWAY: Absolutely.

CHAIRPERSON RECCHIA: Then we could compare and examine it all. Again, I will stress I hope we could come to some type of agreement on Council Member Vann's bill in moving forward. Next we have Council Member Jackson.

COUNCIL MEMBER JACKSON: Thank you, Mr. Chair. Commissioner and staff, good afternoon.

CASWELL F. HOLLOWAY: Good afternoon.

COUNCIL MEMBER JACKSON: First of all, I'd like to thank your staff and the cooperation with one of my staff members concerning a couple of constituents concerning this recent lien sale. The communication was quick and fast and we appreciate that.

I have one or two questions. I guess the average constituent that we represent overall in the City of New York cannot understand why it seems as though every year that the water rates are going up to the extent that they are. I read and listened to your statement as to the reasons why as far as unfunded mandates that we must do as per whatever the federal and state says and the two major projects that we're dealing with.

But from a very simplistic point of view, how would you respond to one of my constituents in saying why is it that the rates are going up every year and it's just so much money that we have to pay for? Very simplistically, what should I tell them?

CASWELL F. HOLLOWAY: Well, what I would say is that one thing that I have found, and this year we've done something that we hadn't done before which is before the rate proposal and the hearings that we've had, I went to all five boroughs to do not only a listening tour but also to try to do some additional explanation.

For the people who came to those meetings, I was happy and gratified because people came up to me afterwards, even though they didn’t like the cost of some of these projects, to say they had no idea now big the plant in the Bronx is, I had no idea what this disinfection plant is. When you explain to them the purpose of the ultra violent disinfection is to kill cryptosporidium and cryptosporidium can cause stomachaches in the very old and the very young. They connect it to public health, which it is.

Another project that had a lot of mandates to it is the $5 billion reconstruction of Newtown Creek, which Council Member Levin is very familiar with. That is a project which in my testimony I indicated has enabled us to do something which we've never done which is meet water quality treatment standards for our 14 wastewater treatment plants for the first time ever. Now that’s a good thing.

It's a good thing because, as Council Member Brewer said, if you want to be able to swim and be on the water and be on the waterfront, you have to meet certain water quality standards. We're really moving in a great direction there.

So part of the answer is we need to do a better job explaining what we do. Because I think you turn on your tap and you take a shower, you go to work and you don’t think about the enormity of the infrastructure that brings that to the city. If I was speaking to your constituent, I would hope they had a few minutes and if I had my pictures on me, which I try to have on me all the time, I would try to show them the magnitude of some of this.

Because what people do understand is payroll. So for example, we have 1,000 workers working on that filtration plant in the Bronx. People understand that every week the contractors who are working up there have to meet payroll for those 1,000 workers. So meeting that payroll means we have to prepare for that. In fact, the capital commitment plan that we budget is one thing. The rate and the rate model is based on a projection of the cash we think we're going to need to make those payments.

So when I was explaining the

cumulative impact of those two big projects, you have 700 people working in Westchester and you have 1,000 people working in the Bronx. And that's just two of many, many projects. So you need that cash on hand to make payroll.

So I would try to make sure that the magnitude of the system was something that they understood so that people understand there is a cost and it's actually a pretty big cost to bring the water to you. Why is it going up every year? Are we just bad planners? I think the answer to that is no.

Two things have been happening consistently. One is the consumption has been going down. Now consumption going down on the one hand equals conservation and that's a good thing. In fact, the 20 year trend in consumption, we used to calculate the average water use of a single family home at 100,000 gallons a year. We're now using a base of 80,000 gallons a year. Now that's not just because everybody is drinking less water. There have been important technological advances. Toilets used to use eight gallons a flush and now they use 1.6. This is a good thing.

But when you have investments like the Croton filtration plant or the UV disinfection plant, those plants are going to filter or disinfect every gallon of water that flows through the system, no matter how much we use. So they have a fixed cost to build and operate. There's a rule that requires us to do that disinfection.

Now this gets to the unfunded part. Because it's true, particularly for an investment like the disinfection plant, it's going to do something that you want done. You want cryptosporidium to be deactivated by ultraviolet light. But the question that I've been asked is does that mean we have a cryptosporidium problem in our water supply. The answer to that question is no. Then people wonder why we're building it now.

That is the question where you say what the order is and the timeframe that we have to build these projects on? Could we build it now? Could we build it ten years from now? Those are the hard questions that I think I need your help and I've already engaged our regulators on it. I know that’s a long answer but I think that it's true. It is true. So with consumption going down, for example, our estimates were off.

Then you run into things which you can't plan for, which is last June was really cool. Consumption was down 15% last June. So we started off substantially depressed on consumption. July was also cool and consumption was off 11%. It came back, but overall we're down 5% for the year and we thought we would be down 1%.

So it's a challenge to try to get it right, but I also think we need to cut our costs which is the first thing. DEP is a big agency and we needed to look at ourselves first and how we can operate more efficiently. We did some good work there and we're going to do more. We also have to look at all of our capital projects and we'll do more there. But ultimately, in terms of what we do going forward, building things over 10, 15 and 20 year timelines is better than building everything in four.

COUNCIL MEMBER JACKSON: If that's a simplistic answer, I really wouldn’t want the complicated answer. I understand exactly what you're saying because simply those are questions that people ask out there and we have to be able to answer them.

About two weeks ago and it was pretty warm out, I noticed a fire hydrant was on. I was driving with a staff member in the car and I asked her to call 311 to report it. How do all of these water hydrants, if it's very, very hot during the summer, how does that impact us overall with our water and the fact that the water rates are going up, if at all?

The final question I have is about the noise issue that Gale Brewer raised because the Post and what have you and so forth says that Community Board 12 in Manhattan has the highest number of noise complaints in the City of New York which is my district and Ydanis Rodriguez's district.

CASWELL F. HOLLOWAY: Fire hydrants first. On the issue with fire hydrants, consumers get paid for what they use, and luckily right now we have plentiful supply. In fact, I track this every day. Our reservoirs have a storage capacity of 568 billion gallons. If you're interested, today we're at 98%. Our normal storage at this time of year is 100%, so we're 2% below.

The issue with fire hydrants being on, particularly in the summer when you could have a lot of them on, and we have a big enforcement program. We have youth who we deputize. We deputize some students in certain neighborhoods where it's a problem to help tell us the problem. One thing that you have is you get pressure drops. If you have a pressure drop in a particular neighborhood, if you have a fire that you need to put out and you have a lot of fire hydrants running, you may not get enough pressure to put it out. That's really the threat right now that that kind of an issue poses to the system. It's not so much directly connected to water rates.

I'm sure people here remember, was it '99 or 2000 that we had our last drought here in New York City? Once you get water levels down low, fire hydrants throw out a lot of water, so in that kind of situation too you have a conservation issue.

On the noise, why don’t I get back to you on your particular community board district? I've went through the aggregate numbers. We can look at what we think is driving those numbers.

COUNCIL MEMBER JACKSON: I only raise that issue since this is an executive budget hearing as far as overall DEP enforcement situations overall and as far as the budget is concerned. Thank you very much, Commissioner.

CASWELL F. HOLLOWAY: Thank you.

CHAIRPERSON GENNARO: Thank you, Council Member Jackson. I'm happy to recognize Council Member Crowley, to be followed by Council Member Vallone and Council Member Levin will be after that. I'll recognize them in due course unless Domenic is back. Right now, I recognize Council Member Crowley.

COUNCIL MEMBER CROWLEY: Thank you, Chairman Gennaro. I don’t know if you mentioned it earlier. I didn’t see it in your prepared statement. How much do you receive roughly each year from rate payers for their water use?

CASWELL F. HOLLOWAY: How much did we receive this year, Steve? We estimated 2.6. And how much did we receive last year? This year we are projecting that we'll bring in about $2.5 billion in revenue from rate payers. The year before, it was $2.2 billion. Next year, we're projecting that the costs to run the system is going to be roughly $2.9 billion and we'll bring in $150 million of that from upstate. So we're setting the rate at a level to bring in approximately $2.8 billion.

COUNCIL MEMBER CROWLEY: What is your overall budget for this year?

CASWELL F. HOLLOWAY: $2.8 billion will be the overall cost.

COUNCIL MEMBER CROWLEY: So your budget is exceeding the costs that you're taking in and water consumption use?

CASWELL F. HOLLOWAY: We set the rate roughly to break even. So we project $2.95 billion revenue needed to fund operations, maintenance, debt service and our other costs. Then the rate is set to bring in that amount.

COUNCIL MEMBER CROWLEY: Is this just expense? Are you including debt service on capital?

CASWELL F. HOLLOWAY: Yes, debt

service, operations and maintenance.

COUNCIL MEMBER CROWLEY: What about federal grants that you're receiving? Are they in addition?

CASWELL F. HOLLOWAY: In terms of federal money that we get, first of all, in past years before the American Recovery and Reinvestment Act, the amount of federal investment in water infrastructure generally across the country had basically dwindled to zero. We do get some money from the state through state revolving funds.

We got I think $220 million in American Recovery and Reinvestment Act. That's additional capital dollars. That goes right to capital work. So we were able to accelerate some projects as a result of taking that money and putting it towards shovel ready projects. The whole deal with that was not to use it to achieve immediate savings but to do more work and create jobs, which we did.

We do get some other small grants. We get some Homeland Security money for a program called Bio Watch. There are some heads that are funded that way. But it's really not a significant part of our revenues.

COUNCIL MEMBER CROWLEY: What were the state revenues? Are there any state revenues?

CASWELL F. HOLLOWAY: We get a subsidy on the interest rate for debt that we float for certain capital projects, but not a direct payment from the state. In fact it's the other way around.

COUNCIL MEMBER CROWLEY: With all those monies added together, it seems like you took in more than you expended.

CASWELL F. HOLLOWAY: That's not the case. If I'm not clearly presenting this, I'd be happy to walk you through a more detailed line item presentation. Let's just talk about next year's fiscal year budget. For example, we're projecting spending roughly $1.2 billion in operations and maintenance. That is the revenue need to fund the operation and maintenance that we will pay for with water rate money, water revenue. There are some additional heads, for example, that we may pay for with Homeland Security and then about 10% of our operating budget is tax levy because we don’t pay for non-water related things like our noise inspectors and our asbestos inspectors with water money. But no, we're not taking in more than we're spending.

COUNCIL MEMBER CROWLEY: In your testimony or one of the questions that you answered, you mentioned that there's a possibility that you might decrease water rates in the future if you are spending less on operations and maintenance.

CASWELL F. HOLLOWAY: I said we would like water rates to be as low as possible. We would like to certainly have our increases be less. We're going to do everything we can to do that. What we're really focused on now is for fiscal year 2011. So for fiscal year 2011, you know the proposal.

COUNCIL MEMBER CROWLEY: I guess in the past five years how much has it gone up altogether?

CASWELL F. HOLLOWAY: Hang on for one second. In the past five years, about 70%. I can go year by year through the increases. But for next year it'll be 12.9%. In 2009, it was

14.5%. In 2008, it was 11.5%.

One interesting thing is that those increases track, generally speaking, massive increases in the cash on hand that we needed to meet particularly the debt service requirements. So our capital program went from an average of something like $1.5 billion a year to $3.2 billion in 2007 and $2.9 billion in 2008. This year, in fiscal year 2010, it's $3.2 billion.

That's really because we're under consent orders for those two disinfection plants, the Newtown Creek treatment plant and a bunch of other mandates to finish them by a date certain. So we have to have those projects in construction by a particular timeframe and it just happens to be now.

COUNCIL MEMBER CROWLEY: Just to clarify, over the past five years, if I was paying $100 five years ago, am I paying $170? Or if you add up the percentages each time, what is it? If you raise it 12% and you raised it 12% last year, it's on top of whatever percentage raised. So it could actually be 100% when you add it up.

CASWELL F. HOLLOWAY: You can

present it a bunch of different ways. But just based on the example you gave, it would be $170. If you were paying $100, you would be paying $170.

COUNCIL MEMBER CROWLEY: Thank you.

CHAIRPERSON GENNARO: Thank you, Council Member Crowley. I'm going to recognize the next Council Member who was going to ask questions in a moment. That'll be Council Member Vallone. But I want to recognize that we're joined by Council Member Lander and we're happy to have him here. Council Member Vallone has questions.

COUNCIL MEMBER VALLONE: Thanks for the courtesy, Mr. Chair. I do want to say that I was admonished by the chair not to drink bottled water at a hearing about our water supply. I told him my bigger concern was the plastic. I don’t normally do plastic but I got this for free with my lunch.

If the commissioner would stop putting florid in the water then I would start drinking it. So let me put a little pitch in for that. I know you can shoot all kinds of studies at me about how good it is for the teeth. Rinse with it, spit it out, it's metal, it shouldn’t go in your body. Four years from now, if we're both here, you'll be telling me I was right. Now you won't, I know you won't now. But four years from now you will.

I am very glad to hear that our water is an almost infinite resource, but our rate payers are not. I know you're new and we have very high hopes for you, Commissioner Holloway. I've worked with you on different issues in the past. I'm very glad you're in that seat.

But every year that I've been here, we have had an acting commissioner sitting in that seat saying the same thing. We don’t want to raise rates, we have to and it's not as much as we originally asked. Every year, and as Council Member Crowley just said, our rates have almost doubled in the last five years alone. That's unconscionable.

Now, one of the reasons is that our rate payers have conserved like we've asked them to conserve. No one wants to use toilets that don’t have enough water in them to flush. They did because we asked them to conserve. They did it for the environment and they did it to save money. Now your plan punishes them for that. They conserved and they're getting punished.

So if you could explain to us exactly how you're going to work this flat rate plus a metered rate in this new proposal of yours, because apparently it's both. I went to meeting at the borough president's office on this and apparently it's part flat rate, part metered rate. I didn’t understand it then and I was wondering if you had an explanation.

CASWELL F. HOLLOWAY: We are not proposing a flat rate for this year. We did look as part of the rate study that we did at four different alternative rate structures. One was a storm water charge which we are piloting for parking lots that don’t have water service.

We looked at what adding a component of a flat rate would do in terms of revenue stability. One of the impacts that can have, depending on its size, is it can stabilize revenues so that you can decrease your ultimate increases or the need for future increases. We didn’t see the value or the need to implementing that as part of our proposal this year.

COUNCIL MEMBER VALLONE: Can I just jump in a second?

CASWELL F. HOLLOWAY: Sure.

COUNCIL MEMBER VALLONE: Commissioner Lawitts, is this something different than you proposed at the borough president's office?

STEVE LAWITTS: Just as the Commissioner said, what I had presented at the borough president's office was the results of the rate structure study in terms of the four alternatives we looked at. I did say we had not made any decisions at that time on which of the four, if any, we were going to incorporate as part of the 2011 rate proposal.

COUNCIL MEMBER VALLONE: So you've decided not to incorporate the flat rate then?

CASWELL F. HOLLOWAY: Correct.

COUNCIL MEMBER VALLONE: Let me commend you for that and withdraw some of what I just mentioned about punishing for conservation. Because I said that to Commissioner Lawitts and hopefully he took it back to you and it made some sort of a difference. I'm very glad we're not seeing that this year. I would hope we don’t see that at any point. That is good news. The 12% increase is not good news, but that is good news at least. People still will be rewarded for conserving and will be able to save money and will have incentive to help our environment.

You mentioned unfunded mandates, which are bad enough, but unneeded mandates are almost absurd. You discussed the ultraviolet disinfection facility. I believe that's one that I'm told is unnecessary and you pretty much hinted at that. So what exactly does that do and is that something that you believe is necessary here in New York State and New York City?

CASWELL F. HOLLOWAY: The ultraviolet disinfection facility, just to talk about the regulatory scheme because ultraviolet disinfection is just one of the ways that you could treat water. There are a series of rules under the Safe Drinking Water Act. The regulations in that law are set in order to set a national standard. So nationally speaking, you basically have two options. You can either filter your water or you can provide two means of disinfection and get a determination from the EPA that you don’t have to filter.

We are in a situation where we have three watersheds in New York City: Croton, Catskill and Delaware. We have a hybrid situation. We are under an order to finish building and begin operating a filtration plant for the Croton water system. That's the $2.8 billion plant and we will be filtering that water as of 2012. That'll enable us to deliver 300 million gallons a day. That plant has been in the planning stage for many years and there are now regulations that require it. But I think we were under an order before those regulations were even in place to building that plant.

Right now our water is disinfected with chlorine. There is now a national rule, the long-term surface treatment rule, but the point is we have to disinfect by two means. Chlorine and then we've chosen ultraviolet light. One thing that chlorine doesn’t get at very well is cryptosporidium and giardia. Those are two pathogens.

COUNCIL MEMBER VALLONE: Do we have those in our water supply because I'm told we don’t.

CASWELL F. HOLLOWAY: As a general matter, our sampling indicates that that's not a problem now. Is the fact that the water will be disinfected with ultraviolet light a bad thing? No, because if there is any of either of those two pathogens then you'll be taking care of it with a disinfection process that isn't currently in place now.

COUNCIL MEMBER VALLONE: Is has to be disinfected two ways. You say it is chlorine and ultraviolet. What's the third choice you could have had?

CASWELL F. HOLLOWAY: There are other disinfection methods, but I'm not prepared to talk about them now, but those are the two primary ones. In fact, there'll be some ultraviolet disinfection at the Croton plant as well. Those two methods are how we're going to meet that compliance timetable.

The thing that I think is important to focus on is I'm not a public health expert.

The rule is a national rule. But the EPA and the state have discretion about how and in what way these rules are enforced and on what timeline. Based on where we are now, the fact that we're doing these two major facilities at the same time is hugely expensive.

So what I want to do and what I've already started to do is engage DEC and the EPA in making sure that at least for what's coming down the pike, because those two plants are very far along, but there are other potential mandates in our future that we would very much like to see deferred and delayed.

COUNCIL MEMBER VALLONE: Will the ultraviolet facility lessen the need for chlorination?

CASWELL F. HOLLOWAY: No. Because we will be required to do chlorination and ultraviolet disinfection.

COUNCIL MEMBER VALLONE: That's too bad; I'm not a big fan of chlorine in my water either. So if there's anything we can do then to help you with that situation regarding the ultraviolet disinfection facility, which is an unfunded mandate which apparently we may not need immediately and which is part of the reason why our rates are going up. I'm not going to go into it because the chair was nice enough to let me go first.

But you know my objections to the fact that a portion of our water rate goes into our tax base and that's a tax increase that is not going through the City Council and that's illegal. We've put that on the record many, many times. But we continue our objection to that. I'm sure the chair will follow up on that. Thank you for your courtesy in letting me go. Thank you and we look forward to working with you both.

CASWELL F. HOLLOWAY: Thanks, Council Member.

CHAIRPERSON RECCHIA: Thank you, Council Member Vallone. I recognize Council Member Levin.

COUNCIL MEMBER LEVIN: Thank you, Mr. Chair. I'll keep my remarks brief. Commissioner, thank you very much. I just want to say for the record that I want to thank you for your attention to the 33rd District. The number of times you've been out in your tenure is I think four or five times so far in fewer months. We've all been very impressed.

We've talked a lot about the filtration systems for our drinking water. I'm more familiar with the water on its way out and that's the Newtown Creek wastewater treatment facility which is a $5 billion facility which leads to my question.

In your testimony, you mentioned that DEP's capital plans for FY 11 through 14 is $5.7 billion compared with $12.2 from fiscal years '07 to 2010. That combined, those capital expense, which we're taking about the mandates combined with some of the debt service is some of the driving forces on the increase in rates. You mentioned that because the bonds to pay for these construction costs are paid off over the course of the next 30 years, the pressure will continue to be exerted on our water rates for years to come.

What I'm wondering is what steps are we taking? As our capital costs are going down we can hope that there might be a little bit of a relief from some of that pressure. What are we looking at in terms of modifying perhaps some of our debt service or looking at ways in which on the out years we can see a decrease in the increase in rates? Just more of a long term over the next 10, 15, 20 years.

CASWELL F. HOLLOWAY: Well, I will answer part of the question and then Steve will touch on the refinancing issue. One way that we can reduce our overall debt service cost going forward is to issue less debt. To do that, we need to trim operating costs and we need to either build what we need to build for less or build less. I think we're going to pursue all three of those strategies.

We've already done an 8% across the board expense budget reduction. We have three main operating bureaus and we're really looking hard at the ways we can gain efficiencies across them. I created a bullpen environment at Lefrak City and that's not just a preference, it is really the case that the head of those operating bureaus have told me that they've talked more in the last four months than they had talked to each other in the last two years.

That's not to say they don’t like each other, it's just that when you're on different floors of a building and you're running major operations, 14 wastewater treatment plants, a whole distribution network and then you're upstate, the opportunity to communicate unless you're there, diminishes.

So I think we've already seen some good synergies. I've asked our team to look hard at where we can eliminate duplicative functions. We're seeing some gains there. So I'm hopeful we're going to be able to have some additional efficiencies in operations and maintenance.

In terms of our capital program, I think every member here I could spend time looking at some project that we're doing in your districts that are important whether it's on the supply side in Staten Island, the storm water side in Queens, all of this on a community level people will say they're critically important projects. So we need to continue to do all that work.

But the question is can we do it more effectively and can we get results more quickly by doing it in a different order and can we do it for less. Doing it for less means more competition so you have more bids so you can do work at a lower cost. We want to try to have project control so that we don’t see as many change orders and things in our projects. There's a lot of work to do that. I think with kind of new leadership in our capital division that I'm working very closely with on a daily basis, I'm hopeful we're going to see some improvement there.

Then, in terms of the build less, or build it later, there is the mandates issue. That's not just to suggest, and I think it's important to repeat. To say something is legally mandated is not to suggest that we wouldn’t necessarily build it. But there is a question of when you're under a consent order to build something by a date certain, then that means certain things in terms of when you need cash on hand to pay to build it.

I think what we need to do is work with EPA and DEC and plan with them what they're looking at. We know they're looking at tightening up some water quality standards. What are the operational implications of that? What are the timelines that you're going to want to think about doing that on? What are some of the things that are already in place that maybe for New York City we could look at a stretch out or a reexamination? Having those conversations is something that we're starting.

With our new deputy commissioner for sustainability, I think he has developed a good reputation and has the credibility to take on that challenge in a way where people know we're serious about our primary mission, which is we want water quality to stay as good as it is and get better. So make no mistake about that.

But I think as I've heard at every single meeting that I've been at publicly, people want to do it at as low a cost as possible and they don’t want water rates to continue to go up.

COUNCIL MEMBER LEVIN: Thank you, Commissioner. That's all the questions I have. I just want to reiterate that I really do appreciate your attentiveness and dedication as shown by coming out to the community. I think the general assessment from everyone that I have spoken to is that everyone is very impressed. Thank you very much to you and your staff.

CASWELL F. HOLLOWAY: Thank you very much. The Newtown Creek, the superintendent there and everybody here, Mark Lanegan and Matt Mahoney is here. But there are many who aren't. Newtown Creek is a really important project and it's an incredibly important facility and we'll definitely keep coming.

COUNCIL MEMBER LEVIN: They did a great job. Thanks.

CASWELL F. HOLLOWAY: Thanks.

CHAIRPERSON GENNARO: Thank you, Council Member Levin. These pretzels are making me thirsty.

CASWELL F. HOLLOWAY: If you need water?

CHAIRPERSON GENNARO: Sure. I was going to continue my questioning but I head that Council Member Lander has a question and I'm happy to recognize Council Member Lander for questions.

COUNCIL MEMBER LANDER: I'm happy to wait.

CHAIRPERSON GENNARO: No, that's okay. I'll finish my pretzels in the meantime.

COUNCIL MEMBER LANDER: Thank you, Mr. Chairman. Commissioner, thanks for being here. Just a couple of questions. I want to pick up on something that Council Member Vallone talked about, which is I think a structural challenge you have at the moment between revenue and incentives for conservative. The debt service increases your expenses and so they're going up and you need more revenue.

On the flip side, we want people to take steps toward conservation both in usage and in storm water. I wonder how you're thinking about that. I mean the most obvious contradiction is in this parking lot situation. Yes, they're using our storm water system and at one level it's fair to charge them for storm water runoff.

At another level, I think we're all be better off if what we were doing was putting incentives in place for people to reduce storm water runoff and encourage parking lot operators to use porous pavement or throw up a bunch of rain barrels on top of the roof of the cars.

I'm not sure what the right strategies would be. But it just seems to me you're inheriting sort of a structural tension between the desire to encourage people to conserve and the need to raise revenue. I wonder how you're approaching that and how we're going to try to do both in the years to come.

CASWELL F. HOLLOWAY: First, I kind of went very quickly through the rate proposal. On the storm water charge, we are going that you won't have to pay the charge if you can demonstrate that you have infrastructure in place to deal with storm water or you will take measures to do so. We are using that charge really as a means of trying to inventivize businesses like parking lots to take measures necessary to deal with the storm water. So just to be clear, that's part of the plan.

I think the conservation point, I hear it. I was in Manhattan last night for the hearing. In Queens the night before and Staten Island the week before, and the Bronx. I hear it at every single meeting. First, conservation is incredibly important and we have programs that are dedicated to it. Even though we have a plentiful supply right now, when you're going through a billion gallons a day, it wouldn’t take a dry spell of that long for us to start to want to be able to reach people to take even more conservation measures.

And then there's the inherent technology that is enabling us to use less water. I'm sure people are seeing now flushless toilets and even more ways where we are using even less water. So those are incredibly important.

I do think though that one issue that I think gets alighted over in this discussion is when you look, for example, at putting water meters in. It was 20 or 25 years ago and part of the argument was if we put the water meters in we'll know exactly what you're consuming and you'll be able to save.

But during the time between then and now we've also seen a major change in the regulatory landscape. We have seen rules that have been put in place in 1990, 2006, the long term to surface water drinking rule, which imposed additional requirements. That means that the rules of the game changed.

So take nitrogen, we're making $115

million of additional nitrogen investments in addition to a billion dollars of nitrogen and other wastewater treatment upgrade related investments. None of our plants were built with a capacity to de-nitrofy or treat nitrogen in our wastewater. It just wasn’t part of the way wastewater was treated. In fact, New York City had one of the first wastewater treatment plants in Brooklyn. We had Coney Island. We've always led the way.

But we don’t have the option of saying let's just move two miles down the road to that much bigger 60 acre plot where we can build this quickly. We have to work with an existing footprint to deal with new standards. So now we need to reduce a certain amount of nitrogen loading in Jamaica Bay because nitrogen contributes to algae growth which kills aquatic life which ruins the water recreation.

So there are parallel things happening here where we want to encourage conservation and yes, investments are made and we want people to do it, but at the same time if you then increase a standard that you have reach, it can have a major operational impact. That's not always taken into account even by regulators, which is why I think the dialogue and the relationship that I'm trying to build with EPA and DEC is so important.

COUNCIL MEMBER LANDER: That makes a lot of sense to me especially on usage upfront. I guess on the runoff side it feels to me in particular like the reasons to reduce runoff are more in line with our long-term economic incentives, right? Because otherwise, we're going to keep having more CSO events and eventually we are going to wind up spending more on that side.

CASWELL F. HOLLOWAY: Yes. Water quality standards are right now set by the State Department of Health and state DEC also has water quality standards that it sets for the ambient waterways. So you can meet those and then there's a certain amount of CSO that you can have.

By the way, for combined sewer overflows, the amount of actual sanitary overflow in that most of it's storm water and that number is going up and up because our capacity at our plants to treat has also been increasing.

But I think that we're looking at a couple of other things in terms of rule changes and things like that to incentivize businesses, homes and not through a charge this year but to deal with the storm water at the source. If you deal with the storm water at the source, if 100,000 people deal with their storm water at the source, chances are that's going to be more effective and efficient than building the 50 million gallon tank.

COUNCIL MEMBER LANDER: That's all I'm asking as somebody who lives a block and a half from the Gowanus Canal. To the extent that we have to make choices between encouraging steps that are going to reduce storm water runoff and tax it essentially and you can do those things together, as you said. I mean, you start to tax them and then you offer ways out if people do the upgrades.

I want to make sure that we are leaning toward encouraging its reduction and not toward charging for it to the extent that you wind up making those decisions and to the extent that those parking lot owners are thinking about the cost to them.

CASWELL F. HOLLOWAY: There's an explicit connection in the program that we're putting in place. So, one way out of it is to deal with it for the parking lot owner. So hopefully it will do that.

COUNCIL MEMBER LANDER: I understand that's just one small piece of it and that there's new things in zoning regulations. One thing I'm looking forward to talking to your staff about is we've been looking at whether it should or shouldn’t be as of right for even just a homeowner to pave over their back yard, which is something that I think is worth taking a look at. It was not in the green codes task force report, but it might be worth thinking about as we're implementing. Maybe it shouldn’t be as of right for somebody to pave over their grass back yard. So those sorts of things would be wonderful to follow up on.

My last question is on the lien sale. I'm sorry that I wasn’t at the hearing the other day. I read what you said in your testimony. There's one thing I want to make sure, and maybe you have, is have you been in touch with the Center for New York City Neighborhoods in this with the effort that HPD and the mayor set up? Is there some coordinated effort? They know a lot about this information.

One thing I was very interested to see is that utilities charges, and I know that it is much more energy than it is water, are an increasing factor in the financial distress that the families coming to the Center for New York City Neighborhood Community Partners have seen. We have a good opportunity since they've collected so much data to make sure their database and your database are integrated.

Then those families who are experiencing financial distress and potential facing default or foreclosure, if we're trying to help them on one side and then you have liens on the other, could they get exempted from the lien sale as a result of actions taken by the community partners, the financial counselors at the center. Is there some way in between just selling them to collectors who are much less likely to engage with the city system we've set up to try to help and exempting them all on the other hand which also won't necessarily put them on a better path.

We've set this infrastructure in place on the foreclosure and financial distress side. It would be a shame if we weren’t using it as much as we could be.

CASWELL F. HOLLOWAY: The short answer is yes. We are working very closely with the Center for New York City Neighborhoods. In fact, the center has been working hand and glove with us on the Water Debt Assistance Program and has from day one. I've also met with Commissioner Cestero and Rafael and I are going to meet again next week on this issue and some other properties in terms of bill payment.

We are working closely with the Center for New York City Neighborhoods and we want to help people take advantage of every avenue available to them. In fact, Joe Singleton and I can talk to you after about the specific engagement. But it's definitely there. Joe, did I miss anything?

COUNCIL MEMBER LANDER: That would be great. They're starting this new program where they're going to use city money actually to kind of help bring them current. If one of the liens they've got is a water lien I hope that's an allowable use to the extent that everybody who is on their list and has come seeking financial counseling, you know the overlap between those folks and the folks that are in distress, that seems like a great way for us to do our best to manage the problem at that level before there's a choice between shut off or a lien sale. I'm glad to hear you're working with them and anything we can do that would be great.

CASWELL F. HOLLOWAY: Thank you.

COUNCIL MEMBER LANDER: Thank you, Mr. Chair.

CHAIRPERSON GENNARO: Thank you, Council Member Lander. Council Member Reyna is next.

COUNCIL MEMBER REYNA: Thank you so much, Mr. Chair. I just wanted to take an opportunity to ask a very specific question. As chair of the Small Business Committee in the Council, I wanted to understand what is the percentage of MWBE that have been contracted with the many projects in DEP's portfolio? That can be by project or in total and the amount of money that that equals to.

CASWELL F. HOLLOWAY: I don’t have the MWBE contracting breakdown with me now. So I will get back to you very shortly on that. I meet internally with that group and it's something that in my old role was something I worked on pretty extensively for the project labor agreements that we did. I've been working with Marla Simpson on it for years in our Mayor's Office of Contract Services. I just don’t have the data in front of me though.

COUNCIL MEMBER REYNA: I would most appreciate, and hopefully you're not going to take a secondary role in what you had already been so intimately involved with. As commissioner now, I hope that you can continue your commitment to the MWBE contracting.

I would love to see those figures and just have and offline conversation concerning just the continuation of MWBE contracting and how we can be of assistance in providing a mutual role in educating and outreach for MWBE contracting.

On the last note, my congratulations to DEP and the staff that worked on the incredible learning center at the Newtown Creek. I happened to attend the grand opening and hope to see more of that in north Brooklyn. Not necessarily only with the sludge tank areas but rather if we can engage. I've already reached out to waste management to consider something to that effect to continue to support the Newtown Creek.

I share the Newtown Creek with Council Member Levin. Obviously it's a bi-borough creek. I hope that all of us at a team in north Brooklyn as well as the Queens portion of the Newtown Creek can work together to engage how we can promote more educational centers such as the one that DEP has been so committed to. That, of course, can be a long-term project. But certainly, you would be the lead agency, having seen what you've already accomplished. Thank you.

CASWELL F. HOLLOWAY: Thank you. Thank you for coming to the opening. It's a great center. I do have to make a plug. Today is the awards ceremony for our 24th annual art and poetry contest. It's at Frank Sinatra High School in

Queens. It is just another way that we try to promote water education. So anytime you want to talk about partnerships in that area, I would love to do it.

CHAIRPERSON GENNARO: Thank you, Council Member Reyna. I just have a couple of things to follow up on and we'll be done. We thank you for staying here so long, Commissioner. We do appreciate it.

I'm just looking at some things in your statement. On page 3 of your statement, you talk about the decrease of $170 million, the budget reduction you implemented. Who's trying to call me? They should stop calling me here.

That $170 million reduction, had that not been realized, that certainly would have had an impact on the rates, right? So the rates would have been that much higher had that not been realized? So, just to put this number out there, that saved how much off the rate by doing that?

CASWELL F. HOLLOWAY: About seven points. So it would be closer to 19% or 20%.

CHAIRPERSON GENNARO: So thank you for doing that. Page 4 of your statement talks about the unfortunate increase in debt service cost and that it will go from $837 million in this fiscal year to about $1.2 billion next year, a 47% increase. The reason why I mention this is that this has an effect on the rental payment which you don’t control because that's driven by a formula.

One thing that I've been trying to talk about in recent years, not that I don’t believe there should be some kind of rental payment which everybody seems to have, all water systems, but I think the formula for it whereby it's tied to 15% of the debt service or whatever, means that when the debt service cost spikes then the rental payment essentially spikes. This is not something that you caused and not something that the Bloomberg administration thought up. It did not set the formula for how the rental payment is calculated. But I've asked the Water Board to mention this and to kind of speak to this.

I just think that the formula by which the rental payment amount is set leaves something to be desired. Again, it's not your creation and not the Bloomberg administration's creation. It's something that should get spoken to.

Who would be the appropriate entity that could sort of step in and figure out a new rental payment formula sort of paradigm? What would be the entity that could conceivable do something like that? Would that be the state government? How would that work? If we were to change the formula by which the rental payment is now calculated.

Once upon a time, the calculation was that the rental payment was equal to the pre-1985 general obligation, debt service, or whatever. Then it became driven by this other metric which is 15% of the debt service of the Water Finance Authority. If we were to have a new metric by which this was calculated, what entity could do that?

CASWELL F. HOLLOWAY: Just to start with picking up on a few points that you made. The rental payment is really a payment to the city for essential city services. One thing we did as part of the rate study that was done, the first part of that was benchmarking and we looked at 56 other jurisdictions across the country.

As you noted, all major cities have some form of this payment. I think rental payment is just an unfortunate function of the relationship. Because the Water Board is a structure that was set up to lease the system so that you could protect the revenues and the vast majority of those revenues go to the water system itself.

But it was always the intention whether it was tied to the old general obligation debt or that switchover that happened for the new debt that it was meant to pay for certain essential services like police, fire, and sanitation. When you do a matrix, which the benchmarking study did, of all the services that the city does provide which you tie to that rental payment, we actually get more than most other cities. So we're not an outlier in that respect. I take your point.

In terms of who would be in a position to do that?

CHAIRPERSON GENNARO: If it's tied to services or whatever then I could understand that and get my head around it. For example, like the feds hit us with a lot of things that we have to build all at once. That makes our debt service spike. That in turn makes the rental payment spike. That just doesn’t seem that logical to me. It should be keyed towards whatever payments we ought to make for city services or something like that.

It just seems that the logic that it's based on is not that logical. I spoke right in the middle of when you were speaking, so please go ahead.

CASWELL F. HOLLOWAY: I think the entity to deal with that, it is true that the state legislation is where the Water Board, the Water authority, the whole structure was set up. I know that the city was instrumental in putting that together. It would really be the city that would want to have the primary voice in participating in any discussion about that.

CHAIRPERSON GENNARO: I just think going forward we should endeavor in that. Whether we should have a rental payment or not, I think we need one. I think we need a formula for getting it that makes more sense than what we have now.

By my standards that's pretty reasonable. I'm not a particularly reasonable guy.

CASWELL F. HOLLOWAY: I will take that back. One thing I should point out is times are difficult and so no matter what you do with the rental payment we're certainly not in a surplus kind of situation. So if you're going to take something away from one place you have to figure out what you're going to do with it in the other.

CHAIRPERSON GENNARO: Absolutely.

CASWELL F. HOLLOWAY: I know you said at the hearing that that was an issue. I will take this back.

CHAIRPERSON GENNARO: My notion is that everything else that has to do with rate setting is based on actual charges; actual bills that have to be paid and that kind of thing. The rental payment is tied to something where circumstances like the feds hitting us with all kinds of mandates that cause our debt service to spike and then that spikes. It just doesn’t seem particularly logical to me. I'm fine with the notion of having a rental payment that makes sense.

I'll do my part with this institution to get us to face up to the reality that if we're going to do something regarding rental payment reform then we have to have the stomach on this side of city hall to figure out where that money is going to come from. That's going to be like a lot of yelling and screaming. But it is what it is.

I think ultimately if we had a rental payment that says these kinds of services are needed and so we have to do that. We could at least try. We could always try. Thank you. I just have a few more items.

We had talked at the preliminary budget hearing very delicately about some matters related to watershed security, the kind of issue that we don’t want to talk too much about on television. I know that meetings commenced between DEP and a firm that had a high tech way of trying to provide certain kinds of security for parts of the system.

I think that was certainly in keeping with your pension for trying to use high tech innovation to get good things done at reasonable costs, like we did with ARP, like we're trying to do now with biosolids. I think the same kind of innovation can be applied to security. I know there were talks commencing on that.

I don’t want to talk too much about the technology or other kinds of things that you're seeking to do for security. But I certainly would encourage that as you have been successful in using high tech approaches to getting things done at reduced costs, I would urge you to continue to do that. Anything you want to say on how that's going that we could talk about in a delicate way out in the public here that would be fine.

CASWELL F. HOLLOWAY: First, security and watershed security is extremely important and we have a great Deputy Commissioner, Kevin McBride, who is working the DEP police. I helped preside over a graduation of 25 new DEP police officers a few weeks ago. They're trained in counterterrorism and a number of other skills. They do some amazing work.

We also have an emergency response

unit that deals with hazardous material, spills and so forth. They also do great work. In terms of the security issues, we are looking always at what are the potential vulnerable points in the system. I know that the firm you're referring to, Deputy Commissioner McBride has met with the, and others. We're pursuing Homeland Security funding to see whether we can do a pilot in that kind of area and a number of other places.

I asked Kevin to make it a priority also to pursue as much Homeland Security funding as we thought we needed to deal with those kinds of things. It's definitely a top priority and critically important.

CHAIRPERSON GENNARO: Thank you for that. In my capacity as chair, people come to me all the time with technological products, whether they're for sanitation or for wind power or for solar or for security. I don’t have the ability certainly to make a determination as to which of those technologies are really viable for the city of New York. The best I can do is to refer them to the appropriate people, to the experts.

I certainly applaud your track

record at finding those technological innovations that have really made a difference for the city. I appreciate that.

CASWELL F. HOLLOWAY: Thank you.

CHAIRPERSON GENNARO: Domenic is asking me if I can go on for three more hours.

CHAIRPERSON RECCHIA: I know you're going on three more hours.

CHAIRPERSON GENNARO: I don’t think I can do three, Domenic. I could probably do 90 minutes though if that'll be satisfactory to you.

CHAIRPERSON RECCHIA: You already did that.

CHAIRPERSON GENNARO: So with that said, how do you like that, I just wrapped up my questions? How do you like that?

CHAIRPERSON RECCHIA: That's great. Chair Gennaro, thank you very much. With no further questions, we're going to conclude today's hearing of the Finance Committee. Thank you, Commissioner, deputy commissioners and staff of DEP.

CASWELL F. HOLLOWAY: Thank you. Our last public hearing is in Brooklyn on Tuesday.

CHAIRPERSON RECCHIA: Tuesday the 18th. I will be there.

CASWELL F. HOLLOWAY: We encourage everybody to be there who wants to come.

CHAIRPERSON RECCHIA: Thank you. Tomorrow's hearing, Friday, May 14th, will start at 10:00 with the Human Rights Commission.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature___ Donna Hintze _____

Date __May 28, 2010_____________________