ROLL CALL

Committee on Business/Finance

1. 2012 Real Estate Millage  [Roll Call]
2. 2012 Homestead Exemption  [Roll Call]

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TRANSCRIPT OF PROCEEDINGS

PITTSBURGH BOARD OF PUBLIC EDUCATION
SPECIAL LEGISLATIVE MEETING
MONDAY, JANUARY 9, 2012
5:30 P.M.
ADMINISTRATION BUILDING - BOARD ROOM

BEFORE:

THERESA COLAIZZI
WILLIAM ISLER
THOMAS SUMPTER, SECOND VICE-PRESIDENT
MARK BRENTLEY
JEAN FINK
FLOYD McCREA
DR. REGINA B. HOLLEY
SHERRY HAZUDA, BOARD PRESIDENT
SHARENE SHEALEY, FIRST VICE-PRESIDENT

ALSO PRESENT:

DR. JERRI LYNN LIPPERT
MR. IRA WEISS
MR. PETER J. CAMARDA
MS. LISA FISCHETTI

DR. LINDA LANE
MS. JODY SPOLAR
MR. PAUL LALLEY
DR. JEANINE FRENCH

REPORTED BY: LANCE E. HANNAFORD
PROFESSIONAL COURT REPORTER

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ORIGINAL
Good evening, ladies and gentlemen. And welcome to the January 9th, 2012 Pittsburgh Board of Public Education Special Legislative Meeting.

Before we begin this evening, I would like to ask everyone to please turn off all cell phones and pagers, or put them on vibrate.

Would everyone please rise so we can salute the flag?

(Salute to the flag.)

Mr. Weiss, may we have roll call, please?

MR. WEISS: Mr. Brentley?

MR. BRENTLEY: Here.

MR. WEISS: Mrs. Colaizzi?

MS. COLAIZZI: Oh, I am here.

MR. WEISS: Mrs. Fink?

MS. FINK: Here.

MR. WEISS: Dr. Holley?

DR. HOLLEY: Here.

MR. WEISS: Mr. Isler?

MR. ISLER: Present.

MR. WEISS: Mr. McCrea?

MR. McCREA: Here.
MS. SHEALEY: Ms. Shealey?

(No response.)

MR. WEISS: She is absent.

Mr. Sumpter?

MR. SUMPTER: Present.

MR. WEISS: Mrs. Hazuda?

MS. HAZUDA: Present.

MR. WEISS: Eight members present.

MS. HAZUDA: Thank you, Mr. Weiss.

At this time I would like to ask

Mr. Sumpter to please share our core beliefs and commitments.

MR. SUMPTER: The Pittsburgh Board of Education is committed to educating each student to their maximum level of achievement in a safe and orderly environment, ensuring that we provide the necessary resources to carry out that activity.

To distribute resources in an efficient and equitable manner. And to also improve public and community engagement.

We figure that -- we don't figure, we know all of that combined will improve governance of the board and translate in to improving education achievement throughout the district.

Thank you.
MS. HAZUDA: Thank you, Mr. Sumpter.

You have the agenda for this evening, Special Legislative Meeting, before you regarding the millage levy for 2012 and the Homestead farmstead resolution.

Before we begin with the agenda for the Special Legislative Meeting, I would like to introduce Attorney Paul Lalley with Campbell Durrant Beatty Palombo and Miller.

Attorney Lalley is representing the school district in the reassessment case that is before Judge Wettick.

As you have been informed, the assessment situation has been very fluid. And Attorney Lalley is here to provide us with the most current information and to advise us regarding this evening's action.

Attorney Lalley, please address the board at this time.

MR. LALLEY: Thank you, Madam President.

I have been asked to address the board this evening, because the board is beginning its deliberations regarding tax levy for the 2012 fiscal year.

I am here to explain the status of the district's involvement in the reassessment litigation
and the impact of that litigation on the board's vote. On January 5th, 2012, the district's administration asked me, as the district's special counsel, to present a letter to Judge Wettick requesting that the court permit the district to utilize 2011 assessed values for the 2012 tax levy instead of the new assessed values.

The court case that is --

MS. HAZUDA: Do you want to hold up a minute? That is really distracting.

Plus, this way she will get to hear it.

Because otherwise, she will get here and be asking questions.

(Interruption.)

MS. HAZUDA: Attorney Lalley is speaking.

Thank you.

MR. LALLEY: On January 5th, 2012, the district's administration asked me, as the district special counsel, to present a letter to Judge Wettick requesting that the court permit the district to use 2011 assessed values for the 2012 tax levy, instead of the new assessed values.

The court case that has resulted in the court ordered reassessment is Clifton versus County of Allegheny. That lawsuit was filed in 2005.
The district was not a party to the Clifton lawsuit and did not intervene in that lawsuit until approximately three weeks ago.

The district did not ask and has never requested that the reassessment take place.

Whether or not reassessment occurs is a matter that the district has left to the court to decide.

The district intervened in the Clifton lawsuit in December of last year solely because the board is obligated by section 652 of the school code to adopt the tax levy for the January 1st, 2012 fiscal year by no later than December 31st, 2011.

The district intervened only in order to have legal standing to ask Judge Wettick to grant the board an extension of time to adopt the 2012 tax levy.

And did so only when it became clear that there would be no certification of assessed property values from the county in time for the board to vote in December. That intervention occurred on December 14th, 2011.

On December 19th, Judge Wettick agreed to allow the district to intervene for this purpose and entered an order permitting the board to delay the
The district took no other action in the case from the time that it intervened until January 5th, 2012, when I presented the letter to Judge Wettick to ask that he permit the district to use the prereassessment values for the 2012 tax levy.
The district made this request, because it became clear following the county's certification of the reassessed property values in the last week of December, that there would be a substantial number of appeals by property owners based on apparent errors in the county's new assessments.
Those appeals would eventually result in a downward adjustment of evaluations.
But this would only occur after the district would have already set the millage rate based on the new assessments and have issued tax bills.
The result would be a significant loss of tax revenue to the district.

At the January 5th, 2012 status conference, I presented the letter to Judge Wettick. As he stated during that conference, he is taking the district's request seriously.
He has directed the district to present to him on Tuesday, January 10th, at 2:00 p.m. information
in support of the district's request.

On Friday, January 6th, at approximately 12:30 p.m., Judge Wettick issued an order that directs the district to use the new reassessment values for the 2012 tax levy, quote, "unless and until," end quote, he enters an order permitting otherwise.

The Judge's order further provides, however, that he will proceed with the hearing on the district's request on Tuesday, January 10th.

Tomorrow I will file a short written motion on the district's behalf that restates formally what the district requested in the January 5th letter.

I will also present information to Judge Wettick in support of that request, and I will have Mr. Camarda assist with that presentation.

I expect that the judge will rule on that request expeditiously, possibly as early as tomorrow afternoon.

The district has previously presented information to Judge Wettick in this case. In early September of last year Judge Wettick asked for information from the district and the City of Pittsburgh regarding the effect on each entity, if the county delayed certification of assessments until April of 2012, and tax bills for each entity were
delayed accordingly.

Neither the district nor the city were parties to the case.

However, out of respect for the court's request, both the district and the city presented information to Judge Wetlick on the adverse effect that each entity would experience, if the mailing of tax bills were significantly delayed.

I was informed by the district solicitor of Judge Wetlick's request. I assisted in presenting information from Mr. Camarda regarding the negative impact to the district's finances in any delay in issuing tax bills.

I repeat, however, that the district took no position on whether or not reassessment should or should not occur.

The district simply presented the information as requested by Judge Wetlick, and neither the district nor the city became parties to the lawsuit at that time.

The district remains bound by Judge Wetlick's orders, including his order of last Friday, that requires that the tax levy for 2012 be based on the new assessment values.

It is my strong recommendation that the
board follow Judge Wettick's orders. However, there remains a possibility that the Judge will grant the district's request and permit the district to use the old assessed values as the basis for the 2012 tax levy. Because the district will not know this until 2:00 p.m. tomorrow at the earliest, it is my recommendation that the board defer action on the adoption of a tax levy until after the Judge has ruled on the district's request. When it became apparent at the January 5th status conference that Judge Wettick was seriously considering the district's request, I reminded the court that there is a current January 11 deadline for the board to take action on the 2012 tax levy. Judge Wettick indicated the district could ask for further extension of time at Tuesday's hearing. I expect that however he rules on the district's request to use the 2011 assessed values for the 2012 tax levy, Judge Wettick likely will grant the additional time necessary for the board to meet and adopt formal resolutions to levy taxes for the 2012 fiscal year.

Thank you.
MS. HAZUDA: Thank you, Attorney Lalley.

Before we will go around the table, but I would like to ask a few questions for clarification.

If I understand your testimony, there were -- Judge Wettick asked for the impact to the district back in September, and you did present that to him at that time?

MR. LALLEY: Yes. But the impact to the district was not on reassessment or nonreassessment, per se.

It was simply, if the county certifies the property values in April instead of by December, so that the board would have the information to vote on the tax levy.

And therefore, if tax bills couldn't be issued until after April and actually May, I think, of 2012, how would that affect the district's cash flow position?

That was the information that I had Mr. Camarda prepare, and that we submitted to the court. It was widely reported at the time that there was the potential that the district would incur approximately a million and a half in borrowing costs, if you had to issue tax revenue anticipation notes, because of the delay in sending out tax bills.
That was all of the information that we presented to Judge Wettick. Again, it didn't take any position on whether or not reassessment itself should take place.

MS. HAZUDA: Okay. Thank you.

Then the only thing we actually finally became involved in was the December date, when we asked to have the figures to us, so that we could in fact levy the taxes.

Is that correct?

MR. LALLEY: Yes.

What we did, the district was not a party back in September, when we presented that information. The city presented -- also presented information, and they also are not a party. And the city, to my knowledge, has not become a party to the lawsuit.

The district did intervene in middle of December, because we knew it was becoming clear that we weren't going to get any information from the county on which to act until the end of December. And that was going to be too late for the scheduled board meeting. All the district did was intervene, file a petition and ask the judge to give us a court order to excuse us from the provision of
the school code that says you have to have that vote by December 31st. Because you had nothing to vote on at that time.

MS. HAZUDA: Thank you.

Is my understanding correct, then, that at this moment in time, we have three courses of action? One would be to use the 2012 assessments as it currently stands and hope that we get the guess right.

The second would be to petition the Judge tomorrow to use the 2011 for this year. And the appealed ones for next year, for 2013. Or don't we touch that amount?

MR. LALLEY: Well, I think --

MS. HAZUDA: We just asked for this one now.

MR. LALLEY: All we will be asking for tomorrow is to use the old assessed values. Another option would be to use the new assessed values in accordance with the court's order.

However, I certainly don't know what the status of those appeals is now. Because it is my understanding that that process has been halted by the county.

MS. HAZUDA: And then the third one would
be to join with the county in saying -- or ignoring this. And we are just going to go ahead and use the 2011.

MR. LALLEY: That is a possible option of the board. I recommended, and as a lawyer, I am duty bound to recommend you follow what the court has ordered the school district to do.

MS. HAZUDA: If we did not do that, that would be contempt of court, or what would it be?

MR. LALLEY: I think it raises a substantial question and prefer we not cross that bridge. But that is of course the board's decision to see what would happen in that situation.

MS. HAZUDA: Okay.

Now, it is my understanding that we can raise taxes to a certain amount. But specifically, in a year of reassessment, that we are bound to only have an additional 1.7 percent increase.

Is my understanding correct?

MR. LALLEY: That's correct.

You are bound by Act One's antiwindfall provision, which applies the Act One index.

It just says even in a reassessment year, you are limited to using your Act One index. And actually, for reasons that many school lawyers,
including your solicitor and myself and my former boss believe is unclear, the law requires you to use the prior year's Act One index.

So that is where the 1.7 percent number comes from. If you didn't have reassessment this year, you could potentially -- I am not sure what the district's 2012 number is.

But it is not at play, if you are bound to use the new reassessment numbers. But yes, Act One windfall limitation is more stringent than the limitation that applies to any of the other taxing entities. Because in general, Act One index is very low and has been for the past couple years.

MS. HAZUDA: So Act One is school code, not Pennsylvania overall municipal.

MR. LALLEY: Technically, it is not in the school code, but it applies only to school districts, so yes, only school districts are subject to Act One's limitations.

MS. HAZUDA: Are the city and county -- I thought I heard five percent for the county. I heard nothing for the city.

MR. LALLEY: They are subject to a separate antiwindfall statute that predates the county, any other taxing entities besides school districts are
subject to a provision in the second class county code that limits -- that governs how they can set tax rates and increases in a reassessment year.

What we will present to the Judge tomorrow is an explanation that that legislation predates Act One.

And Act One is the most recent legislation on the subject, and it applies specifically to school districts.

And my reading of it is that it is much harder in the sense of -- it is stricter about tax increases in a reassessment year than what the county and other tax entities have to do.

They have this ability under certain conditions to be able to set increased taxes five percent in a reassessment year.

MS. HAZUDA: It is five percent. Is that same for county and city?

MR. LALLEY: I believe it is county and maybe City of Pittsburgh, I am not sure. But the county and other taxes entities, yes.

MS. HAZUDA: So if the reassessments go through, the county can only have five percent. But if they are scrapped, the county can go with their 21 percent, that they voted to raise?
I am confused on that.

MR. LALLEY: That may be the case. I haven't given a legal opinion to the county on what they can do.

But if they are not -- let me just say this much. If they are not in a reassessment year, I don't know of any limitation on their ability to raise taxes.

MS. HAZUDA: That is why it would be to their advantage to throw out the reassessment, so they can get the 21 percent.

MR. LALLEY: Again, I can only speak to what my understanding of the limitations on the county are.

And they don't have -- my understanding is they don't have limitations. Like all school districts do, whether or not you are in a reassessment year.

They don't have those similar kind of you have to go to referendum, if you are going to exceed the Act One index.

MS. HAZUDA: Thank you very much.

Mr. Brentley, do you have any questions?

MR. BRENTLEY: Yes. I just have a few.

Attorney Lalley, you mentioned that on
January 5th, you were asked by the district to send a letter asking the Judge to consider using the 2001 numbers.

Who by the district authorized you to send a letter?

MR. LALLEY: I believe that came through the superintendent's office.

MR. BRENTLEY: Okay.

To my colleagues here, I firmly believe that that is an item that should have been a board decision.

I shared that with you, Sherry. I also shared my concerns with Dr. Lane.

Over the week, it has been pure madness listening to the media to hear this board being called out four times.

And the hundreds of thousands of dollars we spend in marketing, and no one stepped to our aid to clear up our name and to put out factual information.

As a volunteer board member that has to do silly things like work full time, that is unacceptable for the dollars coming through this district on PR and branding and messaging. That is just unheard of.

Secondly, I want to go on record as being one who was never consulted, never called, even though
I heard our county executive, who I consider to be a friend, called out and said that he personally contacted each and every board member to set up a meeting.

I know nothing about a meeting. I know nothing about being contacted through e-mail, phone call or carrier pigeon. No one made an attempt to reach out.

And so it continued to give this impression that we are not responsible, that we are not being -- or doing our jobs.

And it gave the impression, all the air time that was given to him over the week is that we are the cause of it. Okay.

Then the final comment that he mentioned twice was contact your board member and contact them and have them to stop this, stop pursuing it.

I want to be on record as not getting -- not being contacted. I don't really appreciate how we as a volunteer board was left out there in the cold.

And then finally, I just want to ask if the district made a recommendation, which I think is unauthorized, because it did not go through the board, not even a discussion, we could have had a phone call.
We could have met somewhere for lunch, something to say "Hey, this is what we are going to submit."

If the district is submitting that, Mr. Camarda, what is the possible loss of revenue to this district, if we were to use 2011 numbers?

MR. LALLEY: Mr. Brentley, perhaps I could address that for you.

As far as -- just to be clear about your question, the loss of revenue, you mean the loss of revenue, if we have to use the new numbers?

You are talking about the loss of revenue --

MR. BRENTLEY: If we have to use the 2011 numbers.

MR. LALLEY: Our projection, in the case we are going to present to the court tomorrow, is that that is a more stable number, because it is based on values that have already been through the appeals process, that are pre the new valuation.

So it will actually give you some stability. You would use essentially the millage rate you used last year to generate the same kind of tax revenue.

The reason for filing this request and
asking the Judge to allow that to happen is because with these new values, we have the aggregate or the total of all assessed property numbers. We just got that in the end of December.

And really, it would have been premature to ask the court to do anything until after the county provided all of that information. And they didn't do it in total until New Year's Eve.

I was actually in court on New Year's Eve at 2:00 o'clock. There was this issue of whether or not all of the information had been provided.

So what the district would be doing in asking Judge Wettick, we will be showing him there is the potential that if we have to use the new numbers as compared to the stability that we have fairly well assured, if we use the old numbers, that if we use the new numbers, we are looking at a potential diminution of a substantial amount.

MR. BRENTLEY: So to use the 2012 numbers, there is a possibility of lost revenue we could be losing?

MR. LALLEY: Yes. If we use the new numbers, absolutely.

MR. BRENTLEY: But it is a big unknown at this point?
MR. LALLEY: It is an unknown that we are in the process of quantifying based upon what the experience was in the last time that there was a county wide reassessment in 2012.

And then figuring how much did property values drop from year to year? When I say property values, I misspoke. How much did the total assessed valuation drop from year to year, as a result of the fact that well, when you have reassessment, you have a flood of appeals at that time, as has been happening in this case.

And then, generally, the trend is going to be for those to be reduced to reflect what people are appealing about.

So you see that percentage drop from year to year. First year of a new assessment. And then what are your taxables in the following year?

So we see a percentage drop. That is what happened in the last time around.

I believe it was about an eight percent drop. But we are still working on the data for that.

And then if we have to -- if that translated in to an eight percent drop of revenue, expected revenue as a result of the appeals, then how much of a shortfall is that going to cause as compared
to your actual tax levy.

That is that information I don't want to
give too many details, because Mr. Camarda and I will
be finalizing that for the presentation tomorrow.

But just in general terms, that is the
basis of why it is a concern that was raised to the
court, and why it was done -- it wasn't done really
until after we knew what that information was.

MR. BRENTLEY: But there still remains to
be a portion of unknown out there with the possible
2012.

We could actually see a slight increase
based upon what is allowable by law, I think five
percent.

I don't know. I am asking the attorney.

You tell me.

MR. LALLEY: Other taxing entities are
allowed to basically -- they are supposed to adjust
the millage. They have a formula where they can
average out revenues over a couple years.

But they can adjust the millage and
basically then, after they have done that, to try to
equalize the tax rate, so there is an equal amount of
revenue in theory generated by that levy as there was
pre reassessment.
They can then do an additional five percent increase.

That is the antiwindfall provision that applies to the other taxing entities.

But you are subject to Act One. And Act One is different. Act One says you will have to do that same process of making sure that you are equalizing the millage to a level that gives you the same tax revenue, or essentially the same tax levy as the previous year.

And if you want to increase it, though, you are then subject only to doing an increase to the Act One index.

And it is the Act One index, not for 2012, but for 2011, which again I think is just a poor draftsmanship of that part of Act One.

But that is in fact how it reads.

MR. BRENTLEY: Then let me just ask you just some basic questions.

You have been retained by the district to represent us as of when?

MR. LALLEY: Well, our firm is special counsel to the district.

We have handled -- I have handled a number of matters for the district over the years.
Mostly we are -- the firm, we are the district's labor counsel. I was first asked to get involved in this in September, when I helped present Mr. Camarda's information to the court, as I explained in my presentation.

MR. BRENTLEY: So today, it is your recommendation, that we vote in the affirmative for this item before us, both items?

MR. LALLEY: I am sorry. I am not sure I understand the question.

My recommendation is that you wait until we hear what Judge Wettick is going to allow you or not allow you to do.

Then my recommendation would be to follow whatever his order is.

MR. BRENTLEY: Let me ask, Madam President, what is before us for vote? What are we voting?

There is no item we are voting on?

MS. HAZUDA: What we are going to do, based on Attorney Lalley's recommendation, is -- what is the correct word I want to say? Recess this meeting and reconvene prior to agenda review, because by then we will have the Judge's ruling.

MR. BRENTLEY: You know, this is amazing. This is really amazing. Let me rephrase. Not
amazing. It is unfair to us.

MS. COLAIZZI: Absolutely.

MR. BRENTLEY: To be a volunteer, to come in, and to have an item presented to us, but we are going to pull it, then we are going to hold it until after the meeting.

So we are not going to be voting on anything. We are just going to vote to leave this open.

MS. HAZUDA: But it gives us the opportunity, as you had requested, when this all started, this all started for us on a micro level only last Tuesday -- Monday, I am sorry.

And kept going and going.

In order for all of us to get together, Dr. Lane and I both reached out to every board member, unfortunately because we went in to your answering service or answering machine, we did not get you to speak live until Friday.

But there was a lot of communication.

But the board could not meet in whole without advertising it as a public meeting.

And so that is what we did for today, so that he could update us as much as he could, so that we would be current with our information.
So that when the Judge rules tomorrow, we will know what the impact of that ruling is. And then, hopefully, our finance department will be able to give us some concrete figures, that we will be able to vote on prior to agenda review.

MR. BRENTLEY: So --

MS. HAZUDA: We were coming out tonight, which is why tonight was selected.

MR. BRENTLEY: I am just stunned how much nonsense it appears to be, that we could have used our time much more wisely, in my opinion.

I will close with saying I am asking for this board leadership to please, when there is a hot issue, no one board member, no executive committee, and definitely not a staff has the authorization to direct counsel to present something on our behalf, when we have not had a full discussion, definitely not had at least a polling of board members, or a head nod, that we want to do that.

And so this is what caught me off guard. You have to wait and hear rumors or look at press conferences to try to piece it together.

So I just want to appeal to the leadership again, please don't do that. We are here. Not getting ahold of someone is no excuse.
As far as hot as this item appeared to be over the last week, there is just simply no excuse. I will just wait and see what we are going to do now.

MS. HAZUDA: Thank you.

We do hear what you are saying. If you can get us an alternative number maybe.

MR. BRENTLEY: Yes. If you give me back my board cell phone, it would be available to me at all times.

Remember you cut the phone off, made that available for me to communicate like other board members. So I am always at a loss.

MS. HAZUDA: I don't have one either.

Thank you.

MR. BRENTLEY: I need one.

MS. HAZUDA: Mrs. Colaizzi, do you have anything?

MS. COLAIZZI: I do.

Mr. Brentley, you have every right to be upset and angry but not at this board.

And if I may, if you will allow me to explain some things that took place in the last couple weeks, that I think need to be put on the record.

Mr. Fitzgerald called me, personally, a few weeks ago and gave me a version of the story of what
was taking place with the county and these assessments.

He asked me for every single board member's phone number, which I do not give out unless board members want me to.

He knew some of the board members' phone numbers. Therefore, he took it upon himself to reach those he did.

He left me several messages, which were not pleasant. And they are still on my voice mail.

Here is it in a nutshell in the best way that I could possibly explain it. And I think it is important it is explained.

There is a reassessment. The county council has voted to approve a tax increase that is approximately 21 percent. If the Judge, Judge Wettick, allows the 2012 figures to be used, then the county cannot raise their taxes, where they go past five percent.

So it is to the advantage of county council to use the 2011 numbers, because if they do use the 2011 figures, then they can take that 21 percent tax hike.

If they are asked, or forced I should say, to use the 2012 figures, then they are not allowed to
I have a windfall of more than five percent. Us as a school district is only permitted
to have a windfall of 1.7 percent. We really don't have an issue in this game.
We want a number that we can work with,
that we can figure out our taxes, and we can do what we have to do.
The county on the other hand has a whole other situation in front of them.
So it is a different animal in their situation.
County council executor, Mr. Fitzgerald, personally asked me to set up a meeting with the board, wherever we wanted it.
First of all, I do not have that privilege or that right to do. More importantly, it is illegal.
He is as much obligated to the sunshine law as we are. And therefore, you cannot have a board meeting with more than a quorum in private.
It has to be in public.
We were being requested to have it in private.
And I am sorry, but on behalf of all of us, it was only common sense to say "No, we can't do that."
So as things continue to move, then it became apparent Mr. Fitzgerald decided to have it public, which was that meeting last week, that was then informative with the media, I guess it was more of a press conference, if that is what you want to call it.

Prior to that, if I am not mistaken, and Mr. Lalley, please correct me, if I am wrong.

Prior to that, Judge Wettick did see our letter, the letter you presented from Dr. Lane and yourself. And he realized that it is an issue for us.

And he then ruled at that moment to just use --

MR. LALLEY: Yes. What happened was on the morning -- the status conference on January 5th was at 10:00 o'clock. I delivered the letter to the Judge about 15 minutes before that hearing.

And then at that hearing, he indicated -- we went over the reasons for the district's request on the record.

And that is when he indicated that he would take it under serious consideration. And it is actually at that point, that he then set the hearing for tomorrow at 2:00 o'clock. So he did that 10:00 o'clockish on the 5th.
The next day is when the Judge then issued a written order that said that we are required to use the new assessed values. But that wasn't denying our request. That was simply affirming what the state of the law was in that case to begin with. And then noting that he was going to hold a hearing on our request, that he had talked about in court. It was reduced to an order. That is why we are there tomorrow at 2:00 o'clock.

MS. COLAIZZI: So the only reason I bring all of this information to you, Mr. Brentley, is because we are being blamed -- I only say it, because of some of the questions that you brought up. But you are right, to everybody. I am rather frustrated, probably more than anybody else around this room, because this district is being blamed for something that we had absolutely nothing to do with.

We actually are the victims. However, being the victims in this situation gives a different government entity an opportunity. And I find it very, very upsetting that children are being used for an opportunity for a different group.
That is how I see this. That is truly how I see this.

More importantly, Mr. Lalley, please explain to me, does the county being the executor himself have the legal right to stop any form of assessments?

MR. LALLEY: Let me say this.

My recommendation to the board is that you do what Judge Wettkick orders and I'd rather not comment beyond that.

That is certainly a matter for the county executive to get advice from whoever is advising him. But my advice is that this board ought to follow whatever Judge Wettkick tells you you have to do.

MS. COLAIIRZZI: Thank you, Mr. Lalley. I appreciate that.

I guess my question then should really be we don't do -- we do not do assessments.

Correct?

MR. LALLEY: That's correct. That is done by the county.

MS. COLAIIRZZI: So we are not the people saying we are stopping assessments.

MR. LALLEY: That's correct.

MS. COLAIIRZZI: Okay.
However, if I understand correctly, the county executor has put a stop to assessments, the process of assessments.

MR. LALLEY: Yes.

My understanding, and it is only through reading the same news media reports is that the appeals have been ceased. And for the notices that were issued at the end of December.

And I don't know, however, what else the county is doing. We will find that out tomorrow at 2:00 o'clock. Because plaintiffs in the lawsuit, though not the district, plaintiffs in the lawsuit have filed a petition for contempt of court against the county and against the county executive.

And it is my understanding that that contempt petition will be presented at 2:00 o'clock, also.

So not only will the court be dealing with our request, the court will also be dealing with the petition that the plaintiffs' lawyer Don Driscoll filed in the case for contempt.

MS. COLAIZZI: This board has nothing to do with filing any case, whatever you want to call it, for contempt of court?

MR. LALLEY: That's correct.
MS. COLAIZZI: We have nothing to do with that. Am I correct?

MR. LALLEY: We were not involved with that. In fact, I was not at the hearing, when it was presented on Friday at 2:00 o'clock. But I have heard about it since then. But no, we are not parties to that petition.

MS. COLAIZZI: Okay.

So I just want to make clear that this board has done nothing against the law and has done nothing that isn't within -- I guess I don't know how else to put this.

We have done nothing wrong here. We just happen to be the victim in the middle of a process.

And I think that is important, because we are being blamed, no matter where you turn, no matter where I go, I am being -- comments to me are being, "City school board needs to do something. The school board needs to do something".

I don't know what we are expected to do, when we are the innocent victim here.

And I think that that needs to be made clear.

But Mr. Brentley, just so you know, Mr. Fitzgerald did ask me for everybody's phone
number. And I did not give it out.

So I want everyone to know that.

Thank you, Madam Chair.

MS. HAZUDA: Thank you, Mrs. Colaizzi.

Mrs. Fink?

MS. FINK: Okay.

First of all, Mr. Fitzgerald owes the Pittsburgh public school board an apology on prime time TV, because I saw the news report, where he said that this was the fault of the school board.

Now, when it takes me 45 minutes to get from one side of Shop and Save to the other, so I can get my bananas and my milk, because 50 people have stopped me in between and said "Fink, what the hell did you do to us?"

That man owes this board a public apology on television and maybe on his knees. I am really disgusted with this.

Secondly, I thoroughly endorse and approve of a recess, because if we were to go with the new millage, we would have so much time and money invested in refunds, that it would negate any money, that we could possibly be making on this, which wouldn't be much anyway.

But would ultimately put us in a hole,
because just the amount of mailings and the amount of refunds that we would have to make, because these assessments are screwed up so badly would just be a waste of everybody's time and effort.

And what little money we have left, we need for the kids.

We don't need to be -- I mean, I realize the post office is in trouble. We don't have to help them out that much, not right now.

So I endorse and approve of a recess until we know exactly how much money we are levying the millage on.

Thank you.

MS. HAZUDA: Thank you, Mrs. Fink.

Dr. Holley.

DR. HOLLEY: Just for clarification.

Are you asking -- do we need to make a motion to recess and come back?

MS. HAZUDA: We will do that later.

DR. HOLLEY: That is all. I am ready to do that now.

MS. HAZUDA: Mr. Isler.

MR. ISLER: Well stated, Dr. Holley.

However, I want to go to the mechanics of this, if I may, Mr. Lalley.
If in fact we have to -- and this has to do with your presentation tomorrow and the outcome of it, not that there is a tremendous amount of pressure on you.

But if in fact we had a set millage on the current assessments, the 2012, you mentioned that the last time we were faced with something like this was the last reassessment, which was about ten years ago. Correct?

MR. LALLEY: That's right.

MR. ISLER: Do we have any knowledge of how close we were at that time?

MR. LALLEY: We do have that -- some information about that. I don't have it available to me right now. But that is something that Mr. Camarda and I tomorrow morning will be reviewing and making sure we have accurate.

Yes. We certainly know what the decrease in this total set values were from year to year from 2001, then it went up in 2002 and then substantially down.

MR. ISLER: However, at that time we were not faced with the antiwindfall provision. Correct?

MR. LALLEY: You weren't faced with the Act One's antiwindfall provision, correct.
At the time you may have been subject to the county codes but now --

MR. ISLER: Now it is much more stringent.

MR. LALLEY: Right. In fact on that point, this is the first school district, to my knowledge, that will actually face this question of "how do you apply the Act One antiwindfall provision?"

Because Act One didn't go in to effect until middle of 2006. And all of the counties in Pennsylvania the last time they did reassessment was either 2006 or before, according to the state tax equalization board web site information, which is part of what I will present to Judge Wetrick tomorrow.

So this is the first time that this has actually been applied.

MR. ISLER: I know it is not part of your request. But the issue of assessment, there are neighboring counties that haven't been reassessed in 40 some years, correct?

So we are as a city and a school district and as a county up front, where no other entities are, correct?

MR. LALLEY: That's correct.

I know there is litigation in Washington County and there is likely litigation in other parts
of the state. But right now, this is the only one that is this far in the process.

MR. ISLER: Thank you.

Let me just stick to the 2012 numbers. The great unknowns are the appeals. And there is this quicker mini appeal process that was supposed to go through some time in January.

Then there is the official appeal process, which you have to file by February.

Correct?

MR. LALLEY: That's correct.

That's correct for what was done with the new assessment numbers.

MR. ISLER: I am with you. The big -- no decisions are being made under any of the appeal hearings or processes or discussions that went on last week prior to them being suspended by the county executive. Right?

They are nonofficial?

MR. LALLEY: I assume that is the case.

That is a great question. That is something I am sure the Judge will be asking the county to address tomorrow afternoon.

Because again, I only know about what I have read in newspapers on that issue.
MR. ISLER: So let's just, again, make this assumption based on the last time we did a reassessment. The appeals process can go on -- the official appeal process can go on for months. You have up until February -- late February, again, I am not positive of the date, 13th, to file. Then they have to be heard. So they could be heard for months.

MR. LALLEY: That's correct.

MR. ISLER: So we really don't have any knowledge of how we fair in terms of the reassessment finalized figures until late in the year.

MR. LALLEY: Absolutely.

In fact, that process can go in to a second year.

But historic experience has been -- so you have some appeals filed in 2012 that don't get resolved until the following fiscal year.

But the experience has been that most of those adjustments through the disposition of appeals happens in summertime and before you have your tax levy in December.

MR. ISLER: Let me just, again, pick up on that and something you said in your opening remarks.

If in fact we underestimate the millage and
collect less tax because of appeals and everything else, there is no way to get that money back.

Correct?

MR. LALLEY: Absolutely not. That is another long tailed consequence of Act One.

Because in 2013 -- well, let's assume you were using the new assessed values this year, 2012. So you have gone through that process. There is a shortfall. There is a shortfall.

You are still going to be restricted to the Act One index in 2013.

And that likely will be what it has been in the past couple years, two percent, something like that.

So if you have let's say 10 or 15 or 20 percent downward adjustment of assessed values because of appeals. And that may be possible. That is what we are going to be looking at tomorrow.

You will not be able to make that up through -- unless you get a referendum -- through subsequent years.

MR. ISLER: I think that is a really important point. The other thing is if we overestimate, we then potentially have to get in to a refund process.
Correct?

MR. LALLEY: Really you cannot overestimate. Because you -- in this sense. If you set the millage rate based on the numbers that we got in the end of December, basically we know the appeals process will just bring them down.

But you can't -- you have to make that adjustment, and then you can only figure 1.7 percent. You could increase the millage on neutralized basis by 1.7 percent.

But I can give you a fairly good assurance that that is not going to cover the -- what kind of shortfalls you may be looking at for the downward adjustment through the appeals process.

MR. ISLER: The other question I have is residential versus commercial. The commercials came out after the residential assessments.

Right?

MR. LALLEY: That's correct.

Residential were certified I think December 27th after Christmas. And then the commercials, the 30th and in to the 31st we were mailing them. And we didn't have all of the data actually until the 31st.

MR. ISLER: The last question I have is the
city sends out our tax notices.

MR. LALLEY: That's correct. City treasurer's office.

MR. ISLER: If in fact -- this is a huge hypothetical, but just to get it on the table. If in fact the city goes with one set of assessment numbers and we go with another, does that cause greater confusion?

MR. LALLEY: It probably would. But -- I could see that that would be the case. If the city -- of course, the city is also subject to these court orders. So for the city to do that, they would have to make the decision not to follow Judge Wettick's orders.

MR. ISLER: Violate the court order.

MR. LALLEY: Right.

MR. ISLER: Thank you.

Thank you, Mrs. Hazuda.

MS. HAZUDA: Thank you, Mr. Isler.

Mr. McCrea.

MR. McCREA: Thank you.

Before I blow my stack, if we recess this, how is it going to affect people that pay their taxes at discount?
MR. LALLEY: We haven't issued tax bills yet.
I think probably that will all be addressed in whatever order the Judge ultimately issues.
So that is going to be if he in fact grants our request, then I assume he will adjust -- he will ensure that that is taken care of in how the city adopts -- I think it is actually done by city ordinance.
That should be taken care of through the court process.

MR. McCREA: That is how I prefer to pay my taxes. That is why I ask.
I think Ms. Colaizzi raises a good point. I think the word "victim" should be replaced with "scapegoat". A little bit of both. Here I am tonight, I am on vacation right now.
The county officials are all elected. They get paid vacation. I am spending mine right here.
Now we have to recess this, I might have to lose another vacation day to do it again.
Thank you.

MS. HAZUDA: Thank you, Mr. McCrea.

Mr. Sumpter.

MR. SUMPTER: Thank you, Mrs. Hazuda.
First question I had is what does the Judge's order bind us to do?

MR. LALLEY: The order that he entered on Friday?

MR. SUMPTER: Yes.

MR. LALLEY: The order he entered on Friday, which is basically reaffirmation of orders he entered on November 14th, I believe, require that the city and the school district use the new assessment values, when you set the 2012 tax levy.

Basically, implement the reassessment.

But you have to use the numbers that were certified by the county in the end of December.

MR. SUMPTER: Is there a time deadline for that to take action?

MR. LALLEY: Yes.

His court order. You are required in the school code to have this vote by December 31st. This is why the district did anything in this case, and the only thing the district did was to say to the Judge, "Since we don't have the data yet, the board can't have a meeting when they don't have anything to vote on. No information for there even to be a resolution prepared."

So the Judge gave the school district until
January 11.

And what I expect is tomorrow -- because the Judge has indicated that he will consider letting the district not have to use those new values.

The Judge indicated at the January 5th hearing that he would basically grant the district an additional extension of time, because when he indicated that he was considering this request, it was apparent you have a meeting on the 9th, that was going to be presumably to vote on the tax levy using the new numbers.

Now it looks like he might change the order on that. It would be a good idea, if the Judge would be willing to let us have more time, if in fact he is going to reconsider that decision to have you use the new numbers.

So in the record, the Judge -- without granting it basically indicated we will make a request tomorrow, and he will give you an additional ten days to go ahead and have a vote on the tax levy.

You would assume -- I assume by that time, you will know whether you have authority to you to -- whether he has granted the request whether you have the authority to use the 2011 numbers.

Right now you do not.
MR. SUMPTER: So everything right now is pending tomorrow's ruling. However, if there were no ruling tomorrow, we would be bound by the 11th of January, to make our decision.

MR. LALLEY: That's correct.

MR. SUMPTER: We are hoping that is going to extend it.

The letter that was sent to the Judge was only asking for the extension or asking for what?

MR. LALLEY: No. The letter was asking for the use of the old assessment values.

I verbally -- when the Judge made his comments, as he did at the hearing, and I realized he might take that request seriously, I made a request on the record that he grant us additional time.

He said "Bring that issue up next week," or something to that effect.

But the sense of it was he will give you additional time, so he can rule. And then you can vote.

MR. SUMPTER: Even if the judge were to grant that, it is still up to the board to either approve or disapprove.

MR. LALLEY: Absolutely.

MR. SUMPTER: So the board is still in
control.

It has to be reiterated, and I think board members have said this so far, that for one, the public has been pumped up against this assessment. Silencing. You have to be against it. That has been the outcry.

Also on KDKA radio, it has been mentioned that the school district is a party of the suit. And is driving this by -- I heard it with my own ears coming over that air wave.

There still has to be something coming from the district or coming from somewhere to combat the misinformation that has been put out.

And hoping that, it has been stated over and over and over again tonight, that whatever media is covering this event would present the facts of what was discussed here and what was said, that only three weeks ago we entered in to this case as a party for the extension.

And that was three weeks ago. So we had nothing to do with this case from 2005 up until this point.

MR. LALLEY: Absolutely correct.

I lived in Philadelphia at the time this lawsuit was filed.
MR. SUMPTER: And it was brought by private citizens, not the school district. And I think the confusion may be over the names of attorneys associated with the district and the case, which is causing I think the complication.

But it is amazing how the media and elected officials within this county can run with misinformation and not rely on fact. And again, I reiterate it such that hopefully the fact it will get out there, even if it is not reported as a result of this meeting, that we do that on our own to get the information out there.

The other point of misinformation, I think, is that, it has been stated again and again, at least I heard it on KDKA radio, that we are using this reassessment as a back door tax increase.

And because we weren't a party of the case, it can't be the impetus of the school district to bring that about.

MR. LALLEY: I would say this, it is exactly the opposite of that assertion. You, because of Act One, I don't think there is any question that -- and it is not particularly Pittsburgh.

Again, you just happen to be the first
district that is subject to this law, that is seeing a
reassessment county wide.

But that Act One is what puts those
limitations. And in a reassessment year, puts
stringent limitations on you, and then you have those
same kind of limitations in subsequent years.

So that you actually very well may see real
estate tax revenues reduced as a result of Act One.

So I wouldn't say that it is advantageous
in that sense to the district to have reassessment
occur.

But again, the district has never taken any
position certainly in this lawsuit about whether it
should or it shouldn't.

MR. SUMPTER: I will not drag things much
further. I think a lot has been said here before.

And I would hope that fair and balanced
reporting of this meeting occurs within the media.

Thank you.

MS. HAZUDA: Thank you, Mr. Sumpter.

Mrs. Shealey.

MS. SHEALEY: Thank you, Mrs. Hazuda.

Did you record me as being here?

MR. WEISS: Yes.

MS. SHEALEY: Thank you.
And this may be for Mr. Camarda. Or whoever.

Are we required to vote to go to the index?

Or did the vote -- I know we are required to vote to say that we will not exceed the index. But could you calculate the millage up to the index -- including the index increase without an overt vote of the board?

Essentially, could he factor in the 1.7 percent increase allowed by Act One in to the millage he presents to us without us voting? For him to do that. For the finance people.

We voted not to exceed the index. We did not vote to go to the index. That is what I am asking.

Is an overt vote required for us to go to the index?

MR. LALLEY: I can perhaps answer that question.

My understanding is when you adopted -- you adopted the resolution that Act One required you to adopt. Because that would have set in the process of whether or not you must go to referendum, or you are limited to Act One.
I don't know. Normally, I would defer to -- with your solicitor and what Mr. Camarda think as to whether you have to break that out in a resolution you ultimately adopt for the tax levy. But my understanding is what you have agreed to do is whatever your resolution is, it can't be more than 1.7 percent in accordance with the Act One restrictions.

And then it is a matter of showing how that is in whatever resolution you actually adopt. Whether you are going up to that amount, or whether you are not.

And of course, you are still going to have to see what valuations you are using and basing that on. We will see what that is after Tuesday.

MS. SHEALEY: Okay. Yes.

I guess what I am trying to figure out, though, when you calculate out these numbers -- because I am of the opinion if we are forced to use the 2012 numbers, we will be short.

So I guess I am asking when you do the calculations to set the millage, and I say that, because the total assessed value in the city has increased as a whole.

And we have to in turn lower the millage
rates to meet that no more than 1.7 percent increase. But once the appeals process goes through, and I will use my personal case as an example, the assessed value of my house almost tripled. If that value stands, it stands. But I would clearly try to appeal that value. And so if they cut it in half, let's say, then he based his millage off of a much higher number. So I would actually see a decrease in my property taxes. And so if he is not baking the increase in the index in to the millage that we set, that is another 1.7 percent that the district could officially lose.

MS. COLAIZZI: It is true.

MR. LALLEY: Again, if the Judge grants the request, you won't have to worry about that issue. But if he doesn't, then in determining how you comply with Act One, you will have to have a resolution that complies with your prior resolution about how you are going to set that rate. And however you set it, it can't allow for an increase of more than 1.7 percent over a neutralized number. And that is based on face value.
of the assessments.

MS. SHEALEY: Essentially, if we collected 100 dollars last year, we can collect 101.70 total.

MR. LALLEY: Yes.

MS. SHEALEY: Thank you.

Thank you, Mrs. Hazuda. Save the rest for later.

MS. HAZUDA: Thank you, Ms. Shealey.

If there are no further questions from other board members. I would like to ask Attorney Lalley if it would be prudent for the board to recess this evening without taking any action in light of the session with Judge Wettick scheduled for 2:00 p.m. tomorrow, January 10th?

MR. LALLEY: That is my recommendation.

MS. COLAIZZI: So moved.

MS. HAZUDA: One further clarification.

Given the conversation Attorney Lalley has already had with Judge Wettick concerning the likely need for this board to request another extension beyond January 11, I would appreciate it if Attorney Lalley would confirm whether it would be appropriate for the board to recess until Wednesday, January 18th at 6:30 p.m., which would be the same time that this board was to meet for its agenda review session.
MR. LALLEY: Yes.

And I will make sure that the court is apprised of that date at tomorrow's hearing, so we can have an appropriate order from the court to give you that time.

MS. HAZUDA: Thank you.

May I have a motion to recess this meeting to January 18th, 2012 at 6:30 p.m. in this location?

MS. COLAIIZZI: Point of clarification prior, if I may.

All I want to know is where do we stand as a district financially, because of not being able to collect any taxes at all due to this process.

Bill, can you say that on the record?

MR. ISLER: We haven't sent out tax bills yet. You don't have revenue. You don't get revenue in until whatever the early day is, the end of February.

MR. LALLEY: Typically, February and March is really when you start to see bulk collections.

MR. ISLER: Right now that is not an issue. It depends what the Judge's order is as to whether bills need to be sent out for payment and everything else.

MS. COLAIIZZI: Thank you for clarifying
that.

So moved.

MS. SHEALEY: Second.

MS. HAZUDA: Isler already did. So Isler, Colaizzi. To recess the meeting. All those in favor, please signify by saying "aye".

(Chorus of ayes.)

MS. HAZUDA: Opposed?

(No response.)

MS. HAZUDA: This meeting is recessed until January 18th, 2012 at 6:30 p.m. in the same location.

Thank you.

(Thereupon, at 6:40 o'clock p.m. the hearing was adjourned.)
C-E-R-T-I-F-I-C-A-T-E

I, Lance E. Hannaford, the undersigned, do hereby certify that the foregoing fifty-seven (57) pages are a true and correct transcript of my stenotypy notes taken of the Special Legislative Meeting held in the Pittsburgh Board of Public Education, Administration Building, Board Committee Room, on Monday, January 9, 2012.

Lance E. Hannaford, Court Reporter