

Civilian Complaint Review Board - Final
August 11, 2016

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CIVILIAN COMPLAINT REVIEW BOARD
PUBLIC MEETING
-----X
100 Church Street
New York, New York
August 11, 2016
6:33 p.m.

TRANSCRIPT OF PROCEEDINGS

B E F O R E:

MAYA D. WILEY, ESQ., Chair

MINA Q. MALIK, ESQ., Executive Director

PUBLIC MEETING AGENDA:

1. Call to Order
2. Adoption of Minutes
3. Report from the Chair
4. Report from the Executive Director
* Monthly report
5. Committee Reports
* Outreach Report
6. Public Comment
7. Old Business
8. New Business

Reported by: Kari L. Reed

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BOARD MEMBERS PRESENT:

Maya D. Wiley, Esq., Chair

I. Bennett Capers, Esq.

Lindsay Eason, Commissioner

Joseph A. Puma, Commissioner

Frank J. Dwyer, Commissioner

Youngik Yoon, Esq., Commissioner

Mina Q. Malik, Esq., Executive Director

ALSO PRESENT:

Raniece Medley

Brian Connell

Other Staff

The Press

The Public

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2 CHAIR WILEY: Good evening. I
3 hereby call this meeting of the Board of the
4 CCRB to order at 6:38 p.m.

5 Welcome to all. Well, first of
6 all, welcome to the staff, because you do so
7 much hard work to pull this together, so thank
8 you for that. And welcome to the public who
9 have come both to listen as well as to make
10 comments, we welcome you as well.

11 We will start with Adoption of the
12 Minutes from the July 20, 2016 meeting.

13 Do I have a motion?

14 MR. CAPERS: I'll make a motion.

15 CHAIR WILEY: Do I have a second?

16 MR. EASON: I second.

17 CHAIR WILEY: All those in favor?

18 (Chorus of ayes)

19 CHAIR WILEY: All those opposed?

20 (No response)

21 CHAIR WILEY: Any abstentions?

22 MR. DWYER: I abstain.

23 CHAIR WILEY: One abstention,

24 Mr. Capers.

25 MR. CAPERS: No, no.

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2 CHAIR WILEY: Oh, I'm sorry,
3 Mr. Dwyer, okay. Thank you.

4 All right.

5 MR. YOON: I can't hear.

6 CHAIR WILEY: You cannot hear,
7 Mr. Yoon?

8 MR. YOON: I cannot hear anything
9 now.

10 CHAIR WILEY: Oh, okay.

11 STAFF PERSON: Mr. Yoon?

12 MR. YOON: Oh, yes, now I can
13 hear.

14 CHAIR WILEY: Oh, great, thank
15 you.

16 MR. YOON: Now I can hear.

17 CHAIR WILEY: I -- Mr. Yoon, since
18 you did not -- were not able to hear, I'm just
19 going to go back to the fact that we were --
20 we were just talking about the minutes.

21 We -- we are -- let me just be
22 clear to the public about something. We do
23 not have a quorum tonight. I'm still going to
24 call for a vote on the minutes just because
25 that way we know that the board members who

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2 were here record whether they have -- whether
3 they approve the minutes or not. It doesn't
4 mean the minutes will become formally adopted
5 until we have a quorum, but at least we'll
6 know for the sitting board members whether we
7 have any abstentions or opposition or votes in
8 favor.

9 So we will take the vote one more
10 time, just because Mr. Yoon --

11 MR. YOON: Okay.

12 CHAIR WILEY: -- was not able to
13 participate.

14 So again, I would ask for a motion
15 on adoption of the minutes.

16 MR. CAPERS: I'll now move again.

17 CHAIR WILEY: And do I have a
18 second?

19 MR. EASON: I second again.

20 CHAIR WILEY: Okay. All those
21 board members in favor?

22 (Chorus of ayes)

23 CHAIR WILEY: Opposed?

24 (No response)

25 CHAIR WILEY: Abstentions?

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2 MR. DWYER: Abstain.

3 CHAIR WILEY: One abstention,
4 Mr. Dwyer.

5 Okay, thank you.

6 We will reconvene about carrying
7 the minutes when we have a quorum with the
8 other board members, but at least we know for
9 the members who are participating today what
10 their votes are for the minutes.

11 I have just a very short report
12 tonight, being my second board meeting, just
13 to update everyone on essentially what we have
14 been doing over the course of the past few
15 weeks since the previous board meeting.

16 I had said that I would be meeting
17 with board members obviously and staff,
18 particularly the executive director, in an
19 effort to get a better understanding of the
20 functioning of CCRB, both the successes to
21 date, which I know we'll hear a lot more about
22 from the executive director in her report, but
23 also to get a sense of where opportunities are
24 for continued improvement and success.
25 Getting a much better sense of the

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relationship with the NYPD. I have not yet had an opportunity to talk more with outside stakeholders. That is something I'm looking forward to doing in the coming month or so. So over the course of the next few months hopefully we'll be having a lot more conversations about the things that I am learning. But I'm certainly very excited about what I'm hearing. I'm really, really honored to be participating on a board with so many engaged board members. The members I've spoken with to date have been thoughtful, engaged, deeply committed. And I'm very appreciative for your service.

With that, I will turn it over to the executive director.

MS. MALIK: Thank you.

Good evening. My name is Mina Malik, and I am the Executive Director of the Civilian Complaint Review Board. Tonight I'm going to discuss matters pertaining to the operations of our agency, and provide you with highlights from our monthly statistical report. For a full review of the agency's

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monthly statistics, it is on our website for those of you who are interested.

I'm going to direct your attention to figure number one.

In July 2016 the CCRB initiated 351 new complaints, which reflects a decrease from 426 in June.

333

With regard to complaints received by a type of allegation, comparing July 2015 to July 2016, complaints with a discourtesy allegation have decreased 19 percent. Complaints with an offense language allegation have decreased by 40 percent. Complaints with an abuse of authority allegation have decreased six percent. And complaints with a force allegation have decreased 11 percent.

In July the CCRB's total open docket was 1,035 cases. By the end of July, 633 of these cases were in the investigations division, representing 61 percent of the total, down from 651 in June 2016. Of the total docket, 276 cases were pending board and/or executive staff review, representing 27 percent, up from 221 cases pending review in

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2 June.

3 Our mediation program handled 112
4 cases, representing 11 percent of the open
5 docket, up from 109 cases in June. There were
6 a total of 14 cases on DA hold in July. The
7 July 2016 docket includes ten reopened cases.
8 Six of these cases are active investigations
9 and four are currently pending board review.

10 The CCRB continues to close its
11 cases more efficiently. Of the cases that
12 remain in the CCRB active docket, 96 percent
13 have been open for four months or less, and 99
14 percent have been open for seven months or
15 less. These docket numbers continue to
16 represent the best docket numbers in the
17 agency's 23 year history.

18 Our investigators closed 957 full
19 investigations from January through July 2016.
20 Year-to-date the average days to close a full
21 investigation has decreased 56 percent from
22 2014, before the reforms.

23 In July 2016 the CCRB fully
24 investigated 44 percent of the cases it
25 closed, and resolved 52 percent of the cases

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2 it closed.

3 The truncation rate was 45 percent
4 in July 2016. This is primarily driven by a
5 complainant, victim or witness becoming
6 uncooperative, which the CCRB is focused on
7 examining in order to decrease the number of
8 truncations.

9 A few other highlights from our
10 statistical analysis for the month of July.
11 In figure number three, the July case
12 substantiation rate was 20 percent, which
13 marks the 18th straight month that the CCRB
14 has substantiated 20 percent or more of the
15 cases it fully investigates.

16 With regard to fully investigated
17 allegations in July, the board substantiated
18 four percent of allegations -- of force
19 allegations, 17 percent of abuse of authority
20 allegations, 11 percent of discourtesy
21 allegations, and seven percent of offensive
22 language allegations.

23 CHAIR WILEY: Can I just stop you
24 right there just for a quick clarification,
25 which I think I understand and is important

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2 for the public. The agency does not have a
3 goal of how many cases are substantiated or
4 not substantiated. It happens to be the case
5 that there's been a fairly steady percentage,
6 but each case is really determined on its own
7 merits.

8 MS. MALIK: Absolutely. That's
9 accurate.

10 Investigations with video evidence
11 substantiated allegations in 24 percent of
12 cases, compared to 19 percent of substantiated
13 cases in which video was not available.
14 Twenty percent of video cases were exonerated
15 against 22 percent of non-video cases.
16 Fourteen percent of video cases were unfounded
17 against 14 percent of non-video cases. And 41
18 percent of video cases were unfounded against
19 41 percent of non-video cases.

20 The discipline rate for non-APU
21 cases was 100 percent in July for cases in
22 which police misconduct was substantiated by
23 the Board and sent to the Police Department
24 Advocate's Office with penalty
25 recommendations. The Department decline to

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prosecute rate for non-APU cases in the month of July was zero percent.

In July, the Police Commissioner finalized penalty decisions against 18 officers in APU cases. Eight were guilty verdicts won by the APU. Eight were not guilty verdicts. And two cases were closed with a guilty after trial verdict being reversed by the Police Commissioner.

In the first case the Police Commissioner reversed a guilty verdict against an officer for using a chokehold because the civilian was resisting arrest at the time, there was a hostile crowd at the scene, and the civilian was in possession of a firearm at the time.

In the second case the Police Commissioner reversed a guilty verdict against a member of service who struck a civilian who was walking away from him and his team, because he determined it to be the appropriate level of force necessary to prevent the interference of an arrest.

The administrative prosecution has

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2 conducted trials against 83 officers
3 year-to-date, and trials against 16 officers
4 in July.

5 That's the end of the Executive
6 Director's report.

7 CHAIR WILEY: Thank you.

8 Let me open it up to Board members
9 for any questions or comments on the Executive
10 Director's report.

11 (No response)

12 CHAIR WILEY: Okay. I just wanted
13 to note that I know that there's a lot of work
14 happening at staff level to better understand
15 some of our numbers, particularly because we
16 all I think are very committed to making sure
17 that for unsubstantiated cases, meaning cases
18 where we needed more information, that we have
19 a good understanding of ways where we may be
20 able to work to get there. I know a lot of
21 that's not under our control. For example,
22 whether audio exists in cases is one example
23 that we've heard, or video. But I really
24 appreciate the efforts of the staff to dig
25 into and better understand what's going on

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here with unsubstantiated cases but also as we try to understand better how to be more effective in managing complaints. So thank you for those efforts, and for these numbers. All right.

With that, we will open up to public comment, and we have folks who signed up. I want to remind people that we have now a five minute rule, so that we'll really give full opportunity not just for folks to get their questions or concerns out, but so that there's also time -- oh, I'm sorry, I have the wrong draft. I apologize. We have one more report, the Outreach Report.

MS. MEDLEY: Thank you. Good evening.

CHAIR WILEY: Good evening.

MS. MEDLEY: In July 2016 the Outreach Team completed 94 events, raising the yearly total to 666 events, which continues to represent the highest number of events on record for the agency. Of the 115 events in July, we completed 33 in Brooklyn, 22 in Queens, 20 in the Bronx, 18 in Manhattan, and

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2 one in Staten Island.

3 Presentations to summer youth
4 programs continued to dominate the schedule in
5 July. Those presentations include details
6 about the structure and function of the CCRB,
7 discussion of a civilian's rights and
8 responsibilities during a police encounter,
9 deescalation, mediation, investigation,
10 prosecution, and disciplinary recommendations,
11 as well as, of course, instructions on how to
12 file a complaint.

13 On July 21st, 2016 we presented at
14 a Bronx Borough Board meeting that placed the
15 CCRB in front of Deputy Borough President
16 Aurelia Greene, and all district managers from
17 the borough, who received a full presentation
18 and Q and A session regarding clarification of
19 Question, Stop and Frisk, and CCRB processes.

20 On July 26th, 2016, CCRB tabled
21 throughout the day at the Brooklyn Borough
22 President sponsored Brooklyn Knows Event,
23 which is part of the New York Knows
24 Initiative, billed as the nation's largest HIV
25 testing initiative.

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On July 23rd, 2016, we tabled at the Hetrick-Martin Institute, or HMI, Youth Pride Festival, an affair on the Hudson River front for LGBTQ youth and young adults.

In light of local and national events, Outreach responded to calls for CCRB representation at several forums and panels throughout the city.

On July 18th, 2016 I participated in a Straight Talk Panel Discussion sponsored by the Haitian American Lawyers Association and Haitian American Caucus in Brooklyn. State Senator Roxanne Persaud opened the event, and Assembly Member Rodneyse Bichotte participated on the panel, along with local civil rights attorneys and a member of the NYPD.

On July 30th, 2016, Yojaira Alvarez conducted the CCRB presentation as part of the I Am A Solution Town Hall program, organized by the Metropolitan Black Bar Association at the Harlem State Office Building. The day's events offered the audience presentations by local attorneys, as

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2 well as a panel of elected officials,
3 including Assemblyman Keith Wright, Council
4 Member Inez Dickens, and Manhattan Borough
5 President Gale Brewer.

6 Thank you.

7 CHAIR WILEY: Thank you.

8 I'll open it up to for the Board
9 for any questions or comments on the Outreach
10 report.

11 (No response)

12 CHAIR WILEY: I just have a
13 couple --

14 MS. MEDLEY: Sure.

15 CHAIR WILEY: -- that really are
16 follow-ups from some of the conversation that
17 we had at the last board meeting. One was, I
18 know as we were talking about the issue of
19 being able to strengthen our understanding of
20 the impact of the outreach that we're doing.

21 MS. MEDLEY: Yes.

22 CHAIR WILEY: I mean we --
23 obviously it's a phenomenal statistic and I
24 appreciate all the hard work and the
25 incredible increase in community presence that

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the agency has shown, particularly year-to-date. So can you just say a little bit about whether there's been -- what progress, if any, since the last board meeting, I'm thinking about evaluation, the impact of our outreach efforts.

MS. MEDLEY: Absolutely. One thing that we've done is we've been able to put into motion a revision of our intake forms to include a selection of whether or not we were referred cases based on outreach efforts or some other matter. So that's one of the means that we have. And we've also begun to work on being able to acquire a data base that's going to allow us to commute -- or should I say a platform that will allow us to track the way that individuals are interacting with our website, and whether or not that traffic is being driven based on outreach efforts.

CHAIR WILEY: Great. I appreciate that.

Any others?

(No response)

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2 CHAIR WILEY: All right, thank you
3 so much.

4 Now we can go to public comment.
5 Again, I remind the members of the public that
6 we ask for five minutes. And the first person
7 I have on the list is Mr. O'Grady.

8 MR. O'GRADY: Thank you very much.

9 O'Grady Plumbing & Heating,
10 working on job in apartment five, paid by HPD,
11 100 Gold Street.

12 The Law Department, this building,
13 100 Gold -- 100 Church Street, indicate
14 \$200,000 issued for foreclosure, putting Negro
15 developer off property. Negro developer run
16 to Chinese man, bankruptcy director. See Law
17 Department summary.

18 Some strange feeling. Winsome
19 Thelwell eluded the attorney. My attorney
20 instructed me to tell Winsome Thelwell he
21 wanted to speak to her. She succeeded case
22 load of investigator manager Stefan J.
23 Rackmill.

24 Tracy Fox indicated her family
25 voted to relocate to Florida. What is that.

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2 Tracy Catapano Fox.

3 Divorcee real estate woman cursed
4 criminal court judge. Divorcee real estate
5 woman cursed out criminal court judge five to
6 six times. Five to six times. The judge
7 signed subdue her. Police team instructed
8 tenant, real estate woman subdued December 6th
9 night into December 7th. Police team
10 instructed tenant to be in criminal court
11 January 20th. Additional sheriff
12 manservant -- additional sheriff manservant
13 assigned to take money from real estate woman's
14 bank account, give to tenant bank account.

15 CHAIR WILEY: Thank you,
16 Mr. O'Grady.

17 We now have Suzannah Troy.

18 MS. TROY: Before I start my five
19 minutes, can you please spell my name
20 correctly because -- it wasn't you, but --
21 it's no big deal --

22 CHAIR WILEY: Okay.

23 MS. TROY: -- but it's
24 S-u-z-a-n-n-a-h, Suzannah, Troy, T-r-o-y.

25 I'm going to start my five minutes

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2 now.

3 CHAIR WILEY: Okay.

4 MS. TROY: I'm waiting for the
5 timer.

6 Okay, thank you, everybody. I
7 appreciate everyone's hard work. But I'm from
8 the other side. And I'm going to tell you
9 about an experience I had a week and a half
10 ago calling CCRB.

11 But first what I want to tell you
12 is, for the website, would you please consider
13 putting back the names of all of the board
14 members with their photos and their bios,
15 because I don't see it there anymore.

16 Also, can we have the name of the
17 public -- the NYPD advocate on the website?
18 Who is this person? We'd like to know in all,
19 you know, honesty and disclosure.

20 The third thing is, when I call
21 the chief of the department, I'd like to know
22 who's the CO, the commanding officer. It's
23 certainly not Chief O'Neill. It's a 718
24 number, and I called One Police Plaza. It's a
25 whole different organization. So to be honest

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and fair, I'd like to know who this mysterious commander, chief of department is, who's been part of internal affairs corruption as far as -- I mean sue me, I welcome you, because then finally I'll get the rest of the police reports where they all lied.

All right, so the first thing I want to say is, CCRB has been using the charter as an excuse to pass the corruption buck. So why don't we put the charter on the website as well, and for super smart lawyers that can simplify it for us humble people that aren't as educated, can you just put some arrows and explanations for us about why it gets moved to the charter.

And then my question is, does the charter prevent you from calling in every police officer that has a complaint -- that we have a complaint against? Does the charter prevent that from happening? If you call in every police officer, it is their only experience of being questioned under oath.

Also, can you call in -- I'm asking for individuals, like Mr. Capers or

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2 Mr. Dwyer, to call in and lodge a complaint.
3 And I want you to be actors and be highly
4 agitated. Because it doesn't seem like the
5 people that answer the phones understand that
6 they're dealing with victims of police abuse
7 and they're upset.

8 So I called the chief of
9 department and I got a, I guess it's a
10 civilian member of the NYPD. And I said
11 excuse me, you know, can you tell me who's the
12 commander of -- the chief of the department.
13 She told me and I couldn't hear her because I
14 was out on the street with my cell phone. So
15 I said could you spell that, and she goes
16 wait, who are you? And I said what does that
17 matter? And she hung up on me.

18 So I called and I reported her.
19 And the woman who answered for CCRB told me
20 that my case would go right to the chief of
21 department. And I said why? And she couldn't
22 verbalize it or articulate it. So I asked to
23 speak to her supervisor, and she put me on
24 hold for twenty minutes. So I hung up and I
25 called back. And she -- no one would pick up

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2 my call.

3 So I'm asking members of the board
4 to call as like a test. I'm asking you to act
5 upset as if some -- a policeman had just been
6 very abusive to you.

7 And the last thing that I wanted
8 to say is for Mr. Dwyer, who wasn't here, I'm
9 going to make an NYPD app tracker. I have a
10 concept, I'm hoping designers will be a magnet
11 to it. If the police department wants to
12 continue to protect corruption, internal
13 affairs, then there's ways that we can
14 peacefully fight back.

15 I want to ask you again, all of
16 you board members, please take back all my
17 cases. It started with Detective Vergona.
18 And actually I realized in 2010 it was Eugene
19 Shatz. In 2012 I was coerced.

20 And does the charter prevent you
21 from taking my case and saying here, you know
22 what, U.S. attorney, something is really wrong
23 here, internal affairs and the chief of the
24 department have not done their job. His
25 choice has gone to the NYPD inspector general.

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Does the charter also prevent you from saying this case and other victims' cases -- you know, maybe a special prosecutor should take a look at this. Because I went to the DA. They have police reports, they looked at the video, they said it was a second degree assault, menacing by Delita Hooks of Dr. Andrew Fagelman. They didn't want anything to do with the police reports. So I said to the ADA Tiana Walton and ADA Joel Luzzi and ADA Joe Benetti, these are police reports where the cops lie, don't you have to do something? And they said no.

So please stop passing the corruption buck. I guess for civilians we have to go to our council members and say change the charter. But does the charter actually prevent you from helping victims rather than give it to the chief?

And that was the last thing. Can you put the statistical reports on the front page -- like my NYP app -- like my NYPD app tracker one day will be -- of how many cases you pass to the chief of the department and

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2 where it goes. My app tracker concept will
3 show my case and Eric Garner from eight years
4 ago, the NYPD sexually violated him front and
5 back in public, he alleged they planted drugs
6 on him, they said the Parks Department should
7 not employ you.

8 So my point is, please, on your
9 website for CCRB, by month, by year, year
10 after year how many you've sent to the chief
11 of the department. And I will show how they
12 died, every report died. Internal affairs is
13 pulling a dirty, dirty coverup. And I'm
14 wondering if Chief O'Neill is going to make a
15 difference.

16 But anyway, thank you all. And
17 Ms. Wiley, you are such a -- like a ray of
18 positivity. Like just -- I really respect
19 you. Because I -- I'm filled with anger. But
20 when I talk to you, it kind of melts. I don't
21 have hope, but I want to commend you for the
22 way you conduct yourself and how kind you are.
23 Thank you.

24 CHAIR WILEY: Thank you.

25 With that, we do not have anyone

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2 else who signed on for public comment, so --

3 MR. O'GRADY: Could I say
4 something else?

5 CHAIR WILEY: Well, Mr. O'Grady,
6 you did not use your whole five minutes, so I
7 will give you the remaining minute that you
8 had. That's only fair.

9 MR. O'GRADY: Appellate division
10 judge, Justice Israel Ruben, expressed
11 interest in the additional sheriff manservant.
12 Sheriff. That's spelled s-h-e-r-i-f-f. The
13 bank account -- sheriff manservant took money
14 out of the real estate woman's bank account.
15 The sheriff manservant did this. Sheriff said
16 that the file exists, but they did not want to
17 share the file with Justice Israel. That's
18 Appellate Division Justice Israel Ruben. That
19 they -- the sheriff said they want the -- the
20 file exists, they said, but they did not want
21 Justice -- Appellate Division Justice Israel
22 Ruben to be a part of it.

23 CHAIR WILEY: Thank you.

24 That concludes our items for the
25 public agenda. I would ask for a motion for

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executive session.

MR. CAPERS: I'll make a motion.

CHAIR WILEY: Do I have a second?

MR. DWYER: Second.

CHAIR WILEY: All those in favor?

(Chorus of ayes)

CHAIR WILEY: Any opposed?

(No response)

CHAIR WILEY: Any abstentions?

(No response)

CHAIR WILEY: All right. With that, thank you. That concludes the public part of our meeting, and I thank you all for coming.

(Time noted: 7:05 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, KARI L. REED, a Registered
Professional Reporter (Stenotype) and Notary
Public with and for the State of New York, do
hereby certify:

I reported the proceedings in the
within-entitled matter and that the within
transcript is a true record of such
proceedings.

I further certify that I am not
related, by blood or marriage, to any of the
parties in this matter and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 18th day of August,
2016.

KARI L. REED, RPR

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