

NEW YORK CITY
OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
ENVIRONMENTAL CONTROL BOARD

BOARD MEETING

VIA VIDEO CONFERENCING

October 22, 2020

9:35 A.M. - 10:10 A.M.

October 22, 2020

MEMBERS PRESENT:

Shamonda Graham - Department of Buildings (DOB)
Joseph Gregory, Esq. - New York City Fire Department
(FDNY)
**Joni Kletter, Esq. - Commissioner/Chief Administrative Law
Judge, OATH, Chair/Executive Director, OATH ECB**
Elizabeth Knauer, Esq. - Appointed Member
Madelynn Liguori, Esq. - Department of Sanitation (DSNY)
**Jorge Martinez, Esq. - Department of Health & Mental
Hygiene (DOHMH)**
Russell Pecunies, Esq. - Department of Environmental
Protection (DEP)
Tom Shpetner, Esq. - Appointed Member
Matthew Smith, Esq. - New York City Police Department
(NYPD)
Douglas Swann - Appointed Member
Jarrod Whittington - Appointed Member

ALSO PRESENT:

Rachel Amar - Special Assistant to Commissioner, OATH
John Castelli - Deputy Commissioner for Legislative
Affairs, OATH
**Kelly Corso, Esq. - Assistant Commissioner for Hearings
Division Adjudications, OATH**
Brian Gatens - Member of the Public
Svetlana Losilevich, Esq. - Executive Agency Counsel,
Business Integrity Commission (BIC)
Timothy Jones, Esq. - Senior Counsel, OATH
Vivienne Kahng, Esq. - Senior Attorney, Hearings Division,
OATH
Susan Kassapian, Esq. - Deputy Commissioner/Appeals, OATH
Richard J. LaPlant - Office of Management and Budget (OMB)
Frank Ng - Acting Deputy General Counsel, OATH
Peter Schulman, Esq. - Asst. Director for Appeals, OATH
Frances Shine - Secretary to the Board
Amy Slifka, Esq. - Deputy Commissioner/Hearings Division,
OATH
Samuel Solomon, Esq. - Chief of Staff/Special Counsel,
OATH
Thomas Southwick, Esq. - Supervising Attorney for Appeals,
OATH
Olga Statz, Esq. - Deputy General Counsel, OATH
Joy A. Thompson, Esq. - Assistant General Counsel, OATH
Jean Wesh, Esq. - Managing Attorney, Ombudsperson, OATH

August 20, 2020

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2 (The board meeting commenced at 9:35
3 A.M.)

4 JOY A. THOMPSON, ESQ., ASSISTANT GENERAL
5 COUNSEL, OATH: So I'm just going to wait for all
6 the votes to come in. We have to -- and I will
7 also call for Jorge. Do you approve of this
8 motion?

9 JORGE MARTINEZ, ESQ., DEPARTMENT OF
10 HEALTH & MENTAL HYGIENE: Yes, I approve.

11 MS. THOMPSON: Okay. We have results.
12 So we have eight in favor, two opposed and one
13 abstention. So the motion-, the motion passes.
14 Thank you.

15 JONI KLETTER, ESQ., CHAIR, EXECUTIVE
16 DIRECTOR, OATH ECB, COMMISSIONER/CHIEF
17 ADMINISTRATIVE LAW JUDGE, OATH: Thank you. I'm
18 now going to ask Kelly Corso to introduce our
19 pre-sealing report.

20 KELLY CORSO, ESQ., ASSISTANT
21 COMMISSIONER FOR HEARINGS DIVISION ADJUDICATIONS,
22 OATH: Good morning.

23 TOM SHPETNER, ESQ., APPOINTED MEMBER:
24 Just as like a matter of, like we, we -- can I

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2 know -- it's no secret I'm opposed to this vote.
3 Can I know who the other no is? In a meeting, I
4 would know.

5 MS. KLETTER: Yeah, sure. Of course, of
6 course.

7 MR. SHPETNER: Yeah.

8 MS. KLETTER: Does --

9 MS. THOMPSON: Yeah. Just a second.

10 DOUGLAS SWANN, APPOINTED MEMBER: That's
11 me, Doug.

12 MS. THOMPSON: That would be Doug Swann.

13 MR. SHPETNER: Okay. It's just one of
14 those things you lose over Zoom.

15 MS. KLETTER: Yeah.

16 MR. SHPETNER: Or Webex, what have you.

17 MS. KLETTER: Yeah. I'm sorry that
18 we're still doing this over Zoom and we're not
19 able to be in person.

20 MR. SHPETNER: Well said, but polling is
21 a great upgrade. It's very efficient, so I like
22 it.

23 MS. THOMPSON: Actually, and there's a
24 way to show results. Bear with us, Commissioner,

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2 we will make the, tweak it even further.

3 MR. SHPETNER: Yeah, it's, it's a great
4 upgrade, though, because it's hard when you have
5 to unmute a dozen people in seriatim.

6 MS. KLETTER: Right. Okay. I'm going
7 to ask Kelly to present on the pre-sealing report
8 now.

9 MS. CORSO: Good morning. Hi, I'm Kelly
10 Corso, Assistant Commissioner for Adjudications
11 for the Hearings Division. And we have 11 pre-
12 sealing reports today. The, the hearing officers
13 for all the cases agreed with DEP's
14 recommendation of no further action for the 11
15 cases, based on the respondents' evidence of
16 compliance that was presented at all the
17 hearings.

18 MS. KLETTER: Are there any questions?
19 Okay, great. I'm going to ask for motion to
20 approve the pre-sealing reports. Is there a
21 motion? Madelynn?

22 MADELYNN LIGUORI, ESQ., Department of
23 Sanitation: Motion.

24 MS. KLETTER: Thank you. Joy, can you

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2 call the vote?

3 MS. THOMPSON: Yes, I will. And there
4 we have another poll. So I'm going to open this
5 poll right now. Just answer yes/no/abstain. The
6 poll is open. And I might even try to share the
7 results. Okay. And Mr. Martinez, your vote
8 please?

9 MR. MARTINEZ: Approve.

10 MS. THOMPSON: Okay. Has everyone
11 voted? Right now, I have nine in favor, ten in
12 fav-, oh, sorry. Yes, nine in favor.

13 MR. SHPETNER: I'm approving. I can't -
14 - for some reason, it didn't work.

15 MS. THOMPSON: I'm so sorry. Okay. So,
16 then, that would be --

17 MR. SHPETNER: Tom Shpetner.

18 MR. THOMPSON: -- Tom, Tom, Tom
19 Shpetner. Okay. In that case, this motion
20 approved. And we have one more person -- okay.
21 So we have Jorge, Tom. That makes 10. One more
22 vote? Yes, no or abstention? Did anyone not
23 vote? Mr. Swann, did you vote?

24 MR. SWANN: Yes, I did.

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2 MS. THOMPSON: Okay. So we have eight
3 votes in favor, includ- -- well, actually, we
4 have 10 because we have Jorge and Thomas. Just
5 missing one more.

6 MS. KLETTER: Okay. Why don't we move
7 on and you can determine who that person is once
8 you tally the votes?

9 MS. THOMPSON: Thank you.

10 MS. KLETTER: Okay, great. I'm going to
11 ask for a motion to go into Executive Session to
12 discuss new decisions in the cases listed in the
13 Judicial Report.

14 MS. LIGUORI: Motion.

15 MS. KLETTER: Madelynn, thank you. So
16 we are now going into Executive Session, session.

17 [OFF THE RECORD]

18 [ON THE RECORD]

19 MS. KLETTER: So we are now going to
20 return to Public Session. Peter, please bring
21 back Brian. Joy, were you able to finalize the
22 tal-, the vote tally for the pre-sealing reports?

23 MS. THOMPSON: Yes, I was. Matt Smith,
24 NYPD, he had to leave early, so he did not vote

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2 in the last, the last poll.

3 MS. KLETTER: Okay. So we, we were 10?

4 MS. THOMPSON: Yes, and motion passed.

5 MS. KLETTER: Thank you. Are there any
6 additional questions from the Board? Okay. I'm
7 going to announce the date of the next Board
8 meeting. It's December 17, 2020. I did send an
9 e-mail -- I hope you all received it -- regarding
10 two recent press releases from OATH, so take a
11 look at those. We're working hard here.

12 MR. MARTINEZ: [Unintelligible]

13 [00:05:50] Thank you.

14 MS. KLETTER: Sure.

15 ELIZABETH KNAUER, ESQ., APPOINTED

16 MEMBER: Commissioner, could I, could I ask one
17 question about the community service one? Which
18 I, I also just want to commend OATH on, on these
19 two programs. I think they're really helpful.

20 I was just wondering, in terms of the
21 community service provision, I, I, I admit I
22 skimmed it quickly before we started the meeting,
23 but is there, is the only option for community
24 service to do it online? Or is there also a

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2 different option? I'm, I'm just wondering about
3 access for people who don't have ready access to
4 the internet.

5 MS. KLETTER: Yeah, and we were
6 discussing that. I believe there's a way -- so,
7 traditionally, someone would come into an OATH
8 office and use one of the computers, and we've
9 now, right, allowed the option to be an at-home,
10 online module. So I do believe we're still
11 offering the option, if needed, to come into the
12 office. Is Sam -- Sam, are you on? Or Jean?
13 Actually, Jean, do you want to speak to that?

14 JEAN WESH, ESQ. - MANAGING ATTORNEY,
15 OMBUDSPERSON, OATH: Yes, Commissioner.
16 Currently, because of COVID-19, obviously, we
17 can't do anything in person. But we do have the
18 option of also performing community service on
19 the telephone, remotely, for those who can't do
20 it or who don't want to do it online.

21 MS. KLETTER: Okay. Thank you for
22 clarifying.

23 MS. KNAUER: Thank you.

24 MS. KLETTER: I'm going to ask -- were

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there any other questions about OATH, in general?
Alright. I'm going to now ask for a motion to
adjourn the meeting.

MR. SWANN: Motion.

MS. KLETTER: Thank you. And the
meeting is adjourned. Thank you all so much.
Have a great weekend.

ALL: Thank you.

(The board meeting concluded at 10:10
a.m.)

Environmental Control Board, 10/22/2020

CERTIFICATE OF ACCURACY

I, Devin Turpin, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on October 22, 2020, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: November 5, 2020

GENEVAWORLDWIDE, INC

256 West 38th Street - 10th Floor

New York, NY 10018