

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

BOARD MEETING

VIA VIDEO CONFERENCE

100 Church Street, New York, New York

December 9, 2021

9:35 a.m. to 10:22 a.m.

December 9, 2021

MEMBERS PRESENT:

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

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
Svetlana Iosilevich, Esq. - Executive Agency Counsel, Business Integrity Commission (BIC)
Catherine Jakubik, Esq. - Assistant General Counsel, OATH
Timothy Jones, Esq. - Senior Counsel, OATH
Susan Kassapian, Esq. - Deputy Commissioner for Appeals, OATH
Richard J. LaPlant - Office of Management and Budget (OMB)
Peter Schulman, Esq. - Assistant Commissioner for Appeals, OATH
Frances Shine - Secretary to the Board, OATH
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 Commissioner/General Counsel, OATH
Joy A. Thompson, Esq. - Assistant General Counsel, OATH

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2 (The board meeting commenced at 9:35
3 a.m.)

4 JONI KLETTER, ESQ., CHAIR, EXECUTIVE
5 DIRECTOR, OATH ECB, COMMISSIONER/CHIEF
6 ADMINISTRATIVE LAW JUDGE, OATH: Alright. Good
7 morning, everyone. I'm going to call the meeting
8 to order. I'm going to ask Joy for a roll call
9 to verify quorum.

10 JOY A. THOMPSON, ESQ., ASSISTANT GENERAL
11 COUNSEL, OATH: Thank you, Commissioner. I'm
12 going to start with Commissioner. You're
13 present. Thank you. I understand --

14 MS. KLETTER: Alright, present.

15 MS. THOMPSON: Thank you. I understand
16 Shamonda Graham will be joining us shortly, so
17 I'm going to move on alphabetically. Joseph
18 Gregory?

19 ABAYOMI WHINT, ESQ., ON BEHALF OF JOSEPH
20 GREGORY, ESQ., NEW YORK CITY FIRE DEPARTMENT:
21 Abayomi Whint on behalf of Joseph Gregory. Good
22 morning.

23 MS. THOMPSON: And you are, again? Your
24 name?

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2 MS. WHINT: Abayomi Whint on behalf of
3 Joseph Gregory from the Fire Department.

4 MS. THOMPSON: Very good. I see your
5 name there. Very good. Okay. Next one, we have
6 Elizabeth Knauer.

7 ELIZABETH KNAUER, ESQ., APPOINTED MEMBER
8 (WATER): Present.

9 MS. THOMPSON: Madelynn Liguori?

10 MADELYNN LIGUORI, ESQ., DEPARTMENT OF
11 SANITATION: Present.

12 MS. THOMPSON: Jo- Jose Martinez?

13 JORGE MARTINEZ, ESQ., DEPARTMENT OF
14 HEALTH & MENTAL HYGIENE: It's Jorge Martinez.
15 Present.

16 MS. THOMPSON: Jorge, thank you. Russ
17 Pecunies?

18 RUSSELL PECUNIES, ESQ., DEPARTMENT OF
19 ENVIRONMENTAL PROTECTION: Present.

20 MS. THOMPSON: Matthew Schneid?

21 MATTHEW SCHNEID, ESQ., APPOINTED MEMBER
22 (REAL ESTATE): Present.

23 MS. THOMPSON: Thomas Shpetner?

24 THOMAS SHPETNER, ESQ., APPOINTED MEMBER

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2 (BUSINESS): Present.

3 MS. THOMPSON: I see you. Thank you. I
4 believe Sergeant John "Ciestro"?

5 JOHN CESTARO, ESQ., ON BEHALF OF MATTHEW
6 SMITH, ESQ., NEW YORK CITY POLICE DEPARTMENT:
7 John Cestaro on behalf of Matt Smith.

8 MS. THOMPSON: Alright. And he even
9 gave us a pronunciation guide. My pard-, please
10 pardon me. Douglas --

11 MR. CESTARO: Close enough.

12 MS. THOMPSON: Doug Swann?

13 DOUGLAS SWANN, APPOINTED MEMBER (AIR):
14 Present.

15 MS. THOMPSON: Thank you. Jarrod
16 Whittington?

17 JARROD WHITTINGTON, APPOINTED MEMBER
18 (NOISE): Present.

19 MS. THOMPSON: Thank you. We have 11 out of
20 12 for now. We have quorum.

21 MS. KLETTER: Great. Thank you so much.
22 I'm now going to ask for a motion to adopt the
23 minutes of the October 5, 2021 meeting. Is there
24 a motion?

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2 MS. LIGUORI: Motion.

3 MS. KLETTER: Thank you. Does anyone
4 have any corrections? No? Hearing none, I'm
5 going to ask Joy to call a vote to approve the
6 minutes as presented.

7 MS. THOMPSON: Thank you, Commissioner.
8 Are there any objections to the approval of the
9 minutes from the October 5, 2021 ECB Board
10 Meeting? Seeing or hearing none, the minutes are
11 approved.

12 MS. KLETTER: Thank you very much. I'm
13 now going to ask Olga Statz to introduce OATH's
14 final rule updating OATH's Water Penalty
15 Schedule.

16 OLGA STATZ, ESQ., DEPUTY
17 COMMISSIONER/GENERAL COUNSEL, OATH: Hi. Good
18 morning, everybody. Can everybody hear me?
19 Good. As you know, this is, this is the final
20 rule for the Water Penalty Schedule.

21 As you know, normally, we have been,
22 over the last few years, in a process of
23 eliminating our penalty schedules that belong to
24 enforcement agencies, but we were not able to do

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2 that for this particular water penalty, because
3 the Administrative Code requires OATH, actually
4 ECB, in particular, to have this water penalty in
5 its rules. We're also currently working with the
6 Law Department to amend that Administrative Law
7 Code. However, in the meantime, since it's
8 important for DEP to update the Penalty Code, we
9 are doing it on behalf of DEP, as we explained
10 last time.

11 And I'm happy to answer any questions
12 you might have.

13 MS. KLETTER: Any questions? I'm going
14 to ask for a motion to approve the schedule.

15 MS. LIGUORI: Motion.

16 MS. KLETTER: To the final rule. Great.
17 Thank you so much. I'm going to ask Joy to call
18 for a vote.

19 MS. THOMPSON: At this time, I will be
20 calling for a vote as to whether the ECB approves
21 the final rule updating OATH's Water Penalty
22 Schedule. I will do so by asking if there are
23 any objections to the approval of the final rule?
24 Are there any abstentions?

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2 MR. SHPETNER: I abstain.

3 MS. THOMPSON: Thank you, Tom. Anyone
4 else? The motion par- passes. Thank you,
5 Commissioner.

6 MS. KLETTER: Great. Thank you so much.
7 I'm now going to ask Kelly Corso to introduce the
8 pre-sealing reports.

9 KELLY CORSO, ESQ., ASSISTANT
10 COMMISSIONER FOR HEARINGS DIVISION ADJUDICATIONS,
11 OATH: Good morning. I'm Kelly Corso, Assistant
12 Commissioner for the Hearings Division,
13 Adjudications. We have six pre-sealing reports
14 for the Board today. All of them involve
15 backflow violations. And, in all the cases, the
16 Hearing Officers recommended no further action on
17 sealing, based on the compliance that was
18 established at the hearings by the Respondent.
19 And that's it.

20 MS. KLETTER: Any questions? I'm going
21 to ask for motion to approve the reports.

22 MS. LIGUORI: Motion.

23 MS. KLETTER: Great. Thank you so much.
24 I'm going to ask Joy to call the vote.

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2 MS. THOMPSON: Okay. At this time, I'm
3 going to ask if there are any objections to the
4 approval of the six pre-sealing reports? Any
5 abstentions? The motion is approved. Thank you.

6 MS. KLETTER: Okay, thank you so much.
7 I'm now going to ask for a motion to go into
8 Executive Session to discuss new decisions and
9 the cases listed in the Judicial Report.

10 MS. LIGUORI: Motion.

11 MS. KLETTER: Great. Thanks so much.
12 Joy, do you want to --

13 MS. THOMPSON: Sure. Is there any
14 objection? Is there any objection to us entering
15 our Executive Session? Seeing none, you're free
16 to move on to Executive Session with the, --

17 MS. KLETTER: Thank you so much.

18 MS. THOMPSON: -- with, you know, making
19 sure everybody who should be here, should be
20 here.

21 [OFF THE RECORD]

22 [ON THE RECORD]

23 MS. KLETTER: Okay. We're back in
24 public session. Are there any additional

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questions or comments? Hearing none, I'm going to announce the date for the next Board meeting, which is February 10, 2022.

I hope everyone has Happy Holidays, Happy New Year. Stay safe, stay healthy. And I'm going to ask for a motion to adjourn.

MS. KNAUER: Motion.

MS. KLETTER: Okay. Thank you, Elizabeth. Meeting adjourned. Thank you, everyone.

MS. STATZ: Bye, everybody.

ALL: Bye.

MS. THOMPSON: Happy Holidays.

MR. SCHNEID: Happy Holidays. Bye.

MS. LIGUORI: Happy Holidays. Thank you.

(The board meeting concluded at 10:22 a.m.)

Environmental Control Board, 12/9/2021

CERTIFICATE OF ACCURACY

I, Ryan Manaloto, certify that the foregoing transcript of Board Meeting of the Environmental Control Board on December 9, 2021, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: December 30, 2021

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