

School Ethics Commission Meeting Public Session Minutes

July 21, 2020

Chairperson Robert Bender called the meeting of the School Ethics Commission (Commission) to order at 9:33 a.m.

Notice of the meeting was provided to the State House Press Corps and the Secretary of State and filed as required by the Open Public Meetings Act.

I. Roll Call

| Roll Call | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Present | X | X ¹ | X | | X | | X | 5 |
| Absent | | | | X | | X | | 0 |

Also in attendance were Kathryn Whalen, Director, Offices of School Ethics and Compliance, and Deputy Attorney General (DAG) Jaclyn Frey. Everyone in attendance at the meeting participated via telephone due to the ongoing COVID-19 pandemic.

II. First Public Comment

At the start of the meeting, Director Whalen explained to the public (who also accessed the meeting by telephone due to the ongoing COVID-19 pandemic) how the meeting would be conducted. More specifically, it was explained that the public would be afforded the opportunity to provide public comment regarding his/her case; the Commission would then adjourn to executive session (on a different conference line); the Commission would return to public at approximately 12:00 p.m.; at that time, members of the public would be afforded another opportunity to provide public comment in connection with his/her case; and then the Commission would vote on matters pertinent to its business.

9:34 a.m. Heather Garcia, the named Respondent in C16-20, noted her attendance. She wanted to thank the Commission for reviewing her Motion to Dismiss, and noted she is happy to answer any questions that the Commission may have.

III. Executive Session

At **9:35 a.m.**, the following **Resolution** was read:

¹ Commissioner Carucci arrived at 9:35 a.m.

Whereas, the Open Public Meetings Act (*N.J.S.A. 10:4-6 et seq.*) authorizes the Commission, a public body, to meet in Executive Session under certain circumstances; and

Whereas, the Open Public Meetings Act requires that the Commission adopt a Resolution at a public meeting to go into Executive Session; and

Now therefore be it resolved that, consistent with the provisions of *N.J.A.C. 10:4-12(b)*, the Commission will adjourn to executive session to discuss matters which, by statute, are regarded as confidential and also to discuss matters possibly involving litigation, specifically: C35-19; C09-20; C15-20; C73-19 and C02-20 (Consolidated); C75-19; C04-20; C16-20; A06-20 (Reconsideration); A12-20; A13-20; A14-20; C08-20; C25-20; C29-20; Doctrine of Necessity submitted by the Prospect Park Board of Education; adoption of Resolutions in connection with T18-19, T30-19, T12-19, T25-19, T27-19, T28-19, and T33-19; and

Now therefore be it further resolved that the Commission will return to open session to conduct business at the conclusion of Executive Session.

Motion was made by Richard Tomko, and seconded by Dennis Roberts, to adjourn to Executive Session to discuss the matters set forth in the foregoing Resolution.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

IV. Return to Public/Second Public Comment

At **12:02 p.m.**, a motion was made by Dennis Roberts, and seconded by Michael Collins, to return to public session for the purpose of receiving public comment/testimony.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

12:03 p.m. Heather Garcia the named Respondent in C16-20, again noted her attendance, but did not offer any other public statements or comments.

V. Complaints to Review

C35-19 Motion was made by Dennis Roberts, and seconded by Richard Tomko, to draft a decision as discussed.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

C09-20 Motion was made by Dennis Roberts, and seconded by Richard Tomko, to draft a decision as discussed.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

C15-20 Motion was made by Richard Tomko, and seconded by Dennis Roberts, to draft a decision as discussed.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

VI. Decisions to Adopt as Written

C73-18 and C02-20 (Consolidated) Motion was made by Dennis Roberts, and seconded by Michael Carucci, to adopt the decision as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | | | X | | X | 4 |
| No | | | | | | | | 0 |
| Abstention | | | X | | | | | 1 |

C75-19 Motion was made by Dennis Roberts, and seconded by Michael Carucci, to adopt the decision as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | | | X | | X | 4 |
| No | | | | | | | | 0 |
| Abstention | | | X | | | | | 1 |

C04-20 Motion was made by Dennis Roberts, and seconded by Michael Carucci, to adopt the decision as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | | | X | | X | 4 |
| No | | | | | | | | 0 |
| Abstention | | | X | | | | | 1 |

C16-20 Motion was made by Dennis Roberts, and seconded by Michael Carucci, to adopt the decision as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | | | X | | X | 4 |
| No | | | | | | | | 0 |
| Abstention | | | X | | | | | 1 |

VII. Advisory Opinions

A06-20 (Reconsideration) Motion was made by Richard Tomko, and seconded by Dennis Roberts, to draft the advisory opinion as discussed.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

A12-20 Motion was made by Dennis Roberts, and seconded by Michael Carucci, to adopt the advisory opinion as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | | | X | | X | 4 |
| No | | | | | | | | 0 |
| Abstention | | | X | | | | | 1 |

A13-20 Motion was made by Richard Tomko, and seconded by Dennis Roberts, to adopt the advisory opinion (version 2) as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | | | X | | X | 4 |
| No | | | | | | | | 0 |
| Abstention | | | X | | | | | 1 |

A14-20 Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the advisory opinion as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | | | X | | X | 4 |
| No | | | | | | | | 0 |
| Abstention | | | X | | | | | 1 |

VIII. Administrative Dismissals

C08-20 This matter was on the agenda for informational purposes only.

C25-20 This matter was on the agenda for informational purposes only.

C29-20 This matter was on the agenda for informational purposes only.

IX. Other Business

Doctrine of Necessity (1): Prospect Park Board of Education. This matter was on the agenda for informational purposes only.

Adoption of Resolution in Connection with T18-19 Motion was made by Richard Tomko, and seconded by Michael Carucci, to adopt the Resolution as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

Adoption of Resolution in Connection with T30-19 Motion was made by Richard Tomko, and seconded by Michael Carucci, to adopt the Resolution as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

Adoption of Resolution in Connection with T12-19 Motion was made by Richard Tomko, and seconded by Michael Carucci, to adopt the Resolution as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

Adoption of Resolution in Connection with T25-19 Motion was made by Richard Tomko, and seconded by Michael Carucci, to adopt the Resolution as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

Adoption of Resolution in Connection with T27-19 Motion was made by Richard Tomko, and seconded by Michael Carucci, to adopt the Resolution as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

Adoption of Resolution in Connection with T28-19 Motion was made by Richard Tomko, and seconded by Michael Carucci, to adopt the Resolution as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

Adoption of Resolution in Connection with T33-19 Motion was made by Richard Tomko, and seconded by Michael Carucci, to adopt the Resolution as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Abstention | | | | | | | | 0 |

X. Minutes

Motion was made by Dennis Roberts, and seconded by Richard Tomko, to adopt the minutes of the meeting (public and executive) conducted on June 23, 2020, as written.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|----------------------|------------------------|------------------------|-------------------------|-----------------------|------------------------|----------------------|--------------|
| Yes | X | X | | | X | | X | 4 |
| No | | | | | | | | 0 |
| Abstention | | | X | | | | | 1 |

Prior to adjournment, Commissioner Tomko thanked Director Whalen for her efforts in having the meeting today, despite personnel limitations due to budgetary issues. Despite the budgetary issues facing the State, Commissioner Tomko noted that the business of the Commission has continued without interruption.

XI. Adjournment

At 12:13 p.m., a motion was made by Michael Carucci, and seconded by Michael Collins, to adjourn.

Vote

| Vote | Robert Bender | Michael Carucci | Michael Collins | Mark Finkelstein | Dennis Roberts | Jude A. Tanella | Richard Tomko | Total |
|-------------------|--------------------------|----------------------------|----------------------------|-----------------------------|---------------------------|----------------------------|--------------------------|--------------|
| Yes | X | X | X | | X | | X | 5 |
| No | | | | | | | | 0 |
| Abstention | | | | | | | | 0 |

Submitted by:

Jeannine Pizzigoni

Approved by:

Kathryn A. Whalen, Director