Appearances: Michael K. Rozen, Chair

Commissioners:

Robert Cohen
James E. Dering
Colleen C. DiPirro
William P. Fisher
Marvin E. Jacob
Gary J. Lavine
James W. McCarthy
David J. McNamara
George H. Weissman
James A. Yates

Staff:

Monica J. Stamm, General Counsel
Martin L. Levine, Deputy General Counsel
Walter J. McClure, Director of Communications and Public Information Officer
Keith St. John, Deputy Counsel and Director of Ethics
Carol Quinn, Deputy Director of Lobbying
Stephen J. Boland, Director of Administration
Michael Sande, Deputy Director of Ethics
Megan Mutolo, Associate Counsel
Lori A. Donadio, Principal Investigative Analyst
Kelly McCready, Confidential Clerk

IT Staff – Tanya Smith
OGS Media Services – Amaury Corniel
Walter McClure: Alright, chair. We're live.

Chair Rozen: Thank you, good morning everyone.

Welcome to the January 2021 edition of the Joint Commission on Public Ethics. Thanks everyone for joining us today. As with all JCOPE meetings held during the pandemic, we are once again using video conferencing technology. The public session is accessible on JCOPE’s website to watch via live stream. As a reminder, it's important that only one person speak at a time. In addition, I ask that when you speak, you identify yourself so that we have a clear record. We will take votes by a modified roll call, as we've done in the past, to ensure that everyone is counted. Please remember to mute your phone when you are not planning to speak. Behind attachment A, we have the minutes from the last public session in December of 2020. Any comments or questions?

Monica Stamm: Chair, this is Monica. I have an edit.

Chair Rozen: Go ahead.

Monica Stamm: Okay, so on page four, the fourth paragraph that begins Commissioner Weissman. I don't know about everybody else, but I hear a lot of feedback, so anyone who's not speaking please mute your phone. The paragraph that begins Commissioner Weissman, Commissioner Weissman would like to add, stated that the 1st amendment argument was a red herring, comma, and then continue suggested that staff review.
Chair Rozen: Okay, anybody have an issue with that?

I mean, that's fine with me. Any other questions or comments?

Commissioner Weissman: Mr. Chair, with that change I'd like to make a motion to adopt the minutes.

Chair Rozen: Thank you, Commissioner. Is there a second?

Commissioner DiPirro: Commissioner DiPirro seconds.

Chair Rozen: Thank you, Commissioner. Martin?

Martin Levine: Yes, on the minutes, all in favor please raise your hand. Let see, 1, 2, 3, 4. I see Commissioners Yates, Fisher, Weissman and Rozen. I'll call the remaining role. I'm sorry, Commissioner Dering, I didn't, you came in and out. Did you vote in favor? I'll keep going, Commissioner Dering? We are having issues there. Commissioner DiPirro?

Commissioner DiPirro: Yes.

Martin Levine: Commissioner Jacob?

Commissioner Jacob: Yes.

Martin Levine: Commissioner McNamara?

Commissioner McNamara: Yes.

Martin Levine: Commissioner Cohen?

Commissioner Cohen: Yes.

Martin Levine: Commissioner Lavine?
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Commissioner Lavine: Yes.

Martin Levine: Judge McCarthy?

Commissioner McCarthy: Yes.

Martin Levine: Commissioner Jacob. Oh, I already got you, I apologize. And I'll go back Commissioner Dering, try one more time.

Monica Stamm: Martin, I saw him raise his hand in favor before.

Martin Levine: Okay, great. So that's 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 all right. Motion carries.

Chair Rozen: Great. Thank you. Item three, report from staff.

Monica Stamm: This is going to be Steve Boland, Director for Administration. He'll start the third quarter financial report.

Steve Boland: Thank you. Good morning everyone. Cash disbursed during the third quarter was $1,900,000, I'm sorry $1,096,000 dollars, for a year to date total of $3,622,000. For personal service, the percentage dispersed was about 70%, and for nonpersonal service approximately 44%, for a total of 66%. That shows our financial acumen in terms of reducing, trying to reduce costs throughout the year. Does anyone have any questions? Thank you.
Chair Rozen: Thank you.

Monica Stamm: Before we turn, sure, before we turn to the operations report, Martin, you're going to report on just the proposed budget.

Martin Levine: Yeah, the Department of Budget, excuse me, Division of the Budget released the proposed appropriations for fiscal year 21-22. Our budget has remained flat, relatively flat, with a nominal increase of $12,000, which reflects a rent increase in our Buffalo office. We do still expect DOB to request a 5% reduction across use of cash. This would equate to about $280,000 for the agency. We've been planning for this and believe we can live within those confines.

Chair Rozen: Any questions or comments?

Commissioner Weissman: Chair, quick one. Hey, Martin, are we already under a 5% cap in appropriations versus cash? Is this?

Martin Levine: Yeah, there's been a current year spending plan that was requested by Division of the Budget, which we have incorporated into the current year spending, and then carrying it through the next year as well.

Commissioner Weissman: So, so this is not five plus five, this is just the current five?
Martin Levine: Yeah, the current five that we've been living within.

Commissioner Weissman: Okay. Thank you.

Commissioner DiPirro: I guess one question, this is Commissioner DiPirro, Monica had mentioned a prior meeting that we were, we requested an additional investigator. Does this budget include financial wherewithal for the additional investigator?

Martin Levine: The yes, yes, that, that position is incorporated into this figure.

Commissioner DiPirro: Thank you.

Monica Stamm: All right, if there are no further questions, I'll continue, Chair, with the operations update.

Chair Rozen: Yes, thank you.

Monica Stamm: Okay, so arising out of the work of the confidentiality and records access committee, staff prepared, has prepared, a new monthly operations report, which has been distributed to Commissioners and should be posted and attached to the meeting agenda on the website. It provides the public with information about the Commission’s activities, so at each meeting, this is something we intend to do, and this would be provided at each meeting, rather than waiting until the annual report to compile all of this data. The first report covers
the month of December 2020, and some calendar year totals for
the year 2020. It includes data about investigations, lobbying, and ethics, as well as other units. For example, it includes the number of 15-day letters that we would have sent in December. As you can see in the report, we did not send any in December, but that is what we would anticipate reporting each month, as well as open investigations and pending matters at the end of the month. It also includes data on the lobbyists and clients in the system, the requests for guidance that staff has handled, FDS compliance efforts, audit, and training. The new report is just one among many ongoing efforts of the Commission and the committee to increase transparency about JCOPE, so that the public has a better idea of the important work that we're doing on a daily basis. The changes to the records access regulations, which will be presented later in the meeting, are another initiative of the committee. The committee is continuing to discuss additional ways to be more open within the constraints of our law and plans to meet again on February 10th. So, if anyone has any questions about the report, Commissioners, you should have received the latest version last night, and for the public, it is available on our website.

Commissioner Fisher: I don't have any questions, but I'd like to take the opportunity to commend staff. I was one of many Commissioners that was interested in seeing
information like this come out on a more regular basis and I think you've done a tremendous job with it and really would like to thank you for the excellent work.

Chair Rozen: Thank you.

Monica Stamm: You're welcome.

Chair Rozen: Alright. Let's, let's move on.

Monica Stamm: The New York City office update just to let everyone know, the New York City office is temporarily relocating to the 28th floor, which has a different entrance. So if you ever need to come to the New York City office, you would enter it from 60 Broad Street. The move is tentatively scheduled for the end of February, beginning of March. We're waiting for a firm date. As previously mentioned, the space will have a secure area for our confidential records and it should have a conference room that we can use for investigative purposes and meetings. The work on our new space, the ultimate space that we'll move to on the 5th floor, for 25 Beaver is scheduled to be complete in the fall, but I don't know if they're on target. So this will be our space until the 5th floor is ready.

Commissioner Rozen: Great, thank you. Alright. Let's move on item four, behind attachment B, the proposed amended comprehensive lobbying regulations.
Martin Levine: I'll take that, Mr. Chairman, As you mentioned, the regulations for lobbying are behind tab B as in boy, and source of funding is tab C as in cat. Just a reminder, this process is to adopt the first set of revisions to the lobbying regulations that were adopted or promulgated in 2018, as well as amendments to source of funding in '18 as well. The revisions that you're voting on today were adopted at the December meeting on an emergency basis and they have been in effect since their submission to the state register. We are requesting today a vote on a permanent adoption. We did not receive any public comments after the last publication of the regulations. We did have some engagement recently with stakeholders, but based on the concerns they raise, we don't see the need for substantive revisions and we'll work with them to address their individual concerns. If these are adopted today, they'll be effective upon publication, which I believe would be February 9th. And unless there's any objection from a Commissioner, I believe we can handle this in a single motion on lobbying and source of funding. I'm happy to address any questions or bring in Carol Quinn, if need be. Commissioner Weisman has his hand up.

Commissioner Weissman: I have one question, Martin, regarding a change on page 59 where you struck the terms, including a fiscal sponsor. I assume that was designed to get a third party or other nefarious, I'm going to use the term
loosely, money laundering schemes, to get into the system of lobbying. I recognize there is no definition of fiscal sponsor, so I just want to know how staff views that it's going to be able to still enforce the regulations.

Martin Levine: There's, there's a couple of provisions in the regulations that would, we believe, already encompass that situation. We thought the additional use of the term, especially without a definition as you point out, would only create confusion without adding any additional teeth. Basically, we have provisions that provide that anyone who pays for a lobbying effort, becomes a beneficial client and is thus disclosed. And there are, there's another one in there. Carol. Can you remind me what the second one is? I apologize.

Carol Quinn: Yes, can you hear me?

Martin Levine: Yes, we can.

Carol Quinn: Okay, I'm sorry, my video's not working, but the other way it really, that the concept of fiscal sponsor is incorporated, is within this, just farther down on page 59, within the definition of contribution, which means the provision of funds or resources. So, we think between all of that, the concept of fiscal sponsor is covered. Obviously, there always can be some bad actors, but we think that the regulations are clear enough now, and we, we thought the word,
the phrase fiscal sponsor was duplicative, and also might
cause some confusion since it's not defined.

Commissioner Weissman: Well, as long as staff is
comfortable that we've collected all the potential nefarious
ways of getting money into this, into the lobbying system,
then I'm comfortable, and thank you very much.

Martin Levine: We are, thank you.

Chair Rozen: Thank you. Other comments, questions?

Commissioner Fisher: Chair Rozen, this is Fisher.
I'd like to make a motion to approve the modifications to part
943 as contained in our meeting packet.

Chair Rozen: Thank you. Second?

Monica Stamm: Just to clarify, that's a motion to
adopt the regulations, to accept the modifications and adopt
the regulations, is that correct?

Commissioner Fisher: Yes, that's correct. Thank you.
Thank you for the clarification and if you could change the
motion to reflect that I’d appreciate it.

Chair Rozen: Thank you, and Commissioner Weissman
seconds. Thank you. Martin.

Martin Levine: I just want to find out, Commissioner
Fisher, did you, would you like to include the source of
funding regulations or what should you handle that separately?
It's completely up to you all.

Commissioner Fisher: Well, let's simplify it and include it unless someone objects.

Chair Rozen: Good, Commissioner Weissman, does your second still stand?

Commissioner Weissman: Absolutely.

Chair Rozen: Wonderful, thank you. Martin?

Martin Levine: On the adoption, permanent adoption of the revisions to part 943 and part 938 of title 19, all in favor, please raise your hands. I see Commissioners Rozen, Fisher, Weissman, Dering. Am I missing anyone on video? No, okay. I'll call the roll. Commissioner DiPirro? I'll come back. Commissioner McNamara, come back. Chair Rozen, Commissioner Weissman, Judge Yates?

Commissioner Yates: Yes.

Martin Levine: Okay, Commissioner Cohen?

Commissioner Cohen: Yes.

Martin Levine: Commissioner Lavine.

Commissioner Lavine: Yes.

Martin Levine: Judge McCarthy?

Commissioner McCarthy: Yes.
Martin Levine: Commissioner Jacob?

Commissioner Jacob: Yes.

Martin Levine: And Commissioner McNamara, once again.

Okay, that's sufficient votes. The motion carries.

Commissioner DiPirro: Commissioner DiPirro also favors.

Martin Levine: Thank you.

Chair Rozen: Thank you, Commissioner. Okay.

Martin Levine: Okay, let's, next set is, sorry switch gears here. This is the, behind tab D as in David, you have the proposed amended records access regulations. These are something that we discussed at the last meeting and arise out of a proposal from the confidentiality and records access committee, designed to provide additional information where it is permissible under the statute. Our current regs on records access, or publicly available documents, mimics part, excuse me, section 94(19) of the Executive Law, and that provides that the financial disclosure statement itself is a public document. What these regulations would do is provide auxiliary information about a financial disclosure statement. It deals generally with information that is available regarding a specific FDS filing or filer. And it also would include title and salary information for JCOPE staff. As I mentioned, this
was presented at the last meeting. The only substantive change is on page two, sub paragraph one, B as in boy, and the proposal would provide that when a filing is released to the public it would indicate whether information has been deleted or redacted, as the term may be used. Previously, we would have also included whether something was exempt, but we recognize there were conflicts with other regulations as well as, the notion that something that's been exempted from reporting is not actually part of the filing and thus, we wouldn't be changing anything when releasing it. So, again, this comes out of the records access committee, and if the Commission wishes to move forward, the next step would be a vote to commence a rulemaking.

Commissioner Jacob: Question?

Chair Rozen: Yes, go ahead.

Commissioner Jacob: Since this scope and purpose, if you have 937.1 contains their exemptions, would it be appropriate to include the exemptions that arise under the governor’s order to exempt, pursuant to legislative authority, I forget the section number of the governor’s. We'll have to go back to the, I apologize, it's 236 is it, point one and two?

Martin Levine: I just want to clarify because I’m having...
Commissioner Jacob: The corona, the corona exemptions for filing FDS’s and the like.

Martin Levine: Oh, the executive orders under 202.6 and 7, right?

Commissioner Jacob: That's what I was reaching for, 202.6 and 7 provide exemptions for filers and filings of all sorts, and you have various exemptions in here now. We don't have those items, and we ought to say we don't have them, and that's what the other exemptions basically did. So, would it be appropriate to include 202.6 and 7 in the appropriate places in this proposed, in this proposal?

Martin Levine: Well, Commissioner, I think it's worth parsing out your statement, and I'm, I'm not trying to quibble with it, but the executive order, as we've discussed in the past, exempts certain people from the definition of public officer. So, it's not exact, it's not the same as saying that they don't have to file an FDS. It's saying that in this capacity, they are not state officers. And so, there's really been no exemption awarded by the Commission, which is what we are using as the basis for our disclosure of an exemption. They simply don't come to us as public officers under the law. But beyond that, I, you know, that that's how far the Commission wants to go as a policy question. I just wanted to clarify from a legal standpoint.
Commissioner Jacob: Okay, but you have exemptions here under 94(9), and those are not Commission’s exemptions necessarily, they’re legislative, but, but this isn’t exactly legislative exemption because it authorized for that.

Martin Levine: Again, what the Executive Law provides in section 94 is a process whereby the Commission decides whether to award an exemption to someone who is otherwise subject to the provisions of section 73-a. The individuals you are referring to under the executive order would not be subject to that because they are not subject to the Public Officers Law from the very beginning, so, we would not be any part of that process. What we do under 94(9)(h), (i), and (i-1) is review an application for exemption as we are empowered under the law, and then decide whether or not to award it. These regulations would articulate whether or not we have in fact, taken such a step. Again, what you’re referring to is someone that would not come to us and thus we would have no role in that.

Commissioner Jacob: Well, this is all aimed at transparency. These are all aimed at transparencies. I assume somewhere in our rules or regs are or, or we have to, we should have something about these, these filings that aren't being made, that we don't have them, they're exempt, and why, but this is an opportunity, and if it’s your view, it shouldn't be here. I'll defer to you. I, I think it should.
Monica Stamm: Chair, if I may speak, this is Monica. Commissioner, I appreciate your point about being clear that we don't have those records and there may be an appropriate place you know, to do that, but these regulations are about governing our records, and of our records, what is going to be made publicly available and the process for doing so. So that is the purpose of these regulations. We could talk, you know, separately, about a place to make that point that there may be other exemptions that have been granted that, so we don't have records. Another example of that would be client determinations that may be made by OCA, the court administration. We don't know if client exemptions were granted. So that's another example where we don't have that information, but the purpose of these regulations is to govern disclosure of records that we do have and to clarify what is going to be publicly available and how it's going to be publicly available and the procedure for challenging that. So, that would be something for the Commission to consider. I'm not sure that addressing records that we don't have fits into these regs.

Commissioner Lavine: Mr. Chairman.

Chair Rozen: Yes, Commissioner, go ahead.

Commissioner Lavine: I have a number of questions for our able staff, but first I want to follow up on Commissioner
Jacob’s observations. As I understand it, there are a group of volunteers who presumably are within the ambit of the governor's executive order, who are otherwise within the ambit of our jurisdiction because they're serving in other posts. For example, I'll just use an illustrative exemplar, someone serving on the board of the Metropolitan Transportation Authority who then is involved in the rollout of new vaccines. Would this individual be partially exempt under the Governor's executive order, or completely exempt, even though the person is simultaneously serving on the MTA?

Monica Stamm: So, Commissioner, as we've discussed before, the scope of the executive order is really not a question for us, but there's, on its face, there's nothing to suggest that that anyone who's otherwise subject to our laws for their, for non-COVID related duties, is somehow not required to comply with Public Officers Law or submit a financial disclosure statement, or any other obligations they have in their state capacity. It's, the executive order, on its face, only applies to COVID-related activities. I don't, I can't answer any hypotheticals. We would need all the facts and we could address those when we have something where we have a question before us that's based on an actual situation, but I also just want to be clear (inaudible).

Commissioner Lavine: Well, there is an actual situation. There is a, if I may interrupt.
Monica Stamm: Sorry, go ahead.

Commissioner Lavine: If I may interrupt, there is an actual situation. I just cited it to you. There's a member of the MTA board who is subject to our jurisdiction, who is also involved in the rollout of the vaccine. Now my question to you is, does the executive order entirely exempt this individual from our jurisdiction?

Monica Stamm: And I believe I've answered your question in general terms as to how I understand the executive order operates, but as you know we are not going to discuss any one individual specific situation during the public session, and as counsel I am not going to advise the Commission on legal interpretation of facts and application of that law to specific individuals during the public session.

Commissioner Lavine: Yes, I respect your position. On the follow up, however, have you actually discussed this issue with anyone in authority in the executive chamber?

Monica Stamm: Have I discussed the issue of whether or not somehow the executive order exempts other state officers and employees from being subject to the Public Officers Law, in their regular state duties? Is that your question?

Commissioner Lavine: Yes.

Monica Stamm: I have not had that discussion, because as I've said, there was nothing on the face of the
executive order to make me think that that is the case. It is
on its face limited to COVID-related duties. If you want me to
have that conversation, I am happy to have that.

Commissioner Lavine: If I may plow some old ground,
Mr. Chairman, has there been any discussion with the executive
chamber by our staff with respect to the executive order?

Monica Stamm: Not recently. When it was first
enacted, when it was first issued, I believe we did have some
discussions, in context of very specific questions that came
in relating to specific individuals.

Commissioner Lavine: And with whom, and with whom
was this this discourse conducted?

Monica Stamm: It would have been lawyers in counsel's
office.

Commissioner Lavine: Who are the lawyers?

Monica Stamm: I don't specifically remember who I
had the discussions with, but really, for the most part, my
communications are with two, my communications generally are
with two lawyers in counsel's office, Judy Mogul and Julia
Kupiec. Occasionally, I speak with other lawyers or other
lawyers may join them, but for the most part those are the two
individuals I speak to in the chamber.
Commissioner Lavine: Well, Ms. Mogul is special counsel to the governor, correct?

Monica Stamm: I don't actually know her title.

Commissioner Lavine: But does she, so far as you're aware, within the ambit of her responsibility, is the panoply of ethics issues or does somebody else handle it in the executive chamber?

Monica Stamm: You know, I don't know, any everyone that they've assigned to ethics issues, so I can't really answer that question. But my understanding is both of the individuals that I named deal with ethics issues. Other staff may have contact with other lawyers from time to time because, like I said, there's been other lawyers who have handled ethics issues but these are the two that I deal with on ethics issues.

Commissioner Lavine: Yes, and I want to be very meticulous about not mischaracterizing, or misstating, your conclusion, but in my words, and then you can, you can correct me, of course, so far is our staff analyze the legal situation, someone who's in a dual role serving on a state board and also volunteering in response to corona, is not exempt by the executive order with respect to the ambit of their involvement in the state board, is that a fair summation?

Commissioner Dering: Could I make a suggestion?

Monica Stamm: Sorry, sorry go ahead, Commissioner.
Commissioner Dering: And with, with all due respect you know, we've been, I think this line of questioning or discussion, is so far off the proposed regulation, and we've been through this executive order issue a number of times, just in terms of our time, and what we have in our agenda, I wonder if, if this discussion, if it's going to happen again, if it could just happen offline.

Commissioner Lavine: Thank you very much, Commissioner Dering. Nonetheless, I'd like an answer to the question I just posed. Does the summation that I articulated your view?

Monica Stamm: Yes, you've articulated my view, but to the extent that you want me to confirm that that is how the chamber reads it in a general way, I could certainly convey that question.

Commissioner Lavine: Thank you, Mr. Chairman. May I follow up?

Chair Rozen: Yep, Gary, but let's, let's keep this brief, okay?

Commissioner Lavine: Well, I'll keep it brief consistent with what I believe is my responsibility of due diligence before I vote on this proposal.

Chair Rozen: Absolutely.
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Commissioner Lavine: Quick to, let me put the question to staff. Are informal or formal opinions of the Commission or Commission staff within the ambit of this proposal?

Monica Stamm: No, they are not. The records access regulations do not cover disclosure of informal or formal opinions.

Commissioner Lavine: Why not?

Monica Stamm: Because this is about the record access process by which members of the public request records that are publicly available, and informals and formals are not subject to that process. The Commission, as we discussed at length over the last several meetings, makes determinations about publicizing formal opinions and they're posted on our website. And as you know, the subject of how the Commission wants to treat informals is a matter that's being taken up by the confidentiality committee and we'll continue that discussion on the February 20th, 10th meeting. But certainly, it wouldn't be dictated by this process whereby Walt is turning them over. If an informal were decided by the Commission to be able to be made public, that would be done by a vote of the Commission and not through the records access process. This is a process just for being able to request publicly available
records. It is not for something that is done separately at
the discretion of the Commission.

Commissioner Lavine: With respect to formal opinions
and the formal opinion by definition is one that is in writing
and adopted by the Commission. Correct?

Monica Stamm: Yes.

Commissioner Lavine: Are they accessible to the
public other than on our website. In other words, if somebody
called up and said, I want a copy of any informal opinion on
this particular subject, what would the response be from staff?

Monica Stamm: I mean Walt you can answer, but I assume
that Walt would just send them the link.

Walter McClure: Correct. For any formal opinion
that's already on the website, I would just point them to where
it is on the website. There wouldn't be a need to send a
separate document.

Commissioner Lavine: Let me now move to the question
of the financial disclosure statements, if I may, Mr. Chairman.

Chair Rozen: Go ahead.

Commissioner Lavine: At the risk of plowing some old
ground, let me see if I can get a summary. The current policy
is that if an inquiry is made, the filer will not be made
aware, and cannot be made aware, even if the filer asks if an
inquiry was made, is that correct? This is the current policy I'm addressing.

        Martin Levine: Yeah, Commissioner, this is Martin. That, that's correct on under current, under the current regulations. Obviously, the drafts would expand that briefly.

        Commissioner Lavine: Right, and this policy was never adopted by the current Commission. The staff's position is that, if I understand it correctly and again, you'll correct me if I have it wrong, is that it was the policy of a predecessor Commission, and that the current Commission implicitly sanctioned it by adopting the records access policy that is now before us for amendment, is that correct?

        Martin Levine: No, actually, that is not correct. The records access regulations that have been in effect by this Commission, which were voted on by the members of this Commission when they were initially promulgated in, I think 2012 or '13, laid out what was publicly available. And, as I mentioned previously, that tracks with 94(19) of the Executive Law, which provides that the FDS itself is publicly available. As we've discussed today, and before this, this proposal would be to let someone know if someone had requested their FDS, but nothing beyond that.
Commissioner Lavine: Yes, very helpful. On the follow up, the current policy, which is what I am addressing at this juncture in the discussion.

Martin Levine: The current regulations.

Commissioner Lavine: The current policy, however, prohibits a filer from being informed if an inquiry has been made with respect to the filer’s FDS. Correct?

Martin Levine: The current regulations provide that an FDS is public and nothing else about the FDS.

Commissioner Lavine: Right, but the implicit policy that an inquiry will not be divulged to the filer is a holdover, staff would say, from the predecessor Commission.

Martin Levine: No, and I don't have (inaudible).

Commissioner Lavine: By the current commission.

Martin Levine: Gary, I don't know how many ways to keep saying this. We have certain public information. The FDS is public. Nothing else about the FDS is currently public. That was a regulation that was voted on by the 14 members of the Commission in 2012 or ’13. I’d have to look up the date. That is that is the regulation. There's no policy to speak of.

Commissioner Lavine: Alright. Now with respect to the current policy.

Martin Levine: There's no policy.
Commissioner Lavine: Right, with respect to the current policy as you’ve described, if another Commissioner asked if a colleague’s FDS was scrutinized, what would the response be to that Commissioner?

Martin Levine: I'd have to, I'd have to know what it was about and why they were asking, but I think you have the gist of what's going on here, so the regulations provide that we would disclose to a filer that their FDS had been requested. If you would like the regulations to provide additional information, the Commission should discuss that. But I don't think backing into an answer, as you're trying to do, is the most productive use of all of our time. So, I think the Commission should decide if there should be additional information, and if there is, we can amend the regs, but we have no policy. This isn't a staff determination. This was a vote of the 14 members of the Commission at that time.

Commissioner Lavine: Right, but in the hypothetical, if a Commissioner made an inquiry about another Commissioner, the staff would say that is confidential?

Martin Levine: I'm not going to answer that. I think the Commission should discuss whether it wants to add additional information to the regulations or not.

Commissioner Lavine: On the follow on, similar question. If an inquiry was made about the FDS filed by senior
staff, somebody on the staff obviously knows that that inquiry was made, would it be kept secret from the other staff member, or would the staff member be told that the inquiry was made?

Martin Levine: Again, I'm not going to answer that hypothetical question.

Commissioner Lavine: Thank you, Mr. Chairman. At the appropriate juncture, I hope you'll entertain some amendments to the regs.

Chair Rozen: Thank you Commissioner. Okay, so, let's go back to the regs, we need a vote here. Can I have a motion to approve?

Commissioner Lavine: When do you want to entertain the amendments, proposed amendments?

Chair Rozen: Hang on, Commissioner Weissman. Go ahead.

Commissioner Weissman: I just, you know, I'm a little confused. If I understand what Martin said that under the regulations, if a filer, has a filer’s information, whoever requested that information can be obtained under these proposed regs. Is that correct? Martin?

Martin Levine: The proposed, the proposed regs would allow a filer to know if someone had requested their FDS. That
is, that is all they proposed again. Again, this came out of the committee. This was not a staff proposal.

Commissioner Weissman: And that would only, that would only go to who requested it, which is anything else beyond who requested it?

Martin Levine: No. In fact, it would go only to whether or not it had been requested, a simple binary yes or no.

Commissioner Weissman: Is that, now, so, is that different than how the FOIL reg, how FOIL is applied throughout the other agencies in the State of New York subject to FOIL?

Martin Levine: It's my understanding that requests for information under FOIL, the request themselves are public as a FOIL log, that's, but you'd have to go agency by agency.

Commissioner Weissman: Well, it could either be a FOIL log, or if it comes, if an agency didn't hold the log, but came in as an email, a piece of paper, a carrier pigeon whatever, as long as it falls under the definition of a record, it would be released, but other personal information, other than the name might constitute an unwarranted invasion of personal privacy under FOIL. So, you know, address, phone number, that wouldn't be released, and that would make sense.

Martin Levine: Sounds like, you know, so.
Commissioner Weissman: So, our regulations only get part of the way there.

Martin Levine: If we were subject to FOIL, they would only get part of the way there, correct.

Commissioner Weissman: Okay, thank you.

Commissioner Yates: Mr. Chair, if I could explain my vote.

Chair Rozen: Have you, we haven't taken a vote yet.

Commissioner Yates: Okay.

Commissioner Lavine: Well, again Mr. Chairman.

Commissioner Yates: I could speak on the motion.

Chair Rozen: Hang on Gary, Commissioner Lavine, Commissioner Lavine, one second. Commissioner Yates go ahead.

Commissioner Yates: Alright. I'm on the subcommittee and, for confidentiality, and I might have been prepared to vote for this, but I'm going to vote against it right now and I'll tell you why. During this public session, two different staff members were asked a question by a Commission member and both of them said they weren't going to answer. Now, it could be that that's either required by law or respecting confidentiality, in which case it should be taken up in an executive session, but when a Commission member asks a question that's pertinent and relevant on a pending motion in a public
session and is simply told by staff I'm going to answer that, my vote is no.

Chair Rozen: Okay, well, thank you, Commissioner. When we, when we get to the actual vote, then we'll record your, your vote as no to it. Commissioner Lavine.

Commissioner Lavine: Yes, I have three amendments, Mr. Chairman.

Chair Rozen: Okay.

Commissioner Lavine: When you're ready.

Chair Rozen: I'm ready.

Commissioner Lavine: Amendment number one, all formal and informal opinions rendered by staff or the Commission should be within the ambit of this records access policy. Specifically, with respect to informal opinions, all informal opinions shall be publicly divulged, in redacted form if appropriate, and all informal opinions will state that the informal opinion is not binding on the Commission.

Chair Rozen: Commissioner Lavine, thank you, Can I interrupt you for one second?

Commissioner Lavine: Of course.

Chair Rozen: Is this, is this, are these amendments that you are proposing here effectively, sort of jumping the gun on the confidentiality committee process? I mean, we've,
we've had a discussion about this on the subcommittee, and I thought we had agreed that we were continuing those discussions in February with the hope of bringing something to the February Commission meeting. And I'm just wondering whether the amendments that you are, that you just proposed and are about to propose, are somehow jumping the gun on all of that, in which case I would ask you to reconsider that because to the extent the answer is yes, I will tell you that I, I cannot vote in favor of them, even if I might like to ultimately, before the confidentiality committee has finished its work, but maybe I'm misapprehending what it is you're proposing here.

Commissioner Lavine: Well, as always, Mr. Chairman, when you speak, I listen, So, I will defer the amendment, which actually has two parts with respect to the informal opinions and the formal opinions, to the discussion of the committee. But if I may now go to the amendment regarding the FDS, as I understand it, there has been final determination in the committee that this reg as proposed is not to be the subject of any further discussion in the committee. If I'm wrong, please tell me.

Martin Levine: I think the Committee's free to bring up any subject it wants.

Commissioner Lavine: Yeah, that would well, let me propose an amendment, Mr. Chairman, and then you can advise.
I propose that, to be consistent with all other agencies that are otherwise subject to FOIL, to be consistent with the New York City Conflict of Interest Board, that this proposal be amended to provide any filer may request if an inquiry has been made and the individual or entity making the inquiry will be divulged to the filer. There is no principled reason why we should be an outlier. Nobody else that I'm aware of does this. Now, if you want to tell me, you want to put that back into the committee, that's fine. I think then you need to pull the whole regulation in abeyance.

Chair Rozen: Well, before, before we get to that, Monica, Martin, is that correct? If we put that issue just raised by Commissioner Lavine back to the confidentiality committee, do we have to hold off on the amended reg?

Martin Levine: If you were to, I think that.

Monica Stamm: Well, I mean, sorry, I think the issue for the Commission is, I mean, the committee has already taken up Commissioner Lavine’s second amendment and I don't think there's further discussion on that topic. I think it's ultimately a Commission decision whether it wants to disclose the identity of requestor, individuals who request financial disclosure statements or not. But the first issue that Commissioner Lavine raised is still subject discussion in the committee, and if some Commissioners would like to incorporate
that somehow into record access regulations, then we could
certainly table this for that discussion. And to the extent
Commissioner Yates is concerned that some Commissioners
haven't been able to get their questions answered, certainly
Commissioners could call up between meetings to get their
questions answered. My reasoning for not answering questions
was to me, they were delving into legal opinions that should
be only handled in an executive session, and if Commissioners
want to pursue it further, I'm happy to entertain that in
executive session. But I think that it's really up to the
Commission. If they want to defer these regulations for further
committee and confidential discussion, then that that's up to
the Commission.

Martin Levine: And Commissioner, Chair Rozen.

Chair Rozen: Yeah.

Martin Levine: I, I might clarify that all I was
trying to enunciate to Commissioner Lavine was that there may
be reasons why staff would need to know if a certain FDS was
requested, but we don't as a practice inform, Walt doesn't
inform us if someone requested our FDS, but I can't tell you
what we would do in a particular situation or what we would do
with response to a Commissioner who asked for another
Commissioner's FDS because there could be business reasons why
they need to see it or it could be personal. I don't know the
answer to that. And so that was my reticence in speaking.

Chair Rozen: Understood. Thank you.

Commissioner Lavine: If I may, Mr. Chairman.

Chair Rozen: Go ahead.

Commissioner Lavine: Elicited articulation from
whoever's propounding this regulation. Why is it that the
Joint Commission on Public Ethics should be the outlier? No
one else withholds this information. Why should we? What is
the rationale for this proposal?

Monica Stamm: So, I don't necessarily think it's
accurate to say that we are an outlier. Our law does not make
this information public. FOIL makes it public. We're not
subject to FOIL. For the Conflicts of Interest Board, the city
charter makes it public. We're not subject to the city charter.
They have legal requirements to make it public. For the past,
you know, decades of this entity and its predecessors, a
decision has been made not to make this information public,
not to make public something that isn't covered by the statute
itself. I can certainly, I can certainly think of policy
reasons for that. Among others is protecting the public's
available, ability to request this information without fear of
reprisal. The purpose for why the financial disclosure
statements are created is very different than how FOIL records
are created. Financial disclosure statements are made purely for the purpose of making information public so that people can be confident in their government about potential conflicts of interest. These records are meant to be public, whereas FOIL is allowing the public access to general business records that go under review to consider whether or not they can be made public whenever there's a request to look for whether or not any of the exemptions apply, whether or not there's information that shouldn't be made public for various legal reasons, very, very different policies and operations and how they work. The reason that you could consider not disclosing this information is to protect individual members of the public from fear of reprisal. We don't want you to discourage people for asking for a record they have every right to request. Now, again, I said, I don't think we are an outlier, because as we have advised, we've looked at other states and other municipalities across the country, not extensively, but we've looked at some, and the practice varies, and the laws vary. So we are, we are not the outlier, but we have, this Commission has taken this position to put the interest of the person requesting the financial disclosure statements over the interest of the public servant in the past, and not change what the law required. If the Commission feels that that policy is not the policy that they want to adopt, and they
want to change it, the Commission can change that. And again, we can...

Commissioner Lavine: Right but the rationale, the rationale of the governor's executive order exempt volunteers is precisely diametrically opposite to the proposition you've just propounded. In any event I want to ask this question.

Monica Stamm: This Commission has a different mission, different policy statement. We didn't issue the executive order. The reason for the executive order to me seems clear on its face, but obviously the governor's office can speak for itself. But there was an emergency and they needed fast resources. To me you are talking about apples and oranges. I don't really understand what one has to do with the other. We're talking about disclosing to a public servant who requested their FDS. And I would ask the question, why does the public servant need to know who requested their FDS when the public servant is well aware that when they disclose this information, and they take on their job, their information is going to be publicly available? But again...

Commissioner Lavine: Just as it may, just as a general proposition, is it fair to say that the Commission can exercise the prerogative to divulge any information, or any document that it deems appropriate to divulge, unless it is specifically
prohibited by the statute, is that a fair statement?

Monica Stamm: I think that's correct. And that that
is in part what these regulations are intended to do is, with
respect to records that have to date, been sort of not public,
the Commission, if they move forward with the records access
regulations changes, would be making more information publicly
available. We've lost, I think we've lost everyone on camera.
We're having technical. Okay, it looks like everyone back,
technical difficulties. So, yes, I think there is information
that the Commission could vote to make publicly available
through these regs if it is not deemed confidential under the
statute.

Commissioner Lavine: Mr. Chairman.

Chair Rozen: Yes.

Commissioner Lavine: Thank you very much, madam
general counsel. Mr. Chairman. What's your pleasure? You want
the whole discussion including the vote postponed pending the
committee meeting, or I will put forth the amendment today?
It’s up to you.

Chair Rozen: Well, I'm, let me just ask a question
here. I don't necessarily see it as an either-or, Commissioner
Lavine. I see it, I see a third option, which is that we vote
on the regs as drafted today, with the understanding that in
the confidentiality committee we can make changes, which we
can then implement. So, I don't know why we have to hold up
voting on the regs today on things that we can otherwise change
if we want to in the future. These have just been policies of
the Commission. We can change the policies if we want to.
That's one of the things we're debating.

Commissioner Lavine: Well, if you're going to vote
on the reg today then I put forth my amendment, if you please.

Chair Rozen: Go right ahead. I would like us to
vote on the regs today so go ahead and put forth your amendment.

Commissioner Lavine: I've withdrawn the first
amendment, but the second amendment I'm not going to withdraw,
and I propose that the reg be amended that if an inquiry is
made, the filer can request to know who made the inquiry.

Chair Rozen: Okay, so I'm going to assume,
Commissioner Lavine, that's a motion to approve the regs with
that amendment, right?

Commissioner Lavine: Yes.

Chair Rozen: Okay. Is there a second for that?

Commissioner Weissman: Mr. Chair?

Chair Rozen: Yes.

Commissioner Weissman: I'm, I'm going to second that
because part of again, part of the discussion here regarding
fear of reprisal, believe me, in the business context, when
competing entities seek information that's come into state agencies, as someone who was involved for many decades between two and three, regarding FOIL matters, the fear of reprisal is considerably much greater in the context of commercial or trade interests, and I just can't understand part of the argument being made by our general counsel, so I have, and it's consistent with everything else in the, in the FOIL world, I understand we're not subject to FOIL by law but we are trying to be transparent, so I'm going to second Commissioner Lavine's motion.

Chair Rozen:  Thank you Martin?

Commissioner Jacob: On the motion, on the motion, Mr. Chairman, on the motion?

Chair Rozen: Yeah. Yeah. Go ahead.

Commissioner Jacob: General counsel and deputy counsel have said that we are different from FOIL because we are prohibited by law from acceding to these kinds of requests as to who requested. Can you just point to me where in the Executive Law that prohibition is stated?

Monica Stamm: Commissioner, I'm sorry. I didn't say we're prohibited. I said that our statute specifies exactly what records are publicly available and it exempts us from FOIL. So FOIL does not apply, and then Commissioner Lavine asked me some more questions and, as I believe I said in
response to that, this question is completely in the discretion of the Commission. There is no law that would prevent the Commission from changing these regs to disclose the identity of an individual who requests an FDS. It's, it's just the Commission would have to change the regs. There is no law.

Commissioner Jacob: I was only trying to have you point to the statute that either permits you to do it or doesn't permit to you to do it. It would be helpful if I knew, or we knew, what law we're talking about, because the reference to it is made repeatedly.

Monica Stamm: 94, Executive Law 94(19) makes clear what records are publicly available.

Commissioner Jacob: And where does it make clear that the requested amendment cannot be accommodated?

Monica Stamm: It doesn't, as I just said, the law does not prohibit.

Commissioner Jacob: What language in section 19, allow me to finish, what language? What specific language in section 19 are you referring to? It's a large section with many sub paragraphs.

Monica Stamm: Okay, I am not sure, 94(19) identifies the specific records that are publicly available. And then in 2012, this Commission adopted or modified the records access regulations which allow staff to respond to record access
requests, and it, the existing regs, only allow staff to produce what is identified in 94(19)(a).

Commissioner Jacob: Okay, so you're relying, you're relying on the language in the statute that says the only records of the Commission which shall be available for public inspection. Isn't that language the only records?

Monica Stamm: I am relying on that, that law and the regulations that the Commission adopted, which we now follow. The Commission has complete discretion, as we've discussed, to make more records that are not public publicly available as long as they're not confidential, and that's the purpose of these amendments. There are several things that are now in the proposed part 937 that are not included in 19(a) that the committee is recommending now be made publicly available, and if the Commission chooses to add in the identity of someone who requests an FDS, then staff will then be able to make that record publicly available.

Commissioner Jacob: Okay.

Monica Stamm: There is nothing in the law that prohibits it.

Commissioner Yates: Mr. Chair?

Chair Rozen: Yes, Commissioner, go ahead.
Commissioner Yates: I actually, I don't want to cross talk, but I have a question of the maker of the amended motion, that is, Commissioner Lavine.

Chair Rozen: Go ahead.

Commissioner Yates: And number one, previously, I said I was going to vote no because I thought that your questions, while relevant and pertinent had gone unanswered, but by your motion I take it you feel satisfied with whatever answers you've been given so that we can go ahead and proceed on this. Is that correct, Gary?

Commissioner Lavine: Thank you, your honor. My, my position is that these issues were to some extent, or to a great extent, milled over in the committee meeting.

Commissioner Yates: Okay.

Commissioner Lavine: A number of these questions were posed and the staff's position has remained the same, and I have no, I have no particular criticism to make of the staff, Judge, but my position is that there are a number of these issues that we've considered in the committee in which the institutional prerogative of the Commission and individual Commissioners is being circumscribed, and I believe as an institutional matter, that's, that simply inappropriate and not in the public interest. Today, as part of the overall
discussion about who's in charge here, it should be the Commissioners.

Commissioner Yates: Okay, now Gary, Commissioner Lavine, if you don't mind, I have a friendly amendment to your amendment. And that's the following, that and that's the following, the current regs lay out what the statute says should be made available, which is fine. The proposed amended regs delve into the area of things which the Commission has the discretion, because it's non-confidential, to disclose as well. Which is fine, and I don't, I'm sorry I'm getting feedback. I don't have a problem with that in concept, but the one caution that I would make is that section 87 of the Public Officers Law, the, the freedom of information law, also has some exceptions that when an agency is about to disclose a public record, that there can be an application under certain conditions that it not be disclosed. And if you look at 87, it talks about things like an unwarranted invasion of privacy, or interfering with law enforcement investigations, or judicial proceedings, or depriving a person a fair trial, etc., etc. So, my friendly amendment to your motion would be that if we're going to voluntarily, as an agency, disclose things which are not mandated to be disclosed by 94 but which the discretion to disclose, we should apply the discretionary factors of the FOIL, which means that I would attach to your amendment subdivision 2 of section 87 of the Public Officers
Law to say that the Commission, or the staff acting on behalf
of the Commission, can deny a request for that information if
it's an unwarranted invasion of privacy or any of the other
factors that permit exclusion under 87 of the Public Officers
Law.

Commissioner Lavine: I'm in total accord and my
amendment would have been deficient without your addendum.
Thank you very much, your honor.

Chair Rozen: Anybody else want to be heard on this?

Commissioner Weissman: I believe, Mr. Chair, I
believe I go with the seconded because that's how I, that's
how I envisioned this being applied in the first instance
anyway.

Commissioner Fisher: This is Fisher. I would like
to ask for an opportunity to discuss or debate and I'd like to
offer my reason for choosing to vote against this. I believe
there's a very real issue around whistle blowers, and I think
that almost by definition, this financial information is
designed for whistle blowers to perhaps obtain in the course
of their whistle blowing, and we have no way as it stands to
protect them from retaliation, and if the effect of this
amendment, and I think this is the effect as I understand it,
is to make the identity of a potential whistle blower known to
the person who files the report without us having any way to
protect that potential whistle blower, I think there is a
clearing something here, because there's been a lot of back
and forth, so, the staff don't have a position here. The staff
are just conveying all of our positions, and so we, as the
Commission, have the power to change any of these any time we
should determine to do so. So, I am going to also vote against,
since we now seem to be voting before we vote, but I'm also
going to vote against, not because I'm not open to having a
further discussion about this, but rather because I think it
is jumping the gun on the subcommittee’s work, which I don't
think we should be doing at this juncture. So that being said,
Martin, we have a seconded motion, so let's take the vote.

Commissioner Weissman: Mr. Chair?

Chair Rozen: Yes, Commissioner Weissman.

Commissioner Weissman: I'm sorry. I'm sorry to
extend this, but I do want to respond to Commissioner Fisher's
observations. Unfortunately, the cat is already out of the
bag. For example, under FOIL, if somebody requests time and
attendance, and they're in a whistleblower situation, they can
obtain it, and their identity can also be determined if
somebody were to FOIL that. So again, I listen to these arguments. I’ve dealt with FOIL, for, as I said, a number of decades. You know, it, it may be best for staff to provide all the Commissioners with a better understanding of how FOIL works so, everybody at least is legally on the same page before we start voting for reasons that may or may not be grounded in law, but that would be, I guess, where I'm going is maybe we should be tabling this thing till we have a better understanding.

Chair Rozen: That I can agree with, Commissioner Weissman.

Commissioner Weissman: If you would like that motion, I will make it, if you will second it.

Chair Rozen: I will second it, and you know I'm not in generally in the, in the vein of moving or seconding. I'm just calling the roll, but I will second that motion, Commissioner.

Commissioner Weissman: Okay. Thank you. Sounds good.

Monica Stamm: I don't think we, we don't need a motion to table the amendment. If Commissioner Lavine just withdraws his motion, that should be sufficient.

Chair Rozen: Commissioner?

Monica Stamm: And then we can then.
Commissioner Lavine: Yeah, do I understand correctly what is being proposed is that we vote on the proposal as presented, unamended, and that the, any amendments plural will be held in abeyance, is that what's being proposed?

Commissioner Weissman: Commissioner Lavine, this is Commissioner Weissman. My motion is to table this whole thing and have, have staff give the Commissioners who haven’t lived in the FOIL world before a better understanding of how it actually works, because we’re, because I believe we are all, we all want to get to the same point, which is to become as transparent as we can and hopefully to get this agency to do what FOIL requires other agencies to do. But I’m not sure we understand what FOIL requires other agencies to do.

Commissioner Lavine: Right, but is your proposal that we vote on the reg today and hold all amendments in abeyance, or hold the reg in abeyance?

Commissioner Weissman: Hold the reg, hold the reg in abeyance, so we all know.

Commissioner Lavine: Are you sure, Mr. Chairman, that that was the motion that you thought you were seconding?

Chair Rozen: Yes. I'm look, I unless Martin or Monica chimes in here and says that there was some reason why this reg needs to go to a vote for approval today and can’t wait until February, then yes, I agree with Commissioner Weissman.
Commissioner Lavine: I withdraw my, I withdraw my amendments for today.

Martin Levine: There's no reason it has to go forward.

Chair Rozen: Okay, so then anybody else want to be heard on this? No?

Commissioner Jacob: I would. I would.

Chair Rozen: Okay.

Commissioner Jacob: Just one sentence or two. Gary has asked many times for the reason why we ought to be a so-called outlier. I'm still trying to figure out if, as Monica has said, the law allows the request of Gary to be put into the regs. I can't figure out why all of the opposition. Why do we need to be different? Why can't the identity of the requestor be a part of this reg? Now I understand that Commissioner Fisher took a stab at that, but that his view of the law may not be right, as Commissioner Weissman points out, which brings us full circle back to the question that started this all, and if we're going to put this off for a while, I would hope someone focuses on giving us all, at least me, an answer. Why must be different? Why can't this information be provided by staff? Thank you.

Chair Rozen: Thank you, Commissioner. Alright, anybody else. Okay. I believe this takes us to item five on
the agenda. Do we have new another business to discuss? Monica, Martin?

Monica Stamm: It’s up to the Commissioners if there is anything new.

Chair Rozen: Commissioners, anybody have anything they want to raise here? Okay, then I need a motion to enter into executive session, please.

Commissioner Dering: I'll move, Dering.

Chair Rozen: Thank you. Second.

Commissioner Fisher: Fisher seconds.

Chair Rozen: Thank you, Commissioner. Martin?

Martin Levine: On the motion to executive session, all in favor, please raise your hand. I see Commissioners Rozen, Weissman, McNamara, and Dering, and Yates. Thank you. I’ll call the remaining roll. Commissioner DiPirro?

Commissioner DiPirro: Yes.

Martin Levine: Thank you. Commissioner Cohen?

Commissioner Cohen: Yes.

Martin Levine: Come back. Commissioner Lavine?

Commissioner Lavine: Yes.

Martin Levine: I seem to have lost my feed. I'll wait a second.
Monica Stamm: Okay, so Martin, I don't know if you heard, but Commissioner Cohen and Commissioner Lavine both said yes. Commissioner McCarthy?

Commissioner McCarthy? Yes.

Monica Stamm: 1, 2, 3, 4, 5, 6, 7, 8 who are we missing?

Walter McClure: Commissioner Jacob.

Monica Stamm: Commissioner Jacob?

Commissioner Jacob: Yes, yes.

Monica Stamm: I have 11, I believe, okay, Martin.

Martin Levine: Yeah, sorry, I lost everything. Let me just finish this up. Commissioner Lavine.

Monica Stamm: He said yes.

Chair Rozen: Martin, we already, Monica completed the vote, 11 yes.

Martin Levine: Great. Thank you.

Chair Rozen: Motion carries. Okay. We're public session is adjourned.

Walter McClure: Please stand by.

[The Commission went into Executive Session]

[Chair Rozen left the meeting during Executive Session and Commissioner Weissman served as chair for the remainder of the Public Session]
[The Commission returned to Public Session]

Walter McClure: We're back in public session.

Commissioner Weissman: Okay, thank you very much, Walt. I'm going to ask general counsel Monica Stamm to report on our executive session.

Monica Stamm: Sure. During executive session, the Commission discussed litigation and personnel matters and authorized steps in several, I'm sorry, approved one settlement agreement, and a modification to an existing settlement agreement. And the commission authorized steps in several investigative matters, closed two matters and discussed other investigative matters.

Commissioner Weissman: Thank you very much, Monica. Is there any other business before the Commission?

Monica Stamm: Not that I am aware of.

Commissioner Weissman: Hearing none, may I have a motion to close the Commission meeting in public session?

Commissioner Dering: I’ll move, Dering.

Commissioner Yates: Second.

Commissioner Weissman: Thank you very much, Jim Yates. All in favor, please signify by saying aye, raising your hand.
Martin Levine: Commissioner Weissman, Yates, Fisher, McNamara and Dering, Commissioner Cohen?

Commissioner Cohen: Yes. Yes.

Martin Levine: Commissioner DiPirro?

Commissioner DiPirro: Yes.

Martin Levine: Commissioner Jacob?

Commissioner Jacob: Yes.

Martin Levine: Commissioner Lavine?

Commissioner Lavine: Yes.

Martin Levine: Judge McCarthy?

Commissioner McCarthy: Yes.

Martin Levine: Motion carries.

Commissioner Weissman: Thank you very much, Martin.

To all, have a very good afternoon. Take care.