

EYE ON THE CLIFFS

November 2017 Issue 4

"Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix the blame for the past. Let us accept our own responsibility for the future." John F. Kennedy

EC for Responsible Government is a not-for-profit corporation established and managed by and for residents of Englewood Cliffs. Our organization is non-partisan and does not endorse or support candidates in local elections. Our organization was created to alert the community about important actions and decisions taking place at meetings of the Mayor and Council, the Planning Board, and the Board of Education. It is our intent that our newsletters will provide you with information and commentary about governmental matters that could affect you.

We encourage you to visit the borough website www.Englewoodcliffsnj.org, and we urge you to attend Mayor and Council meetings. If you are interested in joining our organization, please contact us for more information at ecfrg2017@gmail.com. We welcome community input. We welcome contributions to fund our outreach and communication activities. If you want to support our efforts, please make your check payable to EC for Responsible Government and mail it to: PO Box 1812 Englewood Cliffs NJ 07632.

CARIN GEIGER, President
DEBBIE FEHRE, Secretary

DEBBIE TSABARI, Vice President
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Mayor & Council Meeting November 9, 2017 Legal Expenses Mount as Mayor and Council vote to hire more Lawyers Acrimony Continues

The Council approved increasing from \$50,000 to \$100,000 the current year's spending allocation for the borough's labor attorney. According to the borough clerk, legal bills from the labor attorney are already approaching \$50,000. The borough labor attorney represents the borough in labor relations matters and was the attorney assigned by the borough to prosecute its case in the February Disciplinary Hearing against Police Chief Mike Cioffi.

The Council also approved the hiring of attorneys to defend the borough in lawsuits which seek procedural or administrative remedies, rather than suits seeking money damages. The Council authorized the borough attorney to represent the borough, at the rate of \$125 an hour, in such non-monetary damage lawsuits, except the suit (described in this newsletter) brought by Councilwoman Ellen Park which seeks access to borough records. As the lawyer for the Mayor and Council, the borough attorney has a conflict of interest, and cannot represent the Mayor and Council against a member of the Council.

Lawsuits seeking monetary damages are handled by the attorneys for the Joint Insurance Fund.

Several of the lawsuits are briefly described in this newsletter. We have posted a copy of the complaint filed for each of these lawsuits and others on our new website: ecfrg.org

The Mayor and Council also voted to advertise for two job openings: (i) construction and zoning official and (ii) Public Safety Director. The salary for the newly-established position of Public Safety Director has still not been determined. The borough attorney stated that when the position is filled, the salary must be approved by amending the borough's Salary Ordinance. Councilpersons McMorro, Mark Park, and Woo voted for the advertisement; Aversa, Oh and Ellen Park voted against it, with Mayor Kranjac breaking the tie.

Mayor Kranjac criticized the Englewood Cliffs PBA position that mandatory drug testing is a negotiated contract term and cannot be unilaterally ordered. Kranjac polled the Council on its views on drug testing of elected officials, stating that the Mayor and Council should lead by example. While each councilperson said they would comply, Councilwoman Ellen Park questioned whether any elected officials in other towns were tested for drugs. She was concerned about precedent and violation of 4th amendment rights. Councilwoman Oh stated that she did not see the connection between testing of gun carrying police officers and elected officials.

The Council tabled a closed session deliberation that might result in penalties against Chief Cioffi. The deliberation relates to the February 2017 public hearing on disciplinary charges against Chief Cioffi, and a review of the yet to be released findings of the hearing officer.

Kranjac also stated that he believes that the Council Chamber camera that videos the Mayor and Council meetings should also video the public. He stated that “the videos are being misused” and he believes that the public should be able to see the audience and the members of the public as they speak.

Investigation into PBA election activity launched-- Allegations of racial profiling raised again

Councilman Woo introduced a resolution calling for an investigation into the actions of the Englewood Cliffs PBA in the recent Council election. He stated that there may have been “*inappropriate and unlawful use for political purposes*” of the police patch, email, other intellectual property and uniforms. Kranjac stated that our police might be guilty of voter intimidation, which he defined as changing or affecting the behavior of voters under the indicia of officialdom. He stated that if you get a letter from the police, it looks like they are telling you what to do. Kranjac further stated that Oh and Aversa could not vote on Woo’s resolution because they are direct beneficiaries of the PBA activity. The borough attorney was authorized by the Republicans to investigate.

Councilman Mark Park denied that he told residents that our police were guilty of racial profiling and demanded an apology from the Englewood Cliffs PBA, prompting a response from Councilwoman Oh. Oh stated that several Korean-American residents had questioned her about Mark Park’s statements and emails about racial profiling. Mark Park said that his allegations were based on a letter from a Korean-American resident, written over a year ago. Councilwoman Oh replied that she would invite the resident who wrote the letter to appear before the Council to discuss the letter and his beliefs.

Commentary: The local election is over, and it is time to move on and return to the business of governing our community. Instead of congratulating the re-elected council members and expressing any desire to try to work together, Mayor Kranjac, and Councilpersons McMorrow, Mark Park and Woo each made comments critical of the Oh and Aversa campaign. The Republicans are initiating an investigation into the PBA endorsement of Oh and Aversa to determine if the PBA used borough intellectual property for political purposes. Whether they did or did not use protected intellectual property is not as significant as Kranjac’s implication that residents felt compelled to vote as they did because they were intimidated by our police. We live in a democracy and vote with a private secret ballot. No one knows how we vote or why. The privilege of a secret ballot is what separates us from totalitarian regimes where there is known voter intimidation.

Kranjac now suggests that the borough video camera should be directed to video those who attend and speak at meetings. This is a promising idea as long as the official video recordings show both the elected officials and the public, and not be used as a means of public intimidation.

In the past, Kranjac has characterized the flood of litigation as frivolous and without merit. Now, with none of the pending lawsuits dismissed by the Court, Kranjac states that the litigation is all politically motivated. He refuses to consider that his own behavior and that of the Council might be at issue. It seems that some of the litigation could be avoided if the Mayor simply gave the plaintiffs the borough documents that they want to see. Instead, he refuses to release documents and spends taxpayer money on lawyers to defend his actions.

At issue in other administrative lawsuits is whether Carrol McMorrow should be permitted to vote on matters affecting the police department because of a conflict of interest that prevents her from acting with impartiality. Plaintiffs contend that McMorrow has initiated multiple Internal Affairs investigations against several of our police officers, and is personally named as a defendant in the PBA lawsuit. Most recently, McMorrow’s husband, retired Deputy Chief Michael McMorrow, sought the court’s permission to reopen his Settlement

Agreement with the borough in order to amend his lawsuit seeking money damages against Lt. James Tracy to add an allegation that the borough, the police department and Chief Cioffi violated his civil rights. (**McMorrow v. Tracy v. Borough, et al.;** Docket No. BER-L-5013-16, denied October 27, 2017). It may be time for a court, rather than the borough attorney, to rule on the question of Carrol McMorrow's conflict of interest.

November 8, 2017 Planning Board Meeting

The Planning Board may once again discuss the designation of the southern part of Sylvan Avenue as an "Area in Need of Rehabilitation" at its next meeting on December 14 at 7:30 P.M. in the Mayor and Council Chamber. After review by the Planning Board, this item will then be referred back to the Mayor and Council for a final decision. New Jersey's Local Redevelopment and Housing Law (LRHL) provides that in order for a governing body to designate an area in need of rehabilitation, the area has to meet criteria specified in State Law. The Planning Board has already voted that we qualify for this designation because we meet the State law requirement that a majority of the water and sewer infrastructure in the delineated area is both at least fifty years old **and** in need of repair or substantial maintenance. It reached this conclusion on the recommendation of Maser Consulting who said that no actual detailed investigation on the condition of the water and sewer infrastructure is necessary.

Commentary: It does not make sense that the age of the water and sewer pipes, with no history of any problems of flooding or sewer back-ups in the area, should be sufficient to satisfy the State law criteria for designation as a rehabilitation zone. Nevertheless, the real question is why the borough is continuing to pursue this designation despite the objections voiced by many residents.

Recent Lawsuits: Each of these lawsuits is found on ecfrg.org

Other lawsuits filed since January 2016 will be discussed in future newsletters

Ellen Park v. Borough, et al.; Docket No. BER-L-6876-17 Ellen Park, a current Councilwoman, filed a lawsuit (Verified Complaint) to compel the Borough of Englewood Cliffs to provide her with copies of certain email communications among the Mayor, Carrol McMorrow, and the borough attorney, that have been written since she was sworn into office on January 1, 2017. She alleges that she is entitled to see these emails (i) under the State Open Records Act (OPRA) and (ii) as her right as a councilperson in order to properly perform her elected duties. The lawsuit alleges that over a period of several months, the Mayor refused to release documents to her despite her repeated requests. She is seeking a court order to compel the borough to release these documents to her. The Mayor has decided that the borough will fight this suit, rather than provide Councilwoman Park with the documents she has requested.

Favaro, Simon v. Borough, et al.; Docket No. BER-L-7003-17 Joe Favaro and Melanie Simon, two former councilpersons, filed a lawsuit (Motion in Lieu of Prerogative Writ) in Superior Court seeking to overturn the recent Mayor and Council vote that created the new administrative position of Public Safety Director. The plaintiffs allege that Carrol McMorrow has a conflict of interest and should not have been allowed to vote on this matter, or on any other police matters. The borough attorney has repeatedly stated that McMorrow has no conflict of interest and has permitted McMorrow to vote. Had McMorrow not been permitted to vote, the resolution establishing the Public Safety Director would have been defeated. No money damages are sought. Favaro and Simon simply want the court to rule on McMorrow's conflict of interest, that her vote to establish the position of Public Safety Director be set aside, and that she be barred from voting on other police matters due to her conflict of interest.

Favaro, Simon & Geiger v. Borough, et al.; Docket No. BER-L-543-17 Joe Favaro, Melanie Simon and Carin Geiger filed a lawsuit (Action in Lieu of Prerogative Writ) in Superior Court in January 2017 to reverse the Mayor and Council's dismissal of all disciplinary charges against Lt. Mura. The lawsuit alleged violations of the Open Public Meetings Act, and the failure to disclose to the public the rationale behind the dismissal of the charges in light of the findings of Judge Guida, who had presided over the disciplinary hearings. The lawsuit further alleged that Carrol McMorrow had a conflict of interest and should not have been allowed to vote on the dismissal of the charges because the judicial standard for conflict of interest (the appearance of impropriety standard) applied. In May 2017, the Mayor and Council executed a Settlement Agreement with Lt. Mura, which thereafter precluded the borough from ever bringing disciplinary charges against Mura for actions past, present or future. In October, the plaintiffs withdrew this lawsuit because the borough was now bound by the Settlement Agreement and no disciplinary action was possible. However, the Court ordered the public release of the Guida report and penalty recommendations, a copy of which is on our website at **ecfrg.org**.

Chief Cioffi v. Borough and Council Members.; Docket No. BER-L-6619-17 Police Chief Cioffi filed a motion to invalidate the recently enacted ordinance establishing a Public Safety Director contending that the position is designed to undermine his authority as Chief of Police and is contrary to State Law which defines the duties and responsibilities of the Chief of Police.

EC for Responsible Government
 PO Box 1812
 Englewood Cliffs, N.J. 07632
 Ecfrg2017@gmail.com

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Important news for Englewood Cliffs residents

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We are proud to announce our new website: ecfrg.org

To learn more about our town, including access to the official Borough and Board of Education websites, to read the new lawsuits, to view borough studies such as the Maser Consulting study that recommends “An Area In Need of Rehabilitation,” to view videos of Mayor and Council meetings, and to read Eye on the Cliffs newsletters, please visit our website. Just type **ecfrg.org** in the web address box (not Google search) and you will be able to learn more about our community. Our website is not currently designed to provide a forum for posting comments, as often takes place on certain social media like Facebook. It is informational only. We encourage you to stay informed, keep in touch and whenever possible, attend our local government meetings.

ENGLEWOOD CLIFFS NOVEMBER 7, 2017 ELECTION RESULTS

EC Election District	1	2	3	4	Absentee Ballots	Total Votes*
NJ Governor						
Kim Guadagno	211	169	179	161	180	900
Phil Murphy	193	186	190	144	174	887
EC Council						
Sanket Shah	170	161	178	139	156	804
Carolina Calderon	164	153	170	139	154	780
Gloria Oh	265	206	218	181	221	1,091
Ed Aversa	253	218	218	179	225	1,093

*Almost 54% of registered voters in Englewood Cliffs voted

Shade Tree Commission kiosk to be installed

At the November 9 Mayor and Council meeting, Lauren Eastwood, Chair of the Shade Tree Commission, announced that the borough will now proceed to install a new kiosk at Witte Field. The kiosk has remained in storage since January 2017, after the Mayor said that permission had not been given for the installation. Conceived and designed by Yvonne Favaro, a certified arborist and former Chair of the Shade Tree Commission, and designed by William Jobson and Amy Cioffi, the kiosk will help the community learn about the trees at Witte Field, and provide a guide to the trees growing there. Shade Tree Commission members and other volunteers, under the supervision of Mrs. Favaro, had worked since 2014 to develop this new educational kiosk. Years of work were involved identifying all trees, tagging them, and designing the kiosk. The kiosk has been built with lumber cut from local fallen trees. We are one of three communities in New Jersey that have enjoyed the annual designation of “Tree City USA” for over thirty five consecutive years. It is hoped that the installation of the kiosk will enable Englewood Cliffs to once again receive this annual designation.