

# *EYE ON THE CLIFFS*

*"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*

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Carin Geiger, President

Debbie Fehre, Acting Vice President/Secretary

Lynn Liaskos, Treasurer

## **Debbie Tsabari, former Vice President of EC for Responsible Government, will seek election to the Englewood Cliffs Borough Council**

**Debbie Tsabari** has resigned as Vice President of EC for Responsible Government in order to seek election this November to a seat on the Englewood Cliffs Borough Council. Her decision to run for office will not affect the commitment of our organization to publish accurate and non-partisan information for all residents in our "***Eye on the Cliffs***" newsletter. We are guided by the wise words of President Abraham Lincoln. "*Let people know the facts and the country will be safe.*"

## **Englewood Cliffs Police Department Vindicated by United States District Court**

On April 12, 2018, the Honorable Judge John Michael Vasquez, United States District Court, issued a summary judgment and opinion dismissing all the charges made by a resident (the Plaintiff) against the borough, Chief of Police Michael Cioffi, the Englewood Cliffs Police Department and several of its officers (the Defendants). The litigation stems from an incident in 2011 when the resident had been arrested, indicted and subsequently acquitted on charges of lewdness and endangering the welfare of a child. In 2013, the resident filed suit against the Defendants alleging false arrest, false imprisonment, witness tampering, evidence tampering, malicious prosecution and various civil rights violations. He sought punitive and compensatory financial damages from the borough.

In a lengthy opinion, Judge Vasquez concluded that the resident Plaintiff "*fails to show that there was any violation of his constitutional rights.*" Judge Vasquez stated that the court has "*determined that Defendants possessed the requisite probable cause to detain, arrest and prosecute the Plaintiff, that there is no actionable Brady violation and that all of the Plaintiff's other constitutional claims fail as a matter of law.*" He granted the summary judgment on all counts.

**Commentary:** The issue before the court was whether our police officers followed proper police procedures, followed our federal and state laws, and did not violate the constitutional rights of the accused. A summary judgment on all counts is a vindication for our men in blue.

## **Council Votes to Dismiss Internal Affairs Investigation Against Chief Cioffi**

Councilpersons Aversa, Ellen Park and Oh voted to authorize a finding of "unsustained" which officially put an end to undisclosed charges against Police Chief Cioffi made by an unidentified complainant to the Bergen County Prosecutor's Office relating to an alleged incident on September 13, 2017. The complaint and the Prosecutor's findings had been referred to the borough's labor attorney, who recommended at the March 14, 2018 Mayor and Council Meeting that no action be taken. The files concerning this mysterious matter were ordered to be sealed by Borough Attorney Anne Marie Rizzuto, and not made available to council members for their review. Council President McMorrow was not permitted to vote on this matter because she is currently suing the borough and the Police Chief. Mark Park voted against dismissal and Bill Woo abstained. Kranjac and Borough Attorney Rizzuto argued unsuccessfully in favor of postponing the vote.

**Commentary:** Absent a finding of criminality, investigations conducted by the Bergen County Prosecutor's Office ("BCPO") are returned to the borough, which is thereafter required to notify the BCPO within 45 days of the disposition of the matter. The Mayor and Council are charged by both New Jersey State law and local ordinances with the legal

responsibility for determining if further action is needed after an investigation by the BCPO. The initial determination of the borough attorney to seal the files appeared likely to prevent council members from fulfilling their legal responsibilities, as they were denied access to files which included the complaint and findings of the BCPO. When notified of the borough attorney's denial of access to the files, the Prosecutor's Office directed Rizzuto to make the files available to council members. The Mayor's attempt to postpone the vote on dismissal of the matter is, yet again, another example of his animosity towards the Police Chief. No public purpose would have been served by delaying the vote.

### Former Police Lt. Mura Remains on Borough Payroll

On February 16, 2018, Judge Christine Farrington, Bergen County Superior Court, ordered Englewood Cliffs to pay former Police Lt. Scott Mura his full salary at the rank of Captain *until* his application for involuntary disability retirement is approved by the State. Mura, who was an ECPD police officer over 22 years, had filed a lawsuit in December 2015 alleging that the disciplinary charges filed against him were retaliation for his whistle-blowing activities against the Police Department. On July 12, 2017, the Mayor and Republican Council Members agreed to settle Mura's case and approved a Settlement Agreement with him. One of the terms of the Settlement Agreement was that Mura file an application with the State of New Jersey for involuntary disability retirement benefits. Mura's disability was not work-related.

#### HISTORY OF MURA LITIGATION

<b>During 2015:</b>	Lt. Scott Mura brought up on multiple disciplinary charges by Police Chief Cioffi.
<b>Sept. - Oct. 2015:</b>	Six public hearings are held on these charges before retired Superior Court Judge Guida.
<b>Dec. 2015:</b>	Lt. Mura files a lawsuit against borough alleging he is a whistle-blower.
<b>March 9, 2016:</b>	PBA publicly states that a certain police officer poses a threat to fellow police officers and residents.
<b>April 13, 2016:</b>	Mayor and Council approve an extended sick leave <u>with pay</u> (up to 180 days) for Mura pursuant to Ordinance 75-09. This is the second time Mura has been approved for an extended sick leave.
<b>June 30, 2016:</b>	Retired Superior Court Judge Robert Guida recommends suspension <u>without pay</u> for 130 days after he finds Mura guilty of six of nine disciplinary charges including "untruthfulness".
<b>Dec. 14, 2016:</b>	Mayor and Council vote to dismiss all disciplinary charges against Mura without explanation.
<b>July 12, 2017:</b>	Mayor and Council, voting along party lines, approve Mura Settlement Agreement providing: <ol style="list-style-type: none"><li>1. Payment to Mura of \$110,000.</li><li>2. Retroactive promotion for Mura to the rank of Captain effective June 12, 2015.</li><li>3. Stipulation that Mura never work for the borough again in any capacity.</li><li>4. Agreement by both Mura and the borough not to bring any claims against each other for actions past, present and future, dismissing the Mura lawsuit, and rendering the Favaro, Geiger, Simon lawsuit moot.</li><li>5. Agreement by Mura that he refrain from disparaging the borough or any of its employees.</li></ol>
<b>Oct. 1, 2017:</b>	Mura files an application for involuntary disability retirement and is removed from borough payroll.
<b>Jan. 11, 2018:</b>	Mura files suit against Englewood Cliffs claiming violation of Settlement Agreement.
<b>Feb. 16, 2018:</b>	Judge orders that Mura be put back on borough payroll as of October 1, 2017.

On January 11, 2018, Mura filed suit against Englewood Cliffs stating that the borough had violated the Settlement Agreement by removing him from the payroll on October 1, 2017. On February 16, 2018, Judge Farrington agreed, stating that the Settlement Agreement provided that: "...*the Plaintiff shall receive Captain's base pay...until Plaintiff's effective approved retirement date*" (emphasis added by the court). Judge Farrington opined that the "*approved retirement date clearly means when...the...date... is approved by the Division. Any other interpretation makes no sense...*" She goes on to say that "*if the borough wished to negotiate the October 1, 2017 date, that easily could have been included in the Agreement.*"

The borough will now have to keep Mura on the borough payroll at a Captain's base salary (close to \$200,000 annually) *until* his disability retirement application is decided by the State. We will also have to pay his legal fees, which court papers reveal to be about \$17,000. Court documents further disclose that Mura will be paid more than \$300,000 for unused accumulated sick and vacation time when he finally retires.

When Borough Attorney Rizzuto outlined the terms of the Settlement Agreement at two public meetings, she neglected to mention that Mura's contractual retirement benefits would cost the taxpayers an additional \$300,000. She also failed to

specify a date when the borough's obligation to keep Mura on the payroll would end. In addition, she did not discuss the financial consequences to the borough if Mura's involuntary disability retirement application is rejected by the State.

The Settlement Agreement provides that if Mura's involuntary retirement application is rejected, he must retire 15 days after the date of rejection. Accordingly, if the involuntary disability retirement were turned down today, the terms of the Settlement Agreement seem to allow Mura to keep all the payroll checks issued to him (over \$100,000) for the seven months beyond the October 1, 2017, which was the date he filed his involuntary disability retirement application.

**Commentary:** It is troubling that the Settlement Agreement, which was drafted and reviewed by Borough Attorney Rizzuto, did not require Mura to use his accumulated sick and vacation time before he retired. We rely on and expect our borough attorney to represent the interests of the borough and its taxpayers, and to protect the borough and limit its financial exposure. The Mayor, who publicly expresses concern about police spending, broke the tie vote to approve a Settlement Agreement that will ultimately cost the borough hundreds of thousands of dollars. Recently, Mayor Kranjac sent a borough-wide email stating that he has asked for "*comprehensive investigations*" on the allegations recently made by Mura against some of his fellow officers. However, Kranjac failed to ask for an investigation in 2016 when the PBA complained that a police officer, believed to be Mura, was a threat to his fellow officers and to residents. Instead, Kranjac seems to have rewarded Mura with a sweetheart deal at taxpayer expense.

**Please attend the next Mayor and Council Meeting: Wednesday, May 9 at 8 PM at Mayor and Council Chambers**  
**There will be Public Hearings on an Ordinance to Change the Qualifications of the Police Chief**  
**and an Ordinance to Change the Organization Chart of the Police Department**

### **Council Action Still Pending on Another Investigation Against Cioffi**

**History:** The Prosecutor's Office is required to investigate any complaints about a Chief of Police. In October 2016, based on a complaint sent to it, the BCPO investigated Police Chief Cioffi to determine (1) if Cioffi properly investigated allegations made by resident Lauren Eastwood regarding former Mayor Parisi's behavior towards her at a May 8, 2013 Council meeting, and (2) if Cioffi improperly disseminated a PBA memo addressed to him. The BCPO investigation found no evidence of criminality and notified the borough. Thereafter, on December 28, 2016, Kranjac, acting on his own without the concurrence of the Council, notified Cioffi that he was initiating a disciplinary action against him on these charges which could lead to an eight day suspension without pay. On February 21, 2017, a public hearing was held; and thereafter a hearing officer submitted his confidential findings and recommendations to the Mayor and Council.

At the March 14, 2018 Mayor and Council Meeting, Carrol McMorrow was advised by the borough attorney that she may not vote on this matter due to a conflict of interest (McMorrow has filed litigation against Cioffi). If the remaining council members were to vote along party lines, the three Democrats could decide what, if any, administrative action is taken. On April 6, less than a week before this matter was to be deliberated by the Council, Lauren Eastwood filed a motion in court alleging that Council Members Aversa, Ellen Park and Gloria Oh have a conflict of interest that precludes them from voting. Eastwood cites the appearance of impropriety standard in quasi-judicial actions. Judge Christine Farrington will hear this motion.

**Commentary:** The facts regarding former Mayor Parisi's confrontation with Eastwood that occurred five years ago have never been in dispute. This question is whether Cioffi properly investigated the incident, according to appropriate ECPD guidelines and standards of conduct. Eastwood has in recent years filed various complaints and asked for investigations regarding Aversa, Ellen Park and Oh. Ellen Park filed a harassment suit against Eastwood, which has been dismissed. Eastwood now alleges that Aversa, Oh and Ellen Park should not vote because anyone aware of what she has accused them of could not believe that they could be impartial in voting on this matter. But Eastwood's conduct is not at issue here. Police Chief Cioffi's performance is at issue. He is the person whose job, reputation and income could be affected by the disciplinary charges brought against him. The decision facing the Council is not whether Eastwood's 2013 complaint has merit, but whether the determinations of the hearing officer relating to Cioffi should be followed, and what penalty, if any, should be assessed. Eastwood, who has been a substantial donor and served as campaign treasurer for several local Republican political campaigns, made no mention in her April 6 court motion of her financial support and ties to the Republican members of the Council, or the Mayor's known bias against the Police Chief. It will now be up to the court to decide what constitutes a conflict of interest.

EC for Responsible Government  
PO Box 1812  
Englewood Cliffs, N.J. 07632  
[ecfrg2017@gmail.com](mailto:ecfrg2017@gmail.com)

**Important news for Englewood Cliffs residents**

\*\*\*\*ECRWSEDDM\*\*\*\*

**RESIDENTIAL CUSTOMER**

PRSR.T.STD  
ECRWSS  
U.S.POSTAGE  
PAID  
EDDM RETAIL

## **Challenge to Public Safety Director Ordinance Upheld by Court**

On March 19, 2018, Superior Court Judge Perez-Friscia ordered that Englewood Cliffs be temporarily restrained and enjoined from creating or modifying the borough ordinance relating to the Public Safety Director position. The temporary injunction is based on the court's determination that maintaining the status quo is in the interest of justice. Judge Perez Friscia stated that "*there are provisions in the Ordinance which present a credible threat of substantial, immediate, and irreparable harm.*" She further stated that the "*plaintiff (Police Chief Cioffi) has established a likelihood of success on the merits.*" In a subsequent case management conference, Judge Perez Friscia ordered that the borough rescind the ordinance and redraft it so it does not impinge on the responsibilities of the Police Chief. She directed, with the concurrence of the borough and Chief Cioffi, that a former judge be employed to redraft the ordinance, with costs to be shared by the borough and Chief Cioffi.

On March 26, 2018, at the suggestion of Judge Perez Friscia, Carter Corrison Jr., who represents plaintiffs Favaro and Simon in a lawsuit against the borough that also relates to the Public Safety Director position, filed a motion with the court asking for a summary judgment that Carrol McMorrow has a conflict of interest that precludes her from voting on the Public Safety Director position and other police matters. A summary judgment is a court ruling that there is no genuine dispute as to any material fact and therefore the court can make a judgment as a matter of law. McMorrow's attorneys responded with a motion to disqualify Corrison's law firm based on alleged conflict of interest, and a cross motion to dismiss the case against her. McMorrow's legal fees are paid by borough taxpayers.

**Commentary:** If the judge rules that that Carrol McMorrow is conflicted from voting on police matters, any of the ordinances, resolutions and settlements on which she voted could be remanded back to the Council for a new vote. A hearing is scheduled on April 27.

## **New Borough Administrator Resigns**

Barely 13 months after being hired, Catherine Steinel has resigned as Borough Administrator. Her resignation became known to the public on March 14, when the Mayor and Council voted along party lines to advertise for her replacement. Her resignation was unexpected, and no reason was given at the meeting. Although it was anticipated that she would stay on for a period of time to help develop the new budget, she abruptly decided to leave on April 20. She had informed Kranjac in March that she did not "*intend on experiencing false statements and stressful harassment any further.*" During her brief tenure, Catherine Steinel earned respect for her even-handedness, and for the knowledge and experience she brought to her position.

Before she was hired in March 2017 at a salary of \$92,000, for decades one employee had served as both Borough Administrator and Borough Clerk, at the most recent salary of approximately \$100,000. Kranjac urged the Council to separate the positions, and we now are paying nearly \$185,000 for two employees.

## **Update on Denial by Planning Board of Normandy Application**

Bergen County Superior Judge Christine Farrington granted Carin Geiger permission to Intervene *pro se* as an individual plaintiff against the Planning Board of Englewood Cliffs. Geiger told the court that she believes that the decision by the Planning Board to deny the application by Normandy Real Estate Partners ("Normandy") to redevelop the existing corporate building on 800 Sylvan Avenue so it could attract a trophy corporate tenant is arbitrary, capricious and wrong as a matter of law. She stated in her brief that her interest as a resident and taxpayer is not represented by either Normandy or the Planning Board.

If you cannot attend a Mayor and Council Meeting, please watch the meeting online. Current and past meetings can be found on the Borough Website at [www.EnglewoodCliffsNJ.org](http://www.EnglewoodCliffsNJ.org) and on the EC for Responsible Government website at <https://ecfrg.org>. Meeting videos are usually available the day after the meeting.