

August 17, 2011
Executive Session

Minutes of **Executive Session** of a Regular meeting of the Board of Commissioners of the Town of West New York, in the County of Hudson, State of New Jersey, held in the Court Chambers, Municipal Building, on Wednesday, August 17, 2011.

Present: Commissioners Frias, Rodriguez, Vargas, Wiley and Mayor Roque
Absent: None
Also Present: Asst. Town Attorney Joseph DeMarco, Town Administrator Joseph McConnell, Town Clerk Carmela Riccie, and Joseph Mariniello, Sr., Esq.

Motion was made by Comm. Rodriguez, seconded by Comm. Wiley, to go into executive session at 2:26 p.m., was carried by the following vote:

YEAS - Commissioners Frias, Rodriguez, Vargas, Wiley and Mayor Roque
NAYS - None
ABSENT - None

Joseph Mariniello, Sr., Esq. advised as follows: He was hired to investigate payments made to Janet Passante, and that he reviewed all finance and payroll records and interviewed Mr. McConnell. In addition, he interviewed people who have worked for the Town for more than ten (10) years, Robert Dorsey who was Personnel Director from 1996 through 2007, and the Town Clerk. He spoke with Ernest Munoz (Housing Authority) and looked at their records for Ms. Passante's attendance. Ms. Passante kept her own attendance records while a town employee. The Housing Authority has a time clock which requires an employee identification number and thumbprint, and there are no records since 2007 except for one (1) entry at 6:00 a.m. or 6:15 a.m. He advised that her job at the Housing Authority was to work with children in computer room; however, no children are there at 6:00 a.m. He further advised that she was a Confidential Aide to the Mayor but there was no contract for her individually or through the C.W.A. (Communications Workers of America). There were no rules or guidelines. She is scheduled to be paid a total of \$306,000.00 for 172 vacation days, 300.5 sick days and 1366 compensatory hours.

Comm. Rodriguez stated that for the past 12 years, she left work at 1:00 p.m. every day; only working a half day as she was allegedly owed time from prior years.

Mr. Mariniello advised that in 1996, the Town adopted its first Personnel Policy for those persons not covered by the C.W.A. contract or Police contracts and that there was no provision for payment of compensatory time. Mayor Roque inquired how the Town can recoup the money already paid to Ms. Passante. Mr. Mariniello explained that the Resolution adopted in April or May 2010 authorized Town Administrator McConnell to negotiate termination benefits, which Mr. McConnell did not do. Former Town Attorney Horgan sent a letter to Mr. McConnell in May 2010 that he (Mr. Horgan) reviewed the paperwork and found it appropriate and that it is in compliance with past practice. Mr. Mariniello further advised that he had sent a letter to Mr. Horgan to discuss this matter to no avail. Mr. Mariniello explained that since 1996, a person can carry vacation for a one (1) year period but after the second year, you will lose it if not used, and that sick days may be treated differently under state statute, but not compensatory time. Discussion ensued about compensatory time issue. Mr. Mariniello advised that in his opinion, the Town has a strong case to recoup the money and asked the governing body as how they wished him to proceed. Mayor Roque suggested that lawsuits be brought against Mr. Horgan for allowing this to occur and Janet Passante to recoup money previously paid. Mr. Mariniello further advised that a similar situation exists regarding former employee, Ray Casper i.e. \$116,521.00 (118 vacation days and 219 sick days). Mayor Roque

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inquired as to whether the Town can proceed against Mr. Casper in the same manner. Mr. Mariniello advised that Town can both stop payment and allow them to institute suit against the Town or Town can initiate lawsuit. Comm. Rodriguez inquired as to how much has been paid thus far to which Mr. Mariniello responded "\$2,427 per month to Ray Casper and \$10,201 per month to Janet Passante". Discussion ensued about total amounts paid to each person to date. Mr. Mariniello reiterated that only records found was the letter from Mr. Horgan which indicated that it was past practice of prior Administrations, which is not the truth. Town Administrator McConnell advised that last year, six (6) police officers received a payout but Mr. Mariniello indicated that this is not the same situation. Mayor expressed his desire to institute a lawsuit to recoup monies. Mr. Mariniello informed Commissioners that in his opinion, the Town has a strong and clear case to recover the money.

Motion was made by Comm. Rodriguez, seconded by Comm. Frias, to close executive session at 2:42 p.m., was carried by the following vote:

YEAS - Commissioners Frias, Rodriguez, Vargas, Wiley and Mayor Roque
NAYS - None
ABSENT - None

Commissioner FiorD'Aliza Frias

Commissioner Caridad Rodriguez

Commissioner Ruben Vargas

Commissioner Count J. Wiley

Mayor Felix E. Roque
Board of Commissioners

Attest: _____
Carmela Riccie, RMC Town Clerk