MINUTES OF COMMISSION MEETING

January 26, 2023

Present at the meeting of the New Jersey Law Revision Commission, held virtually, were: Acting Chairman Andrew O. Bunn; Commissioner Virginia Long; Commissioner Louis N. Rainone; Professor Edward Hartnett, attending on behalf of Interim Dean John Kip Cornwell; and Grace Bertone, of Bertone Piccini, LLP, attending on behalf of Dean Kimberly Mutcherson.

In Attendance

Christine Stearns, Chief Government Relations Officer for the New Jersey Hospital Association, was in attendance.

Minutes

The Minutes of the December 15, 2022, meeting were unanimously approved on the motion of Commissioner Long, seconded by Commissioner Bertone.

Exemption of Property of Non-Profit Organization

Mr. Silver discussed a Memorandum addressing the tax exemptions in N.J.S. 54:4-3.6, which apply to nonprofit organizations under certain circumstances. He explained that the statutory provision governing the tax-exempt status of property owned by nonprofit organizations has been voluminous since its enactment in 1918. In the more than one hundred years since its enactment, twenty-four amendments have added to its length.

The first block paragraph of N.J.S. 54:4-3.6 spans two typewritten pages. It contains 957 words just in two sentences. The first sentence contains 861 words. The property to which the statute applies, and the requirements for application, are separated by sixteen semi-colons in that sentence.

Repetitive words in the statute add to its overall length. The phrase "all buildings," for example, appears nine times to introduce the type of use that is required to obtain a tax exemption. Intermingled among the list of exempt property types, in no discernable order, are the requirements and limitations imposed by the Legislature for the tax exemption to be granted. The second paragraph of N.J.S. 54:4-3.6 defines the term "hospital purposes," which appears twice in the first paragraph.

The structure and syntax of the statute do not reflect contemporary statutory drafting standards, and modifying the structure could make it easier to understand. Mr. Silver added that four bills involving N.J.S. 54:4-3.6 were introduced in New Jersey's 2022-2023 legislative session. None of the bills seek to amend the statute's syntax and structure.

Mr. Silver noted that, in advance of the meeting, the Commission and Staff were contacted by two attorneys – Christine Stearns, the Chief Government Relations Officer for the New Jersey

Hospital Association ("NJHA") and James DiGiulio, Esq., who represents the NJHA. Each expressed their concern regarding the Commission's work in this area.

Mr. Silver thanked Ms. Stearns for speaking with him about the statute. He then deferred to her to allow her to express the NJHA's concerns about possible Commission work in this area. Ms. Stearns conveyed that the NJHA appreciates that the statute is awkwardly worded. She explained that the current language reflects legislative consideration and litigation, which is still ongoing. She added that the NJHA is hopeful that the Commission will leave the statute in its current form. She advised the Commission that the NJHA has expended considerable time and resources to reach a resolution on the issues addressed by the current statutory language.

Commissioner Rainone indicated that he shared Ms. Stearns' concern. He noted that the relevant bill passed in the last legislative session addressing this issue was the result of a long, arduous process. He noted that there is litigation still pending in the Appellate Division, and the outcome of the litigation will impact many Tax Court matters currently pending that are being held in abeyance. He opined that the Commission should not wade into this issue at this time, suggesting rather that the Commission wait until the Appellate Division has issued its opinion and revisit whether the Commission should take up the project at that point. Commissioner Bertone expressed her agreement, indicating it would be premature for the Commission to begin work at this point. Commissioner Long and Acting Chair Bunn agreed.

The Commission unanimously agreed to wait until litigation in this area has been resolved and then revisit whether the statute would benefit from syntax or structural changes at that point in time.

Transfer of Tax Jurisdiction in Tax Assessment

Ms. Schlimbach discussed a Draft Tentative Report addressing the grant of jurisdiction in N.J.S. 54:3-21. When a taxpayer or taxing district disputes a property assessment of a million dollars or more, N.J.S. 54:3-21 provides a choice of forum between the County Board of Taxation (County Board) or the New Jersey Tax Court (Tax Court). The statute also provides that if one party files directly in the Tax Court, the Tax Court has exclusive jurisdiction over the entire matter.

The statute does not, however, provide a procedure for transferring jurisdiction to the Tax Court when opposing parties file in different forums. This issue was addressed by the Tax Court in *30 Journal Square Partners, LLC v. City of Jersey City*, 32 N.J. Tax 91 (N.J. Tax 2020), in which Jersey City (City) challenged property assessments by filing with the County Board. One month later, the Owner, 30 Journal Square Partners (Owner) challenged the same assessments by filing directly with the Tax Court.

In *30 Journal Square Partners*, the parties agreed that the Tax Court's exclusive jurisdiction was triggered by the Owner's filing in the Tax Court but disagreed about the process for resolving the City's filing with the County Board. The City argued that the County Board's filing should be dismissed without prejudice to permit the an appeal to the Tax Court. The Owner

argued that the Tax Court filing extinguished the County Board's jurisdiction and required the dismissal of the City's petition with prejudice.

The Court rejected the Owner's position, finding that the statute provided each party with an independent right of appeal and that the choice of forum clause did not affect that right. Instead, the Tax Court approved of the County Board's common practice of dismissing petitions without prejudice, as described by the New Jersey Handbook for County Boards of Taxation (Handbook).

Ms. Schlimbach explained that the Handbook provides that the effect of a dismissal without prejudice is that the matter proceeds to the Tax Court without the presumption of correctness which usually attaches to county board judgments. She noted that a 1987 DAG letter referenced in the Handbook clarified that a dismissal without prejudice results in an affirmance of the challenged assessment without prejudicing the right of either party to file a further complaint with the Tax Court.

Since the decision in *30 Journal Square Partners*, two cases have dealt with the dual filing issue: *Town of Kearny v. PSE&G Servs. Corp.*, 2022 WL 569152 (N.J. Tax Ct. Feb. 24, 2022), and *Branchburg Hosp. LLC v. Twp of Branchburg*, 32 N.J. Tax 546 (2022).

In *Town of Kearny v. PSE&G Servs. Corp.*, the factual scenario was indistinguishable from *30 Journal Square Partners* and the Tax Court held again that NJS 54:3-21 does not negate a County Board's ability to issue judgments dismissing pending petitions without prejudice. In *Branchburg Hosp. LLC v. Twp of Branchburg*, the Tax Court addressed "serial appeals" rather than simultaneous appeals and held that because there was no appeal pending in the Tax Court at the same time as the County Board filing, the exclusive jurisdiction provision in N.J.S. 54:3-21 did not apply.

Ms. Schlimbach discussed with the Commission the proposed modifications in the Appendix to the Draft Tentative Report. The proposed modifications add language to N.J.S. 54:3-21 that sets forth the procedure for transferring jurisdiction to the Tax Court in the case of a dual filing by parties challenging the same property assessment. Ms. Schlimbach also noted that an alternative Appendix, with fewer statutory modifications, was also provided for the Commission's consideration.

Commissioner Long questioned why the statute contains a choice of forum provision. Ms. Schlimbach explained that the Legislative history suggests that the choice of forum provision was originally disfavored at the time that the Tax Court was established. Without explanation, however, the provision was included when the statute was enacted. Ms. Schlimbach noted that the then Director of the Division of Taxation, Sidney Glaser, indicated that the choice of forum legislation would save time in disposing of large property tax appeals.

Commissioner Rainone provided the Commission with some brief background regarding the origin of the statute. He suggested that the county tax board is a much more user-friendly forum for pro se litigants. He added that he would not want there to be a situation in which the choice of forum provision foreclosed the ability of a taxpayer to seek relief from the county tax board.

The Commission unanimously agreed that the underlying policy issues were beyond the scope of the Commission's work in this area, the mechanical problem identified by the case should be fixed. Commissioner Rainone suggested that, during its outreach, Staff should contact the New Jersey Association Tax Assessors and the Executive Directors of each County Board of Taxation to ascertain their procedural preference. Acing Chair Bunn suggested that Staff contact the Clerk of the Tax Court as well.

Acting Chair Bunn asked what the Commission's preference was regarding the Appendix alternatives. He indicated that he was in favor of Appendix Option B, which included less revision of the statute. Commissioners Long and Bertone concurred. Commissioner Long suggested three changes to the language in the Appendix: (1) that the word "feeling" be eliminated in the first line of section (a)(1); (2) that on the next line the phrase "which may feel discriminated" be removed and replaced with the word "aggrieved"; and (3) that the phrase "by filing" replace the word "file" in subsection (a)(1)(A), to maintain the statute's parallel structure. Commissioner Bertone and Acting Chair Bunn both agreed with Commissioner Long's suggestions.

On the motion of Commissioner Bertone, seconded by Commissioner Long, the Commission unanimously agreed to release the Tentative Report with the amended language proposed by Commissioner Long.

Unemployment Benefits for Individuals Wrongfully Incarcerated

Samuel Silver discussed with the Commission the fact that an individual's separation from work as a result of incarceration is reviewed as if the individual voluntarily left their employment. The current statute does not contain language to address the loss of employment due to wrongful incarceration.

New Jersey's Unemployment Compensation Law ("UCL") is remedial legislation the purpose of which is to provide some income for a worker who is earning nothing because they are out of work through no fault or act of their own. The UCL is to be construed liberally in favor of allowance of benefits. The New Jersey Supreme Court has consistently recognized that the public policy behind the act is to afford protection against the hazards of economic insecurity due to involuntary unemployment.

In *Haley v. Board of Review, Department of Labor*, 245 N.J. 511 (2021), the New Jersey Supreme Court considered, for the first time, the language of N.J.S. 43:21-5(a) and N.J.A.C. 12:17-9.1(e). The Court determined that incarceration must be treated as a "voluntarily leaving work issue" that necessitates a fact-sensitive analysis, and further noted that the statute does not serve as an absolute bar to unemployment benefits. The Court determined that in examining the totality of the circumstances, the Department of Labor and Workforce Development (Department) must consider: (1) that authorities arrested Haley; (2) the court ordered him to be detained pretrial; (3) the grand jury declined to indict; (4) the charges against him were dismissed and (5) that he took steps to try to protect his employment.

Based on the guidance received from the Commission during the June 2022 meeting, Mr. Silver discussed the proposed modifications in the Appendix to the Report. Consistent with contemporary legislative drafting practices, the proposed language divides the statute into subsections to improve accessibility. The proposed modifications divide subsection (a) into four subsections.

Mr. Silver noted that the proposed modifications in subsection (a)(1) clarify that wrongful incarceration shall be treated as a voluntary leaving work issue as determined by the New Jersey Supreme Court in *Haley*. He explained that ten reasons that an individual might be separated from work are set forth in N.J.A.C. 12:17-9.1(e)(1)-(10). Those ten reasons are reviewed by the Board as a "voluntarily leaving work issue," and have been incorporated into the proposed modifications set forth in subsection (a)(1)(A). Subsection (a)(1)(B) is intended to clarify that "voluntary leaving work issues" are to be examined based upon the totality of the circumstances.

Prior to the meeting, Commissioner Bell submitted some comments regarding the project to the Commission. He emphasized that the focus of the project was to change the manner in which the Board approached claims by individuals who had been wrongfully incarcerated. Commissioner Bell expressed concern that if the Commission were to reaffirm that all incarceration is to be considered a voluntary departure from employment, then it is more likely that the Board will continue with its problematic approach regarding those falsely accused of a crime – failing to distinguish them from the justly accused.

Mr. Silver explained that Jenny Brook Condon, Director of the Equal Justice Clinic at Seton Hall University and Haley's attorney, had submitted comments in June 2022, advising that the Supreme Court decision led to a remand to the agency for a fact-sensitive inquiry. According to Professor Condon, after a second hearing the Board found that Haley had not left work voluntarily and he was awarded benefits retroactively. Significantly, she noted that the Board did not consider additional information that was not already clear from the record - that Haley lost a job because of charges that were ultimately dismissed and was cleared of wrongdoing.

Commissioner Bell, in his written comments, indicated that the proposed modifications should suggest that innocence, or at least non-prosecution, is a significant factor to be considered. He suggested that the Commission seek comment on potential revisions that make a distinction between those who are falsely accused and those who are justly accused. Commissioner Bell recommended that the proposed modifications include a rebuttable presumption that an individual did not voluntarily leave work when there is insufficient evidence to demonstrate that the individual engaged in the conduct charged.

Acting Chair Bunn asked when the review of an individual's claim occurs under the statute occur as opposed to when the person receives confirmation of wrongful incarceration. Mr. Silver responded that the statue does not preclude an individual from bringing a petition while they are incarcerated but the odds of being successful at that time are diminished by virtue of their incarceration.

Acting Chair Bunn said that he would like to see a presumption that a person did not leave work voluntarily if found to be wrongfully incarcerated incorporated into subsection b. He noted that doing so would mean that the Department must start with that presumption whenever there is a wrongful incarceration.

Commissioner Long stated that the word "incarceration" is not a great fit and that she agreed with Commissioner Bell's comment about adding a presumption. Acting Chair Bunn agreed with Commissioner Long and suggested that subsection (a)(1)(A)(x) be modified to say "incarceration that prevents the person from working." Acting Chair Bunn also asked Staff to examine the wrongful conviction statute and to assist in the drafting of the presumptive language.

Staff was directed to incorporate a presumption in the next draft for the Commission's consideration at a future meeting.

Corporate Books and Records of Account

Whitney Schlimbach explained that in January 2020, the Commission considered a Draft Tentative Report that sought to define corporate books and records. The Commission determined that defining them as "accounting and financial documents" was too broad, and asked Staff to conduct additional research to determine how other states defined "books and records of account." Staff was directed to review the definition of "financial statements" in the Accountancy Act for possible guidance.

Ms. Schlimbach noted that this issue was brought to the Commission's attention after a review of the decision in *Feuer v. Merck & Co., Inc.*, 455 N.J. Super 69 (App. Div. 2018), *cert. granted* 236 N.J. 227, *aff'd* 238 N.J. 27. In *Feuer*, the plaintiff sought to inspect corporate documents pursuant to N.J.S. 14A:5-28. Most of the requested documents pertained to the corporation's review of an earlier lawsuit demand he had made.

The Appellate Division reviewed the statutory language, case law from other jurisdictions, and Black's Law Dictionary, and determined that the phrase "books and records of account" means financial and accounting documents but does not necessarily encompass all financial documents of a corporation. The Court cited to cases in Alaska, Pennsylvania, Missouri, and Wisconsin, which held that books and records of account consist of accounting or financial documents, with certain exceptions. The *Feuer* Court held that plaintiff's inspection demand for documents that he "effectively forced the creation of" with his lawsuit demand, exceeded the scope of inspection authorized by N.J.S. 14A:5-28.

Ms. Schlimbach then explained that the phrase "books and records of account" is derived from the Model Business Corporation Act (MBCA), which provides states with a modern body of statutory corporate law. The 1960 revision of the MBCA was a major source of the New Jersey Business Corporation Act in Title 14A. The 1960 MBCA provision addressing corporate records and shareholder inspection rights was functionally identical to N.J.S. 14A:5-28 when it was enacted in 1968.

In 1984, the MBCA provision addressing corporate records and shareholder inspection was split into two sections. This MBCA revision, and all subsequent revisions, also included a detailed list of corporate records subject to shareholder inspection. New Jersey has not incorporated this list of documents.

In 1968, the Legislature enacted the New Jersey Business Corporation Act based upon the work of the Corporation Law Revision Commission (CLRC). The CLRC was created in 1958 and tasked with modernizing New Jersey's corporate laws. The CLRC cited three sources for N.J.S. 14A:5-28: the corporate records provision in the 1960 MBCA; a New York corporation statute; and prior New Jersey statutes. Although N.J.S. 14A:5-28 was subsequently amended four times, none of these amendments clarified the scope of the term "books and records of account."

Ms. Schlimbach stated that the majority of other states have incorporated the list of documents contained in the post-1984 versions of MBCA. Other states, like New Jersey, have adopted the language contained in earlier versions of the MBCA, or have created their own list of records available for shareholder inspection.

She noted that states do not consistently interpret the phrase "books and records of account" and that states are not consistent about the breadth of the inspection right generally. Ms. Schlimbach added that much of the statutory interpretation of the phrase in other states is in the context of specific factual scenarios, so the records addressed by one jurisdiction often have not been addressed in other states. Finally, some states' interpretations of the statutory language directly contradict interpretations of the same language in other states.

Ms. Schlimbach advised that the Commission that the Corporate and Business Law Study Commission (CBLSC) is tasked with studying and reviewing all aspects of New Jersey statutes, legislation and court decisions in New Jersey and elsewhere relating to business entities. The CBLSC specifically noted in its last annual report that it considers both the MBCA and other state statutes when making recommendations or proposals for corporate legislation.

As directed by the Commission, Ms. Schlimbach examined the definition of "financial statements," found in N.J.S. 45:2B-44. She noted that this definition is explicitly limited to the Accountancy Act, which provides a detailed definition of the term and excludes certain specific material. The use of the accountancy definition does not appear to be sufficiently tailored to the *Feuer* Court's interpretation of "books and records of account" or broad enough to encompass all the potential corporate records that could be subject to shareholder inspection.

Ms. Schlimbach advised the Commission that there are no pending bills that address N.J.S. 14A:5-28.

Acting Chair Bunn stated that the phrase "books and records" of account does not have an inherent meaning. From an accounting perspective, the term may include documentation ranging from a lunch receipt to corporate financial statements. Commissioner Long expressed concern about intruding on the work of the CBLSC and noted that it is unclear whether they have chosen not to address this issue or the reasons why.

Laura Tharney suggested that Staff could reach out to the CBLSC to ascertain whether they are working in this area and whether they can provide the Commission with any additional information on this subject.

The Commission directed that Staff undertake outreach and advise the Commission at an upcoming meeting.

Compassionate Release

Samuel Silver discussed a Memorandum proposing a project to address three issues identified by courts concerning compassionate release pursuant to N.J.S. 30:4-123.51e. The statute indicates that the court may release an individual who qualifies under subsection (a) for compassionate release.

Compassionate release may be warranted if the court finds clear and convincing evidence that the inmate is so debilitated or incapacitated by the permanent physical incapacity that the applicant: [1] is permanently physically incapable of committing a crime if released; and [2] would not pose a threat to public safety if released. The statute defines "permanent physical incapacity" as "a prognosis by the licensed physicians that an inmate has a medical condition that renders the [incarcerated person] [1] permanently unable to perform activities of basic daily living, [2] results in the inmate requiring 24-hour care, and [3] did not exist at the time of sentencing."

In *State v. F.E.D.*, the New Jersey Supreme Court considered, in a case of first impression, several aspects of the newly enacted Compassionate Release Act (Act or CRA) that it considered to be ambiguous.

As a threshold question, the Court examined whether a trial court was required to accept the eligibility determination of the Department of Corrections without scrutiny, or whether it was to determine whether the agency's decision conformed with the law, was supported by credible evidence, and was not unreasonable.

The Supreme Court disagreed with Appellate Division's interpretation of the statute, noting that the Act makes no provision for the Department "to make a final agency decision on the merits of the inmate's application." The Court reasoned that "the trial court, not the Department of Corrections, makes the initial determination whether the inmate has met his burden of proof by clear and convincing evidence." That decision is subject to appellate review.

Neither the Court's decision in *F.E.D.* nor the Act address whether the *refusal* of the Commissioner to issue a Certificate of Eligibility for Compassionate Release constitutes a final agency determination that is appealable; and, if so, the standard of review for such a denial.

Next, the Court focused on the meaning of the undefined phrase "activities of basic living" in the context of the definition of "permanent physical incapacity." In the absence of a statutory definition for "activities of basic daily living," the Court examined a similar phrase in the context of health-care statutes and regulations. The Court determined that the Legislature's use of the

adjective "basic" in the phrase "activities of basic daily living" distinguished this phrase from the defined phrase "instrumental activities of daily living" found in the Administrative Code.

Given the Act's requirement that a person seeking compassionate release required twenty-four-hour care, the Court concluded that "activities of basic living denotes a limited number of rudimentary tasks… essential to self-care." The Act, however, did not identify the number of these rudimentary tasks that a petitioner must be unable to perform to be deemed to have a "permanent physical incapacity." The Court interpreted the use of the plural "activities" to mean that a petitioner "whose medical conditions render them unable to perform two or more activities of basic daily living may seek compassionate relief."

The Court concurred with the trial court and the Appellate Division that F.E.D. had not provided clear and convincing evidence that he was suffering from a permanent physical incapacity within the meaning of the Act and affirmed the judgment of the Appellate division as modified.

In two additional cases, *State v. A.M.* and *State v. Oliver*, the Court addressed, in a consolidated opinion, whether courts have discretion to deny compassionate release if a defendant has met the requirements in the statute. In both cases, the defendants were found to be eligible for compassionate release. The question addressed by the Court was whether the CRA requires judges to grant compassionate release or affords them the discretion to deny relief in such circumstances.

The Act is silent on this issue. In *A.M.* and *Oliver*, the Court fashioned an "extraordinary aggravating factor" test. Under this test, if one or more "extraordinary aggravating factors" exists the court may deny the defendant's petition for release. The term is not defined in the statute.

The Court derived the list of extraordinary aggravating factors from the criteria that the trial courts use to impose a sentence of imprisonment. Of the fifteen criteria found in N.J.S. 2C:44-1, the Court selected four factors that trial court judges to consider when exercising their discretion. These factors include: (1) particularly heinous, cruel, or depraved conduct; (2) a particularly vulnerable victim, based on the person's advanced age, youth, or disability; (3) an attack on the institutions of government or the administration of justice; and (4) whether release would have a particularly detrimental effect on the well-being and recovery process of victims and family members.

The Court imbued the fourth factor with a high standard of objective reasonableness. The Court also noted that the factors are limited to exceptional and rare circumstances. According to the Court, the inappropriate exercise of judicial discretion would be checked through appellate review.

Mr. Silver stated that in *A.M.*, the defendant murdered her husband while at least one of her three small children was in the home. The Court found no extraordinary factors that would bar her release. The defendant in *Oliver* murdered a police officer, wounded three others, and planned to kill a judge, and the Court denied his release on the basis of extraordinary aggravating circumstances.

The third issue presented by Mr. Silver involved the confidentiality requirement in N.J.S. 30:4-123.51c. In both *F.E.D.* and *A.M.*, the Court "respectfully urge[d] the Legislature to provide guidance with respect to whether it envisions that our courts will depart from our general practice of disclosing to the public the identity of a litigant seeking relief in the setting of… future compassionate relief proceeding[s]."

The decision of a court to grant or deny a petition for compassionate release to an individual who is incarcerated is predicated upon the court's evaluation of the opinions of licensed physicians and other medical information. The Act explicitly requires – without exception — that the contents of the petition and any responding comments by the recipient shall be confidential. The statute does not provide the Judiciary with guidance regarding the disclosure of the identity of a litigant seeking relief in compassionate release proceedings.

In New Jersey, the Judiciary maintains a policy of open access to its records. It is the practice of the Judiciary, with narrow exceptions, to disclose in opinions the identity of adult litigants even when information about a litigant's medical condition is addressed in the opinion. One exception to this policy involves records required to be kept confidential by statute. The confidentiality provision of the Act requires petitions, like those filed in *F.E.D.* and *A.M.* to withhold the name of the petitioner. The Supreme Court stated that this is not consistent with their general practice.

A petition for compassionate release must be filed and heard in the Superior Court, as opposed to an administrative proceeding. The Act provides that victims and members of their families are required to receive notice that a defendant has filed the petition and are permitted to testify at a hearing. The statute is silent, however, regarding how the name of the petitioner, the information contained in the petition, or the comments submitted by recipients are to be kept confidential given the public nature of these proceedings.

The Commission authorized Staff to engage in additional research and outreach in response to Court's request in *F.E.D.* and *A.M.*

Annual Report

Laura Tharney explained that Staff had made corrections to the Annual Report, including the addition of two concluded projects that had been inadvertently omitted from the prior draft, the addition of individuals to the "thank you" list, and the correction of typographical errors.

She requested that the Commission release the updated report as its Annual Report for 2022 so that the Report can be distributed to the Legislature by the end of the month to comply with the Commission's statutory mandate to report to the Legislature on or before February 1st.

On motion of Commissioner Long, seconded by Commissioner Rainone, the Commission unanimously authorized the release of the Annual Report for 2022.

Executive Session

On the motion of Commissioner Long, seconded by Commissioner Bertone, the Commission unanimously retired into an Executive Session.

On the motion of Commissioner Bertone, seconded by Commissioner Rainone, the Commission unanimously returned to the public session.

Acting Chair Bunn said that the Commission discussed a cost of living adjustment for the Commission Staff to parallel the adjustment received by the employees of the Office of Legislative Services. In addition, he stated that the Commission discussed an application to increase the Commission's annual appropriation. The last time that the Commission's annual appropriation was increased was in 2003.

On the motion of Commissioner Rainone, seconded by Commissioner Bertone, the Commission approved the cost of living adjustment for Commission Staff and authorized Laura Tharney, the Commission's Executive Director, to seek an increase in the Commission's annual appropriation.

Miscellaneous

Laura Tharney stated that the next Commission meeting is scheduled to take place on February 16, 2023, at 10 a.m. She advised that as a result of scheduling conflicts, she had received a request from a Commissioner to hold the meeting via video conference. The Commission agreed that the February meeting would be held via video conference.

Adjournment

On the motion of Commissioner Bertone, seconded by Commissioner Rainone, the Commission unanimously adjourned.