

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS

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November 27, 2012  
Start: 11:23 a.m.  
Recess: 11:32 a.m.

HELD AT: Council Chambers  
City Hall

B E F O R E:  
JOEL RIVERA  
Chairperson

COUNCIL MEMBERS:

Leroy G. Comrie, Jr.  
Elizabeth S. Crowley  
Inez E. Dickens  
Erik Martin Dilan  
Lewis A. Fidler  
Vincent J. Gentile  
Robert Jackson  
James Vacca  
Albert Vann  
Karen Koslowitz  
James S. Oddo  
Christine C. Quinn

## A P P E A R A N C E S (CONTINUED)

Nicholas Scoppetta  
Candidate for Appointment  
NYC Conflict of Interest Board

[background conversation]

CHAIRPERSON RIVERA: Good morning, ladies and gentlemen. We are going to begin the Committee on Rules, Privileges and Elections. My name is Joe Rivera. I am the chair of the Committee. Before we begin, let me introduce the members who are here with us today. We have Council Member Leroy Comrie, Council Member Lew Fidler, Council Member Sara Gonzalez, Council Member Maria del Carmen Arroyo, Council Member Peter Koo, Council Member Vincent Gentile, Council Member Diana Reyna is with us. We have Council Member Steve Levin joining the Committee, Council Member Karen Koslowitz, Council Member Inez Dickens, Council Member Al Vann, Council Member Charles Barron, and we are also joined by the Committee staff of Chuck Davis, Emerson Sykes, Jasmine Vega and Alicia Vassal, and with us we also have in the audience we have the general counsel to the Conflict of Interest Board, Wayne Holly and the executive director, Mark Davis. Today we will consider one candidate for advice and consent. It's Nicholas Scoppetta, a resident of Manhattan, a candidate for appointment by the

1  
2 mayor to the Conflict of Interest Board. If the  
3 Council gives its advice and consent, he will  
4 replace Steven B. Rosenfeld as chair and serve  
5 for the remainder of a six year term that expires  
6 on March 31<sup>st</sup>, 2014. Welcome, Mr. Scoppetta. If  
7 you can, raise your right hand to be sworn in.

8 MALE VOICE: Do you swear or affirm  
9 that you will tell the truth, the whole truth and  
10 nothing but the truth?

11 NICHOLAS SCOPPETTA: I do.

12 CHAIRPERSON RIVERA: Thank you very  
13 much. First, let me briefly explain the functions  
14 of the Conflict of Interest Board, which I'm sure  
15 most of us are very familiar with. The Conflict  
16 of Interest Board is the entity that serves to  
17 provide clear guidance to public employees  
18 regarding prohibited conduct through training,  
19 education and the issuance of advisory opinions.  
20 The Board also adopts rules to implement and  
21 interpret the provisions of the Conflict of  
22 Interest Code. It reviews and decides on alleged  
23 violations of said code with the power to impose  
24 fines that can be as high as \$10,000 or includes  
25 suspension or dismissal from city service where

1  
2 appropriate. The Board also collects and reviews  
3 financial disclosure reports. Board members are  
4 entitled to receive a per diem in the amount of  
5 \$250 for each calendar day that they perform work  
6 for the Board. The chair receives a per diem  
7 equal to \$275. Good morning, Mr. Scoppetta. Do  
8 you wish to make an opening statement?

9 NICHOLAS SCOPPETTA: Well, I am  
10 honored to have been nominated to join the Board,  
11 and I have worked with the Board on and off in  
12 various government positions that I have had. I  
13 think the work is enormously important at  
14 maintaining integrity in government. Almost  
15 nothing could be more important, and I look  
16 forward to serving on the Board of course subject  
17 to the outcome of this hearing.

18 CHAIRPERSON RIVERA: Thank you very  
19 much, Mr. Scoppetta. We have a couple of members  
20 that do want to ask a couple of questions. First  
21 on the list is Council Member Charles Barron. We  
22 have also been joined by Council Members Crowley,  
23 Council Member Halloran and Council Member Rose as  
24 well. Council Member, the microphone is yours.

25 COUNCIL MEMBER CHARLES BARRON:

1  
2 thank you very much. Good morning. We have  
3 always had a cordial speaking relationship, but  
4 honesty compels me to always tell the truth. In  
5 your tenure ship over the New York City Fire  
6 Department, you were the leader and the  
7 commissioner of one of the most racist in terms of  
8 practices agencies that we had in this city for  
9 eight years from 2002 to 2010, and when people  
10 brought things to you like the Vulcans, the black  
11 firefighters, you vehemently opposed - - and gave  
12 them a very difficult time in trying to stop the  
13 racist practices of the fire department, and quite  
14 frankly, my colleagues, I don't think that that  
15 kind of behavior should be rewarded with you  
16 heading up the Conflict of Interest Board. I  
17 think New York City and the diverse town that we  
18 have and the town that is a majority black, Latino  
19 and Asian needs someone to head our agencies that  
20 is going to fight against racism vehemently and  
21 not fight against those of us who oppose the  
22 racism, and so I think that today, we should not  
23 approve this. I think we have better in this city  
24 to put in these powerful positions, and although,  
25 personally, you have always been very cordial to

1  
2 me; we have had good relationships. We have been  
3 able to speak, but the effect of your leadership  
4 in the fire department was racist. I think the  
5 racist practice continues. It's still not where  
6 it should be, and I think had you performed  
7 differently, we could have moved the fire  
8 department much further than what it is now. - -  
9 the last figures I left a while ago was 97--most of  
10 your tenure ship, it was 97 percent white, and we  
11 didn't have a really chance to really do the right  
12 thing in the fire department, so that is what I  
13 remember you most from, and to me, we shouldn't  
14 reward that kind of behavior with an appointment  
15 to another agency. I think that this should be  
16 rejected out of respect for our communities that  
17 really struggled to get things done when he was  
18 commissioner. I just want to recommend to this  
19 Committee that this be rejected.

20 CHAIRPERSON RIVERA: Thank you very  
21 much, Council Member. We have also been joined by  
22 Council Member Rosie Mendez. Do any other  
23 Committee members have any questions for the  
24 candidate today? Seeing none, at this point in  
25 time, I am going to ask the clerk to please call

1  
2 the roll, and the Chair recommends an aye vote for  
3 today's candidate.

4 COMMITTEE CLERK: William Martin,  
5 Committee Clerk. Roll call vote in the Committee  
6 on Rules. Council Member Rivera?

7 CHAIRPERSON RIVERA: Thank you very  
8 much. I vote aye, and I recommend an aye vote for  
9 today's candidate.

10 COMMITTEE CLERK: Comrie?

11 COUNCIL MEMBER COMRIE: [off mic]  
12 I'm going to vote to allow Nicholas Scoppetta to  
13 serve in the Commission. I am also concerned  
14 about ensuring that the commission does reflect  
15 the entire city and I hope that the actions of Mr.  
16 Scoppetta will reflect the fact that this is a  
17 diverse city with the need to emphasize all  
18 opportunities and diversity. I will give him a  
19 second chance. I vote aye.

20 COMMITTEE CLERK: Fidler?

21 COUNCIL MEMBER FIDLER: Mr.  
22 Chairman, can I please briefly be excused to  
23 explain my vote? Frankly, I can't say I agree  
24 with the administration's opposition on the fire  
25 department suit. I think, Mr. Scoppetta, you have



1  
2 an extraordinary, extraordinary lengthy record of  
3 public service, and I would only ask that you take  
4 this office with the understanding that many  
5 people in and around government have been  
6 concerned that the agency that you are going to  
7 head has a double standard for how they deal with  
8 conflict issues, waivers coming from the  
9 administration as opposed to the rest of the  
10 world, and I do believe that your record reflects  
11 fairness and integrity whether I agree with the  
12 particular case that my colleagues have referenced  
13 or not, so I question your sanity for being  
14 willing to take this job, but I certainly am happy  
15 that you are willing to do it. I vote aye.

16 COMMITTEE CLERK: Vann?

17 COUNCIL MEMBER VANN: No.

18 COMMITTEE CLERK: Gentile?

19 COUNCIL MEMBER GENTILE: Aye.

20 COMMITTEE CLERK: Dickens?

21 COUNCIL MEMBER DICKENS: Thank you.

22 Permission to explain my vote, Mr. Chair? I  
23 raised the issue when initially your name came up  
24 because of my concern about the vehemence with  
25 which you fought the lawsuit that the City

1  
2 ultimately lost that the Vulcan Society brought  
3 on. I was fearful. I still am/ I am going to  
4 vote for you with the hope that because the city  
5 lost that lawsuit that you fought against and  
6 forced opening in an agency that - - had been very  
7 closed for minorities, and that as such, you will  
8 not bring that same sort of attitude to the  
9 Conflicts of Interest Board. That is an agency  
10 that we all must work with, and it must be fair in  
11 its decisions, and I hope that today you will make  
12 a commitment not to do as you have done in the  
13 past, but to be fair with all that have to come  
14 before the Conflicts of Interest Board. I vote  
15 aye.

16 COMMITTEE CLERK: Crowley?

17 COUNCIL MEMBER CROWLEY: I vote  
18 aye.

19 COMMITTEE CLERK: Koslowitz?

20 COUNCIL MEMBER KOWSLOWITZ: Aye.

21 COMMITTEE CLERK: Oddo?

22 COUNCIL MEMBER ODDO: Yes.

23 COMMITTEE CLERK: By a vote of  
24 eight in the affirmative, one in the negative and  
25 no abstentions, item is adopted. Members, please

1  
2 sign the Committee Report.

3 CHAIRPERSON RIVERA:

4 Congratulations, Mr. Scoppetta, on your  
5 appointment to the Conflict of Interest Board. We  
6 are going to leave the vote open for other members  
7 who will be joining us shortly to vote as well.  
8 Thank you very much.

9 NICHOLAS SCOPPETTA: Thank you. I  
10 just want to say for the record that I disagree  
11 with the characterizations, and the reason why I  
12 do that is I was appointed in 2002. There was an  
13 exam scheduled for 2002. I had very little  
14 opportunity to do anything about the recruiting or  
15 the exam, and as this group knows, the fire  
16 department doesn't write its own exams. The DCAS  
17 does. The first examination that I had any time  
18 to prepare and when I say prepare, I will explain  
19 that, was the 2007 exam, and we decided—me and  
20 some of the people interested in diversifying the  
21 fire department that one of the issues is there  
22 was not sufficient recruitment in the minority  
23 communities, and there was not sufficient  
24 opportunity to give potential candidates the same  
25 kind of tutoring that traditional candidates got

1 because they had family in the fire department, so  
2 we did a very intensive recruiting, hundreds of  
3 events in malls, any public space where we thought  
4 we could reach citizens of New York, concentrating  
5 on communities that we wanted to recruit from, and  
6 also gave hundreds of tutoring sessions that would  
7 not otherwise have been given to everyone who  
8 would attend. We weren't allowed to single out  
9 groups, but we did it and gave the tutoring events  
10 here in New York City at a lot of public spaces.  
11 The results of the first exam in the 2000 exam  
12 that I had a chance to take charge of recruiting  
13 and tutoring since we don't write the exam, that's  
14 what I could do, and I was absolutely convinced if  
15 we increased the pool of minorities by heavy  
16 recruitment and tutoring that we would increase  
17 the percentage of minorities that passed in the  
18 upper levels of the list. The top 4,000 on the  
19 list are the ones who will be called, and we were  
20 enormously successful. Somehow that has been  
21 missed. I guess it didn't get the attention it  
22 should have gotten, and the Justice Department did  
23 not sue on our exam, on the 2007 exam. It was not  
24 included in the lawsuit because we recruited well  
25

1  
2 enough to have over 34 percent of the top 4,000,  
3 the people who would be called for jobs were  
4 minorities, and the one class that we were allowed  
5 to hire from while I was commissioner and then the  
6 court stopped the hiring—said we couldn't hire  
7 from that list had 34.1 percent minorities. That  
8 was unheard of in the fire department. In years  
9 before I came, the average hiring of minorities  
10 was 3 to 5 percent annually. For us to get 34  
11 percent minorities hired in the job and have the  
12 top 4,000 candidates—cause those are the ones that  
13 will get reached during the life of the list—to be  
14 over 33 percent, 34 percent in each thousand in  
15 the top 4,000, so it held for all 4,000. We did a  
16 very aggressive job of trying to diversify the  
17 fire department. I appreciate the vote of this  
18 Committee, and I would be happy to discuss with  
19 Councilman Barron or anyone, Councilman Vann,  
20 Councilwoman Dickens, the results, the efforts we  
21 made and give data on the one exam that I could  
22 make that kind of effort on—the 2007 exam, and the  
23 Justice Department recognized the results that we  
24 got that were so positive, they didn't include  
25 that exam in their lawsuit. They went back to

1  
2 exams before I was commissioner, and then the  
3 first one that was given in 2002, and there is an  
4 adage in litigation, and I have been a litigator  
5 for years that when the court has decided for you,  
6 stop talking. I just couldn't resist saying  
7 something to clarify the record, but I will stop  
8 talking. Thank you very much.

9 CHAIRPERSON RIVERA: Thank you very  
10 much, Commissioner. We are going to leave the  
11 vote open for other members who will be coming up  
12 to vote on your candidacy, and once again,  
13 congratulations.

14 NICHOLAS SCOPPETTA: Thank you very  
15 much.

16 COMMITTEE CLERK: Continuation roll  
17 call Committee on Rules. Council Member Vacca?

18 COUNCIL MEMBER VACCA: I vote aye.

19 COMMITTEE CLERK: The vote now  
20 stands at nine in the affirmative, one in the  
21 negative and no abstentions.

22 [pause]

23 COMMITTEE CLERK: The Committee on  
24 Rules. Speaker Quinn?

25 SPEAKER QUINN: A little tardy, but

1  
2 nonetheless, aye on all. Look at that.

3 [gavel]

4 SPEAKER QUINN: Adjourned. Oh, you  
5 need to do the vote. We're out of order.

6 COMMITTEE CLERK: Final vote in the  
7 Committee on Rules now stands ten in the  
8 affirmative, one in the negative and no  
9 abstentions.

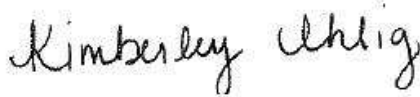
10 SPEAKER QUINN: Now we are  
11 adjourned.

12 [gavel]

C E R T I F I C A T E

I, Kimberley Uhlig certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature \_\_\_\_\_



Date \_\_\_\_\_

12-9-12