



**Minutes of the Government Records Council
May 24, 2011 – Closed Session**

The Council convened in closed session at 1:06 p.m. in Conference Room 129 of the Department of Community Affairs, Trenton, New Jersey. In attendance were: Robin Berg Tabakin (Chairwoman), Denise Parkinson Vetti (designee of Department of Education Acting Commissioner Christopher D. Cerf), and Charles Richman (designee of Department of Community Affairs Commissioner Lori Grifa).

Also in attendance were GRC Staff: Catherine Starghill (Executive Director), Karyn Gordon (In-House Counsel), Dara Lownie (Communications Manager), Frank Caruso (Senior Case Manager), Brigitte Hairston (Secretary), Debra Allen (Deputy Attorney General) and Joseph Maddaloni, Jr. (Designated Outside Counsel).

A motion was made by Mr. Richman and seconded by Ms. Vetti to go into closed session. The motion was adopted by a unanimous vote.

The Council met in closed session pursuant to N.J.S.A. 10:4-12.b(7) to receive legal advice and discuss anticipated litigation in which the public body may become a party in the following matters:

1. Stultz Taylor v. Township of Downe (Cumberland) (2009-174)

The Council discussed the issue of waiving privileges to closed session minutes, which is a novel issue for the Council. The Council decided to accept the Findings and Recommendations of the Executive Director. A vote will be taken during open session.

2. Robert Campbell v. Township of Downe (Cumberland) (2009-219)

The Council discussed how this complaint plays a part in *Stultz Taylor v. Township of Downe (Cumberland) (2009-174)* and the waiver issue. The Council decided to accept the Findings and Recommendations of the Executive Director. A vote will be taken during open session.

3. Christopher Cicero v. NJ Department of Children & Family Services, Division of Child Behavioral Health Services (2009-201)

The Council discussed the Appellate Division's remand of this complaint. The Council received legal advice from designated outside counsel on the Findings and Recommendations of the Executive Director. The Council discussed possible amendments to the conclusions.

4. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2008-161) *In-Camera Review*

The Council reviewed the records submitted for an *in camera* review. The Council decided to accept the Findings and Recommendations of the Executive Director which hold that The Custodian unlawfully denied access to the requested executive minutes dated March 11, 2008 because only paragraphs 2 and 3 should be redacted as being exempt from disclosure according to the Open Public Meetings Act as a discussion for which a public body may exclude the public regarding any personnel matter. N.J.S.A. 10:4-12.b.(8). The remainder of the record must be disclosed to the Complainant. The Custodian lawfully denied the Complainant access to the remainder of the requested records as such records are exempt from disclosure as attorney-client privileged information pursuant to N.J.S.A. 47:1A-1.1. A vote will be taken during open session.

5. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2009-204 and 2009-205) *In-Camera Review*

The Council reviewed the records submitted for an *in camera* review. The Council decided to accept the Findings and Recommendations of the Executive Director which hold that the Custodian has lawfully denied access to, or redacted, portions of the records listed in the document index pursuant to N.J.S.A. 47:1A-6. However, the Custodian must disclose those portions of the requested records which were unlawfully redacted, as set forth in the *in camera* table. A vote will be taken during open session.

6. Jesse Wolosky v. Township of Frankford (Sussex) (2009-242) *In-Camera Review*

The Council reviewed the records submitted for an *in camera* review. The Council decided to accept the Findings and Recommendations of the Executive Director which hold that the Custodian unlawfully denied access to the redacted information contained in the requested records because the personnel matters discussed in the relevant executive sessions were resolved before the date of the OPRA request according to the March 23, 2011 certification of the present Custodian, and as such must be disclosed pursuant to applicable case law. A vote will be taken during open session.

7. Jnanendra Ray v. Freedom Academy Charter School (2009-185) *In-Camera Review*

The Council reviewed the records submitted for an *in camera* review. The Council decided to accept the Findings and Recommendations of the Executive Director which hold that The Custodian lawfully denied access to the e-mail discussions because said discussions are exempt from disclosure as attorney-client privilege and/or as advisory, consultative or deliberative material pursuant to N.J.S.A. 47:1A-1.1. Specifically, the e-mail discussions involve the School Board members requesting and/or receiving legal advice from the School attorney or the members' deliberations over how to handle personnel or administrative matters. Therefore, the e-mail discussions are exempt from disclosure under OPRA. A vote will be taken during open session.

The closed session meeting concluded at 1:50 p.m.

Respectfully Submitted:

Denise Parkinson-Vetti, Secretary

Date Approved: June 28, 2011