



**Minutes of the Government Records Council
January 29, 2013 Public Meeting – Open Session**

The meeting was called to order at 10:35 a.m. at the Department of Community Affairs, Conference Room 129, Trenton, New Jersey.

All stood and recited the pledge of allegiance in salute to the American flag.

Ms. Tabakin read the following Open Public Meetings Act statement:

“This meeting was called pursuant to the provisions of the Open Public Meeting Act. Notices of this meeting were faxed to the Newark Star Ledger, Trenton Times, Courier-Post (Cherry Hill), and the Secretary of State on January 24, 2013.”

Ms. Tabakin read the fire emergency procedure.

Ms. Lillie called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Denise Parkinson Vetti, Esq. (designee of Department of Education Commissioner Chris Cerf), and Steven Ritardi, Esq. (public member).¹

GRC Staff In Attendance: Karyn Gordon, Esq. (Acting Executive Director), Brigitte Lillie (Secretary), Dara L. Barry (Communications Manager), Harlynn A. Lack, Esq. (Case Manager), Darryl Rhone (Case Manager), John Stewart (Mediator), Debra Allen (Deputy Attorney General) and Brian Tipton, Esq. (Designated Outside Counsel).

Ms. Tabakin read the Closed Session Resolution to go into closed session pursuant to N.J.S.A. 10:4-12.b(7) to receive legal advice and/or discuss anticipated litigation in which the public body may become a party in the following matters:

1. Richard Rivera v. Town of West New York (Hudson) (2010-208) (*In-Camera Review*)
2. Walter G. Wargacki v. County of Bergen (2011-198) (*In-Camera Review*)
3. Rita Roykovich v. West Milford Board of Education (2011-258) (*In-Camera Review*)
4. Criminal Investigatory Cases (*Discussion*)
 - a. Alan Rogers v. Essex County Prosecutor’s Office (2011-23)
 - b. Rashaun Barkley v. Essex County Prosecutor’s Office (2011-221)
 - c. Richard Rivera v. Town of West New York (Hudson) (2010-208)
 - d. Melissa Ann Michalak v. Borough of Helmetta (Middlesex) (2010-220)

¹ Ms. Lillie noted that Dana M. Lane, Esq. (designee of Department of Community Affairs Commissioner Richard E. Constable, III) is absent.

- e. West Solloway v. Bergen County Prosecutor's Office (2011-39)
- f. Anthony Reitzler v. Egg Harbor Police Department (Atlantic) (2011-85)
- g. Ricky A Pursley v. Township of Hardyston, Police Department (Sussex) (2011-137)
- h. Woojin Hwang v. Bergen County Prosecutor's Office (2011-348)

Ms. Vetti made a motion to go into closed session and Mr. Ritardi seconded the motion. The Council adopted the motion by a unanimous vote. Ms. Vetti made a motion to end the closed session and Mr. Ritardi seconded the motion. The Council adopted the motion by a unanimous vote. The Council met in closed session from 10:40 a.m. until 11:39 a.m.

Open Session reconvened at 11:40 a.m. and Ms. Lillie called roll.

Present: Ms. Tabakin, Ms. Vetti and Mr. Ritardi.

The Council put the following meeting minutes requiring approval to a vote:

December 18, 2012 Open Session Minutes

Ms. Vetti made a motion and Mr. Ritardi seconded the motion to approve the open session minutes of the December 18, 2012 meeting. The motion passed unanimously.

December 18, 2012 Closed Session Minutes

Ms. Gordon stated that the December 18, 2012 Closed Session Minutes will be amended to more accurately reflect the matters in which the Deputy Attorney General and the Designated Outside Counsel participated.

Ms. Vetti made a motion and Mr. Ritardi seconded the motion to approve the closed session minutes of the December 18, 2012 meeting, as amended. The motion passed unanimously.

Council Adjudication:

The Council tabled the adjudication of the following complaint due to lack of quorum:

- 1. David Herron v. NJ Department of Education (2011-350)

The following complaints were presented to the Council for summary administrative adjudication:

- 1. Keith A. Werner v. NJ Department of Health & Human Services (2012-18)
- 2. Robert A. Tesoroni, Jr. v. City of Millville (Cumberland) (2012-77)
- 3. Brandon Melvin v. Union County Prosecutor's Office (2012-226)
- 4. Wallace McKelvey v. NJ Office of the Governor (2012-264)
- 5. Cynthia McBride v. Jersey City Municipal Utility Authority (Hudson) (2012-282)
- 6. Sara Dubinsky v. NJ Department of Human Services, Division of Family Development (2012-310)

Ms. Tabakin called for a motion to accept the Executive Director's recommendations as written in all of the above Administrative Complaint Dispositions. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

The Council tabled the adjudication of the following complaints due to lack of quorum:

1. Alan Rogers v. Essex County Prosecutor's Office (2011-23)
2. Angel L. Alicea, II v. City of Hoboken, Police Department (Hudson) (2011-103)
3. Rashaun Barkley v. Essex County Prosecutor's Office (2011-221)
4. Robert G. Dooley, Jr. v. City of Newark (Essex) (2011-257)
5. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-323)
6. David Herron v. NJ Department of Education (2011-324)
7. Larry A. Kohn v. Township of Livingston (Essex) (2011-326)
8. Larry A. Kohn v. Township of Livingston (Essex) (2011-327)
9. Larry A. Kohn v. Township of Livingston (Essex) (2011-328)
10. Larry A. Kohn v. Township of Livingston (Essex) (2011-329)
11. Larry A. Kohn v. Township of Livingston (Essex) (2011-330)
12. Margaret Rieger v. Township of Livingston (Essex) (2011-333)
13. Katalin Gordon v. City of Orange (Essex) (2011-336)
14. Katalin Gordon v. City of Orange (Essex) (2011-337)
15. Larry A. Kohn v. Township of Livingston (Essex) (2011-342)
16. Larry A. Kohn v. Township of Livingston (Essex) (2011-343)
17. Larry A. Kohn v. Township of Livingston (Essex) (2011-344)
18. Larry A. Kohn v. Township of Livingston (Essex) (2011-345)
19. Orié J. McMillan v. City of Newark (Essex) (2011-359)
20. Larry A. Kohn v. Township of Livingston (Essex) (2011-362)
21. Sabino Valdes v. NJ Department of Education (2012-19)

The Council tabled the adjudication of the following complaint for additional fact-finding. Ms. Tabakin stated that the proposed Executive Director's findings and recommendations contained in the complaint synopsis is now void.

1. Rita Roykovich v. West Milford Board of Education (Passaic) (2011-258)

The Council put the following complaints requiring individual adjudication to a vote:

Joshua Lazarus v. NJ Department of Community Affairs (2011-331)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Andrew Mayer v. Borough of Tinton Falls (Monmouth) (2008-245)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the

Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Rita Watson v. Washington Township Public Schools (Gloucester) (2009-29)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Jesse Wolosky v. Township of Jefferson (Morris) (2010-163)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Jesse Wolosky v. Township of Chester (Morris) (2010-184)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Richard Rivera v. Town of West New York (Hudson) (2010-208)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Melissa Ann Michalak v. Borough of Helmetta (Middlesex) (2010-220)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Richard Rivera v. Borough of Ho Ho Kus, Police Department (Bergen) (2010-280)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

West Solloway v. Bergen County Prosecutor's Office (2011-39)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Anthony Reitzler v. Egg Harbor Police Department (Atlantic) (2011-85)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Ricky A. Pursley v. Township of Hardyston, Police Department (Sussex) (2011-137)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Walter G. Wargacki v. County of Bergen (2011-198)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Maria Melton v. City of Camden (Camden) (2011-233)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Jeff Carter v. Franklin Fire District #1 (Somerset) (2011-234)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Paul S. Kaplan v. Winslow Township Board of Education (Camden) (2011-237)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Gregory W. Havlusch, Jr. v. Borough of Allenhurst (Monmouth) (2011-243)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Jeff Carter v. Franklin Fire District #2 (Somerset) (2011-259)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Robert Brown v. Ocean City Board of Education (Cape May) (2011-271)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Robert Brown v. Sea Isle City Board of Education (Cape May) (2011-273)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Joseph Krzywda v. Pinelands Regional School District (Ocean) (2011-285)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Joseph Krzywda v. Pinelands Regional School District (Ocean) (2011-307)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Claudia Vargas (On behalf of the Philadelphia Inquirer) v. Camden City School District (Camden) (2011-315)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Quddoos Farra'd v. NJ Department of Corrections (2011-321)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Tom Rowan, Jr. (On behalf of Express Times) v. Warren Hills Regional School District (Warren) (2011-347)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Woojin Hwang v. Bergen County Prosecutor's Office (2011-348)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Harry B. Scheeler, Jr. v. Township of Galloway (Atlantic) (2011-356)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Raymond Klepar v. Township of Little Falls (Passaic) (2011-358).

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Chris Hayes v. City of Passaic (Passaic) (2011-368)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Robert B. Quinlan v. Township of Hillside (Union) (2011-371)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Richard Rivera v. City of Bayonne (Hudson) (2012-86)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Rotimi Owoh (On behalf of O.R.) v. West Windsor-Plainsboro Regional School District (Mercer) (2012-91)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

Rotimi Owoh (On behalf of Delores Nicole Simmons) v. West Windsor-Plainsboro Regional School District (Mercer) (2012-130)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the

Executive Director's findings and recommendations as written. Ms. Vetti made a motion and Mr. Ritardi seconded the motion. The motion passed unanimously.

GRC Complaints on Appeal: None.

Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:

Rivera v. Office of the County Prosecutor of the County of Bergen, 2012 N.J. Super. Unpub. LEXIS 2752 (Law. Div. December 11, 2012).

Ms. Gordon provided the Council with the following case synopsis:

In a prior Law Division decision regarding this matter, the court held that the Prosecutor's Office must disclose to Plaintiff the names and addresses of persons subjected to the use of force by police officers on approximately 1,000 Use of Force Reports. Subsequent to the court's ruling, the parties failed to agree upon a reasonable attorney's fee and Plaintiff petitioned the court to determine the appropriate quantum of counsel's costs and fees.

The court held that Plaintiff is entitled to a lodestar award and a contingency enhancement. The awarded lodestar is \$8,057.50. In light of Counsel's "competent and cooperative approach to this litigation," the court awarded a 25% fee enhancement as well as \$373.34 for costs associated with the litigation. Thus, the court's total award is \$10,455.22.

M.G. v. Eastern Camden County Regional School District, 2012 N.J. Super. Unpub. LEXIS 2767 (App. Div. Decembers 19, 2012).

Ms. Gordon provided the Council with the following case synopsis:

M.G., a student, appeals from a Law Division decision holding that the records provided by the School District in response to his OPRA request were adequate and responsive, and that other requested records were protected by the attorney-client privilege (specific communications referenced on attorney bills). The trial judge conducted an in camera review of the records to reach this conclusion.

The Appellate Division affirms the trial court's holding, stating:

"[w]e are not persuaded by any of M.G.'s arguments, which are the same as those raised in the trial court. Based on our review of the record, we reach the same conclusions as Judge Orlando. We are satisfied that he properly applied the law, and thoroughly explained his factual and legal conclusions for each of his rulings. Accordingly, we affirm substantially for the reasons set forth in Judge Orlando's comprehensive oral decision..."

Executive Director's Report and New Business: None.

Public Comment: None.

Ms. Tabakin announced that the GRC's Annual Report is available online and that the public should check it out because it is an interesting look into the Council's adjudications.

Ms. Vetti made a motion to end the Council's meeting and Mr. Ritardi seconded the motion. The motion passed unanimously.

Meeting adjourned at 11:57 am.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: February 26, 2013