



**Minutes of the Government Records Council
March 29, 2011 Public Meeting – Open Session**

The meeting was called to order at 1:12 p.m. at the Department of Community Affairs, in Room 129, Trenton, New Jersey. The Open Public Meetings Act statement was read by Ms. Tabakin.

The pledge of allegiance was recited while all stood in salute to the American flag.

The meeting notice and fire emergency procedure were read by Ms. Tabakin.

Ms. Hairston called the roll:

Present: Robin Berg Tabakin, Chairwoman, Charles Richman (designee of Department of Community Affairs Commissioner Lori Grifa), and Jessani Gordon (designee of Department of Education Acting Commissioner Christopher D. Cerf).

GRC Staff In Attendance: Executive Director Catherine Starghill, In-House Counsel Karyn Gordon, Secretary Brigitte Hairston, Communications Manager Dara Lownie, Mediator John Stewart, Case Managers: Frank Caruso, Harlynn Lack and Darryl Rhone, Deputy Attorney General Debra Allen and Outside Counsel Joseph Maddaloni.

The February 24, 2011 meeting minutes were not approved due to lack of quorum.

Council Adjudication:

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

1. Charles L. Whitted v. NJ Department of Corrections (2009-258)
2. Paul Kaplan v. Winslow Township Board of Education (Camden) (2010-157)
3. Sabino Valdes v. NJ Department of Education (2010-219)
4. Sabino Valdes v. Union City Board of Education (Hudson) (2010-249)
5. Sabino Valdes v. NJ Office of Administrative Law (2010-257)
6. Sabino Valdes v. NJ Department of Education (2010-266)
7. Sabino Valdes v. NJ Office of Administrative Law (2010-287)
8. Joseph Blaettler v. City of Union City (Hudson) (2011-21)
9. Joseph Blaettler v. City of Union City (Hudson) (2011-26)
10. David H. Weiner v. NJ Department of Treasury, Division of Administration (2011-35)
11. Thomas E. Doty v. Rockaway Township Board of Education (Morris) (2011-37)

12. Wanda Manley v. NJ Department of Law & Public Safety, Division of Civil Rights (2011-38)
13. David Herron v. Montclair Board of Education (Essex) (2011-41)
14. Ellery Karl v. Winslow Township Board of Education (Camden) (2011-44)
15. Sabino Valdes v. Union City Board of Education (Hudson) (2011-46)
16. David H. Weiner (On behalf of CWA Local 1081) v. County of Essex (2011-57)
17. Brian K. Bragg v. The Star Ledger, Legal Department (2011-60)
18. Brian K. Bragg v. The Trentonian, Legal Department (2011-61)
19. Rashaun Barkley v. County of Essex (2011-62)

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

The following complaints requiring individual adjudication were not put to a vote due to the lack of quorum:

1. James D'Andrea v. NJ Department of Community Affairs, Division of Local Government Services (2007-64)
2. William Gettler v. Wantage Regional Schools, Board of Education (Sussex) (2007-105)
3. Joyce Blay v. Jackson Board of Education (Ocean) (2007-177)
4. John Paff v. Borough of Lavallette (Ocean) (2007-209)
5. David Hinchcliffe v. NJ Department of Community Affairs, Division of Local Government Services (2007-306)
6. John Bentz v. Borough of Paramus (Bergen) (2008-89)
7. J.C. v. NJ Department of Education, Deputy Commissioner's Office (2008-91)
8. Robert Verry v. Borough of South Bound Brook (Somerset) (2008-161)
9. Gertrude Casselle v. NJ Department of Community Affairs, Division on Community Resources (2008-248)
10. Ursula Cargill v. NJ Department of Education (2009-9)
11. Ursula Cargill v. State Ethics Commission (2009-10)
12. Jason Alt v. NJ Department of Education (2009-114)
13. Joseph Armenti v. Robbinsville Board of Education (Mercer) (2009-154)
14. William Cimochowski v. NJ Department of Community Affairs, Div of Codes & Standards, Office of Code Enforcement (2009-261)
15. Michael Pushko v. NJ Department of Community Affairs, Division of Housing & Community Resources (2009-269)

The following complaints requiring individual adjudication were put to a vote:

Joan McGee v. Township of East Amwell (Hunterdon) (2007-305)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as amended. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Kreszentia Teena Morris v. Borough of Victory Gardens (Morris) (2008-137)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Joseph Krzywda v. Barnegat Township School District (Ocean) (2008-200)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Pat Walsh v. Township of Middletown (Monmouth) (2008-266)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Jesse Wolosky v. Township of Fredon (Sussex) (2009-12)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Jesse Wolosky v. Township of Montague (Sussex) (2009-14)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Gordon and seconded by Mr. Richman. The motion passed unanimously.

John Paff v. County of Camden (2009-25)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Orie J. McMillan v. City of Newark (Essex) (2009-77.5)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Oswaldo Chaves v. JFK Medical Center (Middlesex) (2009-217)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as amended. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Ursula Cargill v. NJ Department of Education (2009-256)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Gordon and seconded by Mr. Richman. The motion passed unanimously.

Richard Rivera v. Borough of Fort Lee, Police Department (Bergen) (2009-266)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Anthony P. Lopez v. County of Hudson (2009-267)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Matthew J. Zahorsky v. NJ Department of Environmental Protection (2009-270)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Rahim Caldwell v. Vineland Board of Education (Cumberland) (2009-278)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

John Paff v. Borough of Manasquan (Monmouth) (2009-281)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Gregory Byrnes v. Morris County Prosecutor's Office (2009-323)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as amended. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Mark Bond v. Borough of Washington (Warren) (2009-324)

Ms. Tabakin lead a discussion among the Council regarding the advantage to competitors' exemption in OPRA at N.J.S.A. 47:1A-1.1 as it relates to the requested bid documents. Ms. Tabakin suggested that if the bids cannot be changed after they are submitted to the agency, the advantage to competitors' exemption cannot apply.

Ms. Starghill and Mr. Caruso explained that there is a conflict of law between the Local Public Contracts Law and OPRA. Ms. Gordon (In-House Counsel) discussed the holding in O'Neill Elec. Co., Inc. v. Board of Chosen Freeholders of County of Warren, 297 N.J. Super. 473 (App. Div. 1997), a case decided under the Right to Know Law, N.J.S.A. 47:1A-1 to 1A-4, which preceded OPRA.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Robert Petrelli v. Branchburg Board of Education (Somerset) (2010-13)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Michele Rosen v. Township of Ocean (Ocean) (2010-14)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Pauline (Larry) Higgins v. Borough of Caldwell (Essex) (2010-30)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Michael J. Mangeri v. Monroe Township, Board of Fire Commissioners of District #1 (Middlesex) (2010-70)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Michael Cook v. Atlantic County Prosecutors Office (2010-92)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

David Herron v. Westfield Public School District (Union) (2010-94)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Brian Keith Bragg v. NJ Department of Corrections (2010-145)

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Complaints on Appeal: None.

Complaints Adjudicated on NJ Superior Court & NJ Supreme Court: DAG Allen informed the Council that the courts recently decided a case regarding the Open Public Meetings Act and how public agencies are to conduct their meetings - McGovern v. Rutgers, 2011 N.J. Super. LEXIS 32 (Feb. 18, 2011). DAG Allen indicated that she is researching the case to determine how to advise the Council on conducting the public meetings.

Executive Director's Report and New Business: Ms. Starghill informed the Council that she authored an article entitled, "Eight Steps to Ensuring Easier Access to Government Records"

which appeared in the March 2011 issue of *New Jersey Municipalities*, the League of Municipalities' magazine. Ms. Starghill stated that the article contains a guideline for custodians to follow when responding to OPRA requests in order to help them stay organized, track deadlines and ensure government records are accessible to the public in compliance with the law.

Ms. Starghill also stated that during Sunshine Week (March 13-19, 2011), the GRC disseminated a new issue of *The OPRA Alert* introducing the new Custodian's Toolkit. Ms. Starghill indicated that this toolkit is designed to assist records custodians facilitate easier access to public records. Ms. Starghill stated that Part 1 of the toolkit contains the eight step guideline discussed in the League article, and Part 2 contains the following OPRA response templates:

- Granting access to the requested records;
- Denying access to the requested records;
- Denying access to the request because the request is invalid;
- Seeking clarification of the request;
- Seeking an extension of time to respond to the request beyond the statutorily mandated seven (7) business days; and
- Assessing a special service charge.

Ms. Starghill states that *The OPRA Alert*, Toolkit and individual templates are posted to the website for download.

Additionally, Ms. Starghill stated that the GRC's 5th Annual OPRA Seminar for the Public is scheduled for Thursday August 11, 2011. Ms. Starghill stated that this is a full day seminar in conjunction with the Division of Archives and Records Management, and eligible for Continuing Education Credits and Continuing Legal Education Credits.

Public Comment: None.

A motion to end the Council's meeting was made by Mr. Richman and seconded by Ms. Gordon. The motion passed unanimously.

Meeting adjourned at 1:45 p.m.

Respectfully submitted,

Charles A. Richman, Secretary

Date Approved: June 28, 2011