



**Minutes of the Government Records Council  
May 24, 2011 Public Meeting – Open Session**

The meeting was called to order at 1:05 p.m. at the Department of Community Affairs, Conference 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 Denise Parkinson Vetti (designee of Department of Education Acting Commissioner Christopher D. Cerf).

GRC Staff In Attendance: Catherine Starghill (Executive Director), Karyn Gordon (In-House Counsel), Brigitte Hairston (Secretary), Dara Lownie (Communications Manager), John Stewart (Mediator), Case Managers: Frank Caruso, Harlynn Lack and Darryl Rhone, Debra Allen (Deputy Attorney General) and Joseph Maddaloni, Jr. (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 discuss anticipated litigation in which the public body may become a party in the following matter:

1. Stultz Taylor v. Township of Downe (Cumberland) (2009-174)
2. Robert Campbell v. Township of Downe (Cumberland) (2009-219)
3. Christopher Cicero v. NJ Department of Children & Family Services, Division of Child Behavioral Health Services (2009-201)
4. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2008-161) *In-Camera Review*
5. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2009-204 and 2009-205) *In-Camera Review*
6. Jesse Wolosky v. Township of Frankford (Sussex) (2009-242) *In-Camera Review*
7. Jnanendra Ray v. Freedom Academy Charter School (2009-185) *In-Camera Review*

A motion was made by Mr. Richman to go into closed session and seconded by Ms. Vetti. The motion was adopted by a unanimous vote. A motion was made by Mr. Richman to end the closed session and seconded by Ms. Vetti. The motion was adopted by a unanimous vote. The Council met in closed session from 1:06 p.m. until 1:50 p.m.

Open Session reconvened at 1:51 p.m. and Ms. Hairston called roll.

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

A motion was made by Mr. Richman and seconded by Ms. Vetti to approve the open session minutes of the February 24, 2011 meeting. The motion passed by a unanimous vote.

A motion was made by Ms. Vetti and seconded by Mr. Richman to approve the closed session minutes of the February 24, 2011 meeting. The motion passed by a unanimous vote.

The approval of the open session minutes of the March 29, 2011 meeting was tabled due to a lack of quorum.

### **Council Adjudication:**

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. David Hinchcliffe v. NJ Department of Community Affairs, Division of Local Government Services (2007-306)
3. John Bentz v. Borough of Paramus (Bergen) (2008-89)
4. J.C. v. NJ Department of Education, Deputy Commissioner's Office (2008-91)
5. Gertrude Casselle v. NJ Department of Community Affairs, Division on Community Resources (2008-248)
6. Ursula Cargill v. NJ Department of Education (2009-9)
7. Ursula Cargill v. State Ethics Commission (2009-10)
8. Jason Alt v. NJ Department of Education (2009-114)
9. William Cimochowski v. NJ Department of Community Affairs, Div of Codes & Standards, Office of Code Enforcement (2009-261)
10. Michael Pushko v. NJ Department of Community Affairs, Division of Housing & Community Resources (2009-269)

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

1. Brian K. Bragg v. Mercer County Board of Social Services (2010-261)
2. Brian K. Bragg v. Burlington County Board of Social Services (2010-267)
3. Terrel Harris v. Somerset County Human Services (2010-271)
4. Lisa Buckley v. Borough of Roselle (Union) (2010-273)
5. Irene Loutas v. County of Essex (2010-298)
6. Shawn P. Smith v. NJ Department of Corrections (2010-316)
7. John P. Schmidt v. Borough of Pine Hill (Camden) (2011-42)
8. Frank Koch v. Adventure Aquarium (Camden) (2011-67)
9. Derrick Bernard Parreott v. Asbury Park Police Department (Monmouth) (2011-78)

10. Renee Skelton v. City of Perth Amboy (Middlesex) (2011-79)
11. E. Carter Corrison (on behalf of Nancy Wiemert) v. Garfield Housing Authority (Bergen) (2011-80)
12. Susan Montanile v. Township of Verona (Essex) (2011-93)
13. Larry A. Kohn v. Township of Livingston (Essex) (2011-105)
14. James Sage v. Office of Senator Jennifer Beck (2011-123)
15. Geoff Mulvihill v. Camden County Prosecutor's Office (2010-43)
16. Joe Krakoviak v. Township of West Orange (Essex) (2010-247)
17. Raymond Birt v. NJ Office of the Public Defender (2010-277)
18. Timothy R. Smith v. City of Union City (Hudson) (2011-84)
19. Wyatt Kraft v. County of Hudson (2011-88)
20. Wyatt Kraft v. County of Hudson (2011-89)
21. Wyatt Kraft v. County of Hudson (2011-90)
22. Steve Biss v. City of Union City (Hudson) (2011-136)
23. David Herron v. Orange Board of Education (Essex) (2011-155)

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. Vetti. The motion passed unanimously.

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

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

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. Vetti. 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 Mr. Richman and seconded by Ms. Vetti. The motion passed unanimously.

**Philip Charles v. Plainfield Municipal Utilities Authority (Union) (2009-169)**

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. Vetti. The motion passed unanimously.

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

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. Vetti. The motion passed unanimously.

**Jesse Wolosky v. NJ Department of Environmental Protection (2009-194)**

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. Vetti. The motion passed unanimously.

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

Mr. Caruso informed the Council of some edits made to the Executive Director's findings and recommendations, including the addition of an issue statement and changing references from "Department" to "Division."

Additionally, Mr. Richman expressed his sympathy for the requestor in trying to obtain the requested records. However, Mr. Richman stated that the records are exempt from public access under OPRA.

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

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

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. Vetti. The motion passed unanimously.

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

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. Vetti. The motion passed unanimously.

**Raymond Bunce v. Township of Allamuchy (Warren) (2009-229)**

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. Vetti. The motion passed unanimously.

**Jesse Wolosky v. Township of Frankford (Sussex) (2009-242)**

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. Vetti. The motion passed unanimously.

**Richard Rivera v. Borough of Fort Lee Police Department (Bergen) (2009-285)**

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. Vetti. The motion passed unanimously.

**Larry A. Kohn v. Township of Livingston (Essex) (2009-289)**

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. Vetti. The motion passed unanimously.

**Jane Darata v. Monmouth County Board of Chosen Freeholders (2009-312)**

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. Vetti. The motion passed unanimously.

**Robert F. Edwards v. Plainfield Housing Authority (Union) (2009-318)**

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. Vetti. The motion passed unanimously.

**Richard Rivera v. Township of Monroe Police Department (Middlesex) (2009-331)**

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. Vetti. The motion passed unanimously.

**Richard Rivera v. Township of Belleville (Essex) (2010-06)**

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. Vetti. The motion passed unanimously.

**John Paff v. Township of Teaneck (Bergen) (2010-09)**

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. Vetti. The motion passed unanimously.

**Edward J. Guz v. NJ Civil Service Commission (2010-33)**

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. Vetti. The motion passed unanimously.

**Abdiel F. Avila v. NJ Department of Corrections (2010-36)**

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. Vetti. The motion passed unanimously.

**Frank R. Ciesla (on behalf of Valley Hospital) v. NJ Department of Health & Senior Services, Division of Health Care Quality and Oversight (2010-38)**

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. Vetti. The motion passed unanimously.

**Michael R. Schiavoni v. Sparta School District (Sussex) (2010-73)**

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. Vetti. The motion passed unanimously.

**Gina Mae Randazzo-Thompson v. City of Vineland (Cumberland) (2010-76)**

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. Vetti. The motion passed unanimously.

**John A. Ott v. Cape May County (2010-77)**

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. Vetti. The motion passed unanimously.

**Robin B. Magargal v. NJ Department of Military & Veterans Affairs (2010-81)**

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. Vetti. The motion passed unanimously.

**Eric D. Seaman v. Atlantic Highlands Police Department (Monmouth) (2010-103)**

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. Vetti. The motion passed unanimously.

**Robert Henderson v. NJ Department of Law & Public Safety, Division of Alcoholic Beverage (2010-139)**

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. Vetti. The motion passed unanimously.

**Louis Paul Toscano v. NJ Department of Human Services, Division of Mental Health Services (2010-147)**

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. Vetti. The motion passed unanimously.

**Louis Paul Toscano v. NJ Department of Labor & Workforce Development (2010-148)**

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. Vetti. The motion passed unanimously.

**Louis Paul Toscano v. NJ Department of Treasury (2010-149)**

Ms. Lack informed the Council that the Executive Director's findings and recommendations have been amended to add a second conclusion.

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. Vetti. The motion passed unanimously.

**William H. Gettler v. Sussex Wantage Regional School District (Sussex) (2007-105)**

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. Vetti. The motion passed unanimously.

**Joyce Blay v. Jackson Board of Education (Ocean) (2007-177)**

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. Vetti. The motion passed unanimously.

**Martin O'Shea v. Township of Vernon (Sussex) (2007-207)**

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. Vetti. The motion passed unanimously.

**John Paff v. Borough of Lavallette (Ocean) (2007-209)**

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. Vetti. The motion passed unanimously.

**Larry A. Kohn v. Township of Livingston (Essex) (2007-324)**

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. Vetti. The motion passed unanimously.

**John Paff v. Gloucester City (Camden) (2009-102)**

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. Vetti. The motion passed unanimously.

**Joseph R. Armenti v. Robbinsville Board of Education (Mercer) (2009-154)**

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. Vetti. The motion passed unanimously.

**Jnanendra P. Ray v. Freedom Academy Charter School (Camden) (2009-185)**

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. Vetti. The motion passed unanimously.

**Richard Rivera v. City of Plainfield Police Department (Union) (2009-317)**

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. Vetti. The motion passed unanimously.

**Bernard S. Reid v. NJ Department of Corrections (2010-83)**

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. Vetti. The motion passed unanimously.

**Christos J. Diktas v. Ridgefield Park Village Zoning Board of Adjustment (Bergen) (2010-85)**

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. Vetti. The motion passed unanimously.

**Fransico Lado v. Essex County Prosecutor's Office (2010-102)**

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. Vetti. The motion passed unanimously.

**Richard Rivera v. Passaic County Sheriff's Office (2010-152)**

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. Vetti. The motion passed unanimously.

**Peter J. Ciarrocca v. Bordentown City Police Department (Burlington) (2010-155)**

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. Vetti. The motion passed unanimously.

**Russell J. Litchult, Jr. v. Borough of Waldwick Police Department (Bergen) (2010-159)**

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. Vetti. The motion passed unanimously.

**Cynthia Burton v. NJ Department of Law & Public Safety, Division of State Police (2010-330)**

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. Vetti. The motion passed unanimously.

**GRC Complaints on Appeal:** Fairchild v. Township of East Windsor, Docket No. A-5283-09T2 (App Div. April 7, 2011). On appeal from Fairchild v. Township of East Windsor (Mercer), GRC Complaint No. 2009-252 (May 2010).

Ms. Starghill informed the Council that the Complainant submitted two OPRA requests to the Tax Assessor's Office of East Windsor Township, requesting copies of the complete property tax file to his home. Ms. Starghill stated that the Township Clerk responded to said requests by providing copies of documents from appellant's tax file. Dissatisfied with the responses, and questioning their completeness, the Complainant filed a complaint with the GRC. In the Statement of Information Form, the Custodian certified that all records in the Complainant's tax

file were provided to the Complainant, in their entirety, without redactions. Ms. Starghill stated that the GRC concluded that all records included in the Complainant's OPRA request had been provided to him in a timely manner, and that the Complainant failed to provide any evidence to contradict the certification to that effect submitted by the Township Clerk. Accordingly, the GRC dismissed the complaint. On appeal, the court held that it was satisfied that the GRC's final determination is supported by the record and is not arbitrary, capricious or unreasonable and thus affirmed the GRC's decision.

**Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:** Smith v. Hudson County Register, Docket No. A-4133-09T3, A-4114-09T3 (App Div. April 25, 2011).

Ms. Starghill informed the Council that the court awarded prevailing party attorney's fees to Complainant. The judges rejected the county's argument that Dean Smith was not eligible for fees because he was merely overcharged for copies of records rather than denied access to them. The court found Smith was a prevailing party by having convinced an appeals panel last year that OPRA does not allow the government to charge more than the actual cost for copying public records, roughly five cents per page, and that public entities could not justify imposing a charge of up to 75 cents per page under a default schedule contained in the law. That 2010 decision resulted in an amendment to OPRA, enacted Sept. 10, that set the price of copies at five (\$0.05) and seven (\$0.07) cents.

**Executive Director's Report and New Business:** Ms. Starghill informed the Council that the date is set for our 5th Annual OPRA Seminar for the Public – Thursday August 11, 2011. Ms. Starghill stated that this is a full day seminar with the Division of Archives and Records Management – same format as last year. Continuing Education Units and Continuing Legal Education Credits are available. Registration is underway and soaring – we already have 100 registrants!

Officer Elections: Mr. Richman nominated Ms. Tabakin as Chair of the Council. Ms. Tabakin accepted the nomination and put the recommendation to a vote. A motion was made by Mr. Richman and seconded by Ms. Vetti. The motion passed unanimously.

Mr. Richman nominated Ms. Vetti as Secretary of the Council. Ms. Vetti accepted the nomination. Ms. Tabakin called for a vote on the nomination. A motion was made by Mr. Richman and seconded by Ms. Vetti. The motion passed unanimously.

**Public Comment:** None.

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

Meeting adjourned at 2:15 p.m.

Respectfully submitted,

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Denise Parkinson-Vetti, Secretary

Date Approved: June 28, 2011