



**Minutes of the Government Records Council
September 25, 2012 Public Meeting – Open Session**

The meeting was called to order at 10:45 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 September 20, 2012.”

Ms. Tabakin read the fire emergency procedure.

Ms. Tabakin announced that summaries of the complaints scheduled for adjudication at today’s meeting have been posted to the GRC’s website as of this morning and hard copies are available by the entrance to the conference room, along with the agenda.

Ms. Lillie called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Dana M. Lane, Esq. (designee of Department of Community Affairs Commissioner Richard E. Constable, III), Denise Parkinson Vetti, Esq. (designee of Department of Education Acting Commissioner Christopher D. Cerf), and Steven Ritardi, Esq. (public member).

GRC Staff In Attendance: Karyn Gordon, Esq. (Acting Executive Director), Brigitte Lillie (Secretary), Dara L. Barry (Communications Manager), Frank F. Caruso (Senior Case Manager), Harlynn A. Lack, Esq. (Case Manager), Darryl Rhone (Case Manager), John Stewart (Mediator), Debra Allen (Deputy Attorney General) and Joni Noble McDonnell (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 matter:

1. Steven Hyman v. Jersey City (Hudson) (2007-118)

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. Lane 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 10:48 a.m. until 11:02 a.m.

Open Session reconvened at 11:05 a.m. and Ms. Lillie called roll.

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

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

August 28, 2012 Open Session Minutes

Ms. Lane made a motion and Ms. Vetti seconded the motion to approve the open session minutes of the August 28, 2012 meeting. The motion passed unanimously.

August 28, 2012 Closed Session Minutes

Ms. Lane made a motion and Ms. Vetti seconded the motion to approve the closed session minutes of the August 28, 2012 meeting. The motion passed unanimously.

Council Adjudications:

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

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

1. Keith A. Werner v. City of Trenton, Department of Public Health (Mercer) (2011-152)
2. Douglas E. Wicks v. Woodbridge Board of Education (Middlesex) (2011-272)
3. Jeannie Swint (on half of Construction Journal) v. Plainfield Housing Authority (Union) (2011-317)
4. Cherie LaPelusa v. City of Bayonne (Hudson) (2012-48)
5. Cherie LaPelusa v. City of Bayonne (Hudson) (2012-137)
6. Stephen B. Levitt v. Montclair Parking Authority (Essex) (2012-200)
7. Richard Isasi v. NJ Department of Corrections (2012-208)
8. David H. Weiner v. County of Essex (2012-213)
9. Regina Shuster v. Pittsgrove Township (Salem) (2012-224)
10. Michael S. Janowski v. NJ State Parole Board (2012-239)
11. Bill Heller (On behalf of Environmental Trust Inc.) v. Bayshore Regional Sewerage Authority (Monmouth) (2012-244)
12. Clevin A. Pittman v. Springfield Township Police Department (2012-246)
13. Michael W. Boyle v. NJ Transit Authority (2012-249)

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

Council Adjudications:

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

Brian J. Levine (On behalf of Natalie Stephens) v. NJ Department of Community Affairs, Division of Fire Safety (2010-339)

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. Mr. Ritardi made a motion and Ms. Vetti seconded the motion. The motion passed by a majority vote; Ms. Lane recused.

Jesse Wolosky v. City of Paterson (Passaic) (2011-134)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-158)

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-193) (consolidated)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-159)

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-195) (consolidated)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-160)

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-196) (consolidated)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-161)

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-162)

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-163)

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-164)

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-165)

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-166)

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-167) (consolidated)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-171)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-173)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-194)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

Steven Hyman v. City of Jersey City (Hudson) (2007-118)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Mr. Caruso stated that since the date the Council received the findings and recommendations, the GRC received additional submissions from the parties which have been added to the background and do not change the proposed findings and recommendations.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Robert Edwards v. Housing Authority of Plainfield (Union) (2008-183)

Robert Edwards v. Housing Authority of Plainfield (Union) (2009-259) (consolidated)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Mr. Ritardi stated that he finds awkward language in the conclusion on page 9. Mr. Ritardi suggested removing the word "thus" and proposed a new sentence denying the request for reconsideration. Ms. Tabakin asked the Council if they were all in agreement with this edit. All Council members agreed.

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

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

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Richard Rivera v. City of Plainfield (Union) (2010-111)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Richard Rivera v. City of Plainfield (Union) (2010-112)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Benjamin A. Spivack (On behalf of Passaic County Sheriff's Department Professional Association) v. NJ Civil Service Commission (2010-130)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Mr. Ritardi stated that the Council adjudicated this complaint last month and since then, legal counsel has come forward. Mr. Ritardi asked if the Council could have the Office of Administrative Law determine who Mr. King represents – the estate of Mr. Spivack or the Professional Association. Ms. Gordon asked Ms. Lack if the letter of representation Mr. King submitted indicated such. Ms. Lack stated that she did not recall. Ms. Tabakin stated that Mr. King is representing the law firm. Mr. Ritardi indicated that it is not clear whether Mr. King represents Spivack or stepping into Spivack's shoes. Ms. Vetti agrees with Mr. Ritardi and stated that she felt we are making assumptions. Ms. Gordon agreed to amend the findings and recommendations to include asking OAL to determine who Mr. King represents – the estate of Mr. Spivack or the Professional Association.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as amended. Ms. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Richard Rivera v. Passaic County Sheriff's Office (2010-181)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Jesse Wolosky v. Township of Randolph (Morris) (2010-186)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Mary Steinhauer-Kula v. Township of Downe (Cumberland) (2010-199)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Lack stated that she added a sentence to the conclusion to confirm that the Council is still referring this matter to OAL.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Clara Halper v. Township of Piscataway (Middlesex) (2010-281)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Jesse Wolosky v. Township of Randolph (Morris) (2010-308)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Jesse Wolosky v. Township of Vernon (Sussex) (2010-311)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Alice Chin v. Teaneck Community Charter School (Bergen) (2010-340)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Paul Marinaccio v. Borough of Fanwood (Union) (2011-14)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Sabino Valdes v. Union City Board of Education (Hudson) (2011-64)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Jeff Carter v. Franklin Fire District #1 (Somerset) (2011-73)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Robert A. Pizzuto v. Borough of Oradell (Bergen) (2011-91)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Anthony F. Pasquarelli v. Burlington County Prosecutor's Office (2011-94)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Christopher Pipa v. NJ Turnpike Authority (2011-107)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Baruch B. Blaustein v. Lakewood Board of Education (Ocean) (2011-109)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Mark Lagerkvist v. NJ Department of Treasury, Division of Pensions & Benefits (2011-110)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Mr. Caruso noted an edit on page 18 and in the conclusions and recommendations – "complainant" should be "custodian." Mr. Caruso also suggested the same edit raised by Mr. Ritardi on the Edwards complaints regarding the reconsideration language. The Council members agreed.

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

Scott L. Derby v. NJ Civil Service Commission (2011-112)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Branden Coughlin v. Borough of High Bridge (Hunterdon) (2011-120)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Ricky A. Pursley v. Township of Hardyston, Police Department (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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Keith A. Werner v. NJ Department of Corrections (2011-153)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Wilfred Selby v. Hazlet Township Police Department (Monmouth) (2011-154)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

David V. Alvarez v. Northwest Bergen County Utilities Authority (2011-205)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Richard Rivera v. City of Passaic (Passaic) (2011-214)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Richard S. Gelber v. City of Hackensack (Bergen) (2011-215)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Mr. Ritardi questioned whether the Council is sending this

complaint to OAL since the Custodian failed to provide compliance. Ms. Gordon stated no because the Custodian did disclose records so there is no knowing and willful violation.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Jeff Carter v. Franklin Fire District #2 (Somerset) (2011-228)

Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Tabakin stated that this is an instance in which the Custodian failed to comply at all to the Council's order and so the complaint is being referred to OAL.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Charles F. Hendricks v. City of Cape May (Cape May) (2011-338)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Thomas H. Foregger v. Township of Berkley Heights (Union) (2012-2)

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. Lane made a motion and Ms. Vetti seconded the motion. The motion passed unanimously.

Ms. Tabakin thanks the GRC staff and the Council members for their hard work on this heavy workload.

GRC Complaints on Appeal: None.

Complaints Adjudicated in NJ Superior Court & NJ Supreme Court: None.

Executive Director's Report and New Business:

Ms. Gordon informed the Council that the GRC has officially published the "Frequently Asked Questions for the Public" on our website (www.nj.gov/grc/public/faqs/). These questions should help answer some of the most common questions about OPRA and the complaint process. Ms. Gordon stated that Ms. Barry was instrumental in this project. Ms. Gordon stated that we are adding hyperlinks to the questions so that they are easy to navigate. Also, we are currently working on creating a similar section geared towards custodians.

Ms. Gordon also stated that the GRC is collaborating with the Office of Information Technology to create an online video of our PowerPoint presentation so we can reach more people with our

training materials. We have officially shot the video and it is now in the production/editing process. We will keep the Council informed of the video's progress.

Public Comment:

Chris Randazzo, Custodian for the NJ Civil Service Commission - Mr. Randazzo asked the Council whether the vote they took today on Derby means that the Council accepted the proposed findings and recommendations contained on his complaint summary. Ms. Gordon and Ms. Tabakin confirmed yes.

Hugh Sharkey, Councilman in Oceanport – Mr. Sharkey stated that he was involved in GRC Complaint Nos. 2007-107 and 2008-141, in which he was found to have knowingly and willfully violated OPRA in one complaint but not the other. However, Mr. Sharkey indicated that new evidence emerged during the latter complaint, which could overturn the knowing and willful ruling in the first complaint. Specifically, Mr. Sharkey asserted that he did turn over the requested e-mails to the Custodian, who lost said e-mails. Ms. Gordon informed Mr. Sharkey that he has 45 days to appeal the Council's decision and 10 days to file for reconsideration, both of which have elapsed. Mr. Sharkey stated that this evidence was not available during those times. Ms. Gordon suggested that Mr. Sharkey file his submissions with the Council for consideration. Mr. Sharkey expressed his concern of doing so, indicating that he has not received responses from Ms. Gordon in the past. Ms. Tabakin confirms that Mr. Sharkey should submit his concerns and evidence in writing to the Council.

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

Meeting adjourned at 11:44 pm.

Respectfully submitted,

Denise Parkinson Vetti, Secretary

Date Approved: