

**Minutes of the Government Records Council
Closed Session of September 8, 2005**

The Council convened in closed session at 9:27 a.m. in Room 129 of the Department of Community Affairs, Trenton, New Jersey. In attendance were: Chairman Vincent Maltese, DeAnna Minus-Vincent (designee of Acting Commissioner Charles Richman, Department of Community of Affairs), Mitchell Fishman, Robin Berg Tabakin, Executive Director Paul Dice, Assistant Executive Director Gloria Luzzatto, In-House Counsel Catherine Starghill, Deputy Attorney General Debra Allen, GRC Staff: Chris Malloy, Kimberly Gardner, Jennifer Arozamena and Colleen McGann.

Absent: Diane Schonyers (designee of Commissioner Librera, Department of Education)

Chairman Maltese stated that the first order of business for the Council would be *in camera* inspections for the following cases:

1. John Paff v. Borough of Far Hills (2005-30)
2. John Paff v. Borough of Somerville (2005-55)

The unredacted documents in the above listed cases for viewing *in camera* were presented in sealed envelopes to Case Manager Colleen McGann and Chris Malloy in the Open Session.

In Camera Inspection – John Paff v. Borough of Far Hills (2005-30)

Present for the documents review were: Vincent Maltese, Mitchell Fishman, Robin Berg Tabakin, DeAnna Minus-Vincent, Paul Dice, Gloria Luzzatto, Colleen McGann, Catherine Starghill, Debra Allen. Ms. McGann distributed the document index, the asserted exemption and the specific citation of law referenced in the Custodian's index and the redacted executive session minutes in question. Ms. McGann read the entirety of the three unredacted paragraphs claimed to be exempt from disclosure. After discussion of the contents of the documents with legal counsel, the Council concluded that the Open Public Meetings Act provisions N.J.S.A. 10:4-12.b.(7) and N.J.S.A. 10:4-12.b.(8) were applicable to the portions of the minutes redacted by the Custodian and therefore properly withheld under OPRA.

In Camera Inspection – John Paff v. Borough of Somerville (2005-55) :

Present for the document review were: Vincent Maltese, Mitchell Fishman, Robin Berg Tabakin, DeAnna Minus-Vincent, Paul Dice, Gloria Luzzatto, Chris Malloy, Catherine Starghill, Debra Allen. Mr. Malloy distributed a summary identifying the document to be reviewed, the asserted exemption, the specific citation of law referenced by the Custodian and a copy of the redacted executive session workshop minutes for March 1, June 7, and December 20, 2004. Mr. Malloy opened the sealed envelope and noted that only the December 20, 2004 minutes were provided. On the legal advice of counsel, the Council concluded that the Custodian would be directed to provide all minutes.

The Council sought further legal advice in the following cases and issues:

Anne Rademacher v. Borough of Eatontown (2004-18)

Ms. Starghill stated that in line with the Superior Court, Appellate Division in Paff v. Department of Labor, we motioned the Court for a remand of this case to conduct an *in camera* inspection of the requested documents.

Eugene Mulero v. Morristown (2005-57)

Ms. Starghill advised that although the Custodian's counsel raises a criminal investigatory records defense in their brief they do not give any legal support for same, but do provide legal support for an attorney-client privilege exemption.

"Matrix"

Mr. Dice recommended that the Council discontinue the use of the "Matrix" because of public and custodian perception concerns. Mr. Maltese asked for legal advice. Ms. Starghill noted that the "Matrix" is not covered under OPRA and there is no legal standard for support.

Mr. Maltese asked for a motion to adjourn the closed session. Mr. Fishman offered the motion, which was seconded by Ms. Minus-Vincent. All members present approved the motion.

The Closed Session concluded at 10:50 a.m.

Respectfully Submitted:



DeAnna Minus-Vincent, Secretary

Dated: November 10, 2005