

DRAFT MINUTES OF THE GOVERNMENT RECORDS COUNCIL

Closed Session of November 9, 2004

The Council convened at 9:05 a.m. in Room 235A of the Department of Community Affairs, Trenton, New Jersey. In attendance were: Chairman Vincent Maltese, Secretary Virginia Hook, Diane Schonyers (designee of Commissioner William Librera, Department of Education), Executive Director Paul Dice, Assistant Executive Director Gloria Luzzatto, Case Managers Chris Malloy, Kimberly Gardner, Erin Knoedler, Marion Davies and Colleen McGann, Deputy Attorney General Andrea Grundfest, Elnardo Webster – Outside Counsel (by telephone conference), Staff Advisor David Zipin

Bernard Spigner, Kimberly Ricketts (designee of Commissioner Susan Bass Levin, Department of Community Affairs) were absent.

The Council sought legal advice with respect to the following cases pursuant to the provisions N.J.S.A. 10:4-12.a(7):

Janon Fisher v. Department of Law & Public Safety, (2004-55)

Andrea Grundfest recused herself from the meeting during the discussion of this case. Discussed legal advice given by outside counsel, Elnardo Webster, to establish criteria as a framework for analysis of special service charges based on Courier Post v. Lenape Regional High School District, 360 N.J. Super. 191 (Law Div. 2002).

Ross Kushner vs. Township of West Milford (2004-111)

Andrea Grundfest re-entered the meeting for the discussion of this case. Discussed the legal advice given by Andrea Grundfest that OPRA does not permit stipulations and/or conditions set on access to government records.

Larry Loigman vs. Township of Middletown (2004-112)

Andrea Grundfest provided legal clarification of the provision of N.J.S.A 47:1A-10 as it related to the resignation letter. She explained that while this provision provides for certain exemptions, it also permits disclosure of the reason for the separation as long as it is not personal to the individual, such as medical or psychological information.

Mr. Maltese asked for a motion to adjourn the closed session at 10:45 a.m. Ms. Hook offered the motion, which was seconded by Ms. Schonyers. All members present approved the motion.

The Executive Session concluded at 10:45 a.m.

Respectfully submitted,

DeAnna Minus-Vincent, Secretary

Dated:

DRAFT MINUTES OF THE GOVERNMENT RECORDS COUNCIL

Closed Session of November 9, 2004

The Council convened in closed session at 1:55 p.m. in Room 235A of the Department of Community Affairs, Trenton, New Jersey to conduct the *in camera* inspection of documents responsive to the request for a determination on access. In attendance were: Chairman Vincent Maltese, Secretary Virginia Hook, Diane Schonyers (designee of Commissioner William Librera, Department of Education), Executive Director Paul Dice, Assistant Executive Director Gloria Luzzatto, Case Manager Kimberly Gardner, and Attorney General Andrea Grundfest.

Thomas Toth v. Ewing Township (2004-21)

Mr. Dice removed nine (9) unredacted documents from the sealed envelope presented to the Council in open session by the Custodian for the *in camera* inspection.

Ms. Grundfest reviewed the legal issues for consideration by the Council in regard to the nine documents being reviewed *in camera*.

Each document was reviewed by the Council in consideration of whether or not said documents were exempt from disclosure in whole or in part because they contain "inter-agency or intra-agency advisory, consultative, or deliberative material" (ACD) pursuant to N.J.S.A. 47:1A-1.1. The Council determined that the Custodian had not met the burden of proving that all redacted information fell within the ACD exemption and noted the their comments regarding each document as follows:

1. Document C-1a (Memorandum from Township's Administrator): Disclose document in its entirety with the exception of the last two sentences in the second paragraph.
2. Document C-1b (Chart of Employees Sick and Vacation Under ERI 2004 For those who indicated non-retirement and/or an extension in retirement. For Comparison – if they were to retire): Redact the names and disclose all other information in the document
3. Document C-1c (Chart of Employees Sick and Vacation Under ERI 2004 For those who indicated non-retirement and/or an extension in retirement. For Comparison – if they were to retire): Redact the names and disclose all other information in the document
4. Document C-1d (Annualized Impact of Early Retirements, Nonparticipants, 5 Year Bond Payout): Disclose the document's heading and all category descriptions; redact all dollar figure information
5. Document C-1e (Annualized Impact of Early Retirements, Nonparticipants, 7 Year Bond Payout): Disclose the document's heading and all category descriptions; redact all dollar figure information
6. Document C-1f (Annualized Impact of Early Retirements, Nonparticipants, 10 Year Bond Payout): Disclose the document's heading and all category descriptions; redact all dollar figure information
7. Document C-1g (Impact of Early Retirement Program): Disclose entire document
8. Document C-1h (Impact of Early Retirement 15 Bond Payout): Disclose the document's heading and all category descriptions; redact all dollar figure information
9. Document C-1i (Impact of Early Retirement 15 Bond Payout): Disclose the document's heading and all category descriptions; redact all dollar figure information

Mr. Maltese asked for a motion to adjourn the closed session of the in camera review. Ms. Hook offered the motion, which was seconded by Ms. Schonyers. All members present approved the motion.

The closed session meeting concluded at 2:45 p.m.

Respectfully submitted,

DeAnna Minus-Vincent, Secretary

Dated: