

Minutes of the Government Records Council
July 30, 2002

Commissioner Bass Levin called the meeting to order at 3:21 p.m.

Commissioner Bass Levin read the Open Public Meetings Statement.

Mr. Pfeiffer called roll as follows:

Present: Vincent Maltese, Susan Bass Levin (Commissioner of Department of Community Affairs), Virginia Hook, Dwight Pfennig (Deputy Commissioner of the Department of Education and designee of the Commissioner of Department of Education and Bernard Spigner.

Also Present: Barbara Conklin, Deputy Attorney General, Marc Pfeiffer, Acting Executive Director, Joseph Greer, GRC Staff and Marc Leavitt, GRC Staff.

Commissioner Bass Levin called for adoption of Robert Rules of Order as the operating procedure for the Council. Ms. Hook moved to adopt Robert Rules of Order, with a second by Mr. Spigner. The motion was adopted by a call of ayes and nays as follows:

Ayes: Mr. Maltese, Commissioner Bass Levin, Ms. Hook, Deputy Commissioner Pfennig, and Mr. Spigner.

Nays: None

Abstain: None.

Commissioner Bass Levin called for the nomination of Chair. Mr. Spigner nominated Vincent Maltese, with a second by Ms. Hook. There were no other nominations. The nominations were closed. The motion was adopted by a call of ayes and nays as follows:

Ayes: Mr. Maltese, Commissioner Bass Levin, Ms. Hook, Deputy Commissioner Pfennig, and Mr. Spigner.

Nays: None

Abstain: None.

Mr. Maltese was elected Chair.

Chair Maltese called for the nomination of Vice Chair. Deputy Commissioner Pfennig nominated Bernard Spigner with a second by Ms. Hook. There were no other nominations. The nominations were closed. The motion was adopted by a call of ayes and nays as follows:

Ayes: Mr. Maltese, Commissioner Bass Levin, Ms. Hook, Deputy Commissioner Pfennig, and Mr. Spigner.

Nays: None

Abstain: None.

Mr. Spigner was elected Vice Chair.

Chair Maltese called for the nomination of Secretary. Mr. Spigner nominated Virginia Hook with a second by Commissioner Bass Levin. There were no other nominations. The nominations were closed. The motion was adopted by a call of ayes and nays as follows:

Ayes: Mr. Maltese, Commissioner Bass Levin, Ms. Hook, Deputy Commissioner Pfennig, and Mr. Spigner.

Nays: None

Abstain: None.

Ms. Hook was elected as Secretary.

Chair Maltese requested Council Comments. Council members commented on their role and goal of the Government Records Council.

Chair Maltese called for the appointment of staff. Mr. Spigner moved to appoint Marc Pfeiffer as Acting Executive Director, Marc Leavitt as Staff Associate and Joseph Greer as Staff Associate, with a second by Ms. Hook. The motion was adopted by a call of ayes and nays as follows:

Ayes: Mr. Maltese, Commissioner Bass Levin, Ms. Hook, Deputy Commissioner Pfennig, and Mr. Spigner.

Nays: None

Abstain: None.

Chair Maltese welcomed the staff aboard. Commissioner Bass Levin noted that copies of the staff resumes are available to the public.

Chair Maltese introduced the Deputy Attorney General, Barbara Conklin.

Chair Maltese explained that the Council would have to adopt an interim Inquiry and Complaint policy. Mr. Pfeiffer explained the policy and stated that copies of the policy are available in the room, and available on the web. Mr. Pfeiffer noted that the alternative avenue is to file a complaint with Superior Court. A copy of the [interim Inquiry Complaint policy](#) is hereto attached.

Ms. Hook moved to adopt the interim Inquiry and Complaint Process with a second by Mr. Pfennig. The motion was adopted by a call of ayes and nays as follows:

Ayes: Mr. Maltese, Commissioner Bass Levin, Ms. Hook, Deputy Commissioner. Pfennig, and Mr. Spigner.

Nays: None

Abstain: None.

Chair Maltese stated that the Council will meet as often as necessary but that a meeting schedule would also be adopted for the remainder of the year. The meetings will be scheduled for the second Thursday of every month at 1:00 p.m., subject to postponement if there are no scheduled agenda items. No meeting is scheduled for August; the next meeting is September 12, 2002.

Mr. Spigner moved to adopt the second Thursday of the each month as the meeting schedule with a second by Ms. Hook. The motion was adopted by a call of ayes and nays as follows:

Ayes: Mr. Maltese, Commissioner Bass Levin, Ms. Hook, Deputy Commissioner Pfennig, and Mr. Spigner.

Nays: None

Abstain: None.

Chair Maltese explained that it was necessary to appoint a Governance Committee to recommend the bylaws and other standing committees for the Council. The Governance Committee will be responsible for recommending the rules and procedures of this Council. The Committee will consist of two GRC members, the Executive Director and the Deputy Attorney General. Chair Maltese stated that the Chair and Vice Chair of the GRC would serve on the Committee with the Vice Chair as chair of the committee.

Commissioner Bass Levin moved to appoint the Governance Committee with a second by Ms. Hook. The motion was adopted by a call of ayes and nays as follows:

Ayes: Mr. Maltese, Commissioner Bass Levin, Ms. Hook, Deputy Commissioner Pfennig, and Mr. Spigner.

Nays: None

Abstain: None.

Chair Maltese opened the meeting for public comment. Chair Maltese noted that the intent of the Council was to listen to comments and not debate policy or comment on matters which might later arise in a Complaint requiring Council adjudication.

Guy Baehr, board member of New Jersey Foundation for Open Government (FOG), addressed the Council on behalf of FOG and submitted a written copy of his comments, attached. Mr. Baehr also distributed a copy of FOG's report on OPRA, suggesting qualifications of, and civil service status for the Council's Executive Director, budget recommendations, and use of private counsel to advise the GRC.

Ron Miskoff, member of the Society of Professional Journalists (SPJ), addressed the Council on behalf of SPJ and submitted a written copy of his comments, attached. Mr. Miskoff suggested

that police departments be made aware that criminal records and investigative records have specific statutory definitions which address the release of information contained therein. Mr. Miskoff also noted that a SPJ member advised him that, in his opinion, Executive Order 9 (Hughes) pertaining to police records is no longer valid after Executive Order 21 (McGreevey), and is contrary to statements in the Custodian Handbook (page 30). Mr. Miskoff also stated that electronic copies of municipal payroll records must be made available to the public even if a private payroll company holds the records.

William Kearns, General Counsel of the New Jersey State League of Municipalities, noted that the League has conducted seminars on OPRA which have been attended by over 2,000 elected and appointed local officials, to date. Mr. Kearns advised the Council that the League is willing to conduct further educational seminars for local officials to assist the GRC. Mr. Kearns stated that it is reasonable to expect some confusion and misunderstanding in applying OPRA but that most errors would be made in good faith, and could be resolved with mediation or additional education. However, formal advice or adjudication by the GRC will be required in some circumstances.

Chair Maltese closed with his own public comments about the role of the Council in implementing OPRA.

Commissioner Bass Levin moved to adjourn, with a second by Mr. Spigner. The motion was adopted unanimously.

Chair Maltese adjourned the meeting at 3:58 p.m.

Respectfully submitted,

Virginia Hook
Secretary