

## **Minutes of the Government Records Council**

March 13, 2003

The meeting was called to order at 9:30 a.m. at the Department of Community Affairs, Room 235A, Trenton, New Jersey. The Open Public Meeting Act statement was read.

Mr. Pfeiffer called the roll:

Present: Chair Vincent Maltese, Dale Caldwell, Assistant Commissioner Department of Community Affairs, Dr. Dwight Pfennig, Deputy Commissioner, Department of Education, Virginia Hook and Bernard Spigner.

Absent: None

The Chair read a resolution to convene in closed session for the purpose of receiving legal advice concerning the complaints scheduled for adjudication that day. Ms. Hook moved to adopt the resolution, which was seconded by Mr. Caldwell. All members present approved the motion. The Council conducted a closed session between 9:35 a.m. and 10:45 a.m.

The Council reconvened in open session at 10:50 a.m. at the Department of Community Affairs, Room 129, Trenton, New Jersey. The Open Public Meeting Act statement was read and attendees recited the Pledge of Allegiance.

Mr. Pfeiffer called the roll:

Present: Chair Vincent Maltese, Dale Caldwell, Deputy Commissioner Department of Community Affairs, Dr. Dwight Pfennig, Deputy Commissioner, Department of Education, Virginia Hook and Bernard Spigner.

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

Mr. Maltese opened the floor to Public Comment. No comments were made.

Mr. Maltese called for adoption of the Minutes of the February 13, 2003 regular meeting as prepared. Mr. Pfeiffer stated that the minutes from the February and March meetings would be adopted during the April meeting.

Mr. Pfeiffer read a copy of the Executive Director's report, which is available for public inspection.

Mr. Pfeiffer stated that the GRC had received two items of correspondence, which he briefly discussed.

Mr. Pfeiffer indicated that there were six items of unfinished business.

- **Complaint 2002-33, Serrano v. South Brunswick Township**

Ms. Conklin indicated that on March 11, 2003, the Superior Court, Appellate Division heard arguments regarding the motion filed by the Middlesex County Prosecutor's Office requesting a stay of the Government Records Council's final decision granting the requester access to the 911 tapes in the matter of Serrano v. South Brunswick Township. Ms. Conklin added that the Court is expected to issue its decision shortly.

Mr. Maltese commented that the Council would await the signed order from the Appellate Division before considering any further action on the matter.

**Complaint 2002-46 and 55, L.E. Fisher and Krisburg v. City of Paterson**

Mr. Pfeiffer explained that staff and legal advisors are currently reviewing submissions from both parties concerning the issue of prevailing parties. Mr. Pfeiffer noted that the process for determining prevailing party attorney fees is also under review..

- **Complaint 2002-58, Reda v. Township of West Milford**

Mr. Pfeiffer indicated that the GRC requested that the attorney representing the Township of West Milford submit a letter certifying that the e-mails requested by Mr. Reda are not government records accessible under OPRA. There was no action for the Council to take at this time.

- **Complaint 2002-6 and 15, Cynthia Teeters v. DYFS**

Mr. Pfeiffer stated that the staff is still reviewing the documents submitted by the parties involved in these cases. Mr. Pfeiffer noted that we are awaiting submission of additional information from DYFS and expects to provide a Final Finding and Recommendation at the next Council meeting.

- **Complaint 2002-47, Blue v. Township of Wall Police Department**

Mr. Pfeiffer indicated that the Division of Law is currently reviewing Title 39 relating to the disclosure of DWI records and expects to receive legal advice from regarding this subject prior to the next meeting.

Mr. Maltese requested that this matter be placed on the next Council agenda.

Mr. Pfeiffer indicated that there were four items under New Business

- **Complaint 2002-39, L.E. Fisher v. Township of Fairfield**

Mr. Pfeiffer recommended that this item be removed from the agenda pending the submission of a written response to the Executive Director's Finding and Recommendations from the custodian's attorney.

Mr. Maltese directed the Executive Director to contact the custodian's attorney to request a written submission to the F&R within the next (10) days. Ms. Hook made a motion to adopt the Executive Director's recommendation to remove this item from the agenda including Mr. Maltese's directive, with a second by Mr. Spigner. The motion was adopted by roll call:

Ayes: Mr. Caldwell, Dr. Pfennig, Ms. Hook, Mr. Spigner and Mr. Maltese.

- **Complaint 2002-34, L.E. Fisher v. Township of Cedar Grove**

Mr. Pfeiffer explained that this complaint involves a request for a copy of a recent invoice to the Township of Cedar Grove from Outside Counsel. The Township provided the requester a copy of a recent invoice without explaining redactions to the invoice.

Mr. Pfeiffer noted that the timing of preparing the Findings and Recommendations on the case did not allow the Council sufficient time to review it for this meeting. The Council agreed to hold the cases over until the next meeting, but that in the meantime the parties be asked to provide comments on the Findings and Recommendations so that they may be considered when the Council hears the matter.

- **Complaint 2002-35, L.E. Fisher v. New Jersey Institute of Technology**

Mr. Pfeiffer stated that this complaint involves a request for a copy of a recent invoice to NJIT from an outside Counsel. The custodian provided the requester with a copy of a recent invoice without explaining redactions.

Mr. Pfeiffer noted that the timing of preparing the Findings and Recommendations on the case did not allow the Council sufficient time to review it for this meeting. The Council agreed to hold the cases over until the next meeting, but that in the meantime the parties be asked to provide comments on the Findings and Recommendations so that they may be considered when the Council hears the matter.

- **Complaint 2002-36, L.E. Fisher v. Passaic County Community College**

Mr. Pfeiffer explained that this complaint involves a request for a copy of a recent invoice to Passaic County Community College from outside counsel. The custodian provided the requester a copy of a recent invoice without explaining redactions to the invoice. In a letter dated March 9, 2003, the custodian's attorney provided the requester access to the invoices with no redactions. Based upon the custodian's attorney providing access to the unredacted invoice, the Executive Director recommended that the dismiss that portion of the Complaint seeking access to the invoices and requested that the parties submit written comments by noon

on March 28, 2003 substantiating whether the requester is a prevailing party entitled to reasonable attorney's fees. Ms. Hook made a motion to adopt the Executive Director's Finding and Recommendations, with a second by Mr. Spigner. The motion was adopted by roll call:

Ayes: Mr. Caldwell, Dr. Pfennig, Ms. Hook, Mr. Spigner and Mr. Maltese.

Mr. Pfeiffer recommended that the Council consider holding a special meeting in April and that amendments to the Council's inquiry and complaint policy will be considered at the next meeting

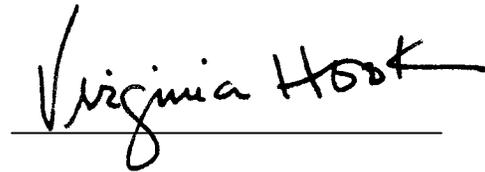
Mr. Maltese opened the floor to public comment. No comments were made.

Mr. Spigner moved to adjourn the meeting, with as second by Mr. Caldwell. The motion was adopted by roll call:

Ayes: Mr. Caldwell, Dr. Pfennig, Ms. Hook, Mr. Spigner and Mr. Maltese.

Mr. Maltese adjourned the meeting at 11: 35 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Virginia Hook". The signature is written in a cursive style and is positioned above a solid horizontal line.

Virginia Hook, Secretary