

## MINUTES OF THE GOVERNMENT RECORDS COUNCIL

April 10, 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, Matthew U. Watkins (designee of Commissioner Susan Bass Levin, department of Community Affairs), Virginia Hook and Bernard Spigner.

Absent: Dr. Dwight Pfennig, Deputy Commissioner, Department of Education

The Chair read a resolution to convene in closed session to receive legal advice concerning the complaints scheduled for adjudication that day. Mr. Watkins moved to adopt the resolution, which was seconded by Ms. Hook. All members present approved the motion. The Council conducted a closed session between 9:35 a.m. and 10:30 a.m.

The Council reconvened in open session at 10:45 a.m. in Room 129 of the Department of Community Affairs, 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, Virginia Hook, and Bernard Spigner.

Absent: Mr. Matthew U. Watkins and Dr. Dwight Pfennig

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 Minutes from the Public meetings of February and March 2003 as well as the closed sessions of February and March 2003. Mr. Pfeiffer explained that selected portions of closed session minutes from December 12, 2002, January 17 2003, and February 13, 2003 meetings would not be released until the conclusion of litigation related to those matters. Mr. Pfeiffer indicated that the following Complaints would be omitted from the open and closed sessions minutes: Complaint 2002-46 & 2002-55 from December 12, 2002; Complaint 2002-58 from January 17, 2003; Complaints 2002-6, 2002-15, 2002-47 and 2002-88 from the February 13, 2003 meeting. Mr. Spigner moved to adopt the minutes as prepared with a second by Ms. Hook. The motion was adopted by roll call:

Ayes: Ms. Hook, Mr. Spigner and Mr. Maltese.

Mr. Pfeiffer read the Executive Director's report, a copy of which is available for public inspection. Mr. Pfeiffer also stated that a copy of the Executive Director's report is available on the GRC website.

Mr. Pfeiffer stated that the Council had received no formal communications. Ms. Conklin briefly explained the Appellate Division decision upholding the Council's Final Decision awarding access to a 911 tape in the matter of Serrano v. South Brunswick Township. Ms. Conklin also discussed Courier News v. Hunterdon County Prosecutor, in which the Appellate court reversed a Law Division decision denying access to a different 911 tape. Both cases are published court decisions and are available on the GRC website.

The Council commended Ms. Conklin for her efforts in defending the Council's decision in Serrano.

Mr. Maltese called for any Unfinished Business.

Mr. Pfeiffer explained that the GRC is awaiting advice from the Attorney General's office concerning the circumstances under which an OPRA requester is a "prevailing party" eligible to recoup reasonable attorney's fees under OPRA. Mr. Pfeiffer added that Complaints 2002-46 and 55; 2002-34, 2002-35 and 2002-36 involve questions concerning prevailing party status. Mr. Pfeiffer added that he expects to obtain legal advice by the next Council meeting.

- **Complaint 2002-6 and 15, L.E. Fisher v. DYFS**

Mr. Pfeiffer indicated that the custodian has provided additional documentation in Complaint 2002-6 and 2002-15, Teeters v. DYFS. Mr. Pfeiffer added that he expects this matter to be adjudicated at a subsequent meeting.

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

Mr. Pfeiffer explained that the custodian's attorney provided a letter listing the e-mails. A copy of the attorney's letter certifying the information regarding the e-mails will be forwarded to the complainant for review and approval. The GRC will follow up with the complainant to determine if he agrees with the letter and accompanying documentation from the custodian's attorney.

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

Mr. Pfeiffer explained that the Council is awaiting legal advice from the Division of Law concerning this case.

- **Complaint 2002-88, Minuskin v. NJ Department of Transportation**

Mr. Pfeiffer indicated that the custodian has been granted additional time to respond to the GRC after reviewing a transcript of Council proceedings in this matter and will respond with a revised set of filings. Mr. Pfeiffer recommended and it was moved by Ms. Hook and

seconded by Mr. Spigner that the existing order for a hearing be suspended and the case be returned for investigation and issuance of new Findings and Recommendations. The motion was adopted by roll call:

Ayes: Ms. Hook, Mr. Spigner and Mr. Maltese.

Mr. Maltese called for any New Business

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

Mr. Pfeiffer indicated that due to a late filing, the Finding and Recommendation was not available in time for this meeting. Mr. Pfeiffer expects to submit the F&R in time for the next Council meeting.

- **Complaint 2002-71, Edwards v. City of Jersey City**

Mr. Pfeiffer recommended that the Council withdraw this complaint from consideration at this time as the custodian requested additional time to file a response. Council concurred with the Executive Director's recommendation.

Catherine Starghill, Staff Associate of the State's Privacy Study Commission delivered a presentation concerning the Commission's work. The Commission was created pursuant to Section 15 of OPRA. A copy of the presentation is available for public inspection.

Mr. Pfeiffer explained the amendments proposed to the Council's Inquiry and Complaint Policy. A copy of the proposed amendments are available for public inspection on the GRC's website. Mr. Maltese indicated that the GRC welcomed public comment on the proposed amendments and would consider same prior to taking formal action to adopt the amendments.

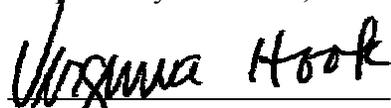
Mr. Maltese opened the floor to Public Comment. No comments were made.

Mr. Spigner moved to adjourn the meeting, with a second Ms. Hook. The motion was adopted by roll call:

Ayes: Ms. Hook, Mr. Spigner and Mr. Maltese.

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

Respectfully submitted,

  
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Virginia Hook, Secretary