



**Minutes of the Government Records Council
April 30, 2013 – Closed Session**

The Council convened in closed session at 10:43 a.m. in Conference Room 129 of the Department of Community Affairs, Trenton, New Jersey. In attendance were: Robin Berg Tabakin, Esq. (Chairwoman), Denise Parkinson Vetti, Esq. (designee of Department of Education Commissioner Chris Cerf), Dana Lane, Esq. (designee of Department of Community Affairs Commissioner Richard E. Constable, III) and Steven Ritardi, Esq. (public member).

Also in attendance were GRC Staff: Brandon D. Minde, Esq. (Executive Director), Brigitte Lillie (Secretary), Dara L. Barry (Communications Manager), Frank F. Caruso (Senior Case Manager), Harlynn A. Lack, Esq. (Case Manager), and Debra Allen, Esq. (Deputy Attorney General).

Ms. Vetti made a motion, seconded by Ms. Lane, to go into closed session. The Council adopted the motion by a unanimous vote.

Ms. Tabakin read the Closed Session Resolution to go into closed session pursuant to N.J.S.A. 10:4-12(b)(7) to receive legal advice and/or discuss anticipated litigation in which the public body may become a party in the following matters:

1. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-385) (In-Camera Review) (Recusal SR)

Mr. Caruso introduced to the Council the records submitted for an *in camera* review. Mr. Caruso stated that the Council ordered the *in camera* review to determine the validity of the Custodian's assertion that the redactions contained in the requested e-mails constitute "... administrative or technical information regarding computer hardware, software and networks which, if disclosed, would jeopardize computer security..." pursuant to N.J.S.A. 47:1A-1.1. Mr. Caruso stated that the Custodian failed to submit a document index and there are variations in the exemptions applied to the redactions. Specifically, Mr. Caruso stated that a redacted e-mail address is actually a telephone number. However, Mr. Caruso asserts that despite the inconsistencies, all the redactions are appropriate.

The Council reviewed the records submitted for the *in camera* review as well as the proposed Findings & Recommendations of the Executive Director. The Council agreed to put the proposed Findings & Recommendations of the Executive Director to a vote during open session.

2. Rita Roykovich v. West Milford Board of Education (Passaic) (2011-258) (In-Camera Review)

Ms. Lack introduced to the Council the records submitted for an *in camera* review. Ms. Lack stated that the Council ordered the *in camera* review to determine the validity of the Custodian's assertion that the bullying report contains advisory, consultative and deliberative material pursuant to N.J.S.A. 47:1A-1.1. Ms. Lack stated that this complaint was scheduled for adjudication at a previous Council meeting in which the Council determined that it wanted additional information from the Custodian regarding the bullying report. Ms. Lack asserts that based on this new evidence, the entire report is exempt as advisory, consultative and deliberative material pursuant to N.J.S.A. 47:1A-1.1.

The Council reviewed the records submitted for the *in camera* review as well as the proposed Findings & Recommendations of the Executive Director. The Council agreed to put the proposed Findings & Recommendations of the Executive Director to a vote during open session.

3. Requests to Issue Advisory Opinions

Mr. Minde stated that the Council is statutorily obligated to issue advisory opinions on the disclosability of government records, and has recently received two (2) requests for advisory opinions: the disclosure of outdoor police video surveillance and tenure charge documents that were never filed with the Board Secretary. Mr. Minde asked the Council whether they have any suggested topics for advisory opinions. Mr. Ritardi stated that he has been asked for an opinion on the disclosure of disorderly persons offenses. Ms. Barry stated that there may be a prior GRC decision regarding disorderly persons offenses. Mr. Minde stated that staff will research topics and draft a suggested opinion for discussion at a future meeting.

4. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-323)

5. Jeff Carter v. Franklin Fire District No. 2 (Somerset) (2011-319) (consolidated discussion)

Mr. Minde stated that these cases represent examples of two (2) types of complaints the Council refers to the Office of Administrative Law: 1) a hearing to resolve contested facts; 2) to determine an award of reasonable prevailing party attorney's fees. Mr. Minde stated that his goal is to move these functions in-house, starting with the prevailing party fees application. Mr. Minde stated that the Council's regulations set forth the requirement for the application and award of prevailing party fees and complaints will proceed more quickly if the Council handles these issues in-house. The Council members agreed.

Ms. Vetti made a motion and Ms. Lane seconded the motion to end the closed session. The Council adopted the motion by a unanimous vote.

The closed session meeting concluded at 11:28 a.m.

Respectfully Submitted:

Steven Ritardi, Esq., Secretary

Date Approved: May 28, 2013