

DRAFT CLOSED SESSION MINUTES

Government Records Council

April 10, 2003

The Council convened in closed session at 9:35 a.m. in Room 235 of the Department of Community Affairs. In attendance were: Chair Vincent Maltese, Matthew U. Watkins (designee of Commissioner Susan Bass Levin, department of Community Affairs), Virginia Hook and Bernard Spigner. Also in attendance were: Deputy Attorney General Barbara Conklin, Acting Executive Director Marc Pfeiffer, Assistant Executive Director Paul Dice and GRC Staff Joseph Greer.

Mr. Pfeiffer indicated that closed session minutes are available for approval with the exception of certain portions of the minutes for the months of December, January and February. The closed session minutes adopted by the Council and approved for release will be posted on the GRC websites. Mr. Pfeiffer indicated that the minutes posted on the website will contain black boxes where portions of the minutes not yet adopted by the Council and approved for release have been omitted.

Mr. Pfeiffer provided an update on Complaint 2002-58, Reda v. Township of West Milford, which involves a request for e-mails between certain township officials. Mr. Pfeiffer stated that the attorney representing the township provided a list of several hundred e-mails in its custody in response to a letter from the Executive Director as well as the Township's position concerning the confidentiality of each e-mail under OPRA. A copy of the letter along with the list of e-mails will be provided to the requestor for review and comment. Mr. Pfeiffer stated if the requestor agrees with the custodian's assessment concerning access, the matter will conclude. However, if the requestor rejects the custodian's claims of privilege, then the GRC will continue its investigation.

Mr. Pfeiffer provided a status report on Complaints 2002-6 & 15, Teeters v. DYFS. Mr. Pfeiffer indicated that the matter remained in investigation since DYFS has provided new information to the requestor since the last Council meeting. Ms. Conklin observed that the case is still on going in terms of what documents actually exist in DYFS's files and which records DYFS is willing to release to the requestor.

Mr. Watkins left the meeting at this time.

Mr. Pfeiffer provided an update on Complaint 2002-47, Blue v. Wall Township and stated that the staff was awaiting legal advice from the Attorney General's office concerning the case.

Ms. Conklin indicated that there are still unresolved legal issues involving the appraisal in Complaint 2002-88, Minuskin v. Division of Law. Ms. Conklin will continue to research the issue involving the appraisal.

Mr. Maltese asked whether the legal issues concerning "prevailing party" status under OPRA could be addressed by the next Council meeting. Ms. Conklin indicated that the Division of Law

would provide the Council this legal advice as soon as possible. Mr. Maltese advised that the Council would like to adjudicate the cases currently pending before it that involved questions concerning prevailing party status before moving on to other cases.

Mr. Pfeiffer briefly explained that the attorney for the custodian in Complaint 2002-39, L.E. Fisher v. Township of Fairfield, submitted a letter to the GRC explaining the redactions made to the invoice of outside counsel, but failed to forward a copy to the requestor's attorney. Mr. Pfeiffer indicated that the GRC staff would send a copy to the requestor's attorney.

Mr. Pfeiffer recommended that Complaint 2002-71, Edwards v. Jersey City, be removed from the agenda for further investigation by the GRC.

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

Aye: Mr. Watkins, Ms. Hook, Mr. Spigner and Mr. Maltese.

The Executive Session concluded at 10:30 a.m.

Respectfully Submitted,

Virginia Hook, Secretary