

FILED

MAR 19 2009

**B. THEODORE BOZONELIS, A.J.S.C.
JUDGE'S CHAMBERS
MORRIS COUNTY COURTHOUSE**

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Township of Vernon, New Jersey and
Robin R. Kline, Township Clerk and Records Custodian

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| JESSE WOLOSKY, | : | SUPERIOR COURT OF NEW JERSEY |
| | : | LAW DIVISION ~ SUSSEX COUNTY |
| | : | |
| Plaintiff, | : | Docket No.: SSX-L-079-09 |
| | : | |
| v. | : | CIVIL ACTION |
| | : | |
| TOWNSHIP OF VERNON and | : | |
| ROBIN R. KLINE, in her official | : | |
| capacity as Township Clerk and | : | |
| Records Custodian, | : | |
| | : | |
| Defendants. | : | ORDER |

THIS MATTER having been brought before the Court pursuant to R. 4:67-2(a) by Walter M. Luers, Esq., of the Law Offices of Walter M. Luers, LLC, and the Law Office of Jonathan E. McMeen, attorneys for Plaintiff, by Verified Complaint and Order to Show Cause, on notice to Chasan Leyner & Lamparello, attorneys for Defendants Township of Vernon and Robin R. Kline in her official capacity as Township Clerk and Records Custodian, and the Court having considered the papers submitted by the parties, and having heard oral argument on March 3, 2009, and for good cause appearing,

IT IS, on this 16th day of March, 2009,

ORDERED as follows:

1. For the reasons stated by the Court on March 3, 2009, it is declared that Defendants are not in violation of the Open Public Records Act ("OPRA") with regard to Plaintiff's January 15, 2009 OPRA request. The parties shall forthwith mediate the issue of whether additional information contained in Vernon Township Council closed session minutes produced in response to Plaintiff's January 15, 2009 OPRA request *should be unredacted*. In the event the parties are unable to reach a resolution of this issue, the Court will conduct an in camera review of the minutes to determine the proper scope of redactions. Within twenty days after the date of this Order, the parties shall submit a joint written report to the Court advising the Court whether an in camera review is necessary;

2. For the reasons stated by the Court on March 3, 2009, it is declared that Defendants violated the Open Public Records Act by not providing copies of the Vernon Township Council closed session minutes requested by Plaintiff in his January 5, 2009 OPRA request, and Defendants are ordered to forthwith grant Mr. Wolosky access to the meeting minutes requested by Plaintiff in his January 5, 2009 OPRA request. The Court notes that Defendants released the subject minutes to the public on February 26, 2009, and provided copies of the subject minutes to Plaintiff on March 3, 2009, immediately following oral argument;


3. For the reasons stated by the Court on March 3, 2009, defendant Township of Vernon shall pass and abide by an ordinance in the form and substance that is attached hereto as Attachment A within 60 days after the date of this Order;

4. For the reasons stated by the Court on March 3, 2009, Defendants

violated the Open Public Meetings Act because Defendants' closed session minutes were not sufficiently clear regarding the reasons why Defendants were holding discussions in closed session. Prospectively, closed session minutes prepared by the Defendants shall include the specific reasons for discussion of each topic in closed session and shall be specific as to the topics discussed.

5. Regarding the Court's ruling in paragraph 2 of this Order only, Plaintiff Wolosky is the prevailing party in this action and shall submit his petition for attorneys fees and bill of costs pursuant to N.J.S.A. 47:1A-6 within 20 days of service of this Order, and such fees and costs shall be limited in a manner consistent with this Order; and

6. A copy of this Order shall be served upon counsel for Defendants within seven days of the date of this Order's entry and return.


B. Theodore Bozonelis, A.J.S.C.

OPPOSED XX

UNOPPOSED _____

ATTACHMENT A

TOWNSHIP OF VERNON

RESOLUTION #09-45

POLICY CONCERNING RELEASE OF EXECUTIVE SESSION MINUTES

WHEREAS, pursuant to the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-6, et seq., a public body is required to keep reasonably comprehensible minutes of all its meetings showing the time and place, the members present, the subjects considered, the actions taken, the vote of each member, and any other information required to be shown in the minutes by law, which shall be promptly available to the public to the extent that making such matters public shall not be inconsistent with N.J.S.A. 10:4-12; and

WHEREAS, meetings of the Vernon Township Council are subject to the New Jersey Open Public Meetings Act.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Vernon, County of Sussex, New Jersey, as follows:

1. The Township Clerk or her designee shall attend all executive session meetings of the Vernon Township Council and shall prepare a confidential set of draft minutes of each executive session meeting, with proposed redactions as appropriate, for approval by the Township Council at the next regularly scheduled Council meeting unless exigent circumstances delay the preparation of such minutes, in which case the minutes shall be presented at the next regularly scheduled Council meeting following the delay.

2. The Council shall consider for approval the draft executive session minutes and the proposed redactions, and shall vote of the approval of the minutes and release of redacted minutes, if any. The Council may discuss the approval of the draft minutes and redactions in executive session if there are issues concerning the draft minutes which require confidential discussion. Upon approval for public release, the executive session minutes shall be available to the public on the following business day.

3. The Township Clerk will maintain a privilege/redaction log describing the general topic discussed, the date on which the topic was discussed, and the reason for the redaction. The log will be appended to each set of draft executive session minutes presented to the Township Council. The list shall be reviewed by the Township Council as part of the current minute approval process to ascertain if the legitimate reason for confidentiality continues to exist.

4. If the Township Council, by vote at a public meeting, determines that the legitimate reason for confidentiality no longer exists with regard to a particular executive session discussion, the Township Clerk shall make the previously redacted minutes so voted upon available to the public in unredacted form on the following business day.

CERTIFICATION

I hereby certify that the above resolution is a true copy of the resolution adopted by the Council of the Township of Vernon at their Regular Meeting held on March 12, 2009 at 6:00p.m. in the Vernon Municipal Center.

Robin R. Kline, MAS, RMC
Municipal Clerk