



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
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PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

NOTICE OF MEETING
Government Records Council
May 21, 2019

Pursuant to the Open Public Meetings Act, notice is hereby given that the Government Records Council will hold a regular meeting, at which formal action may be taken, commencing at 1:30 p.m., Tuesday, May 21, 2019, at the Department of Community Affairs (“DCA”) offices located at 101 South Broad Street in Trenton, New Jersey.

The agenda, to the extent presently known, is listed below. The public session and consideration of cases is expected to commence at 1:30 p.m. in Room 129 of the DCA.

I. Public Session:

Call to Order
Pledge of Allegiance
Meeting Notice
Roll Call

II. Acting Executive Director’s Report

III. Closed Session

- Dudley Burdge v. NJ Office of Information Technology (2014-338)
- Marie W. Collinson v. Unity Charter School (Morris) (2016-226)

IV. Approval of Minutes of Previous Meetings:

April 30, 2019 Open Session Meeting Minutes
April 30, 2019 Closed Session Meeting Minutes

V. New Business – Cases Scheduled for Consent Agenda Administrative Complaint Disposition Adjudication *

An “Administrative Complaint Disposition” means a decision by the Council as to whether to accept or reject the Council Staff’s recommendation of dismissal based on jurisdictional, procedural or other defects of the complaint. The Council Staff’s recommended reason for the Administrative Disposition is under each complaint below.

A. Administrative Disposition Adjudications with Recusals (Consent Agenda): None

B. Administrative Disposition Adjudications with no Recusals (Consent Agenda): None

C. Administrative Disposition Uncontested, Voluntary Withdrawals by Complainant (No Adjudication of the Council is Required):

1. Cynthia A. McBride (o/b/o Charles Jones – A Data Trace Company) v. Town of Phillipsburg (Warren) (2019-4)
 - Complaint Settled in Mediation.
2. Marc Liebeskind v. NJ Motor Vehicle Commission (2019-34)
 - Complaint Settled in Mediation.
3. David Weiner v. County of Essex (2019-42)
 - Complaint Voluntarily Withdrawn.
4. Marc Edwards v. NJ Institute of Technology (2019-64)
 - Complaint Voluntarily Withdrawn.
5. Luis F. Rodriguez v. Kean University (2019-73)
 - Complaint Voluntarily Withdrawn.
6. David Weiner v. Township of Ocean (Monmouth) (2019-76)
 - Complaint Voluntarily Withdrawn.

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

The Council Staff’s recommended action is under each complaint below.

A. Individual Complaint Adjudications with Recusals:

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| <ol style="list-style-type: none">1. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2013-43) (SR Recusal)2. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2013-53) (SR Recusal)
Consolidated |
|---|

- The Council should adopt the Administrative Law Judge’s April 22, 2019 Initial Decision dismissing this complaint based on a settlement agreement.
 - The Council should also adopt the ALJ’s April 18, 2019 Order on Motion awarding \$12,417.00 in attorney’s fees to the Complainant
3. Christa L. Hayes v. City of Newark (Essex) (2017-65) **(SR Recusal)**
 - This complaint should be tabled for further review.
 4. Robert Bell v. Hudson County Prosecutor’s Office (2017-86) **(SR Recusal)**
 - The Custodian lawfully denied access to request item No. 1 and a portion of item No. 5 because no records existed.
 - The Custodian lawfully denied access to many of the remaining records under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1.
 - The Custodian unlawfully denied access to the requested arrest report and complaint. In addition, the Custodian may have unlawfully denied access to the requested warrant. The Custodian shall either disclose these records, with redactions where applicable, certify if no records exist, and/or certify if the warrant is part of another record.
 - The knowing and willful analysis is deferred.

5. Stephen Schnitzer, Esq. (o/b/o Vito's Trattoria, Inc.) v. NJ Transit (2016-140) (**SR and RBT Recusal**)
 - This case cannot be adjudicated due to lack of quorum.

B. Individual Complaint Adjudications with no Recusals:

1. Shawn G. Hopkins v. Borough of Oceanport (Monmouth) (2014-42)
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
2. Shawn G. Hopkins v. Borough of Shrewsbury (Monmouth) (2014-43)
 - The Custodian failed to comply fully with the Council's February 26, 2019 Interim Order.
 - There is no knowing and willful violation.
3. Shawn G. Hopkins v. Township of Neptune (Monmouth) (2014-45)
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
4. Shawn G. Hopkins v. Township of Upper Freehold (Monmouth) (2014-65)
 - The Custodian complied with the Council's April 30, 2019 Interim Order.
 - There is no knowing and willful violation.
5. Dudley Burdge v. NJ Office of Information Technology (2014-338)
 - The Custodian failed to comply fully with the Council's January 31, 2017 Interim Order.
 - The Custodian shall comply with the Council's *In Camera* Examination findings.
 - The knowing and willful analysis is deferred.
6. Edwin Sheppard v. Cape May County (2016-195)
 - This complaint should be referred to the OAL for a determination on the Complainant's objection to representation and appropriate action as applicable. N.J.A.C. 5:105-1 et seq.; N.J.A.C. 1:1-5.3.
 - The reconsideration request is deferred.
7. Scott M. Halliwell and Anthony G. Pennant v. Borough of Brooklawn (Camden) (2016-201)
 - This complaint should be tabled for further review.
8. Marie W. Collinson v. Unity Charter School (Morris) (2016-226)
 - The Custodian complied with the Council's November 13, 2018 Interim Order.
 - The Custodian shall comply with the Council's *In Camera* Examination findings.
 - The knowing and willful analysis is deferred.
9. Scott DiRoma v. NJ State Parole Board (2016-278)
 - The Custodian's request for reconsideration based on a mistake should be denied.
 - The Council's December 18, 2018 Interim Order remains in effect.

10. Christina Moreira v. Elizabeth Board of Education (Union) (2017-24)
 - The Custodian unlawfully denied access to Mr. Arceiri's resume and job qualifications. N.J.S.A. 47:1A-10; Executive Order No. 26 (Gov. McGreevey, 2002). The Custodian shall disclose the resume and records identifying Mr. Arceiri's job qualifications.
 - The Custodian lawfully denied access to Mr. Arceiri's job application. EO 26.
 - The Custodian lawfully denied access to the Complainant's December 12, 2016 OPRA request item Nos. 1, 3, and 4, as well as the Complainant's January 6, 2017 OPRA request because no records existed. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
 - The knowing and willful analysis is deferred.
11. Julie Ramirez v. Princeton Charter School (Mercer) (2017-64)
 - The Complainant's OPRA request was invalid because it failed to identify a subject matter or content for the responsive correspondence. Ciszewski v. Newton Police Dep't (Sussex), GRC Complaint No. 2013-90 (October 2013).
12. Brian J. Duffield, Esq. v. Township of Deptford (Gloucester) (2017-68)
 - The Complainant's OPRA request was invalid because it required research. Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-147, *et seq.*
13. Luis F. Rodriguez v. Kean University (2017-82)
 - The Custodian's failure to respond immediately to the Complainant's OPRA request seeking invoices resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(e).
 - There is no knowing and willful violation.
14. Rocco Maldonado v. Ocean County Prosecutor's Office (2017-146)
 - The portion of the Complainant's request seeking "any/all records" is invalid. Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008).
 - The portion of the OPRA request seeking correspondence is valid because it contained the necessary criteria. Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010); Armenti v. Robbinsville Bd. of Educ. (Mercer), GRC Complaint No. 2009-154 (Interim Order May 24, 2011). For this portion, the Custodian may have unlawfully denied access to records, and must either disclose those that are disclosable or certify if none exist.
 - The Custodian lawfully denied access to the portion of the request seeking access to the plea agreement because none exists. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
 - The knowing and willful analysis is deferred.
15. Robert S. Daniel v. Township of West Orange (Essex) (2017-163)
 - The Custodian lawfully denied access to the requested draft resolutions because they were exempt under the "inter-agency or intra agency advisory, consultative, or deliberative [(“ACD”)] material" exemption. N.J.S.A. 47:1A-1.1; Libertarians for Transparent Gov't v. Gov't Records Council, 453 N.J. Super. 83 (App. Div.) (certif. denied, 233 N.J. 484 (2018)).

16. Kafele K. Bomani v. Atlantic County Prosecutor's Office (2017-174)
 - The Custodian lawfully denied access to OPRA request item Nos. 1 through 3 because no records existed. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
 - The Custodian lawfully denied access to OPRA request item Nos. 4 through 6 pursuant to the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; North Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017).
17. Ernest Pierce v. Salem County Prosecutor's Office (2017-176)
 - The Complainant's request was invalid because it did not include sufficient identifiers and sought "promis gavel." Shahid v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2008-251 (November 2009); Barkley v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2013-244 (Interim Order dated April 29, 2014).
18. Alfred Bishop v. NJ Department of Corrections (2017-178)
 - The Complainant's request was invalid as a blanket request for a class of various records in part and also a request for generic records in part. Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008).

VII. Court Decisions of GRC Complaints on Appeal: None.

VIII. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:

- Rivera v. Borough of Fort Lee, 2019 N.J. Super. Unpub. LEXIS 1019 (App. Div. 2019)

IX. Public Comment:

The public comment period is limited to providing an opportunity for speakers to present suggestions, views and comments relevant to the Council's functions and responsibilities. In the interest of time, speakers may be limited to **five (5) minutes**. Speakers shall not be permitted to make oral or written testimony regarding pending or scheduled adjudications.*

X. Adjournment

*Neither attorneys nor other representatives of the parties are required to attend this meeting nor will they be permitted to make oral or written comment during the adjudication.