



**Minutes of the Government Records Council
February 26, 2019 Public Meeting – Open Session**

I. Public Session:

- **Call to Order**

The meeting was called to order at 1:34 p.m. by Steven Ritardi at the Department of Community Affairs, Conference Room 129, Trenton, New Jersey.

- **Pledge of Allegiance**

All stood and recited the pledge of allegiance in salute to the American flag.

- **Meeting Notice**

Mr. Ritardi read the following Open Public Meetings Act statement:

“This meeting was called pursuant to the provisions of the Open Public Meeting Act. Notices of this meeting were faxed to the Newark Star Ledger, Trenton Times, Courier-Post (Cherry Hill), and the Secretary of State on February 21, 2019.”

Mr. Huber read the fire emergency procedure.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Christopher Huber, Esq. (designee of Department of Education Commissioner Dr. Richard Lamont Repollet), Kimberly Holmes. (designee of Department of Community Affairs Commissioner, Lt. Governor Sheila Y. Oliver), and Steven Ritardi, Esq. (Public Member).

*****Ms. Robin Berg Tabakin participated telephonically.*****

GRC Staff in Attendance: Frank F. Caruso (Acting Executive Director), Rosemond Bordzoe (Secretary), Samuel Rosado (Staff Attorney), and Deputy Attorney General Debra Allen.

Mr. Ritardi advised that copies of the agenda are available by the conference room door.

II. Acting Executive Director's Report:

OPRA Trainings

The GRC is currently working on its 2019 training calendar. As previously noted, the GRC intends to hold its 13th Annual Seminar, likely in August 2019. Additionally, the GRC will certainly participate in the N.J. League of Municipalities Annual Conference in November if invited. Finally, the GRC conducted a training for DCA custodians on February 22, 2019 and has one additional training scheduled for June 7, 2019 with the Office of Legislative Services.

GRC Councilmembers

The GRC would like to welcome Regulatory Officer Kimberly Holmes as the new DCA designee going forward. The GRC is excited to have Ms. Holmes on the Council. Jason Martucci, who previously sat on the Council as the designee, has been phased into additional duties that limited his ability to also serve on the Council. The GRC thanks Mr. Martucci for his exceptional and thoughtful service to the Council.

GRC Staffing

The GRC was previously given approval to post for its "Case Manager" vacancy previously held by former Staff Attorney Husna Kazmir. A candidate has been selected and the hiring process initiated. The GRC is awaiting word on a potential start date.

Current Statistics

- Since OPRA's inception in July 2002, the GRC has received 5,131 Denial of Access Complaints. That averages about 309 annual complaints per 16 2/3 program years. So far in the current program year (FY2019), the GRC has received 241 Denial of Access Complaints, which has already surpassed all of FY2018 filings by 14 complaints.
- 510 of the 5,131 complaints remain open and active (10.1%). Of those open cases:
 - 8 complaints are on appeal with the Appellate Division (1.5%);
 - 18 complaints are currently in mediation (3.5%);
 - 1 complaint is proposed for the Office of Administrative Law (0.0%);
 - 30 complaints await adjudication by the Office of Administrative Law (6.0%);
 - 68 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (13.3%);
 - 385 complaints are work in progress (75.5%); and
 - 0 complaints are being held in abeyance (0%).
- Since Program Year 2004, the GRC has received and responded to 30,116 total inquiries, averaging about 1,931 annual inquiries per 15 2/3 tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current

program year (FY2019), the GRC has received 1,140 inquiries (7 inquiries per workday).

III. Closed Session: None

IV. Approval of Minutes of Previous Meetings:

December 18, 2018 Open Session Meeting Minutes

Mr. Ritardi called for a motion to approve the draft open session minutes of the December 18, 2018 meeting. Ms. Holmes noted that she confirmed the accuracy of the draft minutes with Mr. Jason Martucci. Mr. Huber made a motion, which was seconded by Ms. Holmes. The motion passed by a majority vote; Ms. Berg Tabakin abstained.

December 18, 2018 Closed Session Meeting Minutes

Mr. Ritardi called for a motion to approve the draft closed session minutes of the December 18, 2018 meeting. Ms. Holmes noted that she confirmed the accuracy of the draft minutes with Mr. Jason Martucci. Mr. Huber made a motion, which was seconded by Ms. Holmes. The motion passed by a majority vote; Ms. Berg Tabakin abstained.

January 31, 2019 Open Session Meeting Minutes

Mr. Ritardi called for a motion to approve the draft open session minutes of the January 31, 2019 meeting. Mr. Huber made a motion, which was seconded by Ms. Holmes. The motion passed by a majority vote; Ms. Ritardi abstained.

January 31, 2019 Closed Session Meeting Minutes

Mr. Ritardi called for a motion to approve the draft closed session minutes of the January 31, 2019 meeting. Mr. Huber made a motion, which was seconded by Ms. Holmes. The motion passed by a majority vote; Mr. Ritardi abstained.

V. New Business – Cases Scheduled for Adjudication

Mr. Ritardi stated that 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 reason for the Administrative Disposition is under each complaint below:

A. Administrative Disposition Adjudications with Recusals (Consent Agenda):

1. **Elie C. Jones v. Township of Teaneck (Bergen) (2019-13) (SR Recusal)**
 - Duplicate Complaint Filed With the GRC.

- Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Dispositions. Mr. Huber made a motion, which was seconded by Ms. Holmes. The motion passed by a majority vote; Mr. Ritardi recused.

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

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

1. **Aaron Stiefel (o/b/o Elena & Noam Lefkowitz) v. Teaneck Board of Education (Bergen) (2017-118)**
 - Complaint Voluntarily Withdrawn.
2. **Alberto Salazar v. NJ Department of Health (2018-288)**
 - Complaint Settled in Mediation.
3. **Lettuica M. Holloway v. City of Millville (Cumberland) (2018-294)**
 - Complaint Voluntarily Withdrawn.
4. **Randall and Lynda Burns v. Cape May County Sheriff's Office (2018-298)**
 - Complaint Voluntarily Withdrawn.
5. **Luis F. Rodriguez v. Kean University (2018-312)**
 - Complaint Voluntarily Withdrawn.
6. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute (AADARI) & Baffis Simmons) v. Phillipsburg Police Department (Warren) (2018-315)**
 - Complaint Voluntarily Withdrawn.
7. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute (AADARI) v. City of Long Branch (Monmouth) (2019-16)**
 - Complaint Voluntarily Withdrawn.
8. **Tara Lynn Huff v. City of Trenton (Mercer) (2019-20)**
 - Complaint Voluntarily Withdrawn.

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

A. Individual Complaint Adjudications with Recusals:

A brief summary of the Council Staff's recommended action is under each complaint:

1. **Sacha Pouliot v. NJ Department of Education (2015-281) (CH Recusal)**
 - The current Custodian complied with the Council's October 30, 2018 Interim Order.
 - There is no knowing and willful violation.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
 - Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to

accept the Council Staff's findings and recommendations as written. Ms. Holmes made a motion and Ms. Berg Tabakin seconded the motion. The motion passed by a majority vote; Mr. Huber recused.

2. **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.
3. **Art Rittenhouse v. Sayreville Economic Redevelopment Agency (Middlesex) (2016-276) (SR Recusal)**
 - The Custodian complied with the Council's January 31, 2019 Interim Order.
 - There is no knowing and willful violation.
 - Mr. Huber called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Huber called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Berg Tabakin made a motion and Ms. Holmes seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.
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4. **Elouise McDaniel v. Township of Irvington (Essex) (2017-09) (SR Recusal)**
 - The Custodian bore her burden of proving a lawful denial of access because no records existed. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
 - Mr. Huber called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Huber called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Berg Tabakin made a motion and Ms. Holmes seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.
5. **Charisa A. Harmon v. Morris County Prosecutor's Office (2017-38) (SR Recusal)**
 - The Custodian has borne his burden of proof that he lawfully utilized the "Glomar" response. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(b); N. Jersey Media Grp., Inc. v. Bergen Cnty. Prosecutor's Office, 447 N.J. Super. 182 (App. Div. 2016).
 - Mr. Huber called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Huber called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Berg Tabakin made a motion and Ms. Holmes seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.
6. **Daran Haber v. Rutgers University (2017-122) (SR Recusal)**
 - The original Custodian lawfully denied access to the responsive records under the "academic research" exemption. N.J.S.A. 47:1A-1.1.
 - Mr. Huber called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Huber called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Berg

Tabakin made a motion and Ms. Holmes seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

A. Individual Complaint Adjudications with no Recusals:

1. **Shawn G. Hopkins v. Township of Manalapan (Monmouth) (2014-35)**

- This complaint should be dismissed because the Complainant withdrew it via e-mail to the GRC on February 12, 2019.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

2. **Shawn G. Hopkins v. Borough of Oceanport (Monmouth) (2014-42)**

- The Custodian unlawfully denied access to the Complainant's OPRA request on the basis that same was invalid. N.J.S.A. 47:1A-6.
- The Custodian unlawfully denied access to the responsive CAMA data that existed at the time of the request and must disclose it to the Complainant.
- The Custodian may have unlawfully denied access to property photographs. The Custodian must either disclose the responsive records or certify if none exist.
- The knowing and willful and prevailing party analyses are deferred.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

3. **Shawn G. Hopkins v. Borough of Shrewsbury (2014-43)**

- Mr. Walters unlawfully denied the Complainant's OPRA request based on pending litigation. Paff v. City of Union City (Hudson), GRC Complaint No. 2013-195 (Interim Order dated January 28, 2014).
- The Custodian and Mr. Walters may have unlawfully denied access to the responsive CAMA data and property photographs that existed at the time of the subject OPRA request. The Custodian and/or Mr. Walters must either disclose the responsive records or certify if none exist.
- The knowing and willful analysis is deferred.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

4. **Shawn G. Hopkins v. City of Long Branch (Monmouth) (2014-44)**

- The Custodian unlawfully denied access to the Complainant's OPRA request on the basis that same was invalid. N.J.S.A. 47:1A-6.

- Mr. Butow unlawfully denied access to the Complainant's OPRA request based on pending litigation. Paff v. City of Union City (Hudson), GRC Complaint No. 2013-195 (Interim Order dated January 28, 2014). Further, the ACD exemption does not apply to the responsive CAMA data. Hopkins v. Monmouth Cnty. Bd. of Taxation, et al, GRC Complaint No. 2014-01 *et seq.* (Interim Order dated July 26, 2016). Thus, the Custodian and/or Mr. Butow must disclose the CAMA data that existed at the time of the OPRA request.
- The Custodian and/or Mr. Butow may have unlawfully denied access to the responsive property photographs and must either disclose them or certify if none exist.
- The knowing and willful analysis is deferred.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

5. **Shawn G. Hopkins v. Township of Neptune (Monmouth) (2014-45)**

- The Custodian unlawfully denied access to the responsive CAMA data that existed at the time of the request and must disclose it to the Complainant.
- The Custodian may have unlawfully denied access to property photographs. The Custodian must either disclose the responsive records or certify if none exist.
- The knowing and willful and prevailing party analyses are deferred.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

6. **Stuart J. Moskovitz, Esq. (o/b/o KK Ventures, LLC) v. Stockton University (2015-411)**

- The Custodian's response was insufficient because he failed to address each request item. Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
- The Custodian lawfully denied access to a portion of the request 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 a portion of the request because it was invalid. Armenti v. Robbinsville Bd. of Educ. (Mercer), GRC Complaint No. 2009-154 (Interim Order dated May 24, 2011).
- There is no knowing and willful violation.
- The Complainant is not a prevailing party.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes

made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

7. **Libertarians for Transparent Government v. Borough of Westwood (Bergen) (2016-214)**

- 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.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

8. **William Galtieri v. County of Somerset (2016-287)**

- The Custodian complied with the Council's January 31, 2019 Interim Order.
- There is no knowing and willful violation.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Mr. Ritardi stated for the record that in 2011 and 2012, an attorney employed by his firm handled a few matters for the County. Mr. Ritardi noted that while the County came up in his conflicts check, enough time passed since those matters. Mr. Ritardi further stated that the attorney representing the County then was no longer employed by the firm for some time. Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

9. **Robert C. Scutro v. County of Union (2016-315)**

10. **Robert C. Scutro v. County of Union (2016-316) Consolidated**

- The Custodian lawfully denied access to the requested security camera footage. Gilleran v. Bloomfield, 227 N.J. 159 (2016).
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

11. **Robert C. Scutro v. County of Union (2016-317)**

- The Custodian lawfully denied access to the Complainant's request because it was invalid.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

12. **Libertarians for Transparent Government v. Cumberland Regional School District (2017-01)**

- The Custodian unlawfully denied access to the Complainant's OPRA request on the basis that it was not on the agency's official OPRA request form. Renna v. Cnty. of Union, 407 N.J. Super. 230, 232 (App. Div. 2009). However, the GRC declines to order disclosure because the Custodian provided records on January 30, 2017.
- There is no knowing and willful violation.
- The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

13. **Darius Heimer Gittens v. NJ Department of Corrections (2017-03)**

- The Custodian lawfully denied access to the responsive records based on the New Jersey Department of Corrections' promulgated regulations. N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(9).
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

14. **Rory Moore v. Township of Nutley (Essex) (2017-05)**

- The Custodian lawfully denied access to the Complainant's request because it was invalid. Watt v. Borough of North Plainfield (Somerset), GRC Complaint No. 2007-246 (September 2009).
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

15. **Stacie Percella v. City of Bayonne (Hudson) (2017-112)**

16. **Stacie Percella v. City of Bayonne (Hudson) (2017-113)**

17. **Stacie Percella v. City of Bayonne (Hudson) (2017-114) Consolidated**

- The Custodian unlawfully denied access to a portion of the Complainant's April 3, 2017 OPRA request No. 2 seeking overtime information and raises. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq* (Interim Order dated June 29, 2010); Lotito v. N.J. Dep't of Labor, Human Res., GRC Complaint No. 2013-65 (March 2014).

- The Custodian lawfully denied access to the remaining portions of the subject OPRA requests because they asked questions. Dunleavy v. Jefferson Twp. Bd. of Educ. (Morris), GRC Complaint No. 2014-372 (Interim Order dated June 30, 2015).
- There is no knowing and willful violation.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

18. **Luis F. Rodriguez v. Kean University (2017-132)**

- The Custodian did not violate N.J.S.A. 47:1A-5(e) because the Complainant's OPRA request did not seek "immediate access" records.
- The Custodian's extensions were unwarranted and unsubstantiated.
- There is no knowing and willful violation.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

19. **Larry Michael Welenc v. NJ State Police (2017-134)**

- The Custodian unlawfully denied access to the requested title/position and salary information sought in the Complainant's December 3, 2016 OPRA request. However, the GRC declines to order disclosure because that information was provided to the Complainant on April 28, 2017.
- The Custodian may have unlawfully denied access to the amount and type of pension received by each identified individual. The Custodian must either disclose the responsive personnel information or, alternatively, provide a detailed explanation of how he was able to locate and disclose only one individual's information.
- The knowing and willful analysis is deferred.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

20. **Clinton C. Barlow, III v. NJ Motor Vehicle Commission (2017-136)**

- The Custodian did not unlawfully deny access to the subject OPRA requests because he never received them. Avila v. Camden Cnty. Prosecutor's Office, GRC Complaint No. 2007-287 (July 2008).
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes

made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

21. Stacie Percella v. City of Bayonne (Hudson) (2017-140)

- The Custodian's failure to timely respond resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- There is no knowing and willful violation.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

22. Rafael Martinez v. NJ Department of Banking and Insurance (2017-165)

- The Custodian lawfully denied access to the record identified as at issue in this complaint because none existed. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Huber made a motion and Ms. Holmes seconded the motion. The motion passed by a unanimous vote.

23. Rebecca Anne Panico v. Elizabeth Police Department (Union) (2018-03)

- The Custodian's failure to timely respond resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The Custodian did not unlawfully deny access to any responsive records because he provided all that existed. Burns v. Borough of Collingwood, GRC Complaint No. 2005-68 (September 2005).
- There is no knowing and willful violation.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

24. Megan McNally v. City of Bayonne (Hudson) (2018-16)

- The Custodian's failure to timely respond resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The GRC has no authority over accuracy or content within a record. N.J.S.A. 47:1A-7(b); Gillespie v. Newark Pub. Sch., GRC Complaint No. 2004-105 (November 2004); Kwanzaa v. Dep't of Corr., GRC Complaint No. 2004-167 (March 2005).
- The Custodian failed to bear his burden of proving a lawful denial of access to responsive vet bills. N.J.S.A. 47:1A-6. Thus, the Custodian must obtain them from the appropriate animal cruelty investigator and disclose same.

- The knowing and willful analysis is deferred.
- Mr. Ritardi called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Holmes made a motion and Mr. Huber seconded the motion. The motion passed by a unanimous vote.

VII. Court Decisions of GRC Complaints on Appeal: None

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

- Ganzweig v. Twp. of Lakewood, 2019 N.J. Super. Unpub. LEXIS 235 (App. Div. 2019): On reconsideration in light of Paff v. Ocean Cty. Prosecutor's Office, 235 N.J. 1 (2018), the Appellate Division reversed its prior ruling. Plaintiff sought three (3) dash-cam videos pertaining to a traffic stop which later revealed evidence of official misconduct by a Lakewood Township Police Officer. The Plaintiff was granted access to the three (3) videos pursuant to OPRA, leading to the Defendant's appeal. The court held that in light of the Supreme Court's ruling in Paff, OPRA's criminal investigatory exemption included the three (3) videos, as they depicted an ongoing investigation of not only the driver and passenger, but the officer as well. See 235 N.J. at 7. The court remanded the matter back to the trial court for review under the common-law right of access, the release of the police reports, and counsel fee award.

IX. Complaints Adjudicated in Federal Court: None

X. Public Comment:

- Mr. Edwin Sheppard spoke to the Council regarding several issues:
 - Mr. Sheppard stated that he contacted Chairwoman Berg Tabakin via "Linked In" regarding alleged GRC staff misconduct and received no response. Mr. Sheppard asked Ms. Berg Tabakin why the Council was not notified of this communication. Mr. Ritardi stated that the "Public Comments" section of the meeting was not the appropriate forum for addressing Mr. Sheppard's questions and allegations.
 - Mr. Sheppard alleged that, in GRC 2016-170, Mr. Rosado included the custodian's false allegations against him into the record. Mr. Sheppard further alleged that Mr. Caruso perpetrated the same falsehood in GRC 2016-195, as well as an unnamed deputy attorney general. Mr. Sheppard also accused Mr. Rosado of withholding an answer on his attorney objection filing. Mr. Sheppard stated that he believed he would have no other recourse but to file a complaint with the Office of Attorney Ethics.
 - Mr. Ritardi stated that his experience has been that the Council had GRC staff that always acted with professionalism and good intentions. Mr. Ritardi also noted that the allegations against Mr. Rosado and Mr. Caruso were not his experience.
 - Mr. Sheppard stated that he submitted multiple e-mails to prove "integrity" but was consistently ignored. Mr. Ritardi again reminded Mr. Sheppard that

“Public Comments” was not the forum for discussion of open complaints. Mr. Sheppard asked when he would receive a response to his communications. Mr. Ritardi again stated that there would be a place and time for Mr. Sheppard’s question and answer period, but “Public Comments” was not that time.

XI. Adjournment:

Mr. Ritardi called for a motion to end the Council meeting. Mr. Huber made a motion, which was seconded by Ms. Holmes. The motion passed by a unanimous vote.

The meeting adjourned at 2:18 p.m.

Respectfully submitted,

Steven Ritardi, Esq., Secretary

Date Approved: March 26, 2019