



**Minutes of the Government Records Council
January 26, 2021 Public Meeting – Open Session**

I. Public Session:

- **Call to Order**

The meeting was called to order at 1:31 p.m. by Ms. Robin Berg Tabakin via Microsoft Teams.

- **Pledge of Allegiance**

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

- **Meeting Notice**

Ms. Tabakin 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 January 21, 2021.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Jennifer Simons, Esq. (designee of Department of Education Acting Commissioner Dr. Angelica Allen-McMillan), Gina Trish (designee of Department of Community Affairs Commissioner, Lt. Governor Sheila Y. Oliver), and Steven Ritardi, Esq., Public Member.

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

II. Executive Director’s Report:

Current Statistics

- Since OPRA’s inception in July 2002, the GRC has received 5,621 Denial of Access Complaints. That averages about 304 annual complaints per 18 1/2 program years. So

far in the current program year (FY2021), the GRC has received 150 Denial of Access Complaints.

- 376 of the 5,621 complaints remain open and active (6.7%). Of those open cases:
 - 1 complaint is on appeal with the Appellate Division (0.3%);
 - 26 complaints are currently in mediation (6.9%);
 - 2 complaint are proposed for the Office of Administrative Law (0.5%);
 - 32 complaints await adjudication by the Office of Administrative Law (8.5%);
 - 93 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (24.7%);
 - 222 complaints are work in progress (59.0%); and
 - 0 complaints are being held in abeyance (0.0%).
- Since Program Year 2004, the GRC has received and responded to 33,299 total inquiries, averaging about 1,903 annual inquiries per 17 1/2 tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current program year (FY2021), the GRC has received 911 inquiries (6.5 inquiries per workday).

III. Closed Session:

- David Scott Carew v. City of Woodbury (Gloucester) (2018-47) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Christopher C. McFarland v. NJ Institute of Technology (2018-289) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Jerusha J. Schulze v. City of Newark (Essex) (2018-177) *In Camera* Review (N.J.A.C. 5:105-2.8(g)) (**SR Recusal**).

Ms. Berg Tabakin called for a motion to go into closed session. Ms. Simons made a motion, and Ms. Trish seconded the motion. The Council adopted the motion by a unanimous vote. The Council met in closed session from 1:36 p.m. until 1:45 p.m.

Ms. Berg Tabakin called for a motion to end the closed session. Ms. Simons made a motion, which was seconded by Ms. Trish. The Council adopted the motion by a unanimous vote. Open Session reconvened at 1:46 p.m., and Ms. Bordzoe called roll.

- Present: Ms. Berg Tabakin, Ms. Simons, Ms. Trish, and Mr. Ritardi

IV. Approval of Minutes of Previous Meetings:

December 15, 2020 Open Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the December 15, 2020 meeting. Ms. Simons made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote.

December 15, 2020 Closed Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft Closed session minutes of the December 15, 2020 meeting. Ms. Simons made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote.

V. New Business – Cases Scheduled for Adjudication

Ms. Berg Tabakin stated that an “Administrative Complaint Disposition” means a decision by the Council as to whether to accept or reject the Executive Director’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): None

B. Administrative Disposition Adjudications with no Recusals (Consent Agenda):

1. **Peter Chen v. Superior Court of NJ (2020-238)**
 - Not Within the Council’s Jurisdiction.
2. **Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2021-11)**
 - Unripe Cause of Action.
3. **Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2021-12)**
 - Unripe Cause of Action.
4. **Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2021-13)**
 - Unripe Cause of Action.
5. **Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2021-14)**
 - Unripe Cause of Action.

Ms. Berg Tabakin called for a motion to accept the recommendations as written in all the above Administrative Complaint Dispositions. Ms. Simons made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote.

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

1. **David Weiner v. County of Essex (2020-143)**
 - Complaint Settled in Mediation.
2. **David Weiner v. County of Essex (2020-148)**
 - Complaint Settled in Mediation.
3. **Brigite I. Goncalves v. Borough of East Newark (Hudson) (2020-149)**
 - Complaint Voluntarily Withdrawn.
4. **David Weiner v. County of Essex (2020-152)**
 - Complaint Settled in Mediation.
5. **David Weiner v. County of Essex (2020-153)**
 - Complaint Settled in Mediation.

6. **Thomas Dello Russo v. City of Newark (Essex) (2020-193)**
 - Complaint Voluntarily Withdrawn.
7. **Fredric L. Bor (o/b/o Alejandro Padill) v. City of Camden (Camden) (2020-220)**
 - Complaint Voluntarily Withdrawn.
8. **Michael W. Esslie, Esq. v. NJ Educational Facilities Authority (2020-229)**
 - Complaint Voluntarily Withdrawn.
9. **Brian McBride v. Clearview Regional High School District (Gloucester) (2020-242)**
 - Complaint Voluntarily Withdrawn.
10. **Brian McBride v. Collingswood Board of Education (Camden) (2020-244)**
 - Complaint Voluntarily Withdrawn.
11. **Jim DeVico v. County of Morris (2021-2)**
 - Complaint Voluntarily Withdrawn.

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

A. Individual Complaint Adjudications with Recusals:

Ms. Berg Tabakin also noted that Mr. Ritardi would be muted for Agenda item Nos. 1 through 6 to ensure his non-participation in these items from which he was recused. Ms. Berg Tabakin confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda item.

A brief summary of the Executive Director's recommended action is under each complaint:

1. **Jerusha J. Schulze v. City of Newark (Essex) (2018-177) (SR Recusal)**
 - The Custodian complied with the Council's February 26, 2020 Interim Order.
 - The *In Camera* Examination reveals that the Custodian lawfully denied access to the responsive executive session meeting recording.
 - The Council need not address whether the Custodian knowingly and willfully violated OPRA.
 - The Complainant is not a prevailing party entitled to an award of attorney's fees.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.
2. **Rashaun Barkley v. Essex County Prosecutor's Office (2019-15) (SR Recusal)**
 - The current Custodian complied with the Council's December 15, 2020 Interim Order.
 - There is no knowing and willful violation.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin

called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

3. **David Weiner v. County of Essex (2019-210) (SR Recusal)**

- 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 lawfully denied access to the responsive employee complaints. N.J.S.A. 47:1A-10; Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (Interim Order dated March 11, 2004).
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

4. **Ruth Townes v. NJ Transit (2019-216) (SR Recusal)**

- The Custodian lawfully denied access to the Complainant's OPRA request because no records exist. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

5. **Donna Antonucci v. Hudson County Sheriff's Office (2019-221) (SR Recusal)**

- The Custodian's response was insufficient because he failed to provide a specific lawful basis for his initial denial. N.J.S.A. 47:1A-5(g). However, the GRC declines to order disclosure because the Custodian disclosed the responsive records to the Complainant on November 8, 2019.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

6. **David Weiner v. Township of Ocean (Monmouth) (2019-227) (SR Recusal)**

- The Custodian's failure to respond within the extended time frame resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(i). However, the GRC declines

to order disclosure because the Custodian did so as part of the Statement of Information (“SOI”).

- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time

B. Individual Complaint Adjudications with no Recusals:

1. Luis F. Rodriguez v. Kean University (2015-290)

- The Custodian complied with the Council’s July 25, 2017 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

2. Patrick Duff v. Stockton University (2017-246)

- Ms. Bailey complied with the Council’s December 15, 2020 Interim Order.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

3. David Scott Carew v. City of Woodbury (Gloucester) (2018-47)

- The Custodian did not fully comply with the Council’s February 26, 2020 Interim Order.
- The Custodian shall comply with the *In Camera* Examination findings.
- The current Custodian must disclose all portions of the responsive e-mails and correspondence not otherwise exempt. Ray v. Freedom Acad. Charter Sch. (Camden), GRC Complaint No. 2009-185 (Interim Order dated August 24, 2010).
- The knowing and willful analysis is deferred.

- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
4. **Gregory Mascera, Esq. v. Verona Board of Education (Essex) (2018-61)**
- 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.
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
5. **Luis F. Rodriguez v. Kean University (2018-262)**
- 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.
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
6. **Christopher C. McFarland v. NJ Institute of Technology (2018-289)**
- The Custodian complied with the Council’s November 10, 2020 Interim Order.
 - The Custodian shall comply with the *In Camera* Examination findings.
 - The Custodian must disclose all portions of the responsive e-mails and correspondence not otherwise exempt. Ray, GRC 2009-185.
 - The knowing and willful analysis is deferred.
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
7. **Elie C. Jones v. Township of Teaneck (Bergen) (2019-2)**
- The Custodian’s failure to respond to the non-immediate access items within the extended time frame resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(i). However, the GRC need not order disclosure because the Custodian did so on August 15, November 27, and December 2, 2019.
 - The Custodian’s failure to respond to the immediate access items immediately resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-

5(g); N.J.S.A. 47:1A-5(i). However, the GRC need not order disclosure because the Custodian did so on January 16, February 24, November 20, and November 27, 2020.

- 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

8. **Shane P. Walsh v. NJ Office of the Governor (2019-24)**

9. **Shane P. Walsh v. NJ Office of the Governor (2019-25) Consolidated**

- 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 Complainant's requests are invalid. MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005).
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

10. **Carol Scutro v. County of Union (2019-41)**

- The portions of the Complainant's request seeking "reports," "documents," "files," "phone conversations," "phone messages," "text messages," and "e-mails" are invalid. MAG, 375 N.J. Super. at 546; Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010).
- The Custodian may have unlawfully denied access to the requested "[i]ncident reports," "DV reports," "SWAT activation reports," "[g]un removal reports," and "[g]un turn[-]in reports." N.J.S.A. 47:1A-1.1. Thus, the Custodian must either disclose those responsive records or certify if no records exist.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

11. **Dwayne Wakefield v. Township of Middle (Cape May) (2019-141)**

- The Custodian lawfully denied access to the Complainant's February 5, and March 11, 2019 OPRA requests seeking guidelines, procedures, and laws on

confidential informants and controlled purchases. N.J.S.A. 47:1A-9(a); Executive Order No. 26 (Gov. McGreevey, 2002).

- The Custodian lawfully denied access to the Complainant's June 25, 2019 OPRA request seeking internal affairs reports. O'Shea v. Twp. of West Milford, 410 N.J. Super. 371 (App. Div. 2009).
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

12. **Kevin M. O'Brien v. NJ Division of Consumer Affairs (2019-149)**

- The Custodian unlawfully denied access to the Complainant's July 12, 2019 OPRA request because she failed to prove that disclosure would be inimical to the public interest. N.J.S.A. 47:1A-3(a). However, the GRC declines to order disclosure because the Custodian did so on September 16, 2019 and again as part of the SOI.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

13. **Charles K. Hewitt v. City of Millville (Cumberland) (2019-154)**

- The GRC must conduct an *in camera* review of the redacted e-mails to determine the validity of the Custodian's assertion that same are exempt under the attorney-client privilege, deliberative process privilege, and as communications between the City of Millville and its insurance carrier. Paff v. N.J. Dep't of Labor, Bd. of Review, 379 N.J. Super. 346 (App. Div. 2005).
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

14. **Brian Kubiak v. Toms River District No. 1 Board of Fire Commissioners (Ocean) (2019-163)**

- The Custodian's imposition of a special service charge was warranted; however, the amount charged was not reasonable. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-5(c); Rivera v. Rutgers, The State Univ. of N.J., GRC Complaint No. 2009-311 (Interim Order dated January 31, 2012). The Custodian must recalculate the cost to reflect the lowest paid employee capable of performing the work.
- The knowing and willful and prevailing party analyses are deferred.

- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

15. **Ryan E. Melsky v. Township of Clinton (Hunterdon) (2019-186)**

- The GRC must conduct an *in camera* review of the withheld e-mails to determine the validity of the Custodian's assertion that same are exempt under the attorney-client privilege, deliberative process privilege, and personnel exemptions. Paff, 379 N.J. Super. 346.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

16. **Joseph McDevitt v. Cape May County Bridge Commission (2019-189)**

- The GRC must conduct an *in camera* review of the requested plans to determine the validity of the Custodian's assertion that same are exempt under the "inter-agency or intra-agency advisory, consultative, or deliberative material" exemption. Paff, 379 N.J. Super. 346.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

17. **Mario Drozd v. Township of Belleville (Essex) (2019-194)**

- The Complainant's request No. 1, item Nos. 2 and 3, as well as request No. 2, item Nos. 2, 4, and 5 asking questions are invalid. MAG, 375 N.J. Super. at 546; Watt v. Borough of North Plainfield (Somerset), GRC Complaint No. 2007-246 (September 2009). Further, the Complainant's request No. 2, item No. 4 seeking information is also invalid. LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009).
- The Custodian unlawfully denied access to the Complainant's OPRA request No. 1, item No. 1, which sought access to disclosable personnel information, as invalid. N.J.S.A. 47:1A-10; Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* Thus, the Custodian shall disclose the most comprehensive record containing the personnel information sought and may charge a special service charge if applicable.
- The Custodian may have unlawfully denied access to the Complainant's OPRA request No. 2, item Nos. 1 and 3 and must perform a search to locate and disclose any responsive records or certify is none exist.

- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

18. **Nancy Gomes v. City of Linden (Union) (2019-205)**

- The Custodian lawfully denied access to the Complainant's OPRA request because no records exist. Pusterhofer, GRC 2005-49.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

19. **James McGinnis v. Lenape Regional High School District (Burlington) (2019-233)**

- The Custodian lawfully denied access to the Complainant's OPRA request because no records exist. Pusterhofer, GRC 2005-49.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

20. **Quinn Latney v. Elizabeth Police Department (Union) (2019-237)**

- The Custodian lawfully denied access to the Complainant's OPRA request because the responsive records were exempt from disclosure. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9; O'Shea, 410 N.J. Super. 371.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

VII. Court Decisions of GRC Complaints on Appeal:

- Scott v. NJ Health Care Facilities Fin. Auth., 2021 N.J. Super. Unpub. LEXIS 66 (App. Div. 2021): The Appellant sought correspondence and agreements between the Appellee and the IRS regarding bonds issued to Deborah, a non-profit hospital. The GRC held that because the requested records contained Deborah's federal tax return information within the meaning of 26 U.S.C.A. 6103 ("Section 6103"), they were exempt under N.J.S.A. 47:1A-9(a). The Appellate Division agreed, finding that the records fell within the broad definition under Section 6103; that the return information was Deborah's; and that Section 6103 applied to the Appellee and its employees. Affirmed.

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

- Doe v. Rutgers, State Univ. of N.J., 2021 N.J. Super. LEXIS 4 (App. Div. 2021) (Approved for Publication): The Appellant sought in part copies of his own student records from the Appellee. The Appellate Division found that, consistent with L.R. v. Camden City Pub. Sch. Dist., 452 N.J. Super. 56 (App. Div. 2017), aff'd, 238 N.J. 547 (2019), OPRA grants the Appellant access to his own records, provided they have been redacted to preclude the identity of other students. The court also held that there was nothing in the federal Family Education Rights and Privacy Act of 1974 precluding higher education students from obtaining their own records through OPRA. Affirmed in part and reversed and remanded in part.

X. Public Comment: None

XI. Adjournment:

Ms. Berg Tabakin called for a motion to end the Council meeting. Ms. Simons made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote.

The meeting adjourned at 2:13 p.m.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: February 23, 2021