



**Minutes of the Government Records Council  
August 24, 2021 Public Meeting – Open Session**

**I. Public Session:**

- **Call to Order**

The meeting was called to order at 1:36 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. Berg 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 August 19, 2021.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Salma Chand, 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.

\*\*\*Steven Ritardi entered the meeting at 1:41 p.m.\*\*\*

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 5,798 Denial of Access

Complaints. That averages about 305 annual complaints per 19 program years. So far in the current program year (FY2022), the GRC has received 63 Denial of Access Complaints.

- 370 of the 5,798 complaints remain open and active (6.4%). Of those open cases:
  - 7 complaint is on appeal with the Appellate Division (1.9%);
  - 34 complaints are currently in mediation (9.2%);
  - 6 complaint are proposed for the Office of Administrative Law (1.6%);
  - 27 complaints await adjudication by the Office of Administrative Law (7.3%);
  - 87 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (23.5%);
  - 209 complaints are work in progress (56.5%); and
  - 0 complaints are being held in abeyance (0.0%).
  
- Since Program Year 2004, the GRC has received and responded to 34,427 total inquiries, averaging about 1,913 annual inquiries per 18 tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current program year (FY2022), the GRC has received 241 inquiries (6.5 inquiries per workday).

### **III. Closed Session: None**

### **IV. Approval of Minutes of Previous Meetings:**

#### **July 27, 2021 Open Session Meeting Minutes**

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the July 27, 2021 meeting. Mr. Ritardi made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote.

#### **July 27, 2021 Closed Session Meeting Minutes**

Ms. Berg Tabakin called for a motion to approve the draft closed session minutes of the July 27, 2021 meeting. Mr. Ritardi 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. **Hardinack Rang v. Hillsborough, Montgomery & Manville Municipal Court (2021-168)**

- Not Within the Council’s Jurisdiction.
- Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Disposition. Mr. Ritardi 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. **Francis Gavin v. Allamuchy Township Board of Education (Warren) (2021-46)**

- Complaint Settled in Mediation.

2. **Raymond M. Codey, Esq. v. NJ Infrastructure Bank (2021-52)**

- Complaint Settled in Mediation.

3. **Joseph Michael Rickert v. West Deptford Township (Gloucester) (2021-120)**

- Complaint Voluntarily Withdrawn.

4. **Patrick Wall v. NJ Department of Education (2021-124)**

- Complaint Voluntarily Withdrawn.

5. **IAFF Local 4846 v. Township of Toms River (Ocean) (2021-133)**

- Complaint Voluntarily Withdrawn.

6. **Robert Peluso, Esq. v. NJ Department of Community Affairs (2021-140)**

- Complaint Voluntarily Withdrawn.

7. **Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons, & Grace Woko) v. Pompton Lakes Police Department (Passaic) (2021-147)**

- Complaint Voluntarily Withdrawn.

8. **Steven Secare, Esq. (o/b/o Ronald Kirk) v. Township of Ocean (Monmouth) (2021-158)**

- Complaint Voluntarily Withdrawn.

9. **Robert Moss v. City of Englewood (Bergen) (2021-159)**

- Complaint Voluntarily Withdrawn.

## **VI. New Business – Cases Scheduled for Individual Complaint Adjudication**

### **A. Individual Complaint Adjudications with Recusals:**

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

Ms. Berg Tabakin noted that Ms. Trish would be muted for Agenda item No. 1 to ensure her non-participation in the item from which she was recused. Mr. Caruso confirmed to the public that Ms. Trish was muted prior to addressing the below agenda item.

1. **Scott Madlinger v. Atlantic City Police Department (Atlantic) (2019-206) (GT Recusal)**

- The Custodian complied with the Council's July 27, 2021 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. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote; Ms. Trish recused.

Ms. Berg Tabakin notified the public that Ms. Trish would rejoin the meeting by unmuting herself. Ms. Trish rejoined the meeting at that time.

Ms. Berg Tabakin again noted that Mr. Ritardi would be muted for Agenda item No. 2 to ensure his non-participation in the item from which he was recused. Mr. Caruso confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda item.

2. **David Weiner v. County of Essex (2020-114) (SR Recusal)**

- The Custodian lawfully denied access to the subject OPRA request because no records existed. 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. Chand 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. **Rotimi Owoh, Esq. (o/b/o O.O.) v. Township of Plainsboro (Middlesex) (2018-58)**

- The Custodian complied with the Council's September 29, 2020 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. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

2. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. South Brunswick Township (Middlesex) (2018-63)**
  - 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. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.
  
3. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Middlesex (Middlesex) (2018-70)**
  - The current Custodian complied with the Council's November 10, 2020 Interim Order.
  - The Council should decline to address the knowing and willful analysis.
  - 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. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.
  
4. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Washington (Gloucester) (2018-80)**
  - The current Custodian failed to comply with the Council's May 19, 2020 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. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

5. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Red Bank (Monmouth) (2018-175)**
- The Custodian failed to fully comply with the Council's May 19, 2020 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. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.
6. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Berkeley (Ocean) (2018-186)**
- The Custodian unlawfully denied access to the Complainant's August 9, 2018 OPRA request. Simmons v. Mercado, 247 N.J. 24 (2021). However, the Council should decline to order disclosure because same occurred on September 7, 2018.
  - 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. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.
7. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Ocean Gate Police Department (Ocean) (2018-194)**
- The Custodian's initial response was insufficient because she failed to respond to each individual OPRA request item. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008). However, the Council should decline to order disclosure because same occurred on September 6, 2018.
  - 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. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

8. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Avalon (Cape May) (2018-198)**
  - The Custodian unlawfully denied access to the Complainant's October 9, 2018 OPRA request. Simmons, 247 N.J. 24. However, the Council should decline to order disclosure because same occurred on October 11, 2018.
  - 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. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.
  
9. **Micaela P. Bennett v. West Orange Board of Education (Essex) (2018-209)**
  - The Council should adopt the Administrative Law Judge's August 2, 2021 Initial Decision denying the Complainant's request to disqualify Custodian's Counsel, granting summary judgement, and dismissing this complaint.
  - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Mr. Caruso noted that a paragraph was added at the end of the analysis to address submissions post-dating the GRC's meeting notification to the parties. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as amended. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.
  
10. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Elsinboro Township (Salem) (2018-246)**
  - The Custodian complied with the Council's June 30, 2020 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. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

11. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Alpha (Warren) (2018-283)**
  - The Custodian did not fully comply with the Council's August 25, 2020 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. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
  
12. **Adam C. Miller v. Township of Howell (Monmouth) (2018-303)**
  - The Custodian failed to fully comply with the Council's May 18, 2021 Interim Order.
  - The Custodian unlawfully denied access to four (4) OPRA request items, but lawfully denied access to the remaining twelve (12) outstanding OPRA request items. N.J.S.A. 47:1A-6; VanBree v. Bridgewater Twp. Police Dep't (Somerset), GRC Complaint No. 2014-122 (October 2014); Pusterhofer, GRC 2005-49.
  - 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. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
  
13. **Brittany Olt v. City of Camden (Camden) (2019-88)**
  - 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. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.
  
14. **Judith Sullivan v. Ramapo Indian Hills Regional High School District (Bergen) (2019-94)**
  - The Council must perform an *in camera* review of the responsive records 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. N.J.S.A. 47:1A-1.1; 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. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

15. **Mary B. Colvell v. Hightstown Police Department (Mercer) (2019-134)**

- The Custodian did not fully comply with the Council’s March 30, 2021 Interim Order.
- The Complainant’s request for reconsideration should be denied.
- 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. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.
- 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. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

16. **Marcella Aylwin v. Egg Harbor City (Atlantic) (2019-191)**

- The Custodian complied with the Council’s July 27, 2021 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. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

17. **Eliyohu S. Geller v. Township of Lakewood (Ocean) (2019-200)**

- The Custodian’s written response was insufficient because she failed to definitively state that no records responsive to the September 17, 2019 OPRA request existed. N.J.S.A. 47:1A-5(g); Shanker v. Borough of Cliffside Park (Bergen), GRC Complaint No. 2007-245 (March 2009).
- The Custodian lawfully denied access to the September 17, 2019 OPRA request because no records existed. Pusterhofer, GRC 2005-49.
- The Custodian may have unlawfully denied access to the September 18, 2019 OPRA request and must either disclose responsive records or certify to their status as internal affairs records. N.J.S.A. 47:1A-6.
- 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. Trish made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

18. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Elizabeth Police Department (Union) (2020-39)**

- The Custodian did not fully comply with the Council's June 29, 2021 Interim Order.
- The Council should decline to address the knowing and willful analysis.
- The Complainant is not a prevailing party.
- 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. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

19. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Roselle (Union) (2020-46)**

- The Custodian did not fully comply with the Council's July 27, 2021 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. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

20. **Asher Stockler v. Long Branch Police Department (Monmouth) (2020-88)**

- The Custodian's response was insufficient because she directed the Complainant to another agency notwithstanding that the Police Department maintained responsive records. N.J.S.A. 47:1A-5(g); DeAppolonio v. Borough of Deal (Monmouth), GRC Complaint No. 2008-62 (September 2009).
- The Custodian lawfully denied access to the responsive records because they were criminal investigatory in nature. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017); Mella v. Passaic Cnty. Prosecutor's Office, GRC Complaint No. 2016-217 (August 2018).
- 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. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

21. **Anonymous v. Borough of Haledon (Passaic) (2020-107)**

- The Custodian complied with the Council's July 27, 2021 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. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

22. **Anonymous v. Borough of Haledon (Passaic) (2020-108)**

- The Custodian complied with the Council's July 27, 2021 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. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

23. **Anonymous v. Borough of Haledon (Passaic) (2020-119)**

- Mr. Ramadan's failure to locate responsive summonses resulted in an insufficient search. N.J.S.A. 47:1A-6; Weiner v. Cnty. of Essex, GRC Complaint No. 2013-52 (September 2013).
- The Custodian may have unlawfully denied access to four (4) summonses. N.J.S.A. 47:1A-6; Macek v. Bergen Cnty. Sheriff's Office, GRC Complaint No. 2017-156, *et seq.* (Interim Order dated June 25, 2019). The Custodian shall perform a search and either disclose located records or certify if 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. Trish made a motion and Ms. Chand 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:**

- Rosario v. Port Auth. of N.Y. & N.J., 2021 N.J. Super. Unpub. LEXIS 1497 (App. Div. July 21, 2021): Plaintiff's attorney submitted an OPRA request to Defendant while

Plaintiff was unconscious due to an accident. Defendant denied access to the requested records since they were part of an on-going investigation into the accident. N.J.S.A. 47:1A-3. The trial judge held that the Defendant failed to demonstrate that disclosure of the requested records would be inimical to the public interest. Additionally, the judge held that the Plaintiff was entitled to a fee award since the evidence demonstrated that the attorney was acting on the Plaintiff's behalf even though he submitted the request in his own name. The Appellate Division affirmed, holding that disclosure would not be inimical to the public interest and in contrast to the Plaintiff's strong interest in obtaining the records to institute legal proceedings. The Court also found that the trial judge was within her discretion to award Plaintiff attorney fees and costs.

**X. Public Comment: None**

**XI. Adjournment:**

Ms. Berg Tabakin called for a motion to end the Council meeting. Ms. Chand made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote. The meeting adjourned at 2:12 p.m.

Respectfully submitted,

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Robin Berg Tabakin, Esq., Chair

Date Approved: September 28, 2021