



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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Commissioner

NOTICE OF MEETING
Government Records Council
November 14, 2017

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, November 14, 2017, 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. Executive Director’s Report**
- III. Closed Session**
- IV. Approval of Minutes of Previous Meetings:**
 - October 31, 2017 Open Session Meeting Minutes
 - October 31, 2017 Closed Session Meeting Minutes
- V. 2018 Proposed Council Meeting Dates**
- VI. 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 Executive Director’s recommendation of dismissal based on jurisdictional, procedural or other defects of the complaint. A short synopsis of the Executive Director’s recommended reason for the Administrative Disposition is under each complaint below.

 - A. Administrative Disposition Adjudications with Recusals (Consent Agenda):**
 1. Terri Howell v. Township of Greenwich (Warren) (2016-36) **(SR Recusal)**
 - There is no denial of access at issue.
 2. Mark L. Tompkins v. City of Newark (Essex) (2017-186) **(SR Recusal)**
 - The Custodian did not receive an OPRA request.



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

1. Oderi Caldwell v. Salem County Correctional Facility (2016-117)
 - The Custodian did not receive an OPRA request.
2. Zozo Moawad v. City of Bayonne Police Department (Hudson) (2017-162)
 - The Custodian did not receive an OPRA request.

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

1. Marc Liebeskind v. Highland Park Police Department (Middlesex) (2017-207)
 - The Complainant withdrew the complaint.

VII. New Business – Cases Scheduled for Individual Complaint Adjudication

A short synopsis of the Executive Director’s recommended action is under each complaint below.

A. Individual Complaint Adjudications with Recusals:

1. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-370) (**SR Recusal**)
 - The Custodian did not timely respond, thus resulting in a “deemed” denial.
 - Item Nos. 1 and 2 are invalid because they did not include a range of dates for the requested e-mails and merely sought records pertaining to “official Borough business,” which is an overly broad descriptor that lacks sufficient specificity.
 - Item Nos. 3 and 4 are valid requests because they identify a sender or recipient, provide a specific range of dates, and identify the subject of the e-mails.
 - The Custodian must disclose records responsive to requested item Nos. 3 and 4.
 - The knowing and willful and prevailing party analyses are deferred, pending the Custodian’s compliance.
2. Katalin Gordon v. City of Orange Township (Essex) (2016-127) (**SR Recusal**)
 - The Custodian did not timely respond, thus resulting in a “deemed” denial.
 - The Custodian may have unlawfully denied access to the responsive invoice. The Custodian must therefore search for and disclose a responsive invoice showing payments made for CD’s prior to March 17, 2016, or otherwise certify that no records exist.
 - The knowing and willful analysis is deferred, pending the Custodian’s compliance.

B. Individual Complaint Adjudications with no Recusals:

1. Jesse Wolosky v. Borough of Washington (Warren) (2015-402)
 - The Council should dismiss the matter because the parties have agreed to a prevailing party fee amount, thereby obviating the need for further adjudication.
2. Vincent Mastropasqua v. Stafford Township Police Department (Ocean) (2016-4)
 - The Council has no authority over the content of records provided.
 - The Custodian provided all responsive records.

3. Stuart Alterman, Esq. (o/b/o Police Benevolent Association Local 167 (Mercer County Corrections Officers)) v. County of Mercer (2016-57)
 - Requested item Nos. 1, 2, and 5 are invalid because the Complainant neglected to include a specific timeframe within which the Custodian could narrow his search.
 - The Custodian lawfully denied access to the inmate shared services agreements because no responsive records exist.
 - The Complainant is not a prevailing party and is therefore not entitled to an award of reasonable attorney's fees.
4. Jeffrey W. Sauter v. Township of Colts Neck (Monmouth) (2016-89)
 - The Custodian did not timely respond, thus resulting in a "deemed" denial.
 - There is no need for the Council to order disclosure because the Custodian disclosed all responsive records.
 - There is no knowing and willful violation.
5. John Paff v. City of Trenton (Mercer) (2016-95)
 - The Custodian did not timely respond, thus resulting in a "deemed" denial.
 - The agency's collective response was sufficient to the extent that it addressed each requested item. However, the collective response was ultimately insufficient because the individual responses failed to provide a lawful basis for denying access to requested item Nos. 2 and 3.
 - The Custodian might have unlawfully denied access to certain records responsive to requested item Nos. 1, 2, and 3. The Custodian must either: 1) disclose all responsive records that have not yet been provided; 2) certify to the inability to adhere to the Supreme Court's decision in Paff v. Galloway; or 3) certify that no responsive records exist.
 - Detective Durlacher shall provide a legal certification supporting the Custodian's compliance.
 - The knowing and willful and prevailing party analyses are deferred, pending the Custodian's compliance.
6. Luis F. Rodriguez v. Kean University (2016-128)
 - The Custodian timely responded.
 - The Custodian did not unlawfully deny access because all responsive records were provided.
7. Peter Gartner v. Borough of Middlesex (Middlesex) (2016-135)
 - There is no denial of access because no responsive records exist.
8. James L. Baxter v. Mercer County Prosecutor's Office (2016-137)
 - The Custodian did not unlawfully deny access because the requested records are exempt from disclosure as criminal investigatory records.
9. Josue Rodriguez v. NJ Department of Corrections (2016-139)
 - The requested records are exempt from disclosure pursuant to N.J.A.C. 10A:22-2.3(a)(10).

10. Art Rittenhouse v. Middlesex County (2016-142)

- The portion of the OPRA request that sought correspondence is valid because it identified a date or range of dates, parties, and content. The Custodian must therefore disclose all responsive records.
- The portions of the request that sought “meeting dates” is invalid because it sought information, not a specific government record.
- The knowing and willful analysis is deferred, pending the Custodian’s compliance.

11. Charles R. Cohen v. City of Englewood (Bergen) (2016-253)

- The Custodian lawfully denied access to the requested memorandum because the record was in draft form at the time of the request.
- The GRC must conduct an *in-camera* review of the responsive Daily Progress Reports to validate the Custodian’s assertion that the records were disclosed in unredacted form.
- In seeking “all other documents (descriptions currently unknown),” the Complainant failed to identify specific records. The request is therefore invalid.
- The knowing and willful analysis is deferred, pending the Custodian’s compliance.

12. Shaquan Thompson v. NJ Department of Corrections (2016-300)

- The requested record is exempt as advisory, consultative, and/or deliberative material.

13. Tysheim Murphy v. Atlantic County Prosecutor’s Office (2017-25)

- There is no unlawful denial of access because the Complainant seeks records that contain personal information pertaining to the victim of his offense.

VIII. Court Decisions of GRC Complaints on Appeal: None

IX. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court: None

X. 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.*

XI. 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.