



**Minutes of the Government Records Council  
April 26, 2022 Public Meeting – Open Session**

**I. Public Session:**

- **Call to Order**

The meeting was called to order at 1:34 p.m. by Mr. Steven Ritardi via Microsoft Teams.

- **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 April 21, 2022.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Jennifer Killough-Herrera, 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.

Absent: Robin Berg Tabakin, Esq. (Chairwoman)

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

**II. Executive Director’s Report:**

**GRC Staffing**

- On March 15, 2022, DCA posted for vacancy notice for one of the GRC's two (2) open "complaint manager" positions. The posting has since closed and the GRC is reviewing received resumes.

### **Current Statistics**

- Since OPRA's inception in July 2002, the GRC has received 6,111 Denial of Access Complaints. That averages about 309 annual complaints per 19 3/4 program years. So far in the current program year (FY2022), the GRC has received 376 Denial of Access Complaints.
- 503 of the 6,111 complaints remain open and active (8.2%). Of those open cases:
  - 7 complaints are on appeal with the Appellate Division (1.4%);
  - 15 complaints are currently in mediation (3.0%);
  - 3 complaints are proposed for the Office of Administrative Law (0.6%);
  - 31 complaints await adjudication by the Office of Administrative Law (6.2%);
  - 75 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (14.9%);
  - 372 complaints are work in progress (74.0%); and
  - 0 complaints are being held in abeyance (0.0%).

The GRC notes that the significant uptick in complaints both filed in FY2022 and awaiting adjudication is due to one individual, who has filed 180 complaints in the current fiscal year (48% of all filed FY22 complaints). 149 complaints have been filed since October 1, 2021. 80 complaints have been filed since January 1, 2022 (1 per working day). 44 complaints have been filed since April 1, 2022 (nearly 3 per working day). Currently, this individual's complaints account for 174 of the 372 complaints considered WIP (47%).

- Since Program Year 2004, the GRC has received and responded to 35,540 total inquiries, averaging about 1,895 annual inquiries per 18 3/4 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 1,386 inquiries (6.9 inquiries per workday).

### **GRC Regulations**

- The GRC timely submitted proposed regulations with amendments to the Office of Administrative Law on April 5, 2022. Notice of publication in the New Jersey Register and the public comments time frame should be available shortly.

### III. Closed Session:

- Edwin Sheppard v. NJ Department of Human Services, Division of Medical Assistance & Health Services (2016-170) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Shirley Brown v. NJ Department of Treasury, Division of Lottery (2018-293) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

Mr. Ritardi called for a motion to go into closed session. Ms. Killough-Herrera 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 1:42 p.m. until 2:02 p.m.

Mr. Ritardi called for a motion to end the closed session. Ms. Trish made a motion, which was seconded by Ms. Killough-Herrera. The Council adopted the motion by a unanimous vote. Open Session reconvened at 2:03 p.m., and Ms. Bordzoe called roll.

- Present: Ms. Killough-Herrera, Ms. Trish, and Mr. Ritardi.

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

#### March 29, 2022 Open Session Meeting Minutes

Mr. Ritardi called for a motion to approve the draft open session minutes of the March 29, 2022 meeting. Ms. Trish made a motion, which was seconded by Ms. Killough-Herrera. The motion passed by a unanimous vote.

### 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 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. Todd L. Schleifstein v. Randolph Township School District (Morris) (2020-198)
  - Unripe Cause of Action.
2. Marquise McCoy v. N.J. State Parole Board (2021-308)
  - No Records Responsive to the Request Exist.
3. Gerlando Termini v. Randolph Township School District (Morris) (2022-31)
  - Not a Valid OPRA Request.
4. Kevin Alexander v. N.J. Department of Corrections (2022-32)
  - No Records Responsive to the Request Exist.

Mr. Ritardi called for a motion to accept the recommendations as written in all the above Administrative Complaint Dispositions. Ms. Killough-Herrera made a motion, which was seconded by Ms. 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. **Josephine Amato-Lewis v. Secaucus Board of Education (Hudson) (2017-242)**
  - Complaint Settled in Mediation.
2. **Jordan Hansen v. N.J. Department of Treasury (2021-180)**
  - Complaint Settled in Mediation.
3. **David Weiner v. County of Essex (2021-205)**
  - Complaint Settled in Mediation.
4. **Rahgeam Jenkins v. N.J. Department of Law and Public Safety, Division of Criminal Justice (2022-26)**
  - Complaint Settled in Mediation.
5. **James Lopez v. City of Newark (Essex) (2022-28)**
  - Complaint Voluntarily Withdrawn.
6. **Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2022-35)**
  - Complaint Voluntarily Withdrawn.
7. **Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2022-39)**
8. **Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2022-40)**  
**Consolidated**
  - Complaint Voluntarily Withdrawn.
9. **Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2022-50)**
  - Complaint Voluntarily Withdrawn.
10. **Joseph J. Ferdinando v. Borough of Freehold (Monmouth) (2022-58)**
  - Complaint Voluntarily Withdrawn.
11. **James Sage v. Marlboro Township School District (Monmouth) (2022-111)**
  - 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:

1. John R. Lanza, Esq. (o/b/o Wayne Klein) v. Essex County Prosecutor’s Office (2020-159) **(SR Recusal)**
  - This complaint must be tabled due to a lack of quorum.
2. Alex Hecht v. N.J. Transit (2021-36) **(SR Recusal)**
  - This complaint must be tabled due to a lack of quorum.

## **B. Individual Complaint Adjudications with no Recusals:**

1. **Edwin Sheppard v. N.J. Department of Human Services, Division of Medical Assistance and Health Services (2016-170)**
  - The Custodian complied with the Council's October 30, 2018 Interim Order.
  - The *In Camera* Examination reveals that the Custodian lawfully denied access to the redacted portions of the responsive records. N.J.S.A. 47:1A-1; N.J.S.A. 47:1A-1.1.
  - The Council declines to address the knowing and willful issue because no violation of OPRA occurred.
  - Mr. Ritardi called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
  
2. **Jessica Bishop v. County of Salem (2018-214)**
  - The Council should adopt the Administrative Law Judge's Initial Decision finding that the Complainant abandoned the complaint and same should be dismissed. No further adjudication is required.
  - Mr. Ritardi called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
  
3. **Shirley A. Brown v. N.J. Department of Treasury, Division of Lottery (2018-293)**
  - This complaint should be tabled for additional review.
  - Mr. Ritardi called for a motion to table the above matter. Ms. Killough-Herrera made a motion, and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
  
4. **Robert C. Scutro v. City of Linden (Union) (2019-180)**
  - The Custodian failed to comply with the Council's February 23, 2021 Interim Order.
  - The Council's Order is enforceable in Superior Court. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).
  - The Custodian's actions may have been knowing and willful. Thus, this complaint should be referred to the Office of Administrative Law ("OAL") for a knowing and willful hearing.
  - Mr. Ritardi called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

5. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Union City (Union) (2020-19)**
  - The current Custodian complied with the Council’s March 29, 2022 Interim Order.
  - 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 Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
  
6. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Kenilworth (Union) (2020-67)**
  - The Custodian complied with the Council’s February 22, 2022 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 Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
  
7. **Scott Madlinger v. Berkeley Township (Ocean) (2020-116)**
  - The Custodian complied with the Council’s March 29, 2022 Interim Order.
  - The Custodian did not overcharge the Complainant because she was required to print the entire record. Paff v. Twp. of Teaneck (Bergen), GRC Complaint No. 2010-09 (Interim Order dated May 24, 2011). Thus, the Custodian did not violate OPRA. N.J.S.A. 47:1A-5(b).
  - Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
  
8. **Andrew Glazer v. N.J. Department of Human Services, Office of the Public Guardian for Elderly Adults (2020-140)**
  - The Custodian complied with the Council’s March 29, 2022 Interim Order.
  - The Complainant’s request item No. 1 is invalid because it sought “all records” and required research. MAG Entm’t, LLC v. Div. of ABC, 375 N.J.

Super. 534, 546 (App. Div. 2005); Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-147, *et seq.* (July 2012).

- The Custodian lawfully denied access to OPRA request item No. 2 under N.J.S.A. 52:27G-25(f), N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a).
- The Custodian lawfully denied access to OPRA request item No. 4 under the personnel records exemption. N.J.S.A. 47:1A-6; 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.
- Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as amended. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as amended. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

9. **Rotimi Owoh, Esq. (o/b/o Baffi Simmons) v. Glassboro Police Department (Gloucester) (2020-157)**

- The Custodian complied with the Council’s February 22, 2022 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 Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

10. **Rotimi Owoh, Esq. (o/b/o Baffi Simmons) v. Hopatcong Police Department (Sussex) (2020-162)**

- The Custodian complied with the Council’s March 29, 2022 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 Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

11. **Luis F. Rodriguez v. Kean University (2020-167)**

- The Custodian’s failure to respond to “immediate access” records sought in OPRA request item No. 2 resulted in a violation of OPRA. N.J.S.A. 47:1A-

5(e). However, no disclosure is necessary because the Custodian did so on December 16, 2019 and September 17, 2020.

- The Custodian’s extensions were unwarranted and unsubstantiated; thus, a “deemed” denial of access occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Ciccarone v. N.J. Dep’t of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014). However, no disclosure is necessary because the Custodian did so on September 17, 2020.
- There is no knowing and willful violation.
- Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

**12. Luis F. Rodriguez v. Kean University (2020-168)**

- This complaint should be dismissed because the Complainant did not file it against the agency to whom he submitted the subject OPRA request. N.J.S.A. 47:1A-5(g); Moawad v. City of Bayonne Police Dep’t (Hudson), GRC Complaint No. 2017-162 (November 2017).
- Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

**13. Jeffrey Goodwin v. Borough of Woodlynne (Camden) (2020-172)**

- 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’s failure to address the Complainant’s preferred method of delivery resulted in an insufficient response. N.J.S.A. 47:1A-5(g); Delbury v. Greystone Park Psychiatric Hosp. (Morris), GRC Complaint No. 2013-240 (Interim Order dated April 29, 2014).
- The Custodian lawfully denied access to the requested employment applications. N.J.S.A. 47:1A-6. See Toscano v. N.J. Dep’t of Human Serv., Div. of Health Serv., GRC Complaint No. 2010-147 (May 2011).
- The Custodian unlawfully denied access to the responsive resume and must disclose it or certify if none exists. N.J.S.A. 47:1A-9(a); Executive Order No. 26 (Gov. McGreevey, 2002) (“EO 26”).
- The knowing and willful analysis is deferred.
- Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.



14. **Jeffrey Goodwin v. Borough of Woodlynne (Camden) (2020-173)**

- 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's failure to address the Complainant's preferred method of delivery resulted in an insufficient response. N.J.S.A. 47:1A-5(g); Delbury, GRC 2013-240.
- The Complainant's request was invalid because it failed to seek identifiable government records. MAG, 375 N.J. Super. 534; Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010).
- There is no knowing and willful violation.
- Mr. Ritardi called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

15. **Jeffrey Goodwin v. Borough of Woodlynne (Camden) (2020-174)**

- 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's failure to address the Complainant's preferred method of delivery resulted in an insufficient response. N.J.S.A. 47:1A-5(g); Delbury, GRC 2013-240.
- The Complainant's OPRA request was valid because it conformed to the requirements of Elcavage, GRC 2009-07. Thus, the Custodian shall search for and disclose the requested records.
- The knowing and willful analysis is deferred.
- Mr. Ritardi called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

16. **Jeffrey Goodwin v. Borough of Woodlynne (Camden) (2020-175)**

- 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's failure to address the Complainant's preferred method of delivery resulted in an insufficient response. N.J.S.A. 47:1A-5(g); Delbury, GRC 2013-240.
- The Custodian lawfully denied access to the requested patrol schedules under the security and surveillance exemption. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; Rivera v. City of Plainfield Police Dep't (Union), GRC Complaint No. 2009-317 (Interim Order dated May 24, 2011).
- There is no knowing and willful violation.
- Mr. Ritardi called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director's findings and recommendations as written. Ms.

Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

17. **Scott Madlinger v. Berkeley Township Police Department (Ocean) (2020-188)**

- The Custodian unlawfully denied access to the redaction on page 1 of the responsive record. N.J.S.A. 47:1A-6. However, no disclosure is necessary because the Custodian did so on October 8, 2020.
- The Custodian shall refund the Complainant \$0.05, which represented an excessive charge. N.J.S.A. 47:1A-5(b); O’Shea v. Twp. of Vernon (Sussex), GRC Complaint No. 2007-207 (Interim Order dated March 26, 2008).
- The knowing and willful analysis is deferred.
- Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

18. **Brian F. McBride v. Township of Washington (Gloucester) (2020-206)**

- The Complainant’s complaint is unripe for adjudication and shall be dismissed. Inzelbuch v. Lakewood Bd. of Educ. (Ocean), GRC Complaint No. 2012-323 (February 2013).
- Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

19. **Scott Madlinger v. Berkeley Township (Ocean) (2020-214)**

- 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 subject OPRA request because she certified, and the record reflects, that no records exist. Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
- There is no knowing and willful violation.
- Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

20. **Gerald A. Buccafusco v. Borough of Belmar (Monmouth) (2021-56)**

- The Custodian’s response was insufficient because she failed to provide a date certain on which she would respond. Papiez v. Cnty. of Mercer, Office of Cnty. Counsel, GRC Complaint No. 2012-59 (March 2013).
- The Custodian lawfully denied access to the requested Agreement because it was in draft form and thus exempt under the “inter-agency or intra-agency

advisory, consultative, or deliberative [“(ACD”)”] material” exemption. N.J.S.A. 47:1A-1.1; Libertarians for Transparent Gov't v. Gov't Records Council, 453 N.J. Super. 83, 90-91 (App. Div.), certif. denied, 233 N.J. 484 (2018).

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

21. **Marc Liebeskind v. Borough of Highland Park (Middlesex) (2021-79)**

- The GRC must conduct an *in camera* review of the redacted e-mail to determine the validity of the Custodian’s assertion that same was lawfully denied based on the ACD 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.
- Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

22. **Diane K. Schubach v. Somerset County Prosecutor’s Office (2021-91)**

- The Complainant’s four (4) OPRA requests are valid because they require a search and not research. Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506, 508 (App. Div. 2010). Thus, the Custodian shall search for and disclose all press releases responsive to the subject requests or certify if those for a particular year do not exist.
- The knowing and willful analysis is deferred.
- Mr. Ritardi called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Ms. Trish 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:**

- African Am. Data & Research Inst. "AADARI" v. Plaza, 2022 N.J. Super. Unpub. LEXIS 600 (App. Div. 2022): The Appellate Division stayed the matter pending the New Jersey Supreme Court’s review of Simmons v. Mercado, 464 N.J. Super. 77 (App. Div. 2020), which involved the same Plaintiff seeking the same records under OPRA. Based upon the Court’s decision in Simmons v. Mercado, 247 N.J. 24 (2021), the Appellate

Division reinstated the trial court's February 28, 2020 order and remanded for a determination of counsel fees.

- African Am. Data Research Inst. v. Proffitt, 2022 N.J. Super. Unpub. LEXIS 622 (App. Div. 2022): The Plaintiff sought in part the “date of separation and reason for separation” of employees of the Carneys Point Police Department from the last five (5) years. The Defendants responded stating that one (1) officer was “terminated” and another “resigned.” Plaintiff challenged the response, arguing that he was entitled under OPRA for “the real reason” for the officers’ separation. Relying on Libertarians for Transparent Gov’t v. Cumberland Cnty., 250 N.J. 46 (2022), the Appellate Division held that the Plaintiff was entitled to access “documents that contain information regarding the reason why an employee was separated.” Reversed and remanded.

**IX. Public Comment: None**

**XI. Adjournment:**

Mr. Ritardi called for a motion to end the Council meeting. Ms. Trish made a motion, which was seconded by Ms. Killough-Herrera. The motion passed by a unanimous vote. The meeting adjourned at 2:35 p.m.

Respectfully submitted,

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Steven Ritardi, Esq., Acting Chair

Date Approved: May 31, 2022