



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

NOTICE OF MEETING
Government Records Council
February 27, 2018

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, February 27, 2018, 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. Communications Specialist/Resource Manager’s Report

III. Closed Session

- Christina Moreira v. Elizabeth Board of Education (Union) (2015-313)

IV. Approval of Minutes of Previous Meetings:

January 30, 2018 Open Session Meeting Minutes
January 30, 2018 Closed Session Meeting Minutes

V. 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. The Executive Director’s recommended 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): None



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

1. Ann Stockton v. City of Hoboken (Hudson) (2015-163)
 - Complaint Voluntarily Withdrawn
2. Keith B. Kemery v. Voorhees Fire District (Camden) (2016-218)
 - Complaint Voluntarily Withdrawn
3. Timothy E. Gay v. City of Cape May (Cape May) (2016-312)
4. Timothy E. Gay v. City of Cape May (Cape May) (2016-313)
5. Timothy E. Gay v. City of Cape May (Cape May) (2016-314) **Consolidated**
 - Complaint Voluntarily Withdrawn
6. Kayleen Egan v. NJ Department of Education (Camden County) (2017-80)
 - Settled in Mediation
7. Brandon Bernier v. Roselle Board of Education (Union) (2017-225)
 - Settled in Mediation
8. Ralph Shrom v. Township of Tabernacle (Burlington) (2017-234)
 - Complaint Voluntarily Withdrawn
9. Daniel Nero v. NJ Department of Environmental Protection (2018-01)
 - Settled in Mediation

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

The Executive Director's recommended action is under each complaint below.

A. Individual Complaint Adjudications with Recusals:

1. Joshua Lazarus v. NJ Department of Community Affairs (2011-331) **(JM Recusal)**
 - The Complainant withdrew this complaint; therefore, it should be dismissed. No further adjudication is required.
2. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-133) **(SR Recusal)**
 - Reconsideration should be denied.
 - The parties shall comply with the Council's December 19, 2017 Interim Order as it remains in effect.
3. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-370) **(SR Recusal)**
 - The Custodian complied with the Council's January 30, 2018 Interim Order.
 - There is no knowing and willful violation.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.

B. Individual Complaint Adjudications with no Recusals:

1. Shawn G. Hopkins v. Loch Arbour Village (Monmouth) (2014-48)
 - The current Custodian complied with the Council's December 19, 2017 Interim Order.
 - There is no knowing and willful violation.

2. Michael Feaster v. Buena Borough (Atlantic) (2015-308)
 - The Custodian complied with the Council’s January 30, 2018 Interim Order.
 - There is no knowing and willful violation.

3. Jesse Wolosky v. Borough of Washington (Warren) (2016-29)
 - The Custodian’s extension was reasonable and warranted; however, her failure to respond before its expiration resulted in a “deemed” denial.
 - The Custodian did not unlawfully deny access to OPRA request item Nos. 1, 2, or 3.
 - The Custodian unlawfully denied access to a portion of OPRA request item No. 4, and must either convert the records to the medium requested or some other meaningful medium.
 - The knowing and willful and prevailing party analyses are deferred pending compliance.

4. Luis F. Rodriguez v. Kean University (2016-40)
 - The Custodian complied with the Council’s January 30, 2018 Interim Order.
 - There is no knowing and willful violation.

5. Talbot B. Kramer, Jr., Esq. (o/b/o William Juliana) v. Township of Washington (Gloucester) (2016-113)
 - The current Custodian complied with the Council’s January 30, 2018 Interim Order.
 - There is no knowing and willful violation.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant’s Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.

6. Jason Harry Komis v. Camden County (2016-143)
 - The Custodian lawfully denied the subject OPRA request because no responsive records exist.

7. Jeremy Ryan Mawhinney v. Township of Galloway Police Department (Atlantic) (2016-153)
 - The Custodian lawfully denied access to both OPRA requests.

8. Luis F. Rodriguez v. Kean University (2016-159)
 - The Custodian’s response was insufficient because she failed to respond to each request item.
 - The Council must conduct an *in camera* review of the Form attachment.
 - The knowing and willful analysis is deferred.

9. Eric Warner, Esq. (o/b/o David Trotman) v. City of Trenton (Mercer) (2016-163)
 - The Complainant withdrew this complaint; therefore, it should be dismissed. No further adjudication is required.

10. Luis F. Rodriguez v. Kean University (2016-196)
 - The Custodian’s extension of the first OPRA request was reasonable and warranted.

- The Custodian’s failure to immediately respond to the Complainant’s second OPRA request seeking “immediate” access records resulted in a violation of OPRA.
- The Custodian lawfully denied access to the Complainant’s two (2) OPRA requests because no responsive records existed.
- There is no knowing and willful violation.

11. Frank Berman v. Township of Rockaway (Morris) (2016-206)

- The Custodian lawfully denied access to the requested e-mail address list held by a campaign committee because it was not received or maintained by the Township.

12. Eric Petr v. Town of Morristown (Morris) (2017-96)

- The Custodian’s failure to timely respond resulted in a “deemed” denial of access.
- The Complainant’s OPRA request is invalid.
- There is no knowing and willful violation.

VII. Court Decisions of GRC Complaints on Appeal:

- Lynn v. Middlesex Cnty. Prosecutor’s Office, 2018 N.J. Super. Unpub. LEXIS 370 (App. Div. 2018)

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

- Geiger v. Borough of Englewood Cliffs, Docket No. BER-L-7240-17 (January 19, 2018)
- Wronko v. NJ SPCA, 2018 N.J. Super. LEXIS 13 (App. Div. 2018) (Approved for Publication)
- Libertarians for Transparent Gov’t v. Gov’t Records Council, 2018 N.J. Super. LEXIS 14 (App. Div. 2018) (Approved for Publication)

IX. 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.*

X. 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.