



**Minutes of the Government Records Council
May 27, 2010 Public Meeting – Open Session**

The meeting was called to order at 9:50 a.m. at the Department of Community Affairs, Conference Room 126, Trenton, New Jersey. The Open Public Meetings Act statement was read.

The pledge of allegiance was recited while standing by all.

The meeting notice and fire emergency procedure was read by Ms. Tabakin.

Ms. Hairston called the roll:

Present: Robin Berg Tabakin, Chairwoman, Charles Richman (designee of Department of Community Affairs Commissioner Lori Grifa), Janice Kovach (designee of the Department of Community Affairs Commissioner Lori Grifa for the sole purpose of adjudication Thomas Caggiano v. Borough of Stanhope (Sussex), 2010-61 & 2010-67, and Beth Auerswald (designee of Department of Education Commissioner Bret Schundler).

GRC Staff In Attendance: Executive Director Catherine Starghill, In-House Counsel Karyn Gordon, GRC Secretary Brigitte Hairston, Case Managers: Dara Lownie, Frank Caruso, John Stewart, Designated Outside Counsel Gina Orozo and Deputy Attorney General Debra Allen.

The Council took a vote on officers as follows:

For Chairperson

Motion made by Ms. Auerswald and seconded by Mr. Richman to elect Robin Berg Tabakin as Chairperson. The motion was adopted by a unanimous vote.

For Secretary

Motion made by Ms. Auerswald and seconded by Ms. Tabakin to elect Charles Richman as Secretary. The motion was adopted by a unanimous vote.

Ms. Tabakin read the Resolution for Closed Session to go into closed session pursuant to N.J.S.A. 10:4-12.b(7) to receive legal advice and discuss anticipated litigation in which the public body may become a party in the following matters:

1. Steve Hyman v. Jersey City (Hudson) (2007-118) (*In-Camera Review*)
2. Jesse Wolosky v. Township of Sparta (Sussex) (2008-219) (*In-Camera Review*)

3. Gary DeMarzo v. City of Wildwood (Cape May) (2009-61) (*In-Camera Review*)
4. John Paff v. City of Gloucester (Camden) (2009-102) (*In-Camera Review*)
5. Neil Yoskin v. NJ Department of Environmental Protection (2009-117) (*In-Camera Review*)

A motion was made to go into closed session by Mr. Richman and seconded by Ms. Auerswald to go into closed session. The motion was adopted by a unanimous vote. A motion was made by Mr. Richman and seconded by Ms. Auerswald to end the closed session. The motion was adopted by a unanimous vote. The Council met in closed session from 9:58 a.m. until 10:10 a.m.

Open Session reconvened at 10:15 a.m. and Ms. Hairston called roll.

Present: Ms. Tabakin, Mr. Richman and Ms. Auerswald.

A motion was made by Ms. Auerswald and seconded by Mr. Richman to approve the closed session minutes of the April 28, 2010 meeting. The motion passes by an unanimous vote.

A motion was made by Ms. Auerswald and seconded by Mr. Richman to approve the open session minutes of the April 28, 2010 meeting. The motion passes by an unanimous vote.

Council Adjudication:

The following complaints were presented to the Council for summary administrative adjudication:

1. Andrew Castellanos v. University of Medicine and Dentistry of NJ (2009-210)
2. Joann Martin v. Union County Vocational & Technical School (2009-212)
3. Richard Buzby v. NJ Department of Environmental Protection (2009-215)
4. James Loper v. Trenton Board of Education (Mercer) (2009-249)
5. Charles Fairchild v. Township of East Windsor (Mercer) ((2009-252)
6. Teri Quirk v. Nutley Board of Education (Essex) (2009-295)
7. Raffi Khorozian v. City of Union City (Hudson) (2009-307)
8. Derma Jones v. City of Atlantic City (Atlantic) (2010-37)
9. Donna Moore v. Township of Commerical (Cumberland) (2010-48)
10. Robert Ruane v. Bloomfield Board of Education (Essex) (2010-72)
11. Donald Pavak v. County of Passaic Board of Elections (2010-75)
12. John Ciszewski Sr. v. Newton Police Department (Sussex) (2010-82)
13. Thomas Dellorusso v. City of Union City (Hudson) (2010-90)
14. Steve Vitez v. Township of Rochelle Park (Bergen) (2010-101)

Ms. Tabakin called for a motion to accept the Executive Director's recommendations as written in all of the above Administrative Complaint Dispositions. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

The following complaints requiring individual adjudication were not put to a vote due to the lack of quorum:

1. James D'Andrea v. NJ Department of Community Affairs, Division of Local Government Services (2007-64)
2. William Gettler v. Wantage Regional Schools, Board of Education (Sussex) (2007-105)
3. Joyce Blay v. Jackson Board of Education (Ocean) (2007-177)
4. John Paff v. Borough of Lavallette (Ocean) (2007-209)
5. David Hinchcliffe v. NJ Department of Community Affairs, Division of Local Government Services (2007-306)
6. John Bentz v. Borough of Paramus (Bergen) (2008-89)
7. J.C. v. NJ Department of Education, Deputy Commissioner's Office (2008-91)
8. Robert Verry v. Borough of South Bound Brook (Somerset) (2008-161)
9. Gertrude Casselle v. NJ Department of Community Affairs, Division on Community Resources (2008-248)
10. Ursula Cargill v. NJ Department of Education (2009-9)
11. Ursula Cargill v. State Ethics Commission (2009-10)
12. Jason Alt v. NJ Department of Education (2009-114)
13. Joseph Armenti v. Robbinsville Board of Education (Mercer) (2009-154)

Steve Hyman v. Jersey City (Hudson) (2007-118)

Ms. Gordon reviewed the GRC's analysis and issues in the case as set forth in the *In Camera* Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. The Custodian provided the GRC with the requested records and the Custodian's certification reiterating that all the records are exempt from disclosure as attorney client privileged or advisory, consultative or deliberative material in compliance with the Council's March 25, 2009 Interim Order on April 6, 2009, in a timely manner. Therefore, the Custodian complied with the Council's March 25, 2009 Interim Order.
2. **On the basis of the Council's determination in this matter, the Custodian shall comply with the Council's Findings of the *In Camera* Examination set forth in the table below within five (5) business days from receipt of this Order and simultaneously provide certified confirmation of compliance pursuant to N.J. Court Rules, 1969 R. 1:4-4 (2005) to the Executive Director.**

Specifically, the Custodian shall disclose the following records to the Complainant:

Record #2604 4-page ordinance Chapter 345-31 dated 11/22/2005;

Record #2845 Resume of Andrew Strauss, Planning Consultant (do not disclose 4-page report accompanying resume);

Record #3078 Letter from Maureen Crowley to Jerramiah Healy dated 7/25/2005 Re: PR Harsimus Stem Embankment.

3. Because the Complainant's request at Item Nos. 5, 11, 12, 13, 14, 15, and 16 seeks "[a]ll resolutions, contracts and invoices" pertaining to various subjects and because these request items do not identify specific government records and because the Custodian would be required to conduct research throughout all of the files in his possession to locate and identify those records which may be responsive to the request, these requests are overly broad and are therefore invalid under OPRA pursuant to MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534 (App. Div. 2005) and New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007). *See also* Bent v. Stafford Police Department, 381 N.J.Super. 30 (App. Div. 2005); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

Record or Redaction Number	Record Name/Date	Description of Record or Redaction	Custodian's Explanation/ Citation for Non-disclosure or Redactions	Findings of the <i>In Camera</i> Examination¹
42	1 page e-mail from Greg Corrado, Jersey City employee ("JC"), to Douglas Greenfield (JC), dated 9/16/2006 3:24 PM, Re: 6 th Street Embankment	E-mail from Greg Corrado, to Douglas Greenfield	ACD	The report is exempt from disclosure in its entirety as advisory, consultative or deliberative material pursuant to <u>N.J.S.A. 47:1A-1.1</u> because the deliberative process privilege

¹ **Unless expressly identified for redaction, everything in the record shall be disclosed.** For purposes of identifying redactions, unless otherwise noted a paragraph/new paragraph begins whenever there is an indentation and/or a skipped space(s). The paragraphs are to be counted starting with the first whole paragraph in each record and continuing sequentially through the end of the record. If a record is subdivided with topic headings, renumbering of paragraphs will commence under each new topic heading. Sentences are to be counted in sequential order throughout each paragraph in each record. Each new paragraph will begin with a new sentence number. If only a portion of a sentence is to be redacted, the word in the sentence which the redaction follows or precedes, as the case may be, will be identified and set off in quotation marks. If there is any question as to the location and/or extent of the redaction, the GRC should be contacted for clarification before the record is redacted. The GRC recommends the redactor make a paper copy of the original record and manually "black out" the information on the copy with a dark colored marker, then provide a copy of the blacked-out record to the requester.

	(with e-mail string attached) ²			is a doctrine that permits government agencies to withhold documents that reflect advisory opinions, recommendations and deliberations submitted as part of a process by which governmental decisions and policies are formulated. <u>NLRB v. Sears, Roebuck & Co.</u> , 421 <u>U.S.</u> 132, 150, 95 <u>S. Ct.</u> 1504, 1516, 44 <u>L. Ed.</u> 2d 29, 47 (1975).
69	2 page e-mail from Douglas Greenfield (JC) to Greg Corrado (JC) dated 10/16/2006 2:30 PM, Re: Embankment Maps (with e-mail string attached) ³	E-mail from Douglas Greenfield to Greg Corrado	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
83	1 page e-mail from Douglas Greenfield (JC) to Greg Corrado (JC) dated 9/12/2006 11:00 AM, Re: 6 th Street Embankment	E-mail from Douglas Greenfield to Greg Corrado	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

² E-mail from Douglas Greenfield to Greg Corrado dated 9/12/2006 11:00 AM.

³ E-mail from Maureen Crowley to Douglas Greenfield dated 10/16/06 1:58 PM.

102	1 page e-mail from Douglas Greenfield (JC) to Barbara Netchert (JC) dated 5/26/2006 3:23 PM, Re: Sixth Street Embankment (with e-mail string attached) ⁴	E-mail from Douglas Greenfield to Barbara Netchert	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
103	1 page e-mail from Douglas Greenfield (JC) to Elena Bustamante (JC) dated 5/26/2006 1:30 PM, Re: Sixth Street Embankment (with e-mail string attached) ⁵	E-mail from Douglas Greenfield to Elena Bustamante	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
104	1 page e-mail from Douglas Greenfield (JC) to Barbara Netchert (JC) dated 5/26/2006 10:34 AM, Re: Sixth Street Embankment (with e-mail string attached) ⁶	E-mail from Douglas Greenfield to Barbara Netchert	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
105	1 page e-mail from Douglas Greenfield (JC) to Barbara Netchert (JC) dated	E-mail from Douglas Greenfield to Barbara Netchert	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>

⁴ E-mail from Barbara Netchert to Douglas Greenfield dated 5/26/06 8:17 AM.

⁵ E-mail from Barbara Netchert to Douglas Greenfield dated 5/26/06 8:17 AM.

⁶ E-mail from Barbara Netchert to Douglas Greenfield dated 5/26/06 8:17 AM.

	5/26/2006 9:11 AM, Re: Sixth Street Embankment (with e-mail string attached) ⁷			
929	1 page e-mail from Barbara Netchert (JC) to Joanne Monahan, Esq., Jersey City In-House Legal Counsel (“IHC”), with copies to Robert Cotter (JC) and John Curley, Esq. (OC) dated 10/31/2006 11:33 AM, re: OPRA – Conrail Embankment (from Steve Hyman) (with e-mail string attached) ⁸	E-mail from Barbara Netchert to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
934	1 page e-mail from Douglas Greenfield (JC) to Greg Corrado (JC) with copies to Naomi Hsu and Robert Cotter (JC) dated 9/12/2006 11:00 AM, Re: 6 th Street Embankment	E-mail from Douglas Greenfield to Greg Corrado	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
935	2 page e-mail from Douglas Greenfield (JC)	E-mail from Douglas Greenfield to	ACD	Exempt from disclosure as ACD material pursuant

⁷ E-mail from Barbara Netchert to Douglas Greenfield dated 5/26/06 8:17 AM.

⁸ E-mail from Barbara Netchert to Melissa Sanchez dated 10/27/2006 3:40 PM.

	to Greg Corrado (JC) with copies to Barbara Netchert (JC), Jeffrey Wenger, Naomi Hsu, Robert Cotter (JC) and William Matsikoudis (IHC) dated 10/16/2006 2:30 PM, Re: Embankment Maps (with e-mail string attached) ⁹	Greg Corrado		to <u>N.J.S.A. 47:1A-1.1.</u>
943	1 page e-mail from Joanne Monahan, Esq. (IHC) to Barbara Netchert (JC) and Melissa Sanchez (JC) with copies to John Curley, Esq. (OC) and Robert Cotter (JC) dated 10/30/2006 8:15 PM, Re: OPRA – Conrail Embankment (from Steve Hyman) (with e-mail string attached) ¹⁰	E-mail from Joanne Monahan, Esq. to Barbara Netchert, et. als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
944	1 page e-mail from John Curley, Esq., Jersey City Outside Legal Counsel	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-</u>

⁹ E-mail from Maureen Crowley to Douglas Greenfield dated 10/16/06 1:58 PM.

¹⁰ E-mail from Barbara Netchert to Melissa Sanchez dated 10/27/2006 3:40 PM.

	<p>(“OC”) to Joanne Monahan, Esq. (IHC) with copies to Robert Cotter (JC), Dan Wrieden (JC) and Carmine Scarpa (IHC) dated 2/13/2006 12:11 PM, Re: Sixth Street Embankment; 319.9405</p>			1.1.
945	<p>1 page e-mail John Curley, Esq., (OC) to Robert Cotter (JC) with copies to Joanne Monahan, Esq. (IHC) and Carmine Scarpa (IHC) dated 2/21/2006 6:02 PM, Re: Sixth Street Embankment; 319.9405</p>	<p>E-mail from John Curley, Esq., to Robert Cotter</p>	<p>Attorney client privilege</p>	<p>Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1.</u></p>
946	<p>1 page e-mail John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Carmine Scarpa (IHC), Dan Wrieden (JC) and Robert Cotter (JC) dated 6/22/2006 6:21 PM, Re: 6th Street Embankment;</p>	<p>E-mail from John Curley, Esq., to Joanne Monahan, Esq.</p>	<p>Attorney client privilege</p>	<p>Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1.</u></p>

	319.9405			
947	1 page e-mail John Curley, Esq., (OC) to Douglas Greenfield (JC) with copies to Joanne Monahan, Esq. (IHC) and Robert Cotter (JC) dated 9/7/2006 10:48 AM, Re: 6 th Street Embankment; 319.9405	E-mail from John Curley, Esq., to Douglas Greenfield	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
958	1 page e-mail from Joanne Monahan, Esq. (IHC) to Barbara Netchert (JC) and Claire Davis (JC) dated 5/19/2006 3:01 PM, Re: embankment appeal (with e-mail string attached) ¹¹	E-mail from Joanne Monahan, Esq. to Barbara Netchert, et. als	Attorney client privilege	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
959	1 page e-mail from Jennifer Bogdanski, Esq., (OC) to Claire Davis (JC) with copies to Joanne Monahan, Esq. (IHC) and John Curley, Esq. (OC) dated 10/25/2006 1:49 PM, Re:	E-mail from Jennifer Bogdanski, Esq., to Claire Davis	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

¹¹ E-mail from Claire Davis to Barbara Netchert dated 5/19/2006 1:36 PM.

	6 th Street Embankment – interrogatory answers			
960	2 page e-mail from Jennifer Bogdanski, Esq., (OC) to Claire Davis (JC) with copies to Joanne Monahan, Esq. (IHC) and John Curley, Esq. (OC) dated 11/29/2006 12:00 PM, Re: 6 th Street Embankment – interrogatory answers (with e-mail string attached) ¹²	E-mail from Jennifer Bogdanski, Esq., to Claire Davis	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
964	12 page Draft Sixth Street Redevelopment Plan, undated	Draft Sixth Street Redevelopment Plan	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1071	1 page e-mail from Rachel Kennedy (JC) to Dan Wrieden (JC) dated 10/5/2004 5:10 PM, Re: 6 th Street Replan	E-mail from Rachel Kennedy to Dan Wrieden	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1072	1 page e-mail from Dan Wrieden (JC) to Maryann Bucci-Carter (JC), Robert Cotter (JC) and Rachel Kennedy (JC) dated	E-mail from Dan Wrieden to Maryann Bucci-Carter, et. als	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

¹² E-mail from Jennifer Bogdanski, Esq., to Claire Davis dated 10/25/2006 1:08 PM.

	10/6/2004 8:29 AM, Re: 6 th Street Replan (with e-mail string attached) ¹³			
1078	1 page e-mail Rachel Kennedy (JC) to Dan Wrieden (JC) and Robert Cotter (JC) dated 12/21/2004 11:22 AM, Re: 6 th Street Embankment	E-mail from Rachel Kennedy to Dan Wrieden, et als.	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1081	1 page e-mail from Rachel Kennedy (JC) to Dan Wrieden (JC) and Robert Cotter (JC) dated 1/7/2005 10:20 AM, Re: Embankment Replan	E-mail from Rachel Kennedy to Dan Wrieden, et. Als	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1082	1 page e-mail Robert Cotter (JC) to Dan Wrieden (JC) and Rachel Kennedy (JC) dated 1/9/2005 5:30 PM, Re: Embankment Replan (with e-mail string attached) ¹⁴	E-mail from Robert Cotter to Dan Wrieden, et. als	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1123	1 page e-mail Dan Wrieden (JC) to Benjamin Delisle, Jersey City	E-mail from Dan Wrieden to Benjamin Delisle	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>

¹³ E-mail from Rachel Kennedy to Dan Wrieden, Maryann Bucci-Carter and Robert Cotter dated 10/5/2004 5:10 PM.

¹⁴ E-mail from Rachel Kennedy to Robert Cotter and Dan Wrieden dated 1/7/2005 10:20 AM.

	Redevelopment Agency employee (“RA”) dated 6/23/2005 1:10 PM, Re: Reservoir # 3 (with e-mail string attached) ¹⁵			
1124	1 page e-mail from Benjamin Delisle (RA) to Dan Wrieden (JC) dated 6/23/2005 2:15 PM, Re: Reservoir # 3 (with e-mail string attached) ¹⁶	E-mail from Benjamin Delisle to Dan Wrieden	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1139	1 page e-mail Dan Wrieden (JC) to Tyshammie Cooper (JC) dated 9/15/2005 9:09 AM, Re: grant (with e-mail string attached) ¹⁷	E-mail from Dan Wrieden to Tyshammie Cooper	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1143	1 page e-mail Cynthia Hadjiyannis, Historic Preservation Committee employee (“HP”) to Dan Wrieden (JC) dated 1/28/2005 12:47 PM, Re: Tomorrow’s	E-mail from Cynthia Hadjiyannis, Historic Preservation Committee, to Dan Wrieden	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

¹⁵ E-mail from Benjamin Delisle to Dan Wrieden dated 6/23/2005 12:07 PM.

¹⁶ E-mail from Dan Wrieden to Benjamin Delisle dated 6/23/2005 1:10 PM; E-mail from Benjamin Delisle to Dan Wrieden dated 6/23/2005 12:07 PM.

¹⁷ E-mail from Tyshammie Cooper to Dan Wrieden dated 9/13/2005 2:36 PM.

	Planning Board Meeting			
1145	1 page e-mail from Cynthia Hadjiyannis (HP) to Dan Wrieden (JC) dated 11/29/2005 11:48 AM, Re: Embankment Planning Bd. Application	E-mail from Cynthia Hadjiyannis to Dan Wrieden	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1161	1 page e-mail from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Robert Cotter (JC), Dan Wrieden (JC) and Carmine Scarpa (IHC) dated 2/9/2006 4:34 PM, Re: Hyman. City of Jersey City (HPC Case); 319.9405	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1163	1 page e-mail from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Robert Cotter (JC), Dan Wrieden (JC) and Carmine Scarpa (IHC) dated 2/13/2006 12:11 PM, Re: Sixth Street Embankment; 319.9405	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

1164	1 page e-mail from Jennifer Bogdanski, Esq.(OC) to Joanne Monahan, Esq. (IHC) with copy to John Curley, Esq. (OC) dated 2/21/2006 9:54 AM, Re: 6 th Street Embankment – Hyman motion to stay	E-mail from Jennifer Bogdanski, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1165	1 page e-mail from Charles Montange, Esq. (OC) to Jennifer Bogdanski, Esq. (OC) and Joanne Monahan, Esq. (IHC) with copy to John Curley, Es. (OC) dated 2/21/2006 11:43 AM, Re: 6 th Street Embankment – Hyman motion to stay (with e-mail string attached) ¹⁸	E-mail from Charles Montange, Esq., to Joanne Monahan, Esq., et. als	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1166	1 page e-mail from John Curley, Esq. (OC) to Robert Cotter (JC) with copies to Joanne Monahan, Esq. (IHC) and Carmine Scarpa	E-mail from John Curley, Esq., to Robert Cotter	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>

¹⁸ E-mail from Jennifer Bogdanski to Joanne Monahan, et. als. dated 2/21/2006 6:48 AM.

	(IHC) dated 2/21/2006 6:021 PM, Re: Sixth Street Embankment; 319.9405			
1167	1 page e-mail from Joanne Monahan, Esq. (IHC) to Charles Montange, Esq.(OC) with copy to John Curley, Esq. (OC) dated 2/22/2006 7:32 PM, Re: 6 th Street Embankment – Hyman motion to stay (with e-mail string attached) ¹⁹	E-mail from Joanne Monahan, Esq. to C. Montange, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1173	1 page e-mail from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Carmine Scarpa (IHC), Dan Wrieden (JC) and Robert Cotter (JC) dated 6/22/2006 6:21 PM, Re: 6 th Street Embankment – appeal of subdivision denial/checklist ordinance; 319.9405	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>

¹⁹ E-mail from Jennifer Bogdanski to Joanne Monahan, et. als. dated 2/21/2006 6:48 AM.

1178	1 page e-mail from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Robert Cotter (JC), Dan Wrieden (JC) and Carmine Scarpa (IHC) dated 7/21/2006 6:55 PM, Re: Sixth St. Embankment; 319.9405	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1179	1 page e-mail from Charles Montange, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Robert Cotter (JC), Dan Wrieden (JC) and Carmine Scarpa (IHC) dated 7/21/2006 7:36 PM, Re: Sixth St. Embankment; 319.9405 (with e-mail string attached) ²⁰	E-mail from C. Montange, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1182	1 page e-mail from John Curley, Esq., (OC) to Douglas Greenfield (JC) with copies to	E-mail from John Curley, Esq., to Douglas Greenfield	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

²⁰ E-mail from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) dated 7/21/2006 3:52 PM, Re: Sixth St. Embankment.

	Joanne Monahan, Esq. (IHC) and Robert Cotter (JC) dated 9/7/2006 10:48 AM, Re: 6 th Street Embankment; 319.9405			
1201	1 page e-mail from William Matsikoudis, Esq., (IHC) to Joanne Monahan, Esq., (IHC) and Brian O'Reilly (JC) with copy to Barbara Netchert (JC) dated 11/13/2006 5:06 PM, Re: Sixth Street Embankment; 319.9405 (with e-mail string attached) ²¹	E-mail from William Matsikoudis, Esq., to Joanne Monahan, Esq., et als	Attorney client privilege	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1202	1 page e-mail from Joanne Monahan, Esq. (IHC) to Brian O'Reilly (JC) and William Matsikoudis, Esq., (IHC) with copy to Barbara Netchert (JC) dated 11/13/2006 4:43 PM, Re:	E-mail from Joanne Monahan, Esq., to Brian O'Reilly, et als.	ACD	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>

²¹ E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 4:43 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 4:40 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 4:06 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 4:03 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 3:20 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 3:16 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 1:42 PM.

	Sixth Street Embankment; 319.9405 (with e-mail string attached) ²²			
1203	1 page e-mail from William Matsikoudis, Esq., (IHC) to Joanne Monahan, Esq. (IHC) and Brian O'Reilly (JC) with copy to Barbara Netchert (JC) dated 11/13/2006 4:40 PM, Re: Sixth Street Embankment; 319.9405 (with e-mail string attached) ²³	E-mail from William Matsikoudis, Esq., to Joanne Monahan, Esq., et als.	ACD	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1204	1 page e-mail from Joanne Monahan, Esq. (IHC) to Brian O'Reilly (JC) and William Matsikoudis, Esq., (IHC) with copy to Barbara Netchert (JC) dated 11/13/2006 4:07 PM, Re: Sixth St Embankment;	E-mail from Joanne Monahan, Esq., to Brian O'Reilly, et. als	ACD	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>

²² E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 4:40 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/ 2006 4:06 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 4:03 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 3:20 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 3:16 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 1:42 PM.

²³ E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 4:06 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 4:03 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 3:20 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 3:16 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 1:42 PM.

	319.9405 (with e-mail string attached) ²⁴			
1205	1 page e-mail from William Matsikoudis, Esq., (IHC) to Joanne Monahan, Esq. (IHC) and Brian O'Reilly (JC) with copy to Barbara Netchert (JC) dated 11/13/2006 4:03 PM, Re: Sixth St Embankment; 319.9405 (with e-mail string attached) ²⁵	E-mail from William Matsikoudis, Esq., to Joanne Monahan, Esq., et. als	ACD	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1206	1 page e-mail from William Matsikoudis, Esq., (IHC) to Joanne Monahan, Esq. (IHC) and Brian O'Reilly (JC) with copy to Barbara Netchert (JC) dated 11/13/2006 3:55 PM, Re: Sixth St Embankment; 319.9405 (with	E-mail from William Matsikoudis, Esq., to Joanne Monahan, Esq., et. als	ACD	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>

²⁴ E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 4:03 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 3:20 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 3:16 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 1:42 PM.

²⁵ E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 3:20 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 3:16 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 1:42 PM.

	e-mail string attached) ²⁶			
1207	1 page e-mail from Joanne Monahan, Esq. (IHC) to Brian O'Reilly (JC) and William Matsikoudis, Esq., (IHC) with copy to Barbara Netchert (JC) dated 11/13/2006 3:20 PM, Re: Sixth St Embankment; 319.9405 (with e-mail string attached) ²⁷	E-mail from Joanne Monahan, Esq., to Brian O'Reilly, et. als	ACD	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1208	1 page e-mail from William Matsikoudis, Esq., (IHC) to Joanne Monahan, Esq. (IHC) and Brian O'Reilly (JC) with copy to Barbara Netchert (JC) dated 11/13/2006 3:16 PM, Re: Sixth St Embankment; 319.9405 (with e-mail string attached) ²⁸	E-mail from William Matsikoudis, Esq., to Joanne Monahan, Esq., et. als	ACD	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1209	1 page e-mail from Joanne	E-mail from Joanne Monahan,	ACD	Exempt from disclosure as

²⁶ E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 3:20 PM; E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 3:16 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 1:42 PM.

²⁷ E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 3:16 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 1:42 PM.

²⁸ E-mail from William Matsikoudis to Joanne Monahan dated 11/13/2006 3:16 PM; E-mail from Joanne Monahan to William Matsikoudis dated 11/13/2006 1:42 PM.

	Monahan, Esq. (IHC) to Brian O'Reilly (JC) and William Matsikoudis, Esq., (IHC) with copy to Barbara Netchert (JC) dated 11/13/2006 1:43 PM, Re: Sixth St Embankment; 319.9405	Esq., to Brian O'Reilly, et. als		attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1210	1 page e-mail from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copy to Barbara Netchert (JC) dated 11/13/2006 12:45 PM, Re: Sixth St Embankment; 319.9405 (with e-mail string attached) ²⁹	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1215	2 page e-mail from Douglas Greenfield (JC) to Greg Corrado (JC) with copies to Barbara Netchert (JC), and Robert Cotter (JC) dated 10/16/2006 2:30 PM, Re: Embankment Maps (with e-	E-mail from Douglas Greenfield to Greg Corrado	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

²⁹ E-mail from Charles Montange to John Curley dated 10/10/2006 2:44 PM, Re: funding.

	mail string attached) ³⁰			
1217	2 page e-mail from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Barbara Netchert (JC) and Jacqueline Middleton (OC) dated 10/5/2006 12:28 PM, Re: Sixth St Embankment; 319.9405 (with e-mail string attached) ³¹	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>
1225	1 page e-mail from Barbara Netchert (JC) to Brian O'Reilly (JC) with copy to Joanne Monahan, Esq. (IHC) dated 10/5/2006 3:30 PM, Re: Sixth St Embankment; 319.9405	E-mail from Barbara Netchert to Brian O'Reilly	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1226	2 page e-mail from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Barbara Netchert (JC) and Jacqueline Middleton	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u>

³⁰ E-mail from Maureen Crowley to Douglas Greenfield dated 10/16/2006 1:58 PM.

³¹ E-mail from Charles Montange to John Curley dated 10/4/2006 2:05 PM, Re: Harsimus.

	(OC) dated 10/5/2006 12:28 PM, Re: Sixth St Embankment; 319.9405 (with e-mail string attached) ³²			
1228	1 page e-mail from Barbara Netchert (JC) to Douglas Greenfield (JC), attaching 3 page draft letter, dated 5/26/2006 8:17 AM, Re: Sixth Street Embankment	E-mail from Barbara Netchert to Douglas Greenfield	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1232	1 page e-mail from Barbara Netchert (JC) to Joanne Monahan, Esq. (IHC) dated 5/19/2006 3:05 PM, Re: embankment appeal (with e-mail string attached) ³³	E-mail from Barbara Netchert to Joanne Monahan, Esq.	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1233	1 page e-mail from Joanne Monahan, Esq., (IHC) to Barbara Netchert (JC) dated 5/19/2006 3:01 PM, Re: embankment appeal (with e-mail string attached) ³⁴	E-mail from Joanne Monahan, Esq., to Barbara Netchert	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

³² E-mail from Charles Montange to John Curley dated 10/4/2006 2:05 PM, Re: Harsimus.

³³ E-mail from Joanne Monahan to Barbara Netchert dated 5/19/2006 3:00 PM; E-mail from Claire Davis to Barbara Netchert dated 5/19/2006 1:36 PM.

³⁴ E-mail from Claire Davis to Barbara Netchert dated 5/19/2006 1:36 PM.

1234	1 page e-mail from Claire Davis (JC) to Barbara Netchert (JC) with copy to Joanne Monahan, Esq. (IHC) dated 5/19/2006 1:36 PM, Re: embankment appeal	E-mail from Claire Davis to Barbara Netchert	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1239	1 page e-mail from Joanne Monahan, Esq. (IHC) to Barbara Netchert (JC), John Curley (OC) and Maryann Bucci-Carter (JC) with copy to Douglas Greenfield (JC) dated 2/28/2006 11:21 AM, Re: Embankment Zoning (with e-mail string attached) ³⁵	E-mail from Joanne Monahan, Esq., to Barbara Netchert	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1244	1 page e-mail from Jennifer Bogdanski, Esq., (OC) to Christopher Fiore (JC) with copy to Barbara Netchert (JC) dated 2/17/2006 1:05 PM, Re: 6 th Street Embankment	E-mail from Jennifer Bogdanski, Esq., to Christopher Fiore	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

³⁵ E-mail from Maryann Bucci-Carter to Joanne Monahan, Barbara Netchert and John Curley dated 2/28/2006 11:01 AM.

	cont.			
1245	1 page e-mail from Jennifer Bogdanski, Esq., (OC) to Christopher Fiore (JC) with copy to Barbara Netchert (JC) dated 2/17/2006 12:38 PM, Re: 6 th Street Embankment/Conrail/Hyman	E-mail from Jennifer Bogdanski, Esq., to Christopher Fiore	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1255	1 page e-mail from John Curley, Esq., (OC) to Barbara Netchert (JC) dated 3/9/2005 7:42 PM, Re: 6 th Street Embankment Action Items (with e-mail string attached) ³⁶	E-mail from John Curley, Esq., to Barbara Netchert	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1258	1 page e-mail from Barbara Netchert (JC) to Kristin Russell (JC) dated 2/22/2006 9:47 AM, Re: Embankment (with e-mail string attached) ³⁷	E-mail from Barbara Netchert to Kristin Russell	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1259	1 page e-mail from Barbara	E-mail from Barbara Netchert	ACD	Exempt from disclosure as ACD

³⁶ E-mail from Barbara Netchert to Brian O'Reilly, Ed Toloza and Greg Corrado dated 3/9/2005 4:47 PM, Re: 6th Street Embankment Action Items.

³⁷ E-mail from Kristin Russell to Barbara Netchert dated 2/22/2006 9:03 AM; E-mail from Barbara Netchert to Kristin Russell dated 2/22/2006 8:55 AM; E-mail from Kristin Russell to Barbara Netchert dated 2/17/2006 2:35 PM.

	Netchert (JC) to Kristin Russell (JC) dated 2/22/2006 8:55 AM, Re: Embankment (with e-mail string attached) ³⁸	to Kristin Russell		material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
1260	1 page e-mail from Jennifer Bogdanski, Esq., (OC) to Christopher Fiore (JC) with copy to Barbara Netchert (JC) dated 2/17/2006 12:38 PM, Re: 6 th Street Embankment/Conrail/Hyman	E-mail from Jennifer Bogdanski, Esq., to Christopher Fiore	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2018	2 page letter from Michele Donato, Esq., to Joanne Monahan, Esq. (IHC) dated 9/30/2005, Re: 212 Marin Boulevard, LLC et al. v. City of Jersey City, et al, with handwritten notes	Letter from Michele Donato, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2258	3 page letter from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Robert Cotter (JC), Dan	Letter from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

³⁸ E-mail from Kristin Russell to Barbara Netchert dated 2/17/2006 2:35 PM.

	Wrieden (JC), Carmine Scarpa (IHC) and Charles Montange (OC) dated 1/18/2006, Re: Sixth Street Embankment			
2264	2 page letter from John Curley, Esq., (OC) to Charles Montange, Esq. (OC) with copy to Joanne Monahan (IHC) dated 12/16/2005, Re: 6 th Street Embankment	Letter from John Curley, Esq., to Charles Montange, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2269	1 page memo from William Matsikoudis Esq., (IHC) to Joanne Monahan, Esq. (IHC) with copy to Carl Czaplicki (JC), Mariano Vega (JC) and Brian O'Reilly (JC) dated 1/9/2006, Re: 6 th Street Embankment	Memo from William Matsikoudis, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2270	8 page letter from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Carmine Scarpa (IHC), Robert Cotter (JC) and Dan Wrieden (JC) dated 1/3/2006, Re:	Letter from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

	Sixth Street Embankment			
2306	1 page e-mail from Carmine Scarpa, Esq., (IHC) to Joanne Monahan, Esq., (IHC), Tom Fodice and William Matsikoudis (IHC) dated 12/20/2005 3:16 PM, Re: three again	E-mail from Carmine Scarpa, Esq., to Joanne Monahan, Esq., et. als	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> . as draft document contained therein.
2307	1 page letter from Jennifer Bogdanski, Esq., (OC) to Charles Montange, Esq. (OC) with copy to Joanne Monahan (IHC) dated 12/8/2005, Re: 6 th Street Embankment	Letter from Jennifer Bogdanski, Esq., to Charles Montange, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2308	1 page letter from Jennifer Bogdanski, Esq., (OC) to Charles Montange, Esq. (OC) with copy to Joanne Monahan (IHC) dated 12/6/2005, Re: 6 th Street embankment	Letter from Jennifer Bogdanski, Esq., to Charles Montange, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2310	1 page letter from Jacqueline Middleton, Esq. (OC) to Bill Delaney ³⁹ with	Letter from Jacqueline Middleton, Esq., to Bill Delaney	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant

³⁹ Dresdner Robin consultant.

	copy to Joanne Monahan (IHC) and Gregory Corrado (JC) dated 11/16/2005, Re: Sixth Street Embankment			to <u>N.J.S.A. 47:1A-1.1</u> .
2314	2 page memo from William Matsikoudis, Esq., (IHC) to Carmine Scarpa, Esq. (IHC) dated 11/30/2005, Re: Procedures for Nominating and Designating Local Landmarks and Districts	Memo from William Matsikoudis, Esq., to Carmine Scarpa, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2336	2 page letter from Jacqueline Middleton, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Benjamin Delisle (RA), Tyshammie Cooper (JC) and Betty dated 9/14/2005, Re: Sixth Street Embankment Project	Letter from Jacqueline Middleton, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2338	2 page e-mail from Joanne Monahan, Esq. (IHC) to Hjordys Espinal (JC) Kearns dated 9/20/2005 6:14	E-mail from Joanne Monahan, Esq., to Hjordys Espinal	Attorney client privilege	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

	PM, Re: Montange)with e-mail string attached) ⁴⁰			
2344	1 page fax from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) dated 9/6/2005, Re: 6 th Street Embankment	Fax from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2393	2 page letter from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copy to Maureen Crowley (Co-Petitioner) dated 2/23/2005, Re: 6 th Street Embankment	Letter from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2397	1 page memo from Joanne Monahan, Esq., (IHC) to Barbara Netchert (JC) dated 2/22/2006, Re: 6 th Street Embankment Project – Surface Transportation Board	Memo from Joanne Monahan, Esq., to Barbara Netchert	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2398	2 page letter from Charles Montange, Esq., (OC) to John Curley,	Letter from Charles Montange, Esq., to John Curley, Esq., et als	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant

⁴⁰ E-mail from William Matsikoudis to Joanne Monahan dated 9/20/2005 5:36 PM; E-mail from Maureen Crowley to Joanne Monahan dated 9/19/2005 1:55 PM.

	Esq. (OC), Joanne Monahan (IHC), Andrea Ferster and Maureen Crowley, Co-Petitioner, dated 2/21/2006			to <u>N.J.S.A. 47:1A-1.1</u> .
2412	9 page letter from John Curley, Esq., (OC) to Joanne Monahan Esq. (IHC) with copies to Carmine Scarpa (IHC), Robert Cotter (JC) and Dan Wrieden (JC) dated 2/7/2006, Re; Sixth Street Embankment	Letter from John Curley, Esq., to Joanne Monahan Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2423	8 page letter from John Curley, Esq., (OC) to Joanne Monahan Esq. (IHC) with copies to Carmine Scarpa (IHC), Robert Cotter (JC) and Dan Wrieden (JC) dated 1/3/2006, Re: Sixth Street Embankment	Letter from John Curley Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2462	1 page e-mail from Maureen Crowley, Co-Petitioner with Jersey City, to Charles Montange, Esq. (OC) dated 4/25/2006	E-mail from Maureen Crowley to Charles Montange, Esq.	Attorney client privilege; Joint defendant privilege	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

	11:53 PM, Re: STB proceeding; Harsimus			
2463	17 page Draft Rebuttal Statement of Petitioners before the Surface Transportation Board, undated	Draft Rebuttal Statement of Petitioners before the Surface Transportation Board	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2507	1 page fax from Charles Montange, Esq., (OC) to John Curley, Esq. (OC) with copy to Joanne Monahan, Esq. (IHC) dated 2/2/2006	Fax from Charles Montange, Esq., to John Curley, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2571	1 page Funding Status Chart dated 10/13/2006	Funding Status Chart	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2580	1 page e-mail Greg Corrado (JC) to Joanne Monahan, Esq. (IHC) dated 9/21/2006 2:25 PM, Re: 6 th Street Embankment (with e-mail string attached) ⁴¹	E-mail from Greg Corrado to Joanne Monahan, Esq.	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2581	1 page e-mail from Joanne Monahan, Esq. (IHC) to Greg Corrado (JC) dated 9/21/2006 1:22	E-mail from Joanne Monahan, Esq., to Greg Corrado	ACD	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to

⁴¹ E-mail from Joanne Monahan to Greg Corrado dated 9/21/2006 1:22 PM; E-mail from Greg Corrado to Joanne Monahan dated 9/20/2006 3:53 PM.

	PM, Re: 6 th Street Embankment (with e-mail string attached) ⁴²			<u>N.J.S.A. 47:1A-1.1.</u>
2584	1 page e-mail from Joanne Monahan, Esq. (IHC) to Greg Corrado (JC) dated 9/21/2006 1:22 PM, Re: 6 th Street Embankment (with e-mail string attached) ⁴³	E-mail from Joanne Monahan to Greg Corrado	Attorney client privilege	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
2585	1 page e-mail from Greg Corrado (JC) to Joanne Monahan, Esq. (IHC) dated 9/21/2006 2:25 PM, Re: 6 th Street Embankment (with e-mail string attached) ⁴⁴	E-mail from Greg Corrado to Joanne Monahan, Esq.	ACD	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
2590	2 page Draft Resolution endorsing petition to Surface Transportation Board dated 9/8/2006, with handwritten notations.	Draft Resolution endorsing petition to Surface Transportation Board	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
2600	1 page memo from Joanne Monahan, Esq.,	Memo from Joanne Monahan, Esq., to John	Attorney client privilege	Exempt from disclosure as attorney client

⁴² E-mail from Greg Corrado to Joanne Monahan dated 9/20/2006 3:53 PM.

⁴³ E-mail from Greg Corrado to Joanne Monahan dated 9/20/2006 3:53 PM.

⁴⁴ E-mail from Joanne Monahan to Greg Corrado dated 9/21/2006 1:22 PM; E-mail from Greg Corrado to Joanne Monahan dated 9/20/2006 3:53 PM.

	(IHC) to John Curley, Esq. (OC) dated 9/1/2006, Re: 6 th Street Embankment	Curley, Esq.		privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2601	3 page Draft Ordinance Chapter 345-31 dated 8/30/2006, stamped "draft."	Draft Ordinance Chapter 345-31	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2604	4 page Draft Ordinance Chapter 345-31 dated 11/22/2005, with handwritten notations.	Draft Ordinance Chapter 345-31	ACD	Disclose ordinance in its entirety. This record is not a draft document because the voting record is included, as well as the dates of the first reading (11/22/2005) and the second reading (1/11/2006); both of these dates occurred prior to the date of the Complainant's request.
2610	3 page letter from John Curley, Esq., (OC) to Mariano Vega, Jr. (JC) with copy to William Matsikoudis, Esq. (IHC) dated 1/11/2006, Re: Proposed Ordinance 05-170	Letter from John Curley, Esq., to Mariano Vega, Jr.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2617	4 page letter from John Curley, Esq.,	Letter from John Curley, Esq., to William	Attorney client privilege	Exempt from disclosure as attorney client

	(OC) to William Matsikoudis, Esq. (IHC) with copies to Robert Cotter (JC), (Dan Wrieden (JC), Claire Davis (JC), Joanne Monahan, Esq. (IHC) and Carmine Scarpa (IHC) dated 8/23/2006, Re: Sixth Street Embankment	Matsikoudis, Esq.		privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2626	1 page letter John Curley, Esq., (OC) to Hugh McGuire, McGuire Associates, and Paul Beisser, Value Research Group, dated 8/22/2006, Sixth Street Embankment	Letter from John Curley, Esq., to Hugh McGuire, et als	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2643	2 page letter from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copies to Robert Cotter (JC) and Dan Wrieden (JC) dated 7/28/2006, Re: Sixth Street Embankment	Letter from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2647	2 page letter from John Curley, Esq., (OC) to Hugh McGuire, McGuire	Letter from John Curley, Esq., to Hugh McGuire	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-</u>

	Associates, dated 7/26/2006, Re: Sixth Street Embankment			1.1.
2649	1 page memo from Joanne Monahan, Esq., (IHC) to Carmine Scarpa, Esq. (IHC) with copies to Joanne Monahan, Esq. (IHC) and Greg Corrado (JC) dated 12/23/2005, Re: 6 th Street Embankment Project	Memo from Joanne Monahan, Esq., to Carmine Scarpa, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2716	1 page e-mail from Maureen Crowley (Co-Petitioner STB Application) to Joanne Monahan, Esq. (IHC) dated 12/23/2005 3:19 PM, Re: JC Embankment	E-mail from Maureen Crowley to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2845	6 page Report and resume from Andrew Strauss, Planning Consultant, to Maureen Crowley dated 11/17/2004	Report and resume from Andrew Strauss to Maureen Crowley	Attorney client privilege	Disclose resume in its entirety. The four page report is exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
2969	2 page letter from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) dated	Letter from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-</u>

	9/6/2005, Re: 6 th Street Embankment Project			1.1.
2974	1 page Agenda list with notes, from Embankment Preservation Coalition meeting dated 9/6/2005	Agenda list with notes, from Embankment Preservation Coalition meeting	Attorney client privilege	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
3039	1 page e-mail from Joanne Monahan, Esq. (IHC) to David Donnelly (JC) and Robert Cotter (JC) dated 8/29/2005 Re: Embankment Meeting Request	E-mail from Joanne Monahan, Esq., to David Donnelly, et als	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
3040	1 page e-mail from Joanne Monahan, Esq. (IHC) to Robert Cotter (JC) with copies to Barbara Netchert (JC) and William Matsikoudis, Esq. (IHC), undated	E-mail from Joanne Monahan, Esq., to Robert Cotter	Attorney client privilege	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
3047	2 page e-mail from Maureen Crowley (Co-Petitioner) to Joanne Monahan, Esq. (IHC) with copy to David Donnelly (JC) dated 8/19/2005 9:17 AM, Re: Embankment -	E-mail from Maureen Crowley to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>

	PRIVILEGED			
3078	2 page letter from Maureen Crowley (Co-Petitioner) to Jerramiah Healy (JC) with copy to David Donnelly (JC) dated 7/25/2005 Re: PRR Harsimus Stem Embankment	Letter from Maureen Crowley to Jerramiah Healy	Attorney client privilege	Disclose letter in its entirety. Attorney client privilege does not apply to this letter between defendants, one of whom is a public official. Moreover, ACD privilege does not apply to this letter because it is not an inter- or intra-governmental communication.
3104	2 page letter from John Curley, Esq. (OC) to John Fiorilla, Esq. with copy to Joanne Monahan, Esq. (IHC) dated 6/7/2005, Re: 6 th Street Embankment Project	Letter from John Curley, Esq., to John Fiorilla, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3106	1 page memorandum from Carmine Scarpa, Esq. (IHC) to Joanne Monahan, Esq. (IHC) dated June 6, 2005, Re: 6 th Street Embankment Project	Memorandum from Carmine Scarpa, Esq. to Joanne Monahan, Esq.	ACD	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3130	2 page e-mail from Maureen Crowley (Co-Petitioner) to Joanne Monahan, Esq.	E-mail from Maureen Crowley to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-</u>

	(IHC) dated 5/2/2005 12:30 AM, Re: Draft Questions for Consulting Attorney on Abandonment			1.1.
3132	3 page e-mail from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) dated 4/4/2005 5:35 PM, Re: Embankment (with e-mail string attached) ⁴⁵	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3163	1 page e-mail from Maureen Crowley (Co-Petitioner) to Joanne Monahan, Esq. (IHC) dated 4/5/2005 11:42 AM, Re: Embankment	E-mail from Maureen Crowley to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3165	1 page e-mail from Maureen Crowley (Co-Petitioner) to Joanne Monahan, Esq. (IHC) with copies to Greg Corrado (JC) and Brian O'Reilly (JC) dated 3/29/2005 9:17 AM, Re: Embankment Mtg Monday	E-mail from Maureen Crowley to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

⁴⁵ E-mail from Joanne Monahan to John Curley and Brian O'Reilly dated 4/4/2005 4:17 PM, Re: Embankment; E-mail from John Curley to Joanne Monahan dated 4/4/2006 10:00 AM; E-mail from Joanne Monahan to John Curley and Maureen Crowley dated 4/1/2005 9:51 AM, Re: Embankment; E-mail from Maureen Crowley to John Curley dated 3/31/2005 11:09 AM.

3166	1 page e-mail from Maureen Crowley (Co-Petitioner) to Robert Cotter (JC), et als with copy to Joanne Monahan, Esq. (IHC) dated 3/3/2005 12:29 PM, Re: Embankment Requests from J. Curley	E-mail from Maureen Crowley to Robert Cotter, et als	Attorney client privilege	Exempt from disclosure as attorney client privileged material and as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
3167	2 page Notes of Embankment Acquisition Steering Committee dated 2/14/2005	Notes of Embankment Acquisition Steering Committee	Attorney client privilege	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
3169	3 page letter from Maureen Crowley (Co-Petitioner) to Joanne Monahan, Esq. (IHC) with copy to John Curley, Esq. (OC) dated 2/28/2004, Re: 6 th Street Embankment Project	Letter from Maureen Crowley to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
3172	2 page letter from John Curley, Esq., (OC) to Joanne Monahan, Esq. (IHC) with copy to Maureen Crowley (Co-Petitioner) dated 2/18/2005, Re: 6 th Street Embankment	Letter from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1.</u>

3184	6 page e-mail from Maureen Crowley (Co-Petitioner) to Embankment Steering Committee (JC) dated 2/10/2005 11:48 AM, Re: Embankment Acquisition Steering Committee	E-mail from Maureen Crowley to Embankment Steering Committee	Attorney client privilege	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3199	1 page Memorandum from Maureen Crowley (Co-Petitioner) to Joanne Monahan, Esq. (IHC) and John Curley, Esq. (OC) dated 2/9/2005, Re: Jersey City Embankment Acquisition Steering Committee Business	Memorandum from Maureen Crowley to Joanne Monahan, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3200	7 page fax from Joanne Monahan, Esq., (IHC) to John Curley, Esq. (OC) dated 2/10/2005 attaching various e-mails and reports ⁴⁶	Fax from Joanne Monahan, Esq., to John Curley, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3216	6 page e-mail from Maureen Crowley (Co-Petitioner) to	E-mail with attachments from Maureen Crowley to Joanne	Attorney client privilege	Exempt from disclosure as attorney client privileged

⁴⁶ Memorandum from Maureen Crowley (Co-Petitioner) to Joanne Monahan, Esq. (IHC) and John Curley, Esq. (OC) dated 2/9/2005, Re: Jersey City Embankment Acquisition Steering Committee Business; Memorandum from Andy Strauss, Strauss and Associates, to Maureen Crowley dated 11/17/2004, Re: Abandonment Docket Review/Harismus Branch.

	Joanne Monahan, Esq. (IHC) and John Curley, Esq. (OC) dated 2/9/2005, Re: Jersey City Embankment Acquisition Steering Committee Business dated 2/9/2005 (with memorandum attached) ⁴⁷	Monahan, Esq., et als.		material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3222	1 page memo from Joanne Monahan, Esq., (IHC) to Brian O'Reilly (JC), with handwritten notations dated 12/22/2004, Re: 6 th Street Embankment	Memorandum from Joanne Monahan, Esq., to Brian O'Reilly, with handwritten notations	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3224 ⁴⁸	1 page memo from Joanne Monahan, Esq., (IHC) to Brian O'Reilly (JC) dated 12/22/2004 Re: 6 th Street Embankment	Memorandum from Joanne Monahan, Esq., to Brian O'Reilly	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3228	11 page Memorandum from Andrew Strauss, Strauss and Associates, to Maureen Crowley (Co-Petitioner) dated November 17,	Memorandum from Andrew Strauss to Maureen Crowley	Attorney client privilege	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

⁴⁷ Memorandum from Andy Strauss, Strauss and Associates, to Maureen Crowley dated November 17, 2004, Re: Abandonment Docket Review/Harismus Branch.

⁴⁸ This record is the memorandum referred to at item no. 3222 above, without the handwritten notations.

	2004, Re: Abandonment Docket Review/Harism us Branch.			
3241	2 page letter from John Curley, Esq. (OC) to Joanne Monahan, Esq. (IHC) dated 9/20/2004, Re: 6 th Street Embankment	Letter from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3243	2 page letter from John Curley, Esq. (OC) to Joanne Monahan, Esq. (IHC) dated 9/20/2004, Re: 6 th Street Embankment	Letter from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3246	1 page letter from Joanne Monahan, Esq. (IHC) to John Curley, Esq. (OC) with copy to Robert Cotter (JC) dated 9/17/2004, Re; 6 th Street Embankment Projects	Letter from Joanne Monahan, Esq., to John Curley, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3253	2 page letter from John Curley, Esq. (OC) to Joanne Monahan, Esq. (IHC) dated 9/20/2004, Re: 6 th Street Embankment	Letter from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3283	1 page e-mail from Alexander Booth, Esq., (IHC) to	E-mail from Alexander Booth, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged

	Joanne Monahan, Esq. (IHC) dated 11/13/2002 9:38 PM, Re: 6 th St.			material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3287	1 page agenda list for November 12 meeting with McGuire & Associates	Agenda list for meeting with McGuire & Associates	Attorney client privilege	Exempt from disclosure as ACD material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3288	1 page memo from Joanne Monahan, Esq. (IHC) to Donovan Bezer (JC) dated 11/3/2003, Re: Rail Lines (Harsimus-Contrail) 6 th Street Embankment	Memo from Joanne Monahan, Esq., to Donovan Bezer	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
3289	1 page letter from Mark Munley (JC) to Alexander Booth, Esq. (IHC) with copy to Robert Cotter (JC) dated 6/3/2003, Re: Harsimus Railroad Embankment	Letter from Mark Munley to Alexander Booth, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4004	2 page e-mail from John Curley, Esq. (OC) to Charles Montange, Esq. (OC) and Joanne Monahan, Esq. (IHC) with copy to Jennifer Bogdanski,	E-mail from John Curley, Esq., to Charles Montange, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

	Esq. (OC) dated 1/13/2006 9:12 PM, Re: Sixth St. Embankment (with e-mail string attached) ⁴⁹			
4006	1 page e-mail from John Curley, Esq. (OC) to Maureen Crowley (Co-Petitioner) with copies to Joanne Monahan, Esq. (IHC) and Jennifer Bogdanski, Esq. (OC) dated 1/7/2006 3:08 PM, Re: Sixth St Embankment (with e-mail string attached) ⁵⁰	E-mail from John Curley, Esq. to Maureen Crowley	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4007	2 page e-mail from John Curley, Esq. (OC) to Joanne Monahan, Esq. (IHC) with copies to Robert Cotter (JC), Dan Wrieden (JC) and Carmine Scarpa (IHC) dated 7/21/2006 6:54 PM, Re: Sixth	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

⁴⁹ E-mail from Charles Montange to John Curley, Joanne Monahan and Maureen Crowley dated 1/13/2006 4:58 PM, Re: Fritz Kahn.

⁵⁰ E-mail from Maureen Crowley to John Curley dated 1/6/2006 5:41 PM, Re: JC Embankment.

	St Embankment			
4009	2 page e-mail from John Curley, Esq. (OC) to Joanne Monahan, Esq. (IHC) with copies to Barbara Netchert (JC) and Jacqueline Middleton (OC) dated 10/5/2006 12:28 PM, Re: Sixth St Embankment (with e-mail string attached) ⁵¹	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4011	1 page e-mail from John Curley, Esq. (OC) to Joanne Monahan, Esq. (IHC) with copy to Barbara Netchert (JC) dated 11/13/2006 12:45 PM, Re: Sixth St Embankment (with e-mail string attached) ⁵²	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4012	2 page e-mail from John Curley, Esq. (OC) to Joanne Monahan, Esq. (IHC) with copies to Charles Montange (OC)	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

⁵¹ E-mail from Charles Montange to John Curley dated 10/4/2006 2:05 PM, Re: Harismus.

⁵² E-mail from Charles Montange to John Curley dated 10/10/2006 2:44 PM, Re: funding.

	and Jennifer Bogdanski (OC) dated 1/10/2006 8:57 AM, Re: Sixth St Embankment (with e-mail string attached) ⁵³			
4014	4 page e-mail from William Matsikoudis, Esq. (IHC) to John Curley, Esq. (OC) and Joanne Monahan, Esq. (IHC) with copy to Greg Corrado (JC) dated 3/1/2006 10:20 AM, Re: Sixth Street Embankment Money (with e-mail string attached) ⁵⁴	E-mail from William Matsikoudis, Esq., to John Curley, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4022	1 page e-mail from John Curley, Esq. (OC) to Joanne Monahan, Esq. (IHC) with copies to Robert Cotter (JC), Dan Wrieden (JC) and Carmine Scarpa (IHC) dated	E-mail from John Curley, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

⁵³ E-mail from Charles Montange to John Curley and Maureen Crowley dated 1/9/2006 7:39 PM, Re: Pet. to STB.

⁵⁴ E-mail from John Curley to Joanne Monahan dated 3/1/2006 8:58 AM; E-mail from Charles Montange to John Curley dated 2/27/2006 7:49 PM, Re: Deeds Harismus Branch; E-mail from John Curley to Charles Montange dated 2/27/2006 4:29 PM, Re: Deeds Harismus Branch; E-mail from Charles Montange to John Curley dated 2/27/2006 3:15 PM, Re: deeds, Harismus; E-mail from John Curley to Charles Montange dated 2/27/2006 12:08 PM, Re: deeds, Harismus; E-mail from Charles Montange to Maureen Crowley, John Curley, Jennifer Bogdanski, Joanne Monahan and William Matsikoudis dated 2/27/2006 11:23 PM, Re: deeds, Harismus; E-mail from Maureen Crowley to Charles Montange, John Curley, Jennifer Bogdanski, Joanne Monahan and William Matsikoudis dated 2/27/2006 9:12 AM, Re: deeds, Harismus.

	2/13/2006 12:11 PM, Re: Sixth Street Embankment			
4023	1 page e-mail from John Curley, Esq. (OC) to Robert Cotter (JC) with copies to Joanne Monahan, Esq. (IHC) and Carmine Scarpa (IHC) dated 2/21/2006 6:02 PM, Re: Sixth Street Embankment	E-mail from John Curley, Esq., to Robert Cotter	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-</u> 1.1.
4024	1 page e-mail dated 7/11/2006	E-mail from Chris Fiore to Joanne Monahan, Esq.	Mistakenly included in log	Not disclosable because record is not responsive to the request.
4025 ⁵⁵	1 page e-mail from Charles Montange, Esq. (OC) to John Curley, Esq. (OC), Maureen Crowley (Co- Petitioner) and Joanne Monahan, Esq. (IHC) dated 5/23/2006 2:03 PM, Re: SLH Properties	E-mail from Charles Montange, Esq., to John Curley, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-</u> 1.1.
4026	1 page e-mail from Charles Montange, Esq. (OC) to John Curley, Esq. (OC), Maureen Crowley (Co- Petitioner) and Jennifer Bogdanski,	E-mail from Charles Montange, Esq., to John Curley, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-</u> 1.1.

⁵⁵ This record was supplied to the GRC by the Custodian via supplement dated 10/7/2009.

	Esq. (OC) dated 3/1/2006 1:41 PM, Re: SLH Properties discovery response			
4027	1 page e-mail from William Matsikoudis, Esq. (IHC) to John Curley, Esq. (OC) with copy to Joanne Monahan, Esq. (IHC) dated 1/19/2006 12:02 PM, Re: STB	E-mail from William Matsikoudis, Esq., to John Curley, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4028	1 page e-mail from Charles Montange, Esq. (OC) to Joanne Monahan, Esq. (IHC) and John Curley, Esq. (OC) dated 5/24/2006 12:07 PM, Re: STB	E-mail from Charles Montange, Esq. to Joanne Monahan, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4029	1 page e-mail from Charles Montange, Esq. (OC) to John Curley, Esq. (OC) with copy to Joanne Monahan, Esq. (IHC) dated 1/3/2006 6:55 PM, Re: STB dec action	E-mail from Charles Montange, Esq. to John Curley, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4036	1 page e-mail from Charles Montange, Esq. (OC) to Joanne Monahan, Esq. (IHC) dated 5/24/2006 12:07 PM, Re:	E-mail from Charles Montange, Esq., to Joanne Monahan, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

	STB			
4037	1 page e-mail from Charles Montange, Esq. (OC) to John Curley, Esq. (OC) with copy to Joanne Monahan, Esq. (IHC) dated 1/3/2006 6:55 PM, Re: STB dec action	E-mail from Charles Montange, Esq., to John Curley, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4038	1 page e-mail from Charles Montange, Esq. (OC) to John Curley, Esq. (OC), Maureen Crowley (Co-Petitioner) and Joanne Monahan, Esq. (IHC) dated 2/17/2006 12:07 PM, Re: STB proceeding	E-mail from Charles Montange, Esq., to John Curley, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4039	1 page e-mail from Charles Montange, Esq. (OC) to John Curley, Esq. (OC) and Joanne Monahan, Esq. (IHC) dated 3/5/2006 2:18 AM, Re: STB proceeding, Harismus Branch, discovery	E-mail from Charles Montange, Esq., to John Curley, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4040	1 page e-mail from Charles Montange, Esq. (OC) to Maureen	E-mail from Charles Montange, Esq., to Maureen Crowley, et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant

	Crowley (Co-Petitioner), William Matsikoudis (IHC) and Joanne Monahan, Esq. (IHC) dated 4/24/2006 5:38 PM, Re: STB proceeding, Jersey City			to <u>N.J.S.A. 47:1A-1.1</u> .
4041	2 page e-mail from Charles Montange, Esq. (OC) to Maureen Crowley (Co-Petitioner), John Curley, Esq. (OC) and Jennifer Bogdanski, Esq. (OC) with copies to Joanne Monahan, Esq. (IHC) and William Matsikoudis (IHC) dated 4/25/2006 10:51 PM, Re: STB proceeding, Harismus	E-mail from Charles Montange, Esq., to Maureen Crowley, et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4043	1 page e-mail from William Matsikoudis, Esq. (IHC) to John Curley, Esq. (OC) with copy to Joanne Monahan, Esq. (IHC) dated 1/19/2006 12:02 PM, Re: STB	E-mail from William Matsikoudis, Esq., to John Curley, Esq.,	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

4044	1 page e-mail from Charles Montange, Esq., (OC) to Joanne Monahan, Esq. (IHC) dated 5/24/2006 12:07 PM, Re: STB	E-mail from Charles Montange, Esq., to Joanne Monahan, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4045	1 page e-mail from Charles Montange, Esq., (OC) to John Curley, Esq. (OC) with copy to Joanne Monahan, Esq. (IHC) dated 1/3/2006 6:55 PM, Re: STB dec action	E-mail from Charles Montange, Esq., to John Curley, Esq.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4046	1 page e-mail from Charles Montange, Esq. (OC) to John Curley, Esq. (OC), Maureen Crowley (Co-Petitioner) and Joanne Monahan, Esq. (IHC) dated 2/17/2006 12:07 PM, Re: STB proceeding	E-mail from Charles Montange, Esq., to John Curley, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4047	1 page e-mail from Charles Montange, Esq. (OC) to John Curley, Esq. (OC) and Joanne Monahan, Esq. (IHC) dated 3/5/2006 2:18 AM, Re: STB proceeding,	E-mail from Charles Montange, Esq., to John Curley, Esq., et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

	Harismus Branch, discovery			
4048	1 page e-mail from Charles Montange, Esq. (OC) to Maureen Crowley (Co-Petitioner), William Matsikoudis (IHC) and Joanne Monahan, Esq. (IHC) dated 4/24/2006 5:38 PM, Re: STB proceeding, Jersey City	E-mail from Charles Montange, Esq. to Maureen Crowley, et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
4049	2 page e-mail from Charles Montange, Esq. (OC) to Maureen Crowley (Co-Petitioner), John Curley, Esq. (OC) and Jennifer Bogdanski, Esq. (OC) with copies to Joanne Monahan, Esq. (IHC) and William Matsikoudis (IHC) dated 4/25/2006 10:51 PM, Re: STB proceeding, Harismus	E-mail from Charles Montange, Esq., to Maureen Crowley, et als.	Attorney client privilege	Exempt from disclosure as attorney client privileged material pursuant to <u>N.J.S.A. 47:1A-1.1</u> .

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Martin O’Shea v. Township of West Milford (Passaic) (2007-237)

Ms. Lownie reviewed the GRC’s analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Lowine presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council accepts the Administrative Law Judge’s Initial Decision dated May 19, 2010 in which the Judge approved the Settlement Agreement and Release signed by the parties or their representatives.

Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Robert Verry v. Borough of South Bound Brook (Somerset) (2008-48)

Mr. Caruso reviewed the GRC’s analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Mr. Caruso presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that this complaint should be dismissed because the Complainant voluntarily withdrew his complaint from the Office of Administrative Law in a letter to the Honorable Ronald W. Reba dated April 27, 2010. Therefore, no further adjudication is required.

Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Auerswald. The motion passed unanimously.

Tina Renna v. Union County Improvement Authority (2008-86)

Ms. Lownie reviewed the GRC’s analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that this complaint should be dismissed because the Complainant voluntarily withdrew her complaint from the Office of Administrative Law via letter dated May 10, 2010. Therefore, no further adjudication is required.

Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Auerswald. The motion passed unanimously.

Jesse Wolosky v. Township of Sparta (Sussex) (2008-219)

Ms. Starghill reviewed the GRC’s analysis and issues in the case as set forth in the *In Camera* Findings and Recommendations of the Executive Director. Ms. Starghill presented the following recommendations to the Council with amendments:

The Executive Director respectfully recommends the Council find that:

1. The current Custodian did not comply with the Council’s September 30, 2009 Interim Order by providing the Council with all records set forth in Paragraph 3 of the Order within five (5) business days of receiving the Council’s Order.

2. On the basis of the Council’s determination in this matter, the current Custodian shall comply with the Council’s Findings of the *In Camera* Examination set forth in the table below within five (5) business days from receipt of this Order and simultaneously provide certified confirmation of compliance pursuant to N.J. Court Rules, 1969 R. 1:4-4 (2005) to the Executive Director.
 - a. The original Custodian unlawfully redacted the February 7, 2008 executive session minutes for the section heading “Cemex” since this redaction is not appropriate because it is a statement of the Township’s settlement in Tax Court which is not exempt from disclosure as it is a public record of the Court. **Therefore, the current Custodian must disclose this sentence to the Complainant.**

 - b. The original Custodian unlawfully redacted the March 9, 2007 Friday Memo, paragraph 7 because only the last sentence is exempt as advisory, consultative or deliberative material as it contains a recommendation, and is part of the deliberative process pursuant to N.J.S.A. 47:1A-1.1. **Therefore, the current Custodian must disclose the balance of this redaction to the Complainant.**

 - c. The original Custodian unlawfully redacted the April 11, 2008 Friday Memo, paragraph 3 because the first (1st) sentence of that paragraph is not exempt from disclosure as personnel information under OPRA. **Therefore, the Custodian must disclose this sentence.**

The original Custodian, however, did lawfully redact information from the remaining records and carried her burden of proof pursuant to N.J.S.A. 47:1A-6 relating to those records.

Record or Redaction Number	Record Name/Date	Description of Redaction by Section Heading (for Executive Session Minutes) and Paragraph Number (for Friday Memos)	Custodian’s Explanation/ Citation for Redactions (referencing <u>N.J.S.A.</u>)	Findings of the <i>In Camera</i> Examination ⁵⁶
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⁵⁶ **Unless expressly identified for redaction, everything in the record shall be disclosed.** For purposes of identifying redactions, unless otherwise noted a paragraph/new paragraph begins whenever there is an indentation and/or a skipped space(s). The paragraphs are to be counted starting with the first whole paragraph in each record and continuing sequentially through the end of the record. If a record is subdivided with topic headings, renumbering of paragraphs will commence under each new topic heading. Sentences are to be counted in sequential order throughout each paragraph in each record. Each new paragraph will begin with a new sentence number. If only a portion of a sentence is to be redacted, the

1.	Executive Session Minutes dated January 8, 2008	LMCC-Land Sale	10:4-12(b)7	- These redactions are exempt as attorney-client privileged advice and strategy discussion regarding contract negotiations pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> .
		Monto/Karaski v. Township of Sparta	10:4-12(b)7	- This redaction is exempt as attorney-client privileged advice regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> .
		Limecrest Developer and Tax Appeal Litigation	10:4-12(b)7	- This redaction is exempt as attorney-client privileged advice and strategy discussion regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> . Last redaction is exempt as ACD because it is a recommendation of the Mayor to the Council.
2.	Executive Session Minutes dated January 17, 2008	Limecrest Quarry, LLC v. Township of Sparta	10:4-12(b)7	- These redactions are exempt as attorney-client privileged advice and strategy discussion regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> .
3.	Executive Session Minutes dated February 7, 2008	Lake Mohawk Country Club – Old DPW Building	10:4-12(b)7	- These redactions are exempt as attorney-client privileged advice and strategy discussion regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u>
		Cemex	10:4-12(b)7	- This redaction is not

word in the sentence which the redaction follows or precedes, as the case may be, will be identified and set off in quotation marks. If there is any question as to the location and/or extent of the redaction, the GRC should be contacted for clarification before the record is redacted. The GRC recommends the redactor make a paper copy of the original record and manually "black out" the information on the copy with a dark colored marker, then provide a copy of the blacked-out record to the requester.

				appropriate because it is a statement of the Township's settlement in Tax Court which is not exempt from disclosure since it is a public record of the Court. The Custodian must disclose this sentence.
4.	Executive Session Minutes dated March 4, 2008	Limecrest Quarry Limecrest LLC Tax Appeal	10:4-12(b)7 10:4-12(b)7	- These redactions are exempt as attorney-client privileged advice regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> . - These redactions are exempt as attorney-client privileged advice regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> .
5.	Executive Session Minutes dated March 25, 2008	Limecrest Quarry Tax Appeal LMCC Purchase of DPW Property on Newton Sparta Road Letter to Editor – Councilman Murphy	10:4-12(b)7 10:4-12(b)7 10:4-12(b)7	- These redactions are exempt as attorney-client privileged advice regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> . - This redaction is exempt as ACD as it contains opinion and recommendation, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1</u> . - These redactions are exempt as attorney-client privileged advice and strategy discussion regarding anticipated litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> .
6.	Executive Session Minutes dated April 8, 2008	Limecrest Quarry	10:4-12(b)7	- These redactions are exempt as attorney-client privileged advice and strategy discussion regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and

		Shared Services – Ogdensburg	10:4-12(b)7	<u>N.J.S.A. 47:1A-1.1</u> . - This redaction is exempt as ACD as it contains opinion and recommendation, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
		LMCC/DPW Grounds	10:4-12(b)7	- This redaction is exempt as ACD as it contains opinion and recommendation, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
7.	Executive Session Minutes dated April 22, 2008	Personnel – Maull	10:4-12(b)7	- This redaction is exempt as attorney-client privileged advice regarding anticipated litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> .
		Limecrest Quarry	10:4-12(b)7	- These redactions are exempt as attorney-client privileged advice and strategy discussion regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> .
8.	Executive Session Minutes dated May 15, 2008	Limecrest Litigation	10:4-12(b)7	- These redactions are exempt as attorney-client privileged advice and strategy discussion regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1</u> .
		Contract Negotiations	10:4-12(b)7	- This redaction is exempt as ACD as it contains recommendations, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
9.	Executive Session Minutes dated June 12, 2008	Wolosky v. Sparta Township/Clerk	10:4-12(b)7	- These redactions are exempt as attorney-client privileged advice and strategy discussion regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and

		Limecrest Quarry	10:4-12(b)7	<u>N.J.S.A. 47:1A-1.1.</u> - These redactions are exempt as attorney-client privileged advice and strategy discussion regarding pending litigation pursuant to <u>N.J.S.A. 10:4-12(b)7</u> and <u>N.J.S.A. 47:1A-1.1.</u>
10.	Friday Memo dated January 4, 2007	1	47:1A-10 (Personnel) and -1.1 (ACD)	These redactions are exempt as ACD as they contain opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
		2	47:1A-1.1 (ACD)	This redaction is exempt as ACD as it contains an opinion, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
11.	Friday Memo dated January 12, 2007	6	47:1A-1.1 (ACD)	This redaction is exempt as ACD as it contains an opinion/recommendation, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
12.	Friday Memo dated March 2, 2007	9	47:1A-1.1 (ACD)	These redactions are exempt as ACD as they contain opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
13.	Friday Memo dated March 9, 2007 (Budget Update)	4	47:1A-1.1 (ACD)	This redaction is exempt as ACD as it contains recommendations, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
		7	47:1A-1.1 (ACD)	Only the last sentence is exempt as ACD as it contains a recommendation, and is part of the deliberative process pursuant to <u>N.J.S.A.</u>

		8	47:1A-1.1 (ACD)	47:1A-1.1. The Custodian must disclose the balance of this redaction. These redactions are exempt as ACD as they contain opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
		10	47:1A-1.1 (ACD)	These redactions are exempt as ACD as they contain opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
14.	Friday Memo dated March 16, 2007	3	47:1A-1.1 (ACD)	These redactions are exempt as ACD as they contain opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
15.	Friday Memo dated April 13, 2007	2	47:1A-1.1 (ACD)	These redactions are exempt as ACD as they contain opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
16.	Friday Memo dated February 1, 2008	3	47:1A-1.1 (ACD)	These redactions are exempt as ACD as they contain opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
17.	Friday Memo dated March 14, 2008	4	47:1A-1.1 (ACD)	This redaction is exempt as ACD as they contain a recommendation, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1.</u>
		6	47:1A-1.1 (ACD)	These redactions are exempt as ACD as they contain

				opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
18.	Friday Memo dated April 4, 2008	3	47:1A-10 (Personnel)	These redactions are exempt as personnel discussion pursuant to <u>N.J.S.A. 47:1A-10</u> .
		5	47:1A-1.1 (ACD)	This redaction is exempt as ACD as it contains an opinion, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
19.	Friday Memo dated April 11, 2008	3	47:1A-10 (Personnel)	The first (1st) sentence of this redaction is unlawfully because it is not exempt from disclosure under OPRA. The Custodian must disclose this sentence. The remainder of this redaction is exempt as information concerning individuals regarding medical, psychiatric or psychological history, diagnosis, treatment or evaluation pursuant to paragraph 4.b.1., Executive Order #26 (McGreevey) (August 13, 2002).
20.	Friday Memo dated April 25, 2008	2	47:1A-1.1 (ACD)	These redactions are exempt as ACD as they contain opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
21.	Friday Memo dated May 2, 2008	8	47:1A-1.1 (ACD)	This redaction is exempt as ACD as it contains an opinion, and is part of the deliberative process pursuant to <u>N.J.S.A. 47:1A-1.1</u> .
22.	Friday Memo dated May 9, 2008	7	47:1A-1.1 (ACD)	This redaction is exempt as ACD as is part of the deliberative process pursuant

				to <u>N.J.S.A.</u> 47:1A-1.1.
23.	Friday Memo dated May 23, 2008	13	47:1A-1.1 (ACD)	These redactions are exempt as ACD as they contain opinions and recommendations, and are part of the deliberative process pursuant to <u>N.J.S.A.</u> 47:1A-1.1.
24.	Friday Memo dated June 27, 2008	1 5	47:1A-10 (Personnel) 47:1A-1.1 (ACD)	This redaction is exempt as personnel discussion pursuant to <u>N.J.S.A.</u> 47:1A-10. This redaction is exempt as ACD as it contains a recommendation, and is part of the deliberative process pursuant to <u>N.J.S.A.</u> 47:1A-1.1.

Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Auerswald. The motion passed unanimously.

Martin O’Shea v. Township of Little Falls (Passaic) (2008-225)

Ms. Starghill reviewed the GRC’s analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Starghill presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council accept the Administrative Law Judge’s Initial Decision dated April 13, 2010 in which the Judge approved the Stipulation of Settlement signed by the parties or their representatives and ordered the parties to comply with the settlement terms and determined that these proceedings be concluded.

Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Auerswald. The motion passed unanimously.

Jesse Wolosky v. Township of Sparta (Sussex) (2008-277)

Ms. Gordon reviewed the GRC’s analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Gordon presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. The Complainant has met the required burden for reconsideration under Cummings v. Bahr, 295 N.J. Super. 374 (App. Div. 1996) by establishing that the

Council's November 18, 2009 Interim Order determining that the special service charge proposed by the Custodian for the reproduction of the requested meeting recordings and the summary of legal bills was reasonable was based upon a "palpably incorrect or irrational basis."

2. Based on the evidence of record, the GRC finds that the Custodian has failed to bear her burden under N.J.S.A. 47:1A-6 of proving that the instant request for meeting recordings in fact requires a substantial amount of manipulation or programming of information technology and has further failed to bear her burden of proving that the proposed special service charge associated with the reproduction of the requested meeting recordings is reasonable and based on the labor cost of personnel providing the service that is actually incurred by the agency, as required by N.J.S.A. 47:1A-5.d. See Rivera v. Town of Guttenberg, GRC Complaint No. 2006-154 (June 2008); Janney v. Estell Manor City, GRC Complaint No. 2006-105 (December 2007). The Custodian may therefore only charge the actual cost of the 11 CD-ROMs necessary to duplicate the meeting recordings, which the Custodian has certified is 35 cents each, for a total of \$3.85.
3. Based on the evidence of record set forth above, the GRC finds that the Custodian has failed to bear her burden under N.J.S.A. 47:1A-6 of proving that the reproduction of the requested summary of all legal fees billed by the Township Attorney for December 2007 to March 2008 and the requested vendor bill list for 2007 in fact requires a substantial amount of manipulation or programming of information technology and has further failed to bear her burden of proving that the proposed special service charge associated with the reproduction of the requested summary is reasonable and based on the labor cost of personnel providing the service that is actually incurred by the agency, as required by N.J.S.A. 47:1A-5.d. The two (2) to (4) hours which the Custodian certified in to SOI would be required to scan, convert and save the requested vendor bill list and attorney's bills to PDF format do not rise to the level of a "substantial amount of manipulation or programming of information technology" sufficient to justify the proposed charges under N.J.S.A. 47:1A-5.d. See McBride v. Borough of Mantoloking (Ocean), 2009-138 (March 2010). The Custodian may, therefore, charge only the cost of the CD-ROM necessary to provide electronic copies of the requested records to the Complainant, or 35 cents.
4. **The Custodian shall comply with item # 2 and #3 above within five (5) business days from receipt of the Council's Interim Order and simultaneously provide certified confirmation of compliance, in accordance with N.J. Court Rule 1:4-4⁵⁷, to the Executive Director.⁵⁸**

⁵⁷ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁵⁸ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

5. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.
6. The Council defers analysis of whether the Complainant is a "prevailing party" pursuant to N.J.S.A. 47:1A-6 and entitled to reasonable attorney's fees pending the Custodian's compliance with the Council's Interim Order.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as amended. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Guy DeMarzo v. City of Wildwood (Cape May) (2009-61)

Mr. Stewart reviewed the GRC's analysis and issues in the case as set forth in the *In Camera* Findings and Recommendations of the Executive Director. Mr. Stewart presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. Because the Custodian failed to provide the Council with a document or redaction index and failed to certify that the document provided was the document requested by the Council for *in camera* inspection, the Custodian has failed to comply with the terms of the Council's February 23, 2010 Interim Order.
2. Because the *in camera* examination of the Emergency Software Products inspection report for 439 Tacony Road revealed the Custodian unlawfully denied the Complainant access to said record pursuant to N.J.S.A. 47:1A-6., the Custodian must disclose the unredacted record to the Complainant within five (5) business days of the Council's Interim Order.
3. **On the basis of the Council's determination in this matter, the Custodian shall comply with the Council's Findings of the *In Camera* Examination set forth in paragraph 2 above within five (5) business days from receipt of this Order and simultaneously provide certified confirmation of compliance pursuant to N.J. Court Rules, 1969 R. 1:4-4 (2005) to the Executive Director.**
4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Auerswald. The motion passed unanimously.

Marc Liebeskind v. Piscataway Township , Police Department (Middlesex) (2009-62)

Mr. Stewart reviewed the GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Mr. Stewart presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. Because the Custodian, on April 14, 2010, forwarded a certification to the GRC which averred that the Custodian disclosed to the Complainant a copy of the Police Department's procedure for using video cameras in police cars titled "Mobile Video/Audio Recording (MVR) Equipment of the Piscataway Township Police Department," the Custodian complied with the terms of the Council's April 8, 2010 Interim Order.
2. Although the Custodian's failure to respond to the Complainant's OPRA request within the statutorily mandated time period resulted in a "deemed" denial of access and the Custodian's failure to provide the Police Department procedure for using video cameras in police cars to the Complainant in the medium requested resulted in an unlawful denial of access, the Custodian did disclose said procedure to the Complainant in a timely manner upon receipt of the Council's April 8, 2010 Interim Order. Further, there is nothing in the record to suggest the Custodian's actions were intentional and deliberate with knowledge of their wrongfulness. Therefore, it is concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Philip Charles v. Plainfield Municipal Utilities Authority (Union) (2009-113)

Mr. Caruso reviewed the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Mr. Caruso presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. The Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5.g., N.J.S.A. 47:1A-5.i., and Kelley v. Township of Rockaway, GRC Complaint No. 2007-11 (October 2007) and DeLuca v. Town of Guttenberg, GRC Complaint No. 2006-126 (February 2007). Further, because the Custodian failed to immediately deny access to the requested records, the Custodian has violated N.J.S.A. 47:1A-5.e. See Herron v. Township of Montclair, GRC Complaint No. 2006-178 (February 2007).

2. The Custodian certified in the Statement of Information that no quarterly sewer bills responsive to the Complainant's OPRA request exist, and there is no credible evidence in the record to refute the Custodian's certification. Therefore, while the Custodian violated N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i. by failing to respond in writing within the statutorily required time frame resulting in a "deemed" denial and violated N.J.S.A. 47:1A-5.e. by failing to immediately respond to the Complainant's OPRA request for quarterly sewer bills, the Custodian has not unlawfully denied access to the Complainant's OPRA request pursuant to Pusterhofer v. New Jersey Department of Education, GRC Complaint No. 2005-49 (July 2005).
3. Although the Custodian's failure to provide a written response to the Complainant's OPRA request within the statutorily mandated time frame resulted in a "deemed" denial and the Custodian violated N.J.S.A. 47:1A-5.e. by failing to immediately respond to the Complainant's OPRA request for quarterly sewer bills, because the Custodian certified in the Statement of Information that no records responsive to the Complainant's OPRA request exist, it is concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Rashaun Barkley v. NJ Department of Treasury, Division of Revenue (2009-128)

Mr. Caruso reviewed the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Mr. Caruso presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. In the absence of any evidence indicating the Division of Commercial Recording staff member who responded and upon what date the form letter response was sent, the GRC is unable to determine the identity of the staff member of the Division of Commercial Recording that violated OPRA pursuant to N.J.S.A. 47:1A-5.h.
2. The fees imposed under N.J.S.A. 42:2B-65(9) and N.J.S.A. 22A:4-1a, are lawful and not excessive under OPRA pursuant to N.J.S.A. 47:1A-5.b., Donato v. Jersey City Police Department, GRC Complaint No. 2005-251 (April 2007), and Truland v. Borough of Madison, GRC Complaint No. 2006-88 (September 2007).
3. The Custodian has not unlawfully denied access to the Complainant's letter request referencing OPRA because he certified that no request was received until the filing of this complaint pursuant to Avila v. Camden County Prosecutor's Office, GRC Complaint No. 2007-287 (July 2008).

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Cynthia McBride v. Borough of Mantoloking (Ocean) (2009-138)

Ms. Lownie reviewed the GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. Because the Tax Collector provided the requested tax search export file to the Complainant via e-mail on April 13, 2010 at the actual cost, pursuant to N.J.S.A. 47:1A-5.b., which is \$0.00 because there is no cost incurred by the Borough to transmit the requested records electronically, and because both the Custodian and the Tax Collector provided the GRC's Executive Director with certified confirmation of compliance on April 13, 2010, which is within the five (5) business days as ordered by the Council, the Custodian has complied with the Council's April 8, 2010 Interim Order.
2. Although the Custodian improperly assessed a special service charge pursuant to N.J.S.A. 47:1A-5.c. because the estimated seven (7) minutes of time spent on fulfilling an OPRA request does not come close to what the Legislature intended as an 'extraordinary expenditure of time' to warrant a special service charge, the Custodian complied with the Council's April 8, 2010 Interim Order by disclosing to the Complainant the requested tax search export file at actual cost within the five (5) business days as ordered by the Council. Therefore, it is concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

David Nugent v. Ocean County College (Ocean) (2009-143)

Mr. Caruso reviewed the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Mr. Caruso presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. The original Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5.g., N.J.S.A. 47:1A-5.i., and Kelley v. Township of Rockaway, GRC Complaint No. 2007-11 (October 2007).

2. Because the Complainant's request failed to specify identifiable government records, and because OPRA does not require custodians to research files to discern which records may be responsive to a request, and because the Custodian had no legal duty to research OCC files to locate records potentially responsive to the Complainant's request, the request is invalid under OPRA. MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 180 (App. Div. 2007), Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005), Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009), and Feiler-Jampel v. Somerset County Prosecutor's Office, GRC Complaint No. 2007-190 (March 2008).
3. Although the Custodian's failure to provide a written response to the Complainant's request within the statutorily mandated seven (7) business days resulted in a "deemed" denial, because the Complainant's April 8, 2009 request is invalid under OPRA, it is concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Mr. Richman and seconded by Ms. Auerswald. The motion passed unanimously.

George Burdick, Jr. v. NJ Office of Administrative Law (2009-150)

Mr. Caruso reviewed the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Mr. Caruso presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. Pursuant to Paff v. NJ Department of Labor, Board of Review, 379 N.J. Super. 346 (App. Div. 2005), the GRC must conduct an *in camera* review of the requested backup recording for Hearing Room No. 8 at the Office of Administrative Law's ("OAL") Quakerbridge Plaza complex dated March 5, 2009 between the hours of 9:00 am and 4:00 pm to determine the validity of the Custodian's assertion that the record contains information which is exempt from disclosure pursuant to N.J.S.A. 47:1A-1.1.
2. **The Custodian must deliver⁵⁹ to the Council in a sealed envelope nine (9) copies of the requested unredacted document (see No. 2 above), a document or redaction index⁶⁰, as well as a legal certification from the Custodian, in accordance with N.J. Court Rule 1:4-4⁶¹, that the document provided is the document requested by the Council for the *in camera* inspection. Such**

⁵⁹ The *in camera* documents may be sent overnight mail, regular mail, or be hand-delivered, at the discretion of the Custodian, as long as they arrive at the GRC office by the deadline.

⁶⁰ The document or redaction index should identify the document and/or each redaction asserted and the lawful basis for the denial.

⁶¹ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

delivery must be received by the GRC within five (5) business days from receipt of the Council's Interim Order.

3. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

John Petrycki v. Township of Hammonton (Atlantic) (2009-159)

Ms. Lownie reviewed the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. Because the Custodian certified that she did not receive the Complainant's OPRA requests dated November 25, 2008, and because the Complainant has not provided any evidence to contradict the Custodian's certification, the Custodian has not unlawfully denied access to said requests. See Avila v. Camden County Prosecutor's Office, 2007-287 (July 2008).
2. The Custodian's failure to respond in writing to the Complainant's re-submitted OPRA requests either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA requests pursuant to N.J.S.A. 47:1A-5.g., N.J.S.A. 47:1A-5.i., and Kelley v. Township of Rockaway, GRC Complaint No. 2007-11 (October 2007).
3. Because the Custodian certified that there are no records responsive to the Complainant's OPRA requests for video recordings, the Custodian would have carried her burden of proving a lawful denial of access, had she provided such response to the Complainant within the statutorily mandated seven (7) business days, pursuant to Pusterhofer v. New Jersey Department of Education, GRC Complaint No. 2005-49 (July 2005).
4. Although the Custodian violated N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i. by failing to provide a written response to the Complainant's re-submitted OPRA requests within the statutorily mandated seven (7) business days, the Custodian certified that no video recordings responsive existed and thus would have carried her burden of proving a lawful denial of access has she responded timely. Additionally, there is no evidence in the record that suggests the Custodian's delay in providing a response to the Complainant's OPRA requests was intentional or deliberate. Therefore, it is concluded that the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

5. Although the Complainant is eligible for the state's fee-shifting provision under OPRA because the evidence of record indicated that he is an attorney representing a client in this matter, pursuant to Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Complainant is not a "prevailing party" entitled to an award of reasonable attorney's fees. The filing of this complaint did not bring about a change (voluntary or otherwise) in the Custodian's conduct. The Custodian did not provide any videotapes to the Complainant as a result of this complaint because the Custodian certified that no records responsive exist. Additionally, using the catalyst theory discussed in Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008), there is no factual causal nexus between the filing of the Complainant's Denial of Access Complaint and the Custodian's technical violation of OPRA (failing to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days) and subsequent Statement of Information certification that no records responsive exist.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Martin O'Shea v. Bloomfield Board of Education (Essex) (2009-175)

Ms. Lownie reviewed the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. Because the Custodian provided the Complainant with a written response within the statutorily mandated seven (7) business days indicating that the Complainant's request item no. 2 was "not approved" because the Board of Education has not ratified an agreement for Board Attorney as of the date of the Complainant's request, and because the Custodian certified that there are no records responsive to request item no. 2, the Custodian has not unlawfully denied access to said request item pursuant to N.J.S.A. 47:1A-6 and Pusterhofer v. New Jersey Department of Education, GRC Complaint No. 2005-49 (July 2005).
2. Because request items no. 1 and 3 are not requests for identifiable government records, the requests are invalid and the Custodian has not unlawfully denied access to the requested records pursuant to MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007), and Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). As such, the Complainant's assertion that the Custodian violated N.J.S.A. 47:1A-5.b. by improperly assessing a \$0.75 fee to provide a record responsive to request item no. 1 via e-mail is moot since said request is invalid. Nevertheless, the Council has previously held that there is generally no charge incurred by an agency to transmit records electronically. *See*

McBride v. Borough of Mantoloking (Ocean), GRC Complaint No. 2009-138 (April 2010) (holding that “the Custodian must disclose to the Complainant the requested records at the actual cost, pursuant to N.J.S.A. 47:1A-5.b., which is \$0.00 because there is no cost incurred by the Borough to transmit the requested records electronically”).

3. While the Custodian may have engaged in an unfriendly telephone conversation with the Complainant, the Custodian did not unlawfully deny access to request item no. 2, and request items no. 1 and 3 are invalid. Therefore, it is concluded that the Custodian’s actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.
4. Pursuant to Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Complainant is not a “prevailing party” entitled to an award of reasonable attorney’s fees. The filing of this complaint did not bring about a change (voluntary or otherwise) in the Custodian’s conduct. Additionally, using the catalyst theory discussed in Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008), there is no factual causal nexus between the filing of the Complainant’s Denial of Access Complaint and the relief ultimately achieved because the Complainant did not receive any relief. The Custodian did not unlawfully deny access to the requested records and the Complainant’s challenge of the \$0.75 fee is moot since said request item is invalid.

Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Kimberly Smela v. County of Essex (2009-255)

Mr. Stewart reviewed the GRC’s analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Mr. Stewart presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. Because the Custodian failed to meet his burden of proving that the denial of access to the requested records was authorized by law pursuant to N.J.S.A. 47:1A-6., the Custodian must disclose to the Complainant in the requested medium, or another meaningful medium, the records relevant to this complaint.
2. If the records require a substantial amount of manipulation, the Custodian shall calculate in addition to the actual cost of duplicating the records, a special service charge cost which is reasonable and based on the cost for any extensive use of information technology or for the labor cost of personnel providing the service actually incurred by the agency for converting the records relevant to the complaint into the requested medium, or another meaningful medium, and thereafter provide the Complainant with an opportunity to review and object to the charge pursuant to N.J.S.A. 47:1A-5.c. and N.J.S.A. 47:1A-5.d.

3. **If applicable, the Custodian shall calculate the appropriate special service charge in accordance with Paragraph No. 2 above and shall make the amount of the charge available to the Complainant within three (3) business days from receipt of the Council's Interim Order. The Custodian shall disclose to the Complainant the requested records (a copy of all of the tax maps and a copy of the Geographic Information Systems parcel layers shape file of Essex County, excluding the City of Newark, on a Compact Disc or Digital Versatile Disc) with any appropriate redactions and a detailed document index explaining the lawful basis for any such redaction upon the Complainant's payment of the special service charge, if any, within ten (10) business days from receipt of the Council's Interim Order and simultaneously provide certified confirmation of compliance in accordance with N.J. Court Rule 1:4-4⁶², to the Executive Director. If a special service charge is applicable and the Complainant fails to pay the special service charge for the requested records by the tenth (10th) business day from receipt of the Council's Interim Order, the Custodian shall provide a certification to that effect in accordance with N.J. Court Rule 1:4-4 to the Executive Director.**
4. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Susanne Venezia v. NJ Department of Corrections (2009-314)

Mr. Stewart reviewed the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Mr. Stewart presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that because the Custodian certified that there are no records responsive to the Complainant's request, and because there is no credible evidence in the record to refute the Custodian's certification, the Custodian did not unlawfully deny the Complainant access to the records relevant to the complaint pursuant to N.J.S.A. 47:1A-1.1. See Pusterhofer v. NJ Department of Education, GRC Complaint No. 2005-49 (July 2005).

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Christopher Gray v. City of Camden (Camden) (2009-328)

⁶² "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

Mr. Stewart reviewed the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Mr. Stewart presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that:

1. The Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5.g., N.J.S.A. 47:1A-5.i., and Kelley v. Township of Rockaway, GRC Complaint No. 2007-11 (October 2007).
2. Because N.J.S.A. 47:1A-5.e. provides that "[i]mmediate access ordinarily shall be granted to...contracts...", the Custodian unlawfully denied the Complainant access to the contracts that he determined were, in part, responsive to the Complainant's request for Item No. 2 of the records relevant to the complaint by failing to make those records immediately available upon receipt of the Complainant's OPRA request.
3. Apart from the Custodian's "deemed" denial, the Custodian certified that the records that comprise Item No. 1 of the records request, which are resolutions and ordinances acknowledging payments to Caryl Amana, Esq., and the records that comprise Item No. 2 of the records request, which are invoices and contracts for legal services provided by Ms. Amana from January of 2006 through the date of the request, were disclosed to the Complainant on January 13, 2010, and because there is no credible evidence in the record to refute said certification, there was no unlawful denial of access pursuant to N.J.S.A. 47:1A-5.g. and Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005).
4. Because the Custodian certified that there are no records responsive to the Complainant's request for Item No. 3, which is any retainer agreement between the City of Camden and Caryl Amana, Esq., and Item No. 4, which is any indemnification agreement between the City of Camden and Caryl Amana, Esq., and because there is no credible evidence in the record to refute the Custodian's certification, the Custodian did not unlawfully deny the Complainant access to said records pursuant to N.J.S.A. 47:1A-1.1. See also Pusterhofer v. NJ Department of Education, GRC Complaint No. 2005-49 (July 2005).
5. Although the Custodian violated N.J.S.A. 47:1A-5.e. by failing to make the contracts immediately available upon receipt of the Complainant's OPRA request, and although the Custodian violated N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i., by failing to respond to the Complainant's OPRA request in writing within the statutorily mandated seven (7) business days which resulted in a "deemed" denial of the Complainant's OPRA request, the Custodian did respond in writing to the Complainant's request within nine (9) business days informing the Complainant that the request was referred to the Law Department, and thereafter the Custodian followed advice of counsel in redacting and disclosing all records responsive to the Complainant's request. Therefore, it is concluded that the Custodian's

actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Thomas Caggiano v. Borough of Stanhope (Sussex) (2010-61)

Ms. Gordon reviewed the GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Gordon presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that because the Complainant has failed to establish in his motion for reconsideration of the Council's April 28, 2010 Findings and Recommendations that 1) the GRC's decision is based upon a "palpably incorrect or irrational basis" or 2) it is obvious that the GRC did not consider the significance of probative, competent evidence, and has failed to show that the GRC acted arbitrarily, capriciously or unreasonably in disposing of the complaint, and failed to submit any evidence to contradict the effect of Judge Dana's December 3, 2008 Judgment, said motion for reconsideration is denied. Cummings v. Bahr, 295 N.J. Super. 374 (App. Div. 1996); D'Atria v. D'Atria, 242 N.J. Super. 392 (Ch. Div. 1990); In The Matter Of The Petition Of Comcast Cablevision Of South Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Television System In The City Of Atlantic City, County Of Atlantic, State Of New Jersey, 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003).

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Kovach and seconded by Ms. Auerswald. The motion passed unanimously.

Thomas Caggiano v. Borough of Stanhope (Sussex) (2010-67)

Ms. Gordon reviewed the GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Gordon presented the following recommendations to the Council:

The Executive Director respectfully recommends the Council find that because the Complainant has failed to establish in his motion for reconsideration of the Council's April 28, 2010 Findings and Recommendations that 1) the GRC's decision is based upon a "palpably incorrect or irrational basis" or 2) it is obvious that the GRC did not consider the significance of probative, competent evidence, and has failed to show that the GRC acted arbitrarily, capriciously or unreasonably in disposing of the complaint, and failed to submit any evidence to contradict the effect of Judge Dana's December 3, 2008 Judgment, said motion for reconsideration is denied. Cummings v. Bahr, 295 N.J. Super. 374 (App. Div. 1996); D'Atria v. D'Atria, 242 N.J. Super. 392 (Ch. Div. 1990); In The Matter Of The Petition Of Comcast Cablevision Of South Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Television System In The City Of Atlantic City, County Of Atlantic, State Of New Jersey, 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003).

Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. A motion was made by Ms. Kovach and seconded by Ms. Auerswald. The motion passed unanimously.

Complaints on Appeal: None.

Complaints Adjudicated on NJ Superior Court & NJ Supreme Court: David Burnett v. County of Gloucester (App. Div., May 10, 2009).

Executive Director's Report and New Business: None.

Public Comment: None.

A motion to end the Council's meeting was made by Ms. Auerswald and seconded by Mr. Richman. The motion passed unanimously.

Meeting adjourned at 10:55 a.m.

Respectfully submitted,

Charles Richman, Secretary

Date Approved: July 27, 2010