



**Minutes of the Government Records Council
July 23, 2013 Public Meeting – Open Session**

I. Public Session:

- **Call to Order**

The meeting was called to order at 10:37 a.m. by Robin Tabakin at the Department of Community Affairs, Conference Room 129, Trenton, New Jersey.

- **Pledge of Allegiance**

All stood and recited the pledge of allegiance in salute to the American flag.

- **Meeting Notice**

Ms. Tabakin read the following Open Public Meetings Act statement:

“This meeting was called pursuant to the provisions of the Open Public Meeting Act. Notices of this meeting were faxed to the Newark Star Ledger, Trenton Times, Courier-Post (Cherry Hill), and the Secretary of State on July 18, 2013.”

Ms. Tabakin read the fire emergency procedure.

- **Roll Call**

Ms. Tabakin called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Denise Parkinson, Esq. (designee of Department of Education Commissioner Chris Cerf), Dana Lane, Esq. (designee of Department of Community Affairs Commissioner Richard E. Constable, III) and Steven Ritardi, Esq. (public member).

GRC Staff in Attendance: Brandon D. Minde, Esq. (Executive Director), Rosemond Bordzoe (Secretary), Dawn R. SanFilippo, Esq. (Senior Staff Attorney), Frank F. Caruso (Senior Case Manager), John Stewart, Esq. (Mediator), and Debra Allen, Esq. (Deputy Attorney General).

Ms. Tabakin informed the public that the Agenda with a complaint synopsis is available with the agenda by the conference room door.

II. Executive Director's Report:

Mr. Minde provided the Council with the GRC's current statistics:

1. FY 2013 Adjudication Statistics

- For the second straight fiscal year the GRC has increased its monthly average adjudication rate.
- Between July 1, 2012 and December 31, 2012, the GRC averaged 51.1 adjudications per month.
- Between January 1, 2013 and June 30, 2013, the GRC averaged 57.5 adjudications per month.
- For fiscal year 2013, the GRC averaged 54.3 adjudications per month, 12 adjudications more per month than were averaged in fiscal year 2012.
- Fifty-two cases were scheduled for the July meeting, with a three week cycle.

2. OPRA Training

- On July 12, 2013, he presented "A Review of the Open Public Records Act for Law Enforcement Agencies" at an OPRA Seminar hosted by the Monmouth County Prosecutor's Office.
- Next training date:
 - August 14, 2013 – GRC's Annual OPRA Seminar (State Museum Auditorium)
 - Registrations were approaching 300 attendees
 - Registrants were statewide and included state and municipal custodians, members of the public as well as attorneys.

3. Current Statistics

- Since OPRA's inception in 2002, the GRC has received 3,184 Denial of Access Complaints
- Fiscal year 2013 (July 1, 2012 – June 30, 2013), the GRC received 323 complaints
- Current fiscal year (July 1, 2013 – June 30, 2014), the GRC has received 25 complaints to date
- 2,860 of the 3,184 complaints have been closed
- 324 of the 3,184 complaints filed remain open and active
 - 8 complaints are on appeal with the Appellate Division
 - 4 complaints are currently in mediation
 - 59 complaints are awaiting adjudication by the Office of Administrative Law
 - 89 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting (including July 23)
 - 164 complaints await GRC adjudication

4. Mr. Minde welcomed Rosemond Bordzoe to the GRC team.

III. Public Comment: None.

IV. Closed Session:

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

A. In-Camera Reviews

1. **Phillip Molnar (on behalf of Express Times) v. Warren County Community College, GRC Complaint No. 2012-04 (ICFR)**
2. **Harry B. Scheeler, Jr. v. Township of Galloway (Atlantic), GRC Complaint No. 2012-151 (ICFR)**
3. **Karen Banda v. Township of Bloomfield (Essex), 2012-191 (ICFR)**
4. **Jerry Burgos v. Township of Hazlet (Monmouth), 2012-195 (ICFR)**

B. Advisory Opinions

1. **Advisory Opinion 2013-01**

Ms. Parkinson made a motion to go into closed session and Ms. Lane seconded the motion. The Council adopted the motion by a unanimous vote. Ms. Parkinson made a motion to end the closed session and Mr. Lane seconded the motion. The Council adopted the motion by a unanimous vote. The Council met in closed session from 10:45 a.m. until 11:15 a.m.

Open Session reconvened at 11:15 a.m. and Ms. Bordzoe called roll.

Present: Ms. Tabakin, Ms. Parkinson, Ms. Lane and Mr. Ritardi.

V. Approval of Minutes of Previous Meetings:

- **June 25, 2013 Open Session Meeting Minutes**

Robin Berg Tabakin made a motion and Denise Parkinson seconded the motion to approve the open session minutes of the June 25, 2013 meeting. The motion passed unanimously.

- **June 25, 2013 Closed Session Meeting Minutes.** None.

VI. New Business – Cases Scheduled for Adjudication

Ms. Tabakin stated that: an “Administrative Complaint Disposition” means a decision by the Council as to whether to accept or reject the Executive Director’s recommendation of dismissal based on jurisdictional, procedural or other defects of the complaint. The Executive Director’s recommended reason for the Administrative Disposition is under each complaint below.

A. Administrative Disposition Adjudications with Recusals (Consent Agenda):

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

1. **Douglas E. Wicks v. NJ Department of Education (2012-281)** (DPV Recusal)
 - Complaint Voluntarily Withdrawn. Ms. Tabakin called for a motion to accept the Executive Director’s recommendation. Mr. Ritardi made a motion and Ms. Lane seconded the motion. The motion passed unanimously.
2. **Bryan M. Buffalino v. City of Newark (Essex) (2013-116)** (SR Recusal)
 - Complaint Voluntarily Withdrawn. Ms. Tabakin called for a motion to accept the Executive Director’s recommendation. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.
3. **Mark L. Tompkins v. City of Newark Municipal Court (Essex) (2013-159)** (SR Recusal)
 - Request Not Within Council’s Jurisdiction to Adjudicate (Judiciary) Ms. Tabakin called for a motion to accept the Executive Director’s recommendation. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

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

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| <ol style="list-style-type: none">1. Kevin Richards v. Bergen County Prosecutor’s Office (2012-254)2. Kevin Richards v. Bergen County Prosecutor’s Office (2012-255) Consolidated<ul style="list-style-type: none">• No Records Responsive to the Request Exist3. Marie Mazzarella v. Township of Hazlet (Monmouth) (2013-105)<ul style="list-style-type: none">• Complaint Settled in Mediation4. Eugene Song (On behalf of Vollers Excavating & Construction) v. Atlantic City Board of Education (2013-166)<ul style="list-style-type: none">• Complaint Voluntarily Withdrawn5. Peter Gartner v. Borough of Middlesex (Middlesex) (2013-184)<ul style="list-style-type: none">• No Correspondence Received by the Custodian Regarding this Request |
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Ms. Tabakin called for a motion to accept the Executive Director’s recommendations as written in all of the above Administrative Complaint Dispositions. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

C. Individual Complaint Adjudications with Recusals:

Mr. Minde stated that the Executive Directors’ recommended action is under each complaint.

1. **Robert Verry v. Borough of South Bound Brook (Somerset) (2009-237)**
 - Ms. Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms.

Parkinson made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

2. Robert Verry v. Borough of South Bound Brook (Somerset) (2010-105)

**3. Robert Verry v. Borough of South Bound Brook (Somerset) (2010-106)
Consolidated**

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

4. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-160)

5. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-196)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

6. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-171)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

7. Larry Kohn v. Township of Livingston (Essex) (2011-362)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

8. Phillip Molnar (on behalf of Express Times) v. Warren County Community College (2012-04)

- Mr. Ritardi called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Ms. Tabakin recused.

9. Dr. Sunil J. Wimalawansa v. University of Medicine of NJ (Essex) (2012-136)

- Mr. Ritardi called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Mr. Ritardi called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Ms. Tabakin recused.

10. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2012-143)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms.

Parkinson made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

11. Justice Rasideen Allah v. Essex County Prosecutor's Office (2012-177)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.

12. Sabino Valdes v. NJ Department of Education (2012-190)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Ritardi made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Ms. Parkinson recused.

13. Lawrence Simons v. Lakewood Board of Education (2012-216)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Ritardi made a motion and Ms. Lane seconded the motion. The motion passed by a majority vote; Ms. Parkinson recused.

14. Antoinette Maniscalco v. Atlantic County Prosecutor's Office (2012-247)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Ritardi seconded the motion. The motion passed by a majority vote; Ms. Lane recused.

A. Individual Complaint Adjudications with no Recusals:

15. Richard & Dawn Sabik v. Borough of Dunellen (Middlesex) (2011-222)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

16. Jeff Carter v. Franklin Fire District #2 (Somerset) (2011-382)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

17. Jeff Carter v. Franklin Fire District # 2 (Somerset) (2012-5)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms.

Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

18. Mayor Randy George v. NJ Department of Environmental Protection (2012-127)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

19. Donna Deloy v. Township of Lyndhurst (Bergen) (2012-128)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

20. Harry B. Scheeler, Jr. v. Township of Galloway (Atlantic) (2012-151)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

21. Rafael Martinez v. NJ Department of Human Services, Division of Medical Assistance & Health Services (2012-156)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

22. Paul Marinaccio v. Borough of Fanwood (Union) (2012-174)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

23. Ricky Kurt Wassenaar v. NJ Department of Corrections (2012-187)

24. Ricky Kurt Wassenaar v. NJ Department of Corrections (2012-192) Consolidated

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

25. Karen Banda v. Township of Bloomfield (Essex) (2012-191)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

26. James Kellinger v. Bergen County Prosecutor's Office (2012-193)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

27. Jerry Burgos v. Township of Hazlet (Monmouth) (2012-195)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

28. Clevin A. Pittman v. Springfield Township PD (Union) (2012-196)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

29. Peter J. DeRobertis v. Township of Montclair (Essex) (2012-199)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

30. Lawrence Simmons v. Lakewood Board of Education (2012-216)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Retardi made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

31. Tamara White v. Monmouth Regional High School (2012-218)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

32. Scott A. Hodes v. NJ Dept. of Human Services, Div. of Medical Assistance & Health Services (2012-225)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

33. Eugene Seabrooks v. County of Essex (2012-230)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to

accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

34. Stephen Lankenau v. Borough of Pemberton (Burlington) (2012-233)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

35. Jane Gasparik v. Township of Middletown (Monmouth) (2012-234)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Council discussed that Council's previous order was not complied with. Custodian has refused to turn over documents for *in camera* review absent a Court order. Council members discussed Council's statutory authority to direct turn over documents; Court order not required. Following brief discussion, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

36. Harry B. Sheeler, Jr. v. City of Millville (Cumberland) (2012-236)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

37. Rufus Hudson v. NJ Department of Corrections (2012-238)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

38. Karen Desoto v. City of Bayonne (Hudson) (2012-243)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

39. John Paff v. City of Bayonne (Hudson) (2012-245)

- Ms. Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Council discussed case as it relates to off-site documents. Noted that the case is illustrative of situation where documents are off-site. Following the discussion, Ms. Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

40. Glenn Katon (On behalf of Muslim Advocates) v. NJ Dept. of Law & Public Safety, Office of Attorney General (2012-267)

- Ms. Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

41. Dr. Modris D. Baum v. Township of Rockaway (Morris) (2012-291)

- Ms. Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

42. Larry McLawhorn v. NJ Department of Corrections (2012-292)

- Ms. Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

43. Bob Thomas v. County of Camden (2012-297)

- Ms. Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

44. David Goff v. NJ Dept. of Labor, State Board of Mediation (2012-301)

- Ms. Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

45. Stanley T. Baker Jr. v. NJ State Parole Board (2012-309)

- Ms. Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Parkinson made a motion and Ms. Lane seconded the motion. The motion passed unanimously.

VII. Court Decisions of GRC Complaints on Appeal: None.

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

IX. Public Comment (Second Session): None.

X. Adjournment:

Ms. Parkinson made a motion to end the Council’s meeting and Ms. Lane seconded the motion. The motion passed unanimously.

Meeting adjourned at 12:10 pm.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: August 27, 2013