



State of New Jersey
GOVERNMENT RECORDS COUNCIL
101 SOUTH BROAD STREET
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RICHARD E. CONSTABLE, III
Commissioner

NOTICE OF MEETING
Government Records Council
December 16, 2014

Pursuant to the Open Public Meetings Act, notice is hereby given that the Government Records Council will hold a regular meeting, at which formal action may be taken, commencing at 10:30 a.m., Tuesday, December 16, 2014, at the Department of Community Affairs ("DCA") offices located at 101 South Broad Street in Trenton, New Jersey.

The agenda, to the extent presently known, is listed below. The public session and consideration of cases is expected to commence at 10:30 a.m. in Room 129 of the DCA.

I. Public Session:

- Call to Order
- Pledge of Allegiance
- Meeting Notice
- Roll Call

II. Executive Director's Report

III. Public Comment (First Session):

- This first session of public comment is reserved solely for suggestions, views and comments relevant to proposed actions on the agenda. A second session of public comment will occur at the end of the meeting to provide an opportunity to present suggestions, views and comments relevant to the Council's functions and responsibilities.

IV. Closed Session

- John Hyland v. Township of Lebanon (Hunterdon) (2012-227)
- John Hyland v. Township of Tewksbury (Hunterdon) (2012-228) **Consolidated**
- Thomas E. Ciccarone v. NJ Department of Treasury (2013-280) (ICFR) (*Tabled for next meeting*)
- Michael Doss v. Borough of Paramus (Bergen) (2014-149)
- Advisory Opinion 2013-01



V. Approval of Minutes of Previous Meetings:

- July 29, 2014 Open Session Meeting Minutes (*Pulled due to lack of quorum*)
- July 29, 2014 Closed Session Meeting Minutes (*Pulled due to lack of quorum*)
- September 30, 2014 Closed Session Meeting Minutes (*Pulled due to lack of quorum*)
- October 28, 2014 Open Session Meeting Minutes (*Pulled due to lack of quorum*)
- November 18, 2014 Open Session Meeting Minutes
- November 18, 2014 Closed Session Meeting Minutes

VI. New Business – Cases Scheduled for Consent Agenda Administrative Complaint Disposition Adjudication*

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

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

1. Harrison R. Hogue v. Newark Public Schools (Essex) (2014-201) **(SR Recusal)**
 - No correspondence received by the Custodian.
2. G.H. Christian v. County of Essex (2014-392) **(SR Recusal)**
 - Complaint Voluntarily Withdrawn.
3. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-358) **(DP Recusal)**
(*Pulled due to lack of quorum*)

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

1. Anonymous v. NJ Department of Children and Families, Division of Child Protection and Permanency (2014-111)
 - Complaint Voluntarily Withdrawn.
2. Chris Ryan v. Monroe Township Board of Education (Middlesex) (2014-145)
 - Complaint Voluntarily Withdrawn.
3. Rocmon L. Sanders v. State Parole Board (2014-174)
 - Unripe Cause of Action
4. Deanna M. O’Connor v. Burlington Township School District (Burlington) (2014-237)
 - Settled in Mediation.
5. Thomas Sullivan v. Borough of Palmyra (Burlington), (2014-249)

- Complaint Voluntarily Withdrawn.
- 6. Paul Nichols v. Housing Authority of Bergen County (2014-315)
 - Complaint Voluntarily Withdrawn.
- 7. Robert Kovacs v. Belleville Police Department (Essex) (2014-320)
 - Settled in Mediation.
- 8. Harry B. Scheeler, Jr. v. NJ Office of the Governor (2014-339)
 - Settled in Mediation.
- 9. Cynthia A. McBride v. City of Camden (Camden) (2014-352)
 - Complaint Voluntarily Withdrawn.
- 10. Henry Druschel v. Borough of Clayton (Gloucester) (2014-354)
 - Settled in Mediation.
- 11. Henry Druschel v. Township of Franklin (Gloucester) (2014-355)
 - Settled in Mediation.
- 12. Henry Druschel v. Borough of Glassboro (Gloucester) (2014-356)
 - Settled in Mediation.
- 13. Harry B. Scheeler, Jr. v. Borough of Woodbine (Cape May) (2014-359)
 - Complaint Voluntarily Withdrawn.
- 14. Jason Litowitz v. Tabernacle Fire District No. 1 (Burlington) (2014-371)
 - Complaint Voluntarily Withdrawn.
- 15. Mark L. Tompkins v. New Jersey Courts (2014-398)
 - Request not within the Council’s Jurisdiction to Adjudicate (Request Made to the Judiciary).
- 16. Mark L. Tompkins v. The Municipal Court, City of East Orange (Essex) (2014-400)
 - Request not within the Council’s Jurisdiction to Adjudicate (Request Made to the Judiciary).
- 17. Mark L. Tompkins v. Superior Court of NJ – Essex Vicinage (2014-407)
 - Request not within the Council’s Jurisdiction to Adjudicate (Request Made to the Judiciary).

VII. New Business – Cases Scheduled for Individual Complaint Adjudication

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

A. Individual Complaint Adjudications with Recusals:

1. Shawn G. Hopkins v. Monmouth County Board of Taxation (2014-01) (RBT Recusal)
2. Shawn G. Hopkins v. Sussex County Board of Taxation (2014-10) (RBT Recusal)
3. Shawn G. Hopkins v. Morris County Board of Taxation (2014-11) (SR & RBT Recusal) Consolidated

(Pulled due to lack of quorum)

4. David Roundtree v. Morris County (2014-177) **(SR & RBT Recusal)**

(Pulled due to lack of quorum)

5. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-17) **(DP Recusal)**

(Pulled due to lack of quorum)

6. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-59) **(DP Recusal)**

(Pulled due to lack of quorum)

7. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-60) **(DP Recusal)**

(Pulled due to lack of quorum)

8. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-125) **(DP Recusal)**

(Pulled due to lack of quorum)

9. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-172) **(DP Recusal)**

(Pulled due to lack of quorum)

10. Michael I. Inzelbuch, Esq. v. Lakewood Board of Education (Ocean) (2014-202) **(DP Recusal)**

(Pulled due to lack of quorum)

11. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-204) **(DP Recusal)**

(Pulled due to lack of quorum)

12. Thomas Caggiano v. NJ Office of the Governor (2014-166) **(RBT Recusal)**

(Pulled due to lack of quorum)

B. Individual Complaint Adjudications with no Recusals:

1. Christopher T. Tasiopoulos v. Warren County Prosecutor's Office (2011-231)
 - Complaint voluntarily withdrawn.
2. Jeff Carter v. Franklin Fire District No. 2 (Somerset) (2011-382)
 - Council is recommended to accept, with modifications, the decision of ALJ as follows:
 - i. that “. . . . [original] Custodian willfully and knowingly violated his obligations under OPRA . . .” and that “. . . [t]he [Complainant] is entitled to a total of \$14,598 in reasonable counsel fees, plus \$385.05 in costs . . .
 - ii. Because this is the original Custodian's second (2nd) knowing and willful violation within the last ten (10) years; the penalty is \$2,500
 - iii. Original Custodian must make payment from his own personal funds.

3. John Hyland v. Township of Lebanon (Hunterdon) (2012-227)
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- The Custodian complied with the Council's June 24, 2014 Interim Order.
- The Custodian Counsel's request for reconsideration of eight (8) sets of meeting minutes is granted based on a change in circumstances,
- The Custodian must provide the eight (8) sets of minutes in accordance with the Council's June 24, 2014 Interim Order and based on its *in camera* examination herein.
- Knowing and willful analysis deferred.

4. John Hyland v. Township of Tewksbury (Hunterdon) (2012-228) Consolidated
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- The Custodian complied with the Council's June 24, 2014 Interim Order.
- No knowing and willful violation.

5. Thomas E. Ciccarone v. NJ Department of Treasury (2013-280) (*Tabled for next meeting*)

6. Harry B. Scheeler, Jr. v. NJ State Police (2014-57)
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7. Harry B. Scheeler, Jr. v. NJ State Police (2014-74) Consolidated
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- Council should reconsider its November IO, in light of new evidence Custodian timely produced records; amend findings to reflect that the Custodian supplied the records but failed to fully comply with the Council's October 2014 IO; no unlawful denial of access.

8. Jeff Carter v. Franklin Township Fire District No. 1 (Somerset) (2014-120)
 - Complainant should be referred to OAL to resolve conflicting statements as to the existence of records; for a knowing and willful analysis and if necessary to order disclosure of records which exist.
9. Jeffrey W. Sauter v. Township of Colts Neck (Monmouth) (2014-187)
 - No unlawful denial to the December 18th 2013 request.
 - Custodian's failure to timely respond to the January 31, 2014 request resulted in a "deemed" denial; custodian shall disclose responsive records to the request.

- Knowing and willful analysis deferred.
10. Scott Madlinger v. Toms River Police Department (Ocean) (2014-191)
 - Custodian lawfully denied access to the requested reports because no records exist.
 11. David Cavagnaro v. Borough of Point Pleasant Beach (Ocean) (2014-197)
 - GRC must conduct an in camera review of responsive Report.
 - Knowing and willful analysis deferred.
 12. Matthew Cheng v. Town of West New York (Hudson) (2014-213)
 - GRC must conduct an in camera review of responsive e-mail.
 - Knowing and willful analysis deferred.
 13. Michael K. Sharp v. Fairfield Township (Cumberland) (2014-279)
 - Custodian failed to comply with Council’s October 28, 2014 IO.
 - Council’s IO is enforceable.
 - Custodian violated OPRA, complaint referred to OAL for a knowing and willful analysis.
 14. Sean Patrick Vandy v. Newfield Borough Board of Education (Gloucester) (2014-331)
 - Custodian failed to timely respond, resulting in a “deemed” denial.
 - Custodian’s response was insufficient.
 - Custodian failed to prove his denial of access was lawful, but Custodian ultimately disclosed responsive records.
 - No knowing and willful violation.

VIII. Court Decisions of GRC Complaints on Appeal:

- Seabrooks v. Cnty. of Essex, 2014 N.J. Super. Unpub. LEXIS 2746 (App. Div. 2014)
- Rogers v. Essex Cnty. Prosecutor’s Office, 2014 N.J. Super. Unpub. LEXIS 2840 (App. Div. 2014)

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

- Wenger v. Lakewood, 2014 N.J. Super. Unpub. LEXIS 2619 (October 30, 2014)
- 212 Marin Blvd. v. City of Jersey City, 2014 N.J. Super. Unpub. LEXIS 2692 (November 14, 2014)
- N. Jersey Media Grp. v. Evelina, 2014 N.J. Super. Unpub. LEXIS 2747 (November 17, 2014)
- Stop & Shop Supermarket Co. v. Cnty. of Bergen, 2014 N.J. Super. Unpub. LEXIS 2723 (November 18, 2014)

X. Public Comment (Second Session):

- This second session of public comment is an opportunity to present suggestions, views and comments relevant to the Council's functions and responsibilities. In the interest of time, speakers may be limited to **five (5) minutes**.

XI. Adjournment

***Neither attorneys nor other representatives of the parties are required to attend this meeting nor will they be permitted to make oral or written comment during the adjudication.**