



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
March 31, 2015

Pursuant to the Open Public Meetings Act, notice is hereby given that the Government Records Council will hold a regular meeting, at which formal action may be taken, commencing at 1:30 p.m., Tuesday, March 31, 2015, at the Department of Community Affairs ("DCA") offices located at 101 South Broad Street in Trenton, New Jersey.

The agenda, to the extent presently known, is listed below. The public session and consideration of cases is expected to commence at 1:30 p.m. in Room 129 of the DCA.

I. Public Session:

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

II. 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

- Kevin M. Barry v. NJ Transit (2014-229)

V. Approval of Minutes of Previous Meetings:

- February 24, 2015 Open Session Meeting Minutes
- February 24, 2015 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. Joseph P. McGill v. Sussex County Board of Taxation (2014-378) **(RBT Recusal)**
 - *Pulled due to lack of quorum.*
2. John Paff v. Hudson County Prosecutor’s Office (2015-29) **(SR Recusal)**
 - Complaint settled in mediation.

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

1. Anna Hiatt (On behalf of NJ Monthly) v. Ocean County Prosecutor’s Office (2014-216)
 - Complaint voluntarily withdrawn.
2. Louis Agre, Esq. v. NJ Office of the Governor (2014-221)
 - Complaint voluntarily withdrawn.
3. Harry B. Scheeler, Jr. v. NJ Motor Vehicle Commission (2014-231)
 - Complaint voluntarily withdrawn.
4. Christina N. Surran v. City of Estell Manor (Atlantic) (2014-280)
 - Complaint voluntarily withdrawn.
5. Richard J. Shaklee, Esq. (On behalf of Wayne Azzarello) v. Township of Brick (Ocean) (2014-391)
 - Complaint settled in mediation.
6. John Paff v. Bergen County Prosecutor’s Office (2014-433)
 - Complaint settled in mediation.
7. Garces, Grabler & Lebrocq, P.C. v. Township of Freehold (Monmouth) (2015-12)
 - Complaint settled in mediation.
8. Lester Alford v. NJ Department of Corrections (2015-13)
 - Complaint settled in mediation.
9. Frank Wright v. Office of the Corrections Ombudsman (2015-24)
 - Complaint settled in mediation.
10. Cristie R. Nastasi (On behalf of Robert Lavigna) v. Pleasantville Public Schools (Atlantic) (2015-25)
 - Complaint voluntarily withdrawn.
11. Richard Stolte v. Pemberton Township Police Department (Burlington) (2015-31)
 - No correspondence received by the custodian.
12. Richard Stolte v. Burlington County Superior Court (2015-35)
 - Request not within the Council’s jurisdiction to adjudicate; request made to the judiciary.
13. Harry B. Scheeler, Jr. v. NJ State Police (2015-42)
 - Complaint voluntarily withdrawn.
14. Harry B. Scheeler, Jr. v. NJ Civil Service Commission (2015-49)

- Complaint voluntarily withdrawn.
15. Richard Stolte v. McGuire/Ft. Dix Military Police Records Department (2015-69)
- Request not within Council’s jurisdiction; request made to a federal agency.

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. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2013-311) **(SR Recusal)**
 - Complainant did not meet the requisite standard for reconsideration.
 - Council’s IO remains in effect.
 - Complainant’s Counsel shall submit a fee application in accordance with same.
2. Al-Qaadir Green v. County of Essex (2014-101) **(SR Recusal)**
 - Custodian failed to fully comply with IO.
 - Custodian provided responsive records; no further action required.
 - No knowing and willful violation.
3. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-17) **(DP Recusal)**
 - *Pulled due to lack of quorum.*
4. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-90) **(DP Recusal)**
 - *Pulled due to lack of quorum.*
5. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-205) **(DP Recusal)**
 - *Pulled due to lack of quorum.*
6. Thomas Caggiano v. NJ Office of the Governor (2014-263) **(RBT Recusal)**
 - *Pulled due to lack of quorum.*

B. Individual Complaint Adjudications with no Recusals:

1. Jeff Carter v. Franklin Fire District No. 2 (Somerset) (2012-05)
 - The current Custodian must provide additional facts regarding his ability to respond to the request.
 - Custodian may use GRC’s SOI.
 - Knowing and willful and prevailing party issues must be reevaluated following adjudication.
 - Knowing and willful and prevailing party analyses deferred.

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| <ol style="list-style-type: none"> 2. Janine Latz v. Township of Barnegat (Ocean) (2012-241) 3. Glen Latz v. Township of Barnegat (Ocean) (2012-242) Consolidated <ul style="list-style-type: none"> • Complainant failed to prosecute the case before OAL. • Case should be dismissed, with prejudice as recommended by OAL. |
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4. Richard G. Holland v. Rowan University (2014-63)

5. Richard G. Holland v. Rowan University (2014-64) **Consolidated**

- Custodian timely responded to the Complainant's December 13, 2013 request No. 1.
- Custodian failed to timely respond to Complainant's December 13, 2013 request No. 2.
- Custodian lawfully denied access to Complainant's December 13, 2013 request No. 1 because the Complainant failed to respond to the Custodian's request for clarification.
- Custodian did not unlawfully deny access to December 13, 2013 request No. 2 because she provided all responsive records.
- No knowing and willful violation.

6. Robert A. Verry v. Franklin Fire District No. 1 (Somerset) (2014-142)

- Custodian failed to timely respond to request.
- Custodian did not unlawfully deny request, because records were not "government records."
- No knowing and willful violation.
- Complainant was not a prevailing party.

7. Dudley Burdge v. NJ Civil Service Commission (2014-168)

- Complaint's request is overly broad and failed to identify the records sought.
- Custodian unlawfully denied access to the minutes and agendas.
- Knowing and willful analysis deferred.
- Prevailing party analysis deferred.

8. Richard Spillane v. State Parole Board (2014-169)

- Custodian lawfully denied access to requested medical report because it is exempt from disclosure.
- No unlawful denial of access.

9. Peter Gartner v. Borough of Middlesex (Middlesex) (2014-203)

- Custodian was unable to establish the necessary criteria for reconsideration.
- Request for reconsideration should be denied.
- No knowing and willful violation.

10. Harry B. Scheeler, Jr. v. Middle Township Public Schools (Cape May) (2014-209)

- Custodian complied with the Council's IO.
- No knowing and willful violation.

11. Matthew Cheng v. Town of West New York (Hudson) (2014-213)

- Custodian complied with the Council's IO.
- No knowing and willful violation.

12. Michael A. D'Antonio v. Borough of Allendale (Bergen) (2014-220)

- Council should refer case to OAL:
 - to develop the record because of contested facts;
 - because it presents an issue of first impression;
 - and to make a knowing and willful analysis.
13. Lemont Love v. Spotswood Police Department (Middlesex) (2014-223)
- Custodian unlawfully denied access to complaints because they are not criminal investigatory records.
 - Knowing and willful analysis deferred.
14. Kevin M. Barry v. NJ Transit (2014-229)
- *Tabled*
15. Robert Kovacs v. Toms River Police Department (Ocean) (2014-234)
- Complainant failed to provide reasonable identifiers to locate responsive documents.
 - Custodian did not unlawfully deny access police reports because Complainant failed to provide reasonable identifiers to locate responsive documents.
16. Charles B. Freyer v. City of Bayone (Hudson) (2014-235)
- Custodian complied with Council's February 24, 2015 IO.
 - No knowing and willful violation.
17. Mary Loigu v. Manasquan Police Department (Monmouth) (2014-239)
- Custodian's response was insufficient.
 - GRC is unable to determine if the Custodian unlawfully denied access because of conflicting and inadequate evidence.
 - Complaint should be referred to OAL:
 - for a hearing to resolve facts;
 - and for knowing and willful analysis and to determine if Complainant is a prevailing party.
18. Vincent T. Ehmann, Jr. v. Borough of Belmar (Monmouth) (2014-281)
- Custodian did not unlawfully deny access to Item No. 1.
19. Ryan Hockensmith v. Atlantic County Prosecutor's Office (2014-288)
- Responsive records are criminal investigatory records.
 - No unlawful denial of access.
20. Penny L. Smith v. NJ Department of Banking and Insurance (2014-301)
- Custodian bore her burden of proof that disclosure of e-mail addresses would violate the reasonable expectation of privacy.
21. Michael Palkowitz v. Borough of Hasbrouck Heights (Bergen) (2014-303)
- Request is invalid because it failed to include the subject or content of the e-mails sought.

22. Herman Gaines v. NJ Office of the Public Defender (2014-313)

- Responsive records pertain to the Office of the Public Defender's representation of the Complainant.
- No unlawful denial of access.

VIII. Court Decisions of GRC Complaints on Appeal: None

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

- Ferrer v. Pinsak, 2015 N.J. Super. Unpub. LEXIS 316 (February 17, 2015)
- Brennan v. Bergen Cnty. Prosecutor's Office, 2014 N.J. Super. Unpub. LEXIS 3039 (February 25, 2015)

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.**