



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

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

NOTICE OF MEETING
Government Records Council
September 25, 2018

Pursuant to the Open Public Meetings Act, notice is hereby given that the Government Records Council will hold a regular meeting, at which formal action may be taken, commencing at 1:30 p.m., Tuesday, September 25, 2018, at the Department of Community Affairs (“DCA”) offices located at 101 South Broad Street in Trenton, New Jersey.

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

I. Public Session:

Call to Order
Pledge of Allegiance
Meeting Notice
Roll Call

II. Communications Specialist/Resource Manager’s Report

III. Closed Session

- Robert Kovacs v. Toms River Police Department (Ocean) (2015-264)

IV. Approval of Minutes of Previous Meetings:

August 28, 2018 Open Session Meeting Minutes
August 28, 2018 Closed Session Meeting Minutes

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

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

A. Administrative Disposition Adjudications with Recusals (Consent Agenda): None



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

1. Eric Deleon v. Bio-Reference Laboratories, Inc. (2018-169)
 - Request Made to a Non-Public Agency
2. Kim E. Davis v. Township of Deptford (Gloucester) (2018-207)
 - Duplicate Complaint Filed with the GRC

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

1. Steven J. Kossup, Esq. v. NJ State Police (2018-28)
 - Complaint Voluntarily Withdrawn
2. Cynthia A. McBride (o/b/o Signature Information Solutions) v. Ewing Township (Mercer) (2018-32)
 - Complaint Settled in Mediation
3. Keith A. Smith v. Fredon Township Board of Education (Sussex) (2018-81)
 - Complaint Settled in Mediation
4. Charles V. Sinesi v. City of Linwood (Atlantic) (2018-113)
 - Complaint Settled in Mediation
5. David Weiner v. County of Essex (2018-117)
 - Complaint Settled in Mediation
6. Luis Rodriguez v. Kean University (2018-156)
 - Complaint Voluntarily Withdrawn
7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute (AADARI)) v. Keansburg Police Department (Monmouth) (2018-168)
 - Complaint Voluntarily Withdrawn
8. Anonymous v. Lakewood Township Fire District No. 1 (Ocean) (2018-170)
 - Complaint Voluntarily Withdrawn
9. Anonymous v. Lakewood Township Fire District No. 1 (Ocean) (2018-171)
 - Complaint Voluntarily Withdrawn
10. Anonymous v. Lakewood Township Fire District No. 1 (Ocean) (2018-172)
 - Complaint Voluntarily Withdrawn
11. Helen Weinberger v. Township of Belleville (Essex) (2018-173)
 - Complaint Voluntarily Withdrawn
12. Lewis Cohn, Esq. v. Township of Union Police Department (Union) (2018-195)
 - Complaint Voluntarily Withdrawn

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

The Council Staff's recommended action is under each complaint below.

A. Individual Complaint Adjudications with Recusals:

1. Thomas Caggiano v. Township of Wantage (Sussex) (2016-115) (**RBT Recusal**)
 - The Complainant's request for reconsideration should be denied.

B. Individual Complaint Adjudications with no Recusals:

1. Glenn Katon (o/b/o Muslim Advocates) v. NJ Department of Law & Public Safety, Office of the Attorney General (2012-267)
 - This complaint should be dismissed based on the executed Stipulation of Settlement. No further adjudication is required.
2. Jeffrey W. Sauter v. Township of Colts Neck (Monmouth) (2014-187)
 - The Custodian complied with the Council's December 16, 2014 Interim Order.
 - Based on conflicting evidence, this complaint should be referred to the Office of Administrative Law for a determination of whether the Custodian knowingly and willfully violated OPRA.
3. Robert Kovacs v. Toms River Police Department (Ocean) (2015-264)
 - The Custodian complied with the Council's August 28, 2018 Interim Order.
 - The *in camera* review revealed that the original Custodian unlawfully denied access to the requested police incident report. The Custodian must disclose said report with redactions where applicable.
 - The knowing and willful analysis is deferred.
4. Jason Marshall Litowitz v. NJ Department of Transportation (2015-301)
 - The Acting Custodian's request for reconsideration should be granted.
 - The Council should rescind its June 26, 2018 Final Decision Conclusion No. 1 and find that the Acting Custodian complied with the May 22, 2018 Interim Order and did not violate OPRA.
5. Damiano M. Fracasso, Esq. v. Township of Rockaway (Morris) (2015-310)
 - Ms. Palmieri complied with the Council's July 31, 2018 Interim Order.
 - There is no knowing and willful violation.
6. William R. Juliana v. Township of Washington (Gloucester) (2016-114)
 - The Custodian complied with the Council's July 31, 2018 Interim Order.
 - There is no knowing and willful violation.
 - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
7. Jeffrey W. Sauter v. Township of Colts Neck (Monmouth) (2016-133)
 - The Council should dismiss this complaint because Complainant withdrew same. No further adjudication is required.
8. Sean Patrick Vandy v. Newfield Police Department (Gloucester) (2016-166)
 - Officer Conway's May 25, 2016 response was insufficient.
 - The GRC must conduct an *in camera* review of the requested body camera footage. The Custodian shall also submit a statement addressing how disclosure of the responsive footage would be inimical to the public interest.

- The Custodian lawfully denied access to a certain portion of the request because she certified, and the records shows, that no responsive records exist.
 - The knowing and willful analysis is deferred.
9. Charles Hughes v. Township of Logan (Gloucester) (2016-187)
- Five (5) of the Complainant’s six (6) OPRA requests were invalid because they failed to identify specific records or sought information.
 - The Custodian may have unlawfully denied access to the sixth (6th) OPRA request. The Custodian must conduct a search for the requested “contract” and certify to the results of said search.
 - The knowing and willful analysis is deferred.
10. Caitlyn Bahrenburg v. Borough of Belmar (Monmouth) (2016-198)
- The Custodian’s response was insufficient because she failed to provide a date certain as part of her extension response.
 - The Custodian lawfully denied access to the requested records because she certified, and the record shows, that no records existed.
 - There is no knowing and willful violation.
11. Darryl Derelle Parker v. NJ Department of Corrections (2016-199)
- The Custodian lawfully denied access to the requested checks because he certified, and the record shows, that no records existed.
 - The Custodian lawfully denied access to the responsive IPIN forms under OPRA and applicable Corrections’ regulations.
12. Ronald W. Yarbrough (o/b/o Pro-Spec Corporation) v. East Windsor Municipal Utilities Authority (Mercer) (2016-234)
- The Custodian did not fully comply with the Council’s Order.
 - There is no knowing and willful violation.
13. Ernest Risha v. Logan Township (Gloucester) (2017-12)
- The Council should dismiss this complaint because the Complainant failed to state a claim.
14. Stanley Ray v. Passaic County Prosecutor’s Office (2017-31)
- The Custodian lawfully denied access to the requested criminal “rap sheets” under OPRA and Executive Order No. 9 (Gov. Hughes 1963).

VII. Court Decisions of GRC Complaints on Appeal:

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

- Brennan v. Middlesex Cnty. Prosecutor's Office, 2018 N.J. Super. Unpub. LEXIS 2001 (App. Div. 2018)

IX. Public Comment:

The public comment period is limited to providing an opportunity for speakers to present suggestions, views and comments relevant to the Council’s functions and responsibilities.

In the interest of time, speakers may be limited to **five (5) minutes**. Speakers shall not be permitted to make oral or written testimony regarding pending or scheduled adjudications.*

X. Adjournment

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