



## **Minutes of the Government Records Council July 26, 2022 Public Meeting – Open Session**

### **I. Public Session:**

- **Call to Order**

The meeting was called to order at 1:40 p.m. by Ms. Robin Berg Tabakin via Microsoft Teams.

- **Pledge of Allegiance**

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

- **Meeting Notice**

Ms. Berg 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 21, 2022.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Jennifer Simons, Esq. (designee of Department of Education Acting Commissioner Dr. Angelica Allen-McMillan), and Gina Trish (designee of Department of Community Affairs Commissioner, Lt. Governor Sheila Y. Oliver).

Late: Steven Ritardi, Esq., Public Member (due to technological complications).

GRC Staff in Attendance: Frank F. Caruso (Executive Director), Rosemond Bordzoe (Secretary), John Stewart (Mediator), Samuel Rosado (Staff Attorney), Deputy Attorney General Debra Allen, Andrew Bernstein, Division of Law Intern, and Antonio Bauza, Law Intern.

### **II. Executive Director’s Report:**

#### **GRC Departures**

Effective July 29, 2022, Ms. Trish, the New Jersey Department of Community Affairs (“DCA”) Commissioner’s designee, will be departing the agency to pursue a career in

education. The GRC appreciates all the work Ms. Trish has done for the Council over the last two (2) years and wishes her the best of luck in her new and exciting endeavor.

### **Current Statistics**

- Since OPRA's inception in July 2002, the GRC has received 6,317 Denial of Access Complaints. That averages about 316 annual complaints per 20 tracked program years. So far in the current program year (FY2023), the GRC has received 62 Denial of Access Complaints, a program year record.
- 615 of the 6,317 complaints remain open and active (9.7%). Of those open cases:
  - 7 complaints are on appeal with the Appellate Division (1.1%);
  - 35 complaints are currently in mediation (5.7%);
  - 5 complaints are proposed for the Office of Administrative Law (0.8%);
  - 27 complaints await adjudication by the Office of Administrative Law (4.4%);
  - 65 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (10.6%);
  - 476 complaints are work in progress (77.4%); and
  - 0 complaints are being held in abeyance (0.0%).

The GRC notes that FY2022 complaint shattered the previous program year high by 83 complaints (520 in FY22 compared to 437 in FY11). The GRC has also already surpassed complaints filed in the entirety of CY2021 and is on pace to surpass 700 complaints filed in CY2022. In the last four (4) months alone, the GRC has received 274 complaints that have been assigned to a complaint manager, which is higher than the total number of complaints filed in eight (8) of the GRC's twenty (20) program years.

The significant uptick in complaints both filed in FY2022 and awaiting adjudication is due to two (2) individuals, who has filed 41 complaints in FY2023 (66% of all filed complaints). Those individuals also account for 176 of the 274 complaints filed in the last four (4) months (64%). They have filed 212 complaints since January 1, 2022 (1.5 per working day). The 2 individuals currently account for 49% of all CY2022 complaints filed (212) and 44% of all current WIP (278).

- Since Program Year 2004, the GRC has received and responded to 35,935 total inquiries, averaging about 1,891 annual inquiries per 19 tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current program year (FY2023), the GRC has received 75 inquiries (4.4 inquiries per workday).

### **GRC Regulations**

- The GRC's proposed rules with amendments were published in the New Jersey Register on May 16, 2022 as 54 N.J.R. 809(a) and the expiration date for the current rules is

extended to October 2, 2022. The public comments period expired on July 15, 2022. The GRC received four (4) comment and is currently reviewing them for a response and action, where applicable.

### **III. Closed Session:**

- Edwin Sheppard v. NJ Department of Law and Public Safety, Division of Law (2017-180) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

Ms. Berg Tabakin called for a motion to go into closed session. Ms. Simons made a motion, and Ms. Trish seconded the motion. The Council adopted the motion by a unanimous vote. The Council met in closed session from 1:49 p.m. until 1:59 p.m.

Ms. Berg Tabakin called for a motion to end the closed session. Ms. Simons made a motion, which was seconded by Ms. Trish. The Council adopted the motion by a unanimous vote. Open Session reconvened at 2:02 p.m., and Ms. Bordzoe called roll.

- Present: Robin Berg Tabakin, Steven Ritardi, Esq., Jennifer Simons, and Gina Trish.

### **IV. Approval of Minutes of Previous Meetings:**

#### **June 28, 2022 Open Session Meeting Minutes**

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the June 28, 2022 meeting. Ms. Simons noted that she confirmed the accuracy of the draft minutes with Ms. Killough-Herrera. Ms. Simons made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote.

#### **June 28, 2022 Closed Session Meeting Minutes**

Ms. Berg Tabakin called for a motion to approve the draft closed session minutes of the June 28, 2022 meeting. Ms. Simons again noted that she confirmed the accuracy of the draft minutes with Ms. Killough-Herrera. Mr. Ritardi made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote.

### **V. New Business – Cases Scheduled for Adjudication**

Ms. Berg 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 reason for the Administrative Disposition is under each complaint below:

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

Ms Berg-Tabakin noted that Mr. Ritardi would be muted for Agenda item No. 1 below to ensure his non-participation in that item from which he was recused. Ms. Berg Tabakin confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda items.

1. **Leon Singletary v. Essex County Prosecutor's Office (2022-229) (SR Recusal)**
  - No Records Responsive to the Request Exist.
  - Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Disposition. Ms. Killough-Herrera made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time.

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

1. **Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-69)**
  - Duplicate Complaint Filed With the GRC.
2. **Leo William Pecarsky v. Surf City Police Department (Ocean) (2021-346)**
  - All Records Responsive Provided in a Timely Manner.
3. **Levi Brown v. NJ Department of Corrections (2022-133)**
  - Unripe Cause of Action.

Ms. Berg Tabakin called for a motion to accept the recommendations as written in all the above Administrative Complaint Dispositions. Ms. Simons made a motion, which was seconded by Ms. Trish. The motion passed by a unanimous vote.

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

1. **Lauren Papaleo, Esq. (o/b/o Barbara Resnick) v. City of Orange Township (Essex) (2021-80)**
  - Complaint Voluntarily Withdrawn.
2. **Old Bridge PBA Local 127 v. Old Bridge Township (Middlesex) (2021-221)**
  - Complaint Voluntarily Withdrawn.
3. **Robert C. Scutro v. Union County (2021-357)**
  - Complaint Settled in Mediation.
4. **William Bauder v. Township of Cranbury (Middlesex) (2022-2)**
  - Complaint Settled in Mediation.
5. **Joe Thomas v. Winslow Township (Camden) (2022-174)**
  - Complaint Settled in Mediation.
6. **Yehuda Miller v. Township of Jefferson (Morris) (2022-240)**
  - Complaint Voluntarily Withdrawn.

7. **John Doe v. Township of Irvington (Essex) (2022-281)**
  - Complaint Voluntarily Withdrawn.
8. **John Doe v. Township of Irvington (Essex) (2022-293)**
  - Complaint Voluntarily Withdrawn.
9. **John Doe v. Township of Irvington (Essex) (2022-295)**
  - Complaint Voluntarily Withdrawn.
10. **John Doe v. Township of Irvington (Essex) (2022-319)**
  - Complaint Voluntarily Withdrawn.

## VI. New Business – Cases Scheduled for Individual Complaint Adjudication

### A. Individual Complaint Adjudications with Recusals:

A brief summary of the Executive Director’s recommended action is under each complaint:

Ms. Berg Tabakin noted that Mr. Ritardi would be muted for Agenda items No. 1 through 3 to ensure his non-participation in the items from which he was recused. Ms. Berg Tabakin confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda items.

1. **James J. Creegan, III v. County of Essex (2021-27) (SR Recusal)**
  - The Custodian’s failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
  - The Custodian’s failure to timely respond resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
  - The Custodian may have unlawfully denied access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. The Custodian must locate and disclose the responsive records, certify if they were already disclosed, or certify if no records existed.
  - The knowing and willful analysis is deferred.
  - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.
2. **Rashon Barkley v. Essex County Prosecutor’s Office (2021-72) (SR Recusal)**
  - The subject OPRA request is invalid because it sought information and not an identifiable “government record.” LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012); MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005).
  - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin

called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

3. **John Doe v. Township of Irvington (Essex) (2022-267) (SR Recusal)**

- The Custodian's failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
- This complaint should be dismissed as unripe because the Complainant filed it before the statutory time frame, as extended, expired. Sallie v. N.J. Dep't of Banking & Ins., GRC Complaint No. 2007-226 (April 2009).
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time.

**B. Individual Complaint Adjudications with no Recusals:**

1. **Edwin Sheppard v. NJ Department of Law and Public Safety, Division of Law (2017-180)**

- The Custodian did not fully comply with the Council's January 25, 2022 Interim Order.
- The Custodian lawfully denied access to three (3) of the redacted e-mail bodies under the attorney-client privilege and common interest doctrine. N.J.S.A. 47:1A-1.1; O'Boyle v. Borough of Longport, 218 N.J. 168 (2014). The GRC declines to order any additional disclosures because the responsive e-mails were already disclosed to the Complainant.
- This complaint should be referred to the Office of Administrative Law ("OAL") to determine whether the Custodian knowingly and willfully violated OPRA when she provided redacted e-mails to the GRC for *in camera* review inconsistent with the actual disclosure.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Mr. Caruso noted that DAG Allen did not review this decision or provide advice based on a recusal. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Simons made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

2. **Shirley A. Brown v. NJ Department of Treasury, Division of Lottery (2018-293)**

- The Custodian complied with the Council's May 31, 2022 Interim Order.
- There is no knowing and willful violation.

- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.
3. **E.K. and P.W. (o/b/o W.W.) v. Mantua Township Board of Education (Gloucester) (2020-105)**
- The Custodian’s inability to respond within the extended period due to extenuating circumstances does not rise to the level of a “deemed” denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
  - The Custodian lawfully denied access to Complainants’ OPRA request seeking the contents of WW’s evaluator files because the District had no control over them. N.J.S.A. 47:1A-6; Hittinger v. N.J. Transit, GRC Complaint No. 2013-324 (July 2014).
  - The Custodian did not unlawfully deny access to OPRA request item No. 1a because she certified, and the record reflects, that she disclosed all responsive records that existed. N.J.S.A. 47:1A-6; Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated June 29, 2010).
  - The Complainant is not a prevailing party.
  - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Trish made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.
4. **M.N. and E.N. (o/b/o A.N.) v. Gloucester Township Board of Education (Camden) (2020-124)**
- The Custodian did not fully comply with the Council’s June 28, 2022 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.
  - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.
5. **Peter Antonucci v. City of Long Branch (Monmouth) (2020-207)**
- The current Custodian complied with the Council’s May 31, 2022 Interim Order.

- The Custodian lawfully denied access to the outstanding responsive records because they were exempt from disclosure under OPRA and the Attorney General’s Internal Affairs Policy and Procedures. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(b); Rivera v. Union Cnty. Prosecutor’s Office, 250 N.J. 124 (2022).
- There is no knowing and willful violation.
- The Complainant is not a prevailing party.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

6. **Kevin Alexander v. Somerset County Board of Chosen Freeholders (2020-211)**

- The Custodian complied with the Council’s June 28, 2022 Interim Order.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

7. **James A. Brown v. NJ Department of Treasury, Division of Lottery (2020-219)**

- The Custodian shall disclose those records responsive to OPRA request item Nos. 1 and 3 per the Council’s prior decision in Brown v. N.J. Dep’t of Treasury, GRC Complaint No. 2018-293 (Interim Order dated May 31, 2022).
- The GRC must conduct an *in camera* review of 605 pages of e-mails to determine the validity of the Custodian’s assertion that same were lawfully denied under the attorney-client privilege and work product exemptions. N.J.S.A. 47:1A-1.1; Paff v. N.J. Dep’t of Labor, Bd. of Review, 379 N.J. Super. 346 (App. Div. 2005). The Custodian shall, if applicable, identify records responsive to OPRA request item Nos. 1 and 3 and the number of pages accordingly.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

8. **Scott Madlinger v. Berkeley Township (Ocean) (2020-230)**

- The Complainant’s request, to the extent it was for the Police Department Custodian, was valid. However, the request, to the extent it included some other recipients, was invalid. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-5(g).
- No “deemed” denial of access occurred because the Police Department Custodian timely responded extending the response time frame. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).

- The Police Department Custodian unlawfully denied access to the responsive roster. N.J.S.A. 47:1A-6. However, the GRC declines to order disclosure because same occurred on December 15, 2020.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Trish made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

9. **Cheri Wong (o/b/o Coriander Way Condominium Association) v. City of Englewood (Bergen) (2021-6)**

- The Custodian's failure to timely respond with a "reasonable effort" resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(i)(2). However, the GRC declines to order a response because the Custodian did so on May 6, 2021.
- The Custodian lawfully denied access to the subject OPRA request because she certified, and the record reflects, that no records exist. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

10. **Gable J. Smith v. Cumberland County Utilities Authority (2021-7)**

- This complaint is being tabled for additional review.
- Ms. Berg Tabakin called for a motion to table the above matter. Ms. Simons made a motion, and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

11. **Michael Mincer v. Hamilton Township Municipal Utilities Authority (Atlantic) (2021-43)**

- The Custodian lawfully denied access to the requested water and sewer map records based on OPRA's safety and security exemptions. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-9(a); Executive Order No. 21 (Gov. McGreevy, 2002).
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

12. **Yusef Steele v. Township of Piscataway (Middlesex) (2021-55)**

- An unidentified employee performed an insufficient response. N.J.S.A. 47:1A-5(g); DeAppolonio v. Borough of Deal (Monmouth), GRC Complaint No. 2008-62 (September 2009).

- The Police Department performed an insufficient search. N.J.S.A. 47:1A-6; Schneble v. N.J. Dep’t of Env’tl. Protection, GRC Complaint No. 2007-220 (April 2008).
- The Custodian unlawfully denied access to the requested 911 recording on the basis that it was a criminal investigatory record. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; Serrano v. South Brunswick Twp., 358 N.J. Super. 352 (App. Div. 2003). Thus, the Custodian must disclose the recording to the Complainant, with redactions where applicable.
- The Complainant, who is representing himself *pro se*, is not a prevailing party. Pitts v. N.J. Dep’t of Corr., GRC Complaint No. 2005-71 (April 2006).
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Trish made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

13. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute and Grace Woko) v. Maple Shade Police Department (Burlington) (2021-64)**

- The Custodian did not unlawfully deny access to the responsive personnel information. N.J.S.A. 47:1A-10.
- The Complainant is not a prevailing party.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

14. **Enza Cannarozzi v. Jersey City Board of Education (Hudson) (2021-73)**

- The Custodian’s failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
- The Custodian’s failure to timely respond resulted in “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The Custodian may have unlawfully denied access to the responsive records. N.J.S.A. 47:1A-6. The Custodian must either locate and disclose the responsive records, certify if those records were previously disclosed, or certify if none exist.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

15. **Enza Cannarozzi v. Jersey City Board of Education (Hudson) (2021-74)**

- The Custodian’s failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
- The Custodian’s failure to timely respond immediately resulted in “deemed” denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The Custodian may have unlawfully denied access to the responsive records. N.J.S.A. 47:1A-6. The Custodian must either locate and disclose the responsive records, certify if those records were previously disclosed, or certify if none exist.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Simons made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

**VII. Court Decisions of GRC Complaints on Appeal:**

- Gordon v. City of Orange, 2022 N.J. Super. Unpub. LEXIS 1226 (App. Div. 2022): Appellant challenged the GRC’s decision that affirmed the findings of the Administrative Law Judge (“ALJ”). The ALJ held that no other City of Orange employee (besides the then-custodian) knowingly and willfully violated OPRA. The Appellate Division found there was no basis to disagree with the factual findings of the ALJ. Affirmed.

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

- Kratovil v. City of N.B., 2022 N.J. Super. Unpub. LEXIS 1267 (App. Div. 2022): Plaintiff requested N.J.S.A. 47:1A-3(b) (“3(b)”) information on aggravated assaults committed in the City of New Brunswick for three (3) months. The Defendants provided certain 3(b) information but withheld on others. On challenge, the trial court found that the Defendants lawfully denied access to 3(b) information on eight (8) particular days when aggravated assaults occurred. The trial court also held that the Defendants were not required to disclose the information on the “remaining incidents.” On appeal, the Defendants provided justification for withholding 3(b) information on the eight (8) specific days but conceded that the other incidents’ information could have been disclosed without issue but failed to do so. As such, the Court held that the Defendants must disclose said information and that the Plaintiff was entitled to a portion of attorney’s fees as a prevailing party. Affirmed in part, reversed in part, and remanded for further proceedings.

**IX. Complaints Adjudicated in U.S. District Court: None**

**X. Public Comment: None**

**XI. Adjournment:**

Ms. Berg Tabakin called for a motion to end the Council meeting. Ms. Trish made a motion, which was seconded by Ms. Simons. The motion passed by a unanimous vote. The meeting adjourned at 2:29 p.m.

Respectfully submitted,

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Robin Berg Tabakin, Esq., Chair

Date Approved: August 30, 2022