



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
April 24, 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, April 24, 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

IV. Approval of Minutes of Previous Meetings:

March 27, 2018 Open 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. Anatoliy Khusid v. Somerset County Board of Chosen Freeholders (2018-21)
 - No Records Responsive to the Request Exist



C. Administrative Disposition Uncontested, Voluntary Withdrawals by Complainant (No Adjudication of the Council is Required): None.

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: None

B. Individual Complaint Adjudications with no Recusals:

1. Shawn G. Hopkins v. Freehold Township (Monmouth) (2014-27)
 - Mr. Imbriaco complied with the Council's March 27, 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.
2. Shawn G. Hopkins v. Hazlet Township (Monmouth) (2014-28)
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby obviating the need for any further adjudication.
3. Shawn G. Hopkins v. Township of Holmdel (Monmouth) (2014-32)
 - This complaint should be tabled for further adjudication.
4. Shawn G. Hopkins v. Township of Howell (Monmouth) (2014-33)
 - The Custodian's failure to timely respond resulted in a "deemed" denial of the subject OPRA request.
 - The Custodian unlawfully denied access to the subject OPRA request on the basis that it was invalid.
 - Mr. Hutchinson unlawfully denied access to the requested CAMA data on the basis of pending litigation. Thus, the Custodian and/or Mr. Hutchinson must disclose it.
 - The Custodian and/or Mr. Hutchinson may have unlawfully denied access to the requested property photographs, if they exist. The Custodian and/or Mr. Hutchinson must either disclose the photographs or certify if no records exist.
 - The knowing and willful and prevailing party analyses are deferred pending compliance.
5. Damiano M. Fracasso, Esq. v. Township of Rockaway (Morris) (2015-310)
 - The Custodian's response was insufficient because: 1) she failed to respond to each request item individually; and 2) she failed to provide a date certain on which she would respond after asserting additional time may be required.
 - The Custodian may have imposed an improper special service charge. The Custodian shall provide a detailed explanation of the police officer's work performed to disclose responsive records.
 - The knowing and willful analysis is deferred.

6. Christina Moreira v. Elizabeth Board of Education (Union) (2015-313)
 - The Complainant's September 16, 2015 request No. 1, item Nos. 1, 6, 7, and 8 are invalid.
 - The Custodian lawfully denied access to the Complainant's April 28, 2015 OPRA request; September 16, 2015 OPRA request No. 1, item Nos. 4 and 5; and September 16, 2015 OPRA request No. 2, item Nos. 1, 2, and 3, because no records exist.
 - The Custodian unlawfully denied access to field trip records responsive to the Complainant's September 16, 2015 OPRA request No. 1, item Nos. 2 and 3. The Custodian must disclose responsive records with redactions, where absolutely necessary.
 - The Custodian may have unlawfully denied access to the Complainant's September 16, 2015 OPRA request No. 2, item No. 4. The Custodian must either disclose the responsive records or certify that none existed at the time of the OPRA request.
 - The knowing and willful analysis is deferred.

7. Jesse Wolosky v. Borough of Washington (Warren) (2016-29)
 - The current Custodian did not comply fully with the Council's February 27, 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.

8. Jesse Wolosky v. Borough of Washington (Warren) (2016-30)
 - The Custodian's extension request was warranted and substantiated.
 - The Custodian's failure to respond within the extended time frame resulted in a "deemed" denial.
 - The Custodian did not unlawfully deny access to the Complainant's OPRA request item No. 1 because no record existed at the time of the request.
 - The Custodian did not unlawfully deny access to OPRA request item No. 2 because she disclosed all responsive records.
 - The Custodian unlawfully denied access to two (2) records responsive to OPRA request item No. 3. However, the GRC declines to order disclosure because she provided them to the Complainant during the pendency of this complaint.
 - 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.

9. Luis F. Rodriguez v. Kean University (2016-86)
 - The Custodian's extension request was warranted and substantiated.
 - The Council must conduct an *in camera* review of those responsive records containing redactions.
 - The knowing and willful analysis is deferred.

10. Luis F. Rodriguez v. Kean University (2016-87)
 - The Custodian's extension request was warranted and substantiated.
11. Talbot B. Kramer, Jr., Esq. (o/b/o William Juliana) v. Township of Washington (Gloucester) (2016-113)
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby obviating the need for any further adjudication.
12. Jamel Lewis v. Union County Prosecutor's Office (2016-131)
 - The Custodian complied with the Council's March 27, 2018 Interim Order.
 - There is no knowing and willful violation.
13. Luis F. Rodriguez v. Kean University (2016-159)
 - The Custodian failed to establish that the Council's February 27, 2018 Interim Order should be reconsidered.
 - The Council's Order remains in effect. The Custodian must include an explanation as to whether the contract was the only attachment to the Form, as well as when the negotiations period ended, if applicable.
14. Michael Ehrenreich v. NJ Department of Transportation (2016-192)
 - The Council must conduct an *in camera* review of those responsive records withheld from disclosure and four (4) e-mail chains containing redactions.
 - The knowing and willful analysis is deferred.
15. Carey Italiano v. County of Salem (2017-110)
 - The Council should dismiss this matter because the Complainant failed to submit a prevailing party fee application within the time frame prescribed under N.J.A.C. 5:105-2.13.

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

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

- Evening Journal Ass'n v. City of Bayonne, 2018 N.J. Super. Unpub. LEXIS 720 (March 15, 2018)
- Libertarians for Transparent Gov't v. Coll. of New Jersey, 2018 N.J. Super. Unpub. LEXIS 851 (App. Div. 2018)
- Libertarians for Transparent Gov't v. William Paterson Univ., 2018 N.J. Super. Unpub. LEXIS 843 (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.