



**Minutes of the Government Records Council
October 30, 2018 Public Meeting – Open Session**

I. Public Session:

- **Call to Order**

The meeting was called to order at 1:33 p.m. by Ms. Robin Berg Tabakin at the Department of Community Affairs, Conference Room 129, Trenton, New Jersey.

- **Pledge of Allegiance**

All stood and recited the pledge of allegiance in salute to the American flag. A moment of silence was observed for the victims of the recent Pittsburgh shooting.

- **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 October 25, 2018.”

Ms. Berg Tabakin read the fire emergency procedure.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Jennifer Simons, Esq. (designee of Department of Education Commissioner Dr. Richard Lamont Repollet), Jason Martucci, Esq. (designee of Department of Community Affairs Commissioner, Lt. Governor Sheila Y. Oliver), and Steven Ritardi, Esq. (Public Member).

GRC Staff in Attendance: Frank F. Caruso (Communications Specialist/Resource Manager), Rosemond Bordzoe (Secretary), John Stewart (Mediator), Samuel Rosado (Staff Attorney), and Deputy Attorney General Debra Allen.

Ms. Berg Tabakin advised that copies of the agenda are available by the conference room door.

II. Communications Specialist/Resource Manager's Report:

OPRA Trainings

The GRC will participate in a training session at the NJ League of Municipalities Conference on November 14, 2018 from 2:00 p.m. to 3:40 p.m.

GRC Staffing

The GRC has been given approval to post for its "Case Manager" vacancy previously held by Husna Kazmir. Human Resources posted the vacancy, HR18-0028, on October 29, 2018. The current closing date is November 12, 2018.

Current Statistics

- The GRC received its 5,000th complaint on October 16, 2018.
- Since OPRA's inception in July 2002, the GRC has received 5,024 Denial of Access Complaints. That averages about 308 annual complaints per more than 16 ¼ program years. So far in the current program year (2019), the GRC has received 134 Denial of Access Complaints. This represents an increase of 68 complaints from the same time last year (66 in FY2018) and 31 complaints from the year before that (103 in FY2017).
- 505 of the 5,024 complaints remain open and active (10.1%). Of those open cases:
 - 12 complaints are on appeal with the Appellate Division (2.3%);
 - 10 complaints are currently in mediation (2.0%);
 - 3 complaints are proposed for the Office of Administrative Law (0.6%);
 - 30 complaints await adjudication by the Office of Administrative Law (6.0%);
 - 69 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (13.6%);
 - 381 complaints are work in progress (75.4%); and
 - 0 complaints are being held in abeyance (0%).
- Since Program Year 2004, the GRC has received and responded to 29,560 total inquiries, averaging about 1,932 annual inquiries per more than 15 ¼ tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current program year (FY2019), the GRC has received 585 inquiries (7 inquiries per workday).
- Since the GRC brought mediation in house in FY2011, the GRC has sent 588 Denial of Access Complaints to mediation. Of those complaints, 272 were settled and 309 were returned to the GRC for adjudication for a variety of reasons. Currently, 7 complaints remain in mediation. Thus, the GRC's mediation success rate over this period is 47%.

III. Closed Session:

- Luis F. Rodriguez v. Kean University (2015-338)
- Adam M. Szura v. Bergen County Department of Health Services (2016-175)
- Alan Arthur De Smet v. NJ Motor Vehicle Commission (2016-267)
- Alan Arthur De Smet v. NJ Motor Vehicle Commission (2016-268) **Consolidated**

Ms. Berg Tabakin called for a motion to go into closed session. Mr. Martucci made a motion, and Mr. Ritardi seconded the motion. The Council adopted the motion by a unanimous vote.

The Council met in closed session from 1:42 p.m. until 2:15 p.m.

Ms. Berg Tabakin called for a motion to end the closed session. Mr. Martucci made a motion, which was seconded by Ms. Simons. The Council adopted the motion by a unanimous vote. Open Session reconvened at 2:16 p.m., and Ms. Bordzoe called roll.

- Present: Ms. Berg Tabakin, Ms. Simons, Mr. Martucci, and Mr. Ritardi.

IV. Approval of Minutes of Previous Meetings:

September 25, 2018 Open Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the September 25, 2018 meeting. Ms. Simons noted that she confirmed the accuracy of the draft minutes with Christopher Huber, Esq. Mr. Martucci made a motion, which was seconded by Ms. Simons. The motion passed by a unanimous vote.

September 25, 2018 Closed Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft closed session minutes of the September 25, 2018 meeting. Ms. Simons noted that she confirmed the accuracy of the draft minutes with Mr. Huber. Mr. Martucci made a motion, which was seconded by Ms. Simons. 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 Council Staff’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): None

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

1. **Carol Scutro v. County of Union (2016-210)**
 - Invalid OPRA Request.
2. **Shamsiddin Abdur-Raheem v. NJ Office of the Public Defender (2016-292)**
 - No Correspondence Received by the Custodian.
3. **Kevin Jackson v. NJ Department of Corrections (2016-304)**
 - No Records Responsive to the Request Exist.

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 Mr. Martucci. The motion passed by a unanimous vote.

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

1. **Anne Weismann (o/b/o Citizens for Responsibility and Ethics in Washington) v. NJ Office of the Governor (2015-37)**
2. **Anne Weismann (o/b/o Citizens for Responsibility and Ethics in Washington) v. NJ Office of the Governor (2015-41) Consolidated**
 - Complaint Voluntarily Withdrawn.
3. **David Weiner v. County of Essex (2018-96)**
 - Complaint Settled in Mediation.
4. **Clifford Vreeland v. Wall Township First Aid and Rescue Squad 52-21 (Monmouth) (2018-104)**
 - Complaint Settled in Mediation.
5. **Senate Minority Staff (o/b/o Thomas Kean) v. NJ Department of Treasury (2018-109)**
 - Complaint Voluntarily Withdrawn.
6. **Nicholas Sodano v. Essex County Board of Elections (2018-120)**
 - Complaint Settled in Mediation.
7. **Dominic Cappetti v. NJ Department of Labor and Workforce Development (2018-232)**
 - Complaint Voluntarily Withdrawn.

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

A. Individual Complaint Adjudications with Recusals:

A brief summary of the Council Staff's recommended action is under each complaint:

1. **Nicole Dory, Esq. (o/b/o Shipyard Associates, LP) v. City of Hoboken (2014-200) (SR Recusal)**
 - This complaint should be dismissed because Complainant's Counsel waived her right to prevailing party attorney's fees.

- Ms. Berg Tabakin called for any discussion on the Council Staff’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff’s findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.
2. **Robert A. Verry v. Township of Greenwich (Warren) (2015-126) (SR Recusal)**
 - This complaint should be dismissed because the Complainant withdrew it in accordance with a settlement agreement while at the Office of Administrative Law.
 - Ms. Berg Tabakin called for any discussion on the Council Staff’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff’s findings and recommendations as written. Mr. Martucci made a motion and Ms. Simons seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.
 3. **Libertarians for Transparent Government v. City of Newark (Essex) (2016-211) (SR Recusal)**
 - The Custodian’s extension was warranted and substantiated.
 - The Custodian did not unlawfully deny access to the portion of OPRA request item No. 2 seeking informal or draft agreements. N.J.S.A. 47:1A-1.1.
 - The Custodian did not unlawfully deny access to the portion of OPRA request item No. 2 seeking e-mails or correspondence because same was invalid.
 - Ms. Berg Tabakin called for any discussion on the Council Staff’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff’s findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a majority vote; Mr. Ritardi recused.
 4. **Sacha Pouliot v. NJ Department of Education (2015-281) (JS Recusal)**
 - The Council should deny Custodian Counsel’s request for reconsideration based on a mistake and illegality.
 - The Council’s June 26, 2018 Interim Order remains in effect.
 - Ms. Berg Tabakin called for any discussion on the Council Staff’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff’s findings and recommendations as written. Mr. Martucci made a motion and Mr. Ritardi seconded the motion. The motion passed by a majority vote; Ms. Simons recused.
 5. **Thomas Caggiano v. NJ Office of the Governor (2016-68) (RBT Recusal)**
 - The Custodian lawfully denied access to the Complainant’s OPRA request in accordance with Caggiano v. N.J. Office of the Gov., GRC Complaint No. 2014-408 (September 2015).
 - Mr. Martucci called for any discussion on the Council Staff’s findings and recommendations as written. Hearing none, Mr. Martucci called for a motion to accept the Council Staff’s findings and recommendations as written. Mr. Ritardi

made a motion and Ms. Simons seconded the motion. The motion passed by a majority vote; Ms. Berg Tabakin recused.

***** Steven Ritardi participated telephonically until 2:21 p.m. *****

B. Individual Complaint Adjudications with no Recusals:

1. **Charles J. Femminella, Jr. v. City of Atlantic City (Atlantic) (2012-232)**

- This complaint should be dismissed because the Complainant withdrew it while at the Office of Administrative Law.
- Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Martucci made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

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

- The Custodian complied with the Council's September 25, 2018 Interim Order.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.

3. **Luis F. Rodriguez v. Kean University (2015-338)**

- The Custodian complied with the Council's January 30, 2018 Interim Order.
- The Custodian did not bear the burden of proving that she timely responded to the OPRA request, based on numerous extensions of time to respond, thus resulting in a "deemed" denial.
- The Custodian shall comply with the Council's *In Camera* Examination findings.
- The knowing and willful analysis is deferred pending the Custodian's compliance.
- Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.

4. **John Paff v. City of Trenton (Mercer) (2016-95)**

- Sgt. Durlacher failed to comply fully with the Council's November 14, 2017 Interim Order.
- The Custodian/Sgt. Durlacher shall have a final opportunity to provide the Complainant the outstanding records or certify to whether "IA Pro" could produce those reports. For OPRA request item Nos. 2 and 3, the Custodian/Sgt. Durlacher must either provide the outstanding reports or certify to their non-existence and disclose reports that existed at the time of the request.

- The knowing and willful and prevailing party analyses are deferred pending compliance.
 - Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Martucci made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.
5. **Edwin Sheppard v. NJ Department of Human Services, Division of Medical Assistance and Health Services (2016-170)**
- The GRC must conduct an *in camera* review of the redacted e-mail chains.
 - The knowing and willful analysis is deferred pending the Custodian's compliance.
 - Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.
6. **Adam M. Szura v. Bergen County Department of Health Services (2016-175)**
- Both parties timely complied with the Council's May 22, 2018 Interim Order.
 - The Custodian lawfully denied access to the complaining party's personal information. N.J.S.A. 47:1A-1; Burnett v. Cnty. Of Bergen, 198 N.J. 408 (2009).
 - The *In Camera* Examination revealed that the Custodian lawfully denied access to the redacted portions of the responsive e-mail chain.
 - There is no need to conduct a knowing and willful analysis.
 - Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.
7. **Edwin Sheppard v. Cape May County (2016-195)**
- The Custodian's failure to timely respond within the extended time frame resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
 - The Complainant's request was invalid because it failed to include all necessary criteria as prescribed in Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010).
 - There is no knowing and willful violation.
 - Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Martucci made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

8. **Libertarians for Transparent Government v. Borough of Westwood (Bergen) (2016-214)**
- The Custodian may have unlawfully denied access to records maintained by the Borough's Joint Insurance Fund. Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010).
 - The Custodian did not unlawfully deny access to the portion of OPRA request item No. 3 seeking informal or draft agreements. N.J.S.A. 47:1A-1.1.
 - The Custodian did not unlawfully deny access to the portion of OPRA request item No. 3 seeking e-mails or correspondence because same was invalid.
 - The knowing and willful and prevailing party analyses are deferred pending compliance.
 - Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.
9. **Bryan Tomko v. City of Linden (Union) (2016-215)**
- The Custodian's failure to timely respond within the extended time frame 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 did not unlawfully deny access to the Complainant's request item No. 3 because it was invalid.
 - There is no knowing and willful violation.
 - Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.
10. **Tanya Wynn v. Borough of Maywood (Bergen) (2016-224)**
- The Custodian's response to the Complainant's August 1, 2016 OPRA request was insufficient because she failed to provide a specific lawful basis for her denial of access. N.J.S.A. 47:1A-5(g).
 - The Custodian did not unlawfully deny access to the portion of the August 1, 2016 OPRA request seeking "any record, including police reports . . ." because it was invalid.
 - The Custodian lawfully denied access to the Complainant's August 4, 2016 OPRA request seeking "rap sheets" under OPRA and Executive Order No. 9 (Gov. Hughes 1963).
 - There is no knowing and willful violation.
 - Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Martucci made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

11. **Regino De La Cruz, Esq. v. City of Union City (Hudson) (2016-229)**

- Mr. Cantatore's response to the Complainant's OPRA request was insufficient because he failed to provide a specific lawful basis for his denial of access. N.J.S.A. 47:1A-5(g).
- The Custodian did not unlawfully deny access to the portion of the August 1, 2016 OPRA request seeking every police accident or incident report from the prior seven (7) days because it was invalid.
- There was no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Simons made a motion and Ms. Martucci seconded the motion. The motion passed by a unanimous vote.

12. **Carol Scutro v. City of Linden (Union) (2016-256)**

- The Custodian's failure to timely respond within the extended time frame resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- This complaint should be referred to the Office of Administrative Law for a hearing to develop the facts.
- Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Mr. Martucci made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

13. **Libertarians for Transparent Government v. Town of Kearny (Hudson) (2016-261)**

- The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
- Ms. Berg Tabakin called for any discussion on the Council Staff's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff's findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.

14. **Alan Arthur De Smet v. NJ Motor Vehicle Commission (2016-267)**

15. **Alan Arthur De Smet v. NJ Motor Vehicle Commission (2016-268) Consolidated**

- This complaint should be tabled for additional review based on legal advice.
- Ms. Berg Tabakin called for a motion to have this matter tabled for additional review. Mr. Martucci made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

16. **David E. Gross (o/b/o The Estate of Marcia C. Strager) v. Bergen County Prosecutor's Office (2016-275)**

- The Council should dismiss this complaint because it was abandoned by the Complainant and no updated contact information was provided.

- Ms. Berg Tabakin called for any discussion on the Council Staff’s findings and recommendations as written. Ms. Berg Tabakin asked whether staff reached out to the applicable Surrogate’s Office to obtain contact information for the estate to notify it of the outcome of this complaint. Mr. Stewart stated that he did not but agreed to attempt to locate contact information so that the GRC could send the estate the decision. Ms. Berg Tabakin called for a motion to accept the Council Staff’s findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.

17. **Bert A. Wailoo v. Kean University (2016-301)**

- The Custodian lawfully denied access to the subject request seeking a list of “disciplinary consultations” because it was invalid.
- Ms. Berg Tabakin called for any discussion on the Council Staff’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff’s findings and recommendations as written. Mr. Martucci made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

18. **Michael Lasane v. NJ Department of Corrections (2016-324)**

- The Custodian lawfully denied access to the subject OPRA request because no responsive records existed.
- Ms. Berg Tabakin called for any discussion on the Council Staff’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff’s findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.

19. **Robert McDonnell v. Hillsborough Township (Somerset) (2017-107)**

- This complaint should be dismissed because the Complainant withdrew it while at the Office of Administrative Law.
- Ms. Berg Tabakin called for any discussion on the Council Staff’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff’s findings and recommendations as written. Mr. Martucci made a motion and Ms. Simons seconded the motion. The motion passed by a unanimous vote.

20. **Edward Stevens v. New Horizons Community Charter School (Essex) (2018-166)**

- The Custodian’s response was insufficient because she failed to respond to each request item individually.
- 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 unlawfully denied access to the records responsive to OPRA request item No. 1 and must disclose them to the Complainant.
- The Complainant’s request item No. 2 seeking dates of interviews and names of interviewers was invalid because it sought information.

- The portion of the complaint alleging an unlawful denial of access to “interviewers’ notes” is without reasonable factual basis to pursue because the Complainant never sought same in the subject OPRA request. N.J.S.A. 47:1A-7(e).
- The knowing and willful and prevailing party analyses are deferred pending compliance.
- Ms. Berg Tabakin called for any discussion on the Council Staff’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Council Staff’s findings and recommendations as written. Ms. Simons made a motion and Mr. Martucci seconded the motion. The motion passed by a unanimous vote.

VII. Court Decisions of GRC Complaints on Appeal:

- Simmons v. City of Newark, 2018 N.J. Super. Unpub. LEXIS 2313 (App. Div. 2018) (on appeal from GRC Nos. 2015-329 & 2015-343): The Appellate Division affirmed an appeal from two (2) GRC decisions, in which the requestor sought the disciplinary history of a law enforcement agent involved in the requestor’s criminal cases. The requestor also sought any audio recordings or transcripts from the probable cause hearing related to those criminal matters. The Council held that the request for disciplinary records was lawfully denied as confidential personnel records. The Council also relied on the custodian’s certification that his office did not maintain courtroom audio recordings or transcripts. The court relied upon to its deferential standard of review to find no basis to overturn the Council’s decisions and found that sufficient credible evidence in the record existed to support the Council’s decisions.
- Carter v. Franklin Fire Dist. No. 1 (Somerset), 2018 N.J. Super. Unpub. LEXIS 2189 (App. Div. 2018): The Appellate Division affirmed an appeal from a GRC decision, which affirmed the initial decision from an administrative law judge (“ALJ”), who held that certain e-mails exchanged on a server maintained by the respondent are not “government records” subject to disclosure under OPRA. The request sought e-mail records between two (2) Franklin Fire District No. 1 Commissioners (“Commissioner’s”) and a former Commissioner pertaining to a Political-Action Committee. The GRC rejected the exceptions from the appellant in that they did not need to conduct their own *in camera* review, and that the ALJ addressed the concern that withholding disclosure would incentivize public officials to use public systems for political activity. Ultimately, the court agreed with the GRC in holding that not every e-mail created by a public official and stored or maintained on a public server is subject to disclosure under OPRA.

VIII. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court: None

IX. Complaints Adjudicated in Federal Court: None

X. Public Comment: None

XI. Adjournment:

Ms. Berg Tabakin called for a motion to end the Council meeting. Mr. Martucci made a motion, which was seconded by Ms. Simons. The motion passed by a unanimous vote.

The meeting adjourned at 2:39 p.m.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: November 13, 2018