



**Minutes of the Government Records Council  
May 30, 2023 Public Meeting – Open Session**

**I. Public Session:**

- **Call to Order**

The meeting was called to order at 1:31 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 May 25, 2023.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Michael Hahn, Esq. (designee of Department of Education Acting Commissioner Dr. Angelica Allen-McMillan), John Alexy (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 (Executive Director), Rosemond Bordzoe (Secretary), John Stewart (Mediator), Samuel Rosado (Staff Attorney), and Deputy Attorney General Steven Gleeson.

**II. Executive Director’s Report:**

**Current Statistics**

- Since OPRA’s inception in July 2002, the GRC has received 6,754 Denial of Access Complaints. That averages about 325 annual complaints per 20 3/4 tracked program

years. So far in the current program year (FY2023), the GRC has received 499 Denial of Access Complaints.

- 791 of the 6,754 complaints remain open and active (11.7%). Of those open cases:
  - 12 complaints are on appeal with the Appellate Division (1.5%);
  - 47 complaints are currently in mediation (5.9%);
  - 4 complaints are proposed for the Office of Administrative Law (0.5%);
  - 24 complaints await adjudication by the Office of Administrative Law (3.0%);
  - 49 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (6.2%);
  - 655 complaints are work in progress (82.8%); and
  - 0 complaints are being held in abeyance (0.0%).

The GRC continues to struggle with the excessive backlog predicated largely on filings by two (2) individuals. However, the GRC continues to make positive progress in its backlog and hopes to continue to grow that progress going forward.

- Since Program Year 2004, the GRC has received and responded to 37,339 total inquiries, averaging about 1,891 annual inquiries per 19 3/4 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 1,479 inquiries (6.6 inquiries per workday).

### **Proposed Legislation Impacting the GRC**

- On May 18, 2023, the State Assembly introduced A5467 and A5468 in reaction to the Office of the State Comptroller's July 2022 report on the GRC. The first bill would give the GRC more authority over its annual budget. The second bill would allow staff attorneys to adjudicate complaints on a rolling basis except in certain circumstances requiring the Council's direct determination.

### **III. Closed Session: None.**

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

#### **April 25, 2023 Open Session Meeting Minutes**

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the April 25, 2023 meeting. Mr. Alexy made a motion, which was seconded by Mr. Hahn. The motion passed by a unanimous vote.

#### **April 25, 2023 Closed Session Meeting Minutes**

Ms. Berg Tabakin called for a motion to approve the draft closed session minutes of the April 25, 2023 meeting. Mr. Alexy made a motion, which was seconded by Mr. Hahn. 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 to ensure his non-participation in the item from which he was recused. Mr. Caruso confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda items.

1. **Margaret Sudhaker v. NJ Office of the Attorney General (2023-50) (SR Recusal)**
  - Action Pending in Superior Court.
  - Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Disposition. Mr. Alexy Made a motion, which was seconded by Mr. Hahn. 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. **Scott Madlinger v. Berkeley Township Police Department (Ocean) (2022-605)**
  - No Records Responsive to the Request Exist.
2. **Scott Madlinger v. Berkeley Township Police Department (Ocean) (2022-631)**
  - No Records Responsive to the Request Exist.
3. **Victor Malyar v. Borough of Red Bank (Monmouth) (2023-4)**
  - No Records Responsive to the Request Exist.
4. **Scott Madlinger v. Ocean County Health Department (2023-20)**
  - All Records Responsive Provided in a Timely Manner.
5. **Angelous Jackson v. Bound Brook Police Department (Somerset) (2023-29)**
  - Unripe Cause of Action.
6. **Margaret Sudhaker v. NJ State Police (2023-49)**
  - Action Pending in Superior Court.
7. **Jason Ritchwood v. Village of South Orange (Essex) (2023-69)**
  - No Records Responsive to the Request Exist.
8. **Scott Madlinger v. Berkeley Township (Ocean) (2023-81)**
  - All Records Responsive Provided in a Timely Manner.

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

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

1. **David Weiner v. County of Essex (2022-206)**
  - Complaint Settled in Mediation.
2. **Trevor Howard v. NJ Department of Transportation (2022-268)**
  - Complaint Voluntarily Withdrawn.
3. **Patricia E. Stanley v. NJ Department of Health, Office of Population Health (2022-385)**
  - Complaint Voluntarily Withdrawn.
4. **Michael Chazen, Esq. (o/b/o Reid Malvin) v. Freehold Borough Police Department (Monmouth) (2022-649)**
  - Complaint Voluntarily Withdrawn.
5. **Jennifer LaStella v. Montgomery Township (Somerset) (2022-674)**
  - Complaint Settled in Mediation.
6. **Angelous Jackson v. Somerset County Board of Chosen Freeholders (2023-44)**
  - Complaint Settled in Mediation.
7. **Beldock Levine & Hoffman, LLP (o/b/o Cris Avery Benjamin) v. Jersey City Police Department (Hudson) (2023-53)**
  - Complaint Voluntarily Withdrawn.
8. **Juan Carlos Ramirez Rodriguez (o/b/o Donovan McFarlane) v. NJ Department of Human Services (2023-60)**
  - Complaint Voluntarily Withdrawn.

**VI. New Business – Cases Scheduled for Consent Agenda Administrative Order**

An “Administrative order” means an order issued by the Council requiring the records custodian or the complainant to perform a specific action in furtherance of the adjudication of a pending denial of access complaint or taking other actions deemed appropriate to adjudicate a complaint in an expedited manner. The Executive Director’s recommended reason for the Administrative Order is under each complaint below.

**A. Administrative Orders with Recusals (Consent Agenda): None**

**B. Administrative Orders with No Recusals (Consent Agenda):**

1. **The Edison Reporter v. Edison Public School District (Middlesex) (2021-177)**
  - *In Camera* Review.
2. **Anonymous v. Atlantic County One Stop Center (2023-93)**
  - Request to Proceed Anonymously Denied.

Ms. Berg Tabakin called for any discussion on the above two Executive Director’s Administrative Orders as written. Ms. Berg Tabakin called for a motion to accept the Executive

Director's Administrative Orders as written. Mr. Alexy made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

## **VII. 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 4 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. Art Rittenhouse, Jr. v. Borough of Sayreville (Middlesex) (2021-33) (SR Recusal)**

- The Custodian's failure to respond *in writing* 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's failure to safeguard records responsive to the OPRA request resulted in a spoliation issue. The Complainant should thus be referred to the Office of Administrative Law ("OAL") for a determination on whether the Custodian, or any other Borough official, knowingly and willfully violated OPRA. N.J.S.A. 47:1A-11.
- 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. Mr. Alexy made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

#### **2. Thomas Hauser v. NJ Office of the Attorney General (2021-167) (SR Recusal)**

- The portion of the request seeking "all documents . . ." is invalid because it fails to identify specific records and requires research. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015).
- The responsive script is exempt from disclosure under N.J.A.C. 13:1E-3.2(a)(1) and the Custodian lawfully denied access thereto. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a).
- 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. Mr. Alexy made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

3. **Gregory Edward Mantell v. Jersey City Police Department (Hudson) (2021-189)**  
**(SR Recusal)**

- The Custodian’s failure to respond in the extended time resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Kohn v. Twp. of Livingston Library (Essex), GRC Complaint No. 2007-124 (March 2008).
- The responsive report is exempt under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 569 (2017); Janeczko v. N.J. Dep’t of Law and Pub. Safety, Div. of Criminal Justice, GRC Complaint Nos. 2002-79 and 2002-80 (June 2004). Thus, the Custodian lawfully denied access to the responsive report. N.J.S.A. 47:1A-6.
- 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. Mr. Alexy made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

4. **Edward J. Kaufmann, Jr. v. NJ Office of the Attorney General (2022-178)**  
**(SR Recusal)**

- The requested oaths of office are exempt from disclosure under OPRA. N.J.S.A. 47:1A-1.1. Thus, the Custodian lawfully denied access to the responsive oaths. N.J.S.A. 47:1A-6. Further, the Custodian was not required to conduct research to locate a record containing non-confidential oath of office information. MAG, 375 N.J. Super. at 549.
- The Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking surety bonds and indemnity insurance 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).
- 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. Mr. Alexy made a motion and Mr. Hahn 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. **Brian Kubiel v. Toms River District No.1 Board of Fire Commissioners (Ocean)**  
**(2019-163)**

- This complaint should be dismissed because the Complainant withdrew it via e-mail to the OAL on April 20, 2023.

- 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. Alexy made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
2. **Tom Maciejewski v. Berkeley Heights Board of Education (Union) (2020-110)**
    - 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 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. Alexy made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.
  3. **Dan Riordan v. Borough of Red Bank (Monmouth) (2021-3)**
    - The current Custodian complied with the Council’s April 25, 2023 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. Alexy made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
  4. **Mary Ann Moretti v. Lafayette Township Elementary School (Sussex) (2021-68)**
    - The responsive security camera footage is exempt from disclosure under OPRA. N.J.S.A. 47:1A-1.1; Gilleran v. Twp. of Bloomfield, 227 N.J. 159 (2016). Thus, the Custodian lawfully denied access to the requested records. N.J.S.A. 47:1A-6.
    - 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. Alexy made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
  5. **Brigite I. Goncalves v. Borough of East Newark (Hudson) (2021-88)**
    - 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); Dittrich v. N.J. Dep’t of Cmty. Affairs, Bureau of Homeowner Prot., GRC Complaint No. 2021-10 (June 2022).
    - The responsive records are communications between the Borough and its insurance carrier which are exempt from disclosure under OPRA. N.J.S.A. 47:1A-1.1. Michelson v. Wyatt, 379 N.J. Super. 611 (App. Div. 2005). Thus,

the Custodian lawfully denied access to the responsive records. N.J.S.A. 47:1A-6.

- 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. Alexy made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

6. **Steven G. Mlenak, Esq. (o/b/o SJ 660 LLC) v. Borough of Edgewater (Bergen) (2021-90)**

- The Custodian failed to comply with the Council's September 29, 2022 Interim Order.
- The GRC declines to perform an *in camera* review of records responsive to OPRA request item No. 4 because Administrator Franz located and disclosed a responsive record already available on the Borough's website.
- Notwithstanding the failure to comply, the Custodian did not unlawfully deny access to records responsive to OPRA request item No. 5 because all records were previously provided. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
- This complaint should be referred to the OAL for a fact-finding hearing to determine whether the Custodian's actions resulted in a knowing and willful violation. N.J.S.A. 47:1A-11.
- The Complainant is a prevailing party. For administrative ease, the OAL should address the fee amount as part of its hearing.
- 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. Hahn made a motion and Mr. seconded the motion. The motion passed by a unanimous vote.

7. **Rotimi Owoh, Esq. (o/b/o Delores Simmons and Obafemi Simmons) v. Borough of National Park (Gloucester) (2021-105)**

- Notwithstanding Owoh v. City of Camden, 2023 N.J. Super. Unpub. LEXIS 597 (App. Div. 2023) decided after the filing of this complaint, the Custodian unlawfully denied access to records maintained by another agency pursuant to a shared services agreement. N.J.S.A. 47:1A-6; Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010); Michalak v. Borough of Helmetta (Middlesex), GRC Complaint No. 2010-220 (Interim Order dated January 31, 2012). Thus, the Custodian shall obtain and disclose the responsive records.
- 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. Mr. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

8. **Scott Madlinger v. Berkeley Township (Ocean) (2021-122)**

- The Custodian did not unlawfully deny access to additional e-mail logs because she reasonably interpreted the Complainant's OPRA request to seek only a log for a Township-issued e-mail account. N.J.S.A. 47:1A-6.
- 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. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

9. **Vincent Cricchio v. City of Long Branch, Office of Planning & Zoning (Monmouth) (2021-136)**

- The Custodian's request for reconsideration is denied. The Council's February 28, 2023 Final Decision remains in effect.
- 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. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

10. **Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons, and Grace Woko) v. Clinton Police Department (Hunterdon) (2021-163)**

- The Custodian's June 11, 2021 response was consistent with prevailing case law and the Council's prior decisions. Libertarians for Transparent Gov't v. Cumberland Cnty., 465 N.J. Super. 11 (App. Div. 2020), rev'd 250 N.J. 46 (2022). Thus, the Council should decline to find that an unlawful denial of access occurred. Moore v. N.J. Dep't of Corr., GRC Complaint No. 2009-144 (Interim Order dated October 26, 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. Mr. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

11. **Scott Madlinger v. Berkeley Township Police Department (Ocean) (2021-197)**

- The Custodian's failure to timely responded 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 is invalid because it required research. MAG, 375 N.J. Super. at 546; Carter v. N.J. Dep't of Cmty. Affairs, Div. of Local Gov't Servs., 2019 N.J. Super. Unpub. LEXIS 2510 (App. Div. 2019). Thus, the Custodian lawfully denied the subject request. N.J.S.A. 47:1A-6.

- 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. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

12. **Stephen J. Christiano, Esq. (o/b/o Ronald Bligh) v. West Orange Board of Education (Essex) (2021-220)**

- 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 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. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

13. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute, Baffi Simmons, and Delores Simmons) v. Washington Township Police Department (Gloucester) (2021-244)**

- The Custodian did not unlawfully deny access to the subject OPRA request because she certified, and the record reflects, that all responsive records were disclosed to the Complainant. Danis, GRC 2009-156, *et seq.*
- 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. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

14. **Anonymous v. Borough of Haledon (Passaic) (2022-179)**

- 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). However, the Council should decline to order disclosure of records because same were provided on May 9, 12, and 17, 2022.
- 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. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

15. **Edward J. Kaufmann, Jr. v. NJ Office of the Governor (2022-181)**

- The requested oaths of office are exempt from disclosure under OPRA. N.J.S.A. 47:1A-1.1. Thus, the Custodian lawfully denied access to the responsive oaths. N.J.S.A. 47:1A-6. Further, the Custodian was not required to

conduct research to locate a record containing non-confidential oath of office information. MAG, 375 N.J. Super. at 549.

- The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking surety bonds and indemnity insurance because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
- 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. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

16. **Scott Madlinger v. Absecon Police Department (Atlantic) (2023-2)**

- 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).
- Because the Custodian failed to assert an explanation or specific lawful basis for denying access to the requested records, she shall produce those records responsive to the OPRA request, advise if a specific lawful basis applies to any, or advise if no responsive records exist. N.J.S.A. 47:1A-6.
- 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. Hahn made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

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

- Owoh v. City of Camden, 2023 N.J. Super. Unpub. LEXIS 597 (App. Div. 2023): On appeal from GRC Complaint Nos. 2018-291 & 2018-306, the City of Camden ("City") (Defendant-Appellant) argued that the Complainant (Plaintiff-Appellee) should have submitted his OPRA request for police records directly to Camden County ("County"), as they provided the City with law enforcement pursuant to a police services agreement. The Appellate Division held that the County and City were distinct public entities that could not be disregarded as mere "artifice". Therefore, the court held the City did not unlawfully deny access to the Complainant's request for records made and maintained by the County, and appropriately directed the Complainant to same. Reversed.

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

- African Am. Data & Research Inst. AADARI v. Hitchner, 2023 N.J. Super. Unpub. LEXIS 599 (App. Div. 2023): The City of Millville (Defendant-Appellant) appeals from a denial of a motion to dismiss the action on the basis that the Complainant (Plaintiff-Appellee) failed to properly file and serve a verified complaint. The Appellate Division found that Plaintiff's unverified complaint was "insufficient" to

invoke the trial court's subject matter jurisdiction. The court also found that an officer of AADARI failed to submit an affidavit with personal knowledge of genuine facts to support the action by only providing the representations of counsel. The court held that such representations could not provide support of factual allegations. Reversed.

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

**XI. Public Comment: None.**

**XII. Adjournment:**

Ms. Berg Tabakin called for a motion to end the Council meeting. Mr. Ritardi made a motion, which was seconded by Mr. Hahn. The motion passed by a unanimous vote. The meeting adjourned at 2:07 p.m.

Respectfully submitted,

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Robin Berg Tabakin, Esq., Chair

Date Approved: June 27, 2023