



**Minutes of the Government Records Council
January 30, 2024 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 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 January 25, 2024.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Michael Hahn, Esq. (designee of Department of Education Acting Commissioner Kevin Dehmer), and John Alexy (designee of Department of Community Affairs Acting Commissioner, Jacquelyn A. Suarez), and Steven Ritardi, Esq., Public Member.

GRC Staff in Attendance: Frank F. Caruso (Executive Director), Rosemond Bordzoe (Secretary), Samuel Rosado (Staff Attorney), and Deputy Attorney General Paulina DeAraujo.

II. Executive Director’s Report:

Current Statistics

- Since OPRA’s inception in July 2002, the GRC has received 6,966 Denial of Access Complaints. That averages about 324 annual complaints per 21 1/2 tracked program years. So far in the current program year (FY2023), the GRC has received 181 Denial of Access Complaints.

- 618 of the 6,966 complaints remain open and active (8.9%). Of those open cases:
 - 14 complaints are on appeal with the Appellate Division (2.3%);
 - 22 complaints are currently in mediation (3.6%);
 - 2 complaints are proposed for the Office of Administrative Law (0.3%);
 - 29 complaints await adjudication by the Office of Administrative Law (4.7%);
 - 70 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (11.3%);
 - 481 complaints are work in progress (77.8%); and
 - 0 complaints are being held in abeyance (0.0%).

- Since Program Year 2004, the GRC has received and responded to 38,469 total inquiries, averaging about 1,877 annual inquiries per 20 1/2 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 979 inquiries (6.8 inquiries per workday).

CY2023 Year-End Summary

This past calendar year has, as with the last few years, continued to present many challenges to the day-to-day operations of the GRC. Notwithstanding, the Council was able to successfully hold every meeting again for the third straight year. Additionally, GRC staff scheduled and adjudicated 544 agenda items over all eleven (11) meetings; averaging over 49 adjudications per meeting in CY2023. This is a significant increase from CY2022, wherein the Council addressed 391 agenda items. CY2023 agenda items produced 515 administrative dispositions and final decisions.

The open case backlog has decreased significantly in CY2023 due to a couple of factors. First, the individual that filed 254 complaints against a single agency over several months in CY2022 withdrew over 150 of them, which were memorialized at the July 2023 meeting. In addition, the GRC received 310 total complaints in CY2023, which is 369 less complaints than filed in CY2022 (679: a program high for CY filings). The result has been a significant decrease in the open weekly cases from 788 at the beginning of the year (with a year high of 811) to 596 at the end of the year.

GRC staff remains committed to its statutory mission and is encouraged that it can make significant headway in CY2024. At this meeting alone, the GRC has a good start with 61 items on the agenda for consideration by the Council. We continue to observe the principles of hard work, flexibility, and cooperation to address our continuing struggles. I express my appreciation for staff's continued perseverance against difficult odds.

III. Closed Session:

- Joseph Semaan v. City of Hackensack (Bergen) (2019-118) *In Camera* Review (N.J.A.C. 5:105-2.8(g)). **(SR Recusal)**

Ms. Berg Tabakin called for a motion to go into closed session. Mr. Alexy made a motion, and Mr. Hahn seconded the motion. The Council adopted the motion by a unanimous vote. The Council met in closed session from 1:42 p.m. until 2:03 p.m. Mr. Ritardi did not participate due to a recusal.

Ms. Berg Tabakin called for a motion to end the closed session. Mr. Hahn made a motion, which was seconded by Mr. Alexy. The Council adopted the motion by a unanimous vote. Open Session reconvened at 2:04 p.m., and Ms. Bordzoe called roll.

- Present: Ms. Berg Tabakin, Mr. Hahn, and Mr. Alexy, and Mr. Ritardi.

IV. Approval of Minutes of Previous Meetings:

December 12, 2023 Open Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the December 12, 2023 meeting. Mr. Hahn made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote.

V. New Business – Cases Scheduled for Adjudication

Ms. Berg Tabakin stated that Mr. Ritardi would be muted for this portion of the agenda to ensure his non-participation in the item from which he was recused. Ms. Berg Tabakin confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda item.

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):

1. **Anonymous v. Township of Irvington (Essex) (2022-482 et. al) (See Appendix A) (SR Recusal)**
 - Unable to Locate Complainant.
 - Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Disposition. Mr. Hahn made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote; Mr. Ritardi recused.

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

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

1. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Cape May City Police Department (Cape May) (2021-293)**
 - No Correspondence Received by the Custodian.
2. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Mantoloking Police Department (Ocean) (2021-349)**
 - All Records Responsive Provided in a Timely Manner.
3. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Woodbury Police Department (Gloucester) (2021-353)**
 - All Records Responsive Provided in a Timely Manner.
4. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. West Deptford Police Department (Gloucester) (2021-355)**
 - All Records Responsive Provided in a Timely Manner.
5. **Anne Vukicevich v. Moorestown Township (Burlington) (2023-241)**
 - Motion to File Within Time Denied.
6. **Jahkoy Monsanto v. Somerset County Board of Chosen Freeholders (2023-253)**
 - No Records Responsive to the Request Exist.
7. **Kenneth J. Marr Jr. v. Township of Aberdeen (Monmouth) (2023-280)**
 - Not A Valid OPRA Request.
8. **Michael McCormick v. NJ Department of Corrections (2023-298)**
 - Motion to File Within Time Denied.
9. **Boris Boretsky v. Middlesex County Prosecutor's Office (2023-299)**
 - Motion to File Within Time Denied.
10. **Deepak Kumar v. Moorestown Township (Burlington) (2023-308)**
 - Motion to File Within Time Denied.
11. **Yeruchom Koslowitz v. Township of Lakewood (Ocean) (2024-9)**
 - Motion to File Within Time Denied.

Ms. Berg Tabakin called for a motion to accept the recommendations as written in all the above Administrative Complaint Dispositions. Mr. Hahn made a motion, which was seconded by Mr. Alexy. 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 Brook, Esq. (o/b/o Thomas Del Casale) v. NJ Department of Law and Public Safety, Division of Law (2023-100)**
 - Complaint Settled in Mediation.
2. **Din Narain v. County of Hudson (2023-105)**
 - Complaint Voluntarily Withdrawn.
3. **Kevin Kearns v. Municipality of Princeton (Mercer) (2023-174)**
 - Complaint Settled in Mediation.
4. **Scott Betsy v. City of East Orange (Essex) (2023-258)**
 - Complaint Settled in Mediation.

5. **Kevin Kearns v. City of Long Branch (Monmouth) (2023-262)**
 - Complaint Voluntarily Withdrawn.
6. **Javier De Leon (o/b/o Willie Jones) v. Newark Department of Public Safety (Essex) (2023-289)**
 - Complaint Voluntarily Withdrawn.
7. **Remi L. Spencer, Esq. (o/b/o Samuel Riyad) v. Borough of Middlesex (Middlesex) (2023-294)**
 - Complaint Voluntarily Withdrawn.
8. **Yehuda Miller v. Township of Teaneck (Bergen) (2023-310)**
 - Complaint Voluntarily Withdrawn.
9. **Olivia Liu v. Township of East Windsor (Mercer) (2024-15)**
 - 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): None

VII. New Business – Cases Scheduled for Individual Complaint Adjudication

Ms. Berg Tabakin noted that Mr. Ritardi would be muted for this portion of the agenda 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.

A. Individual Complaint Adjudications with Recusals:

1. **Joseph Semaan v. City of Hackensack (Bergen) (2019-118) (SR Recusal)**
 - The Custodian timely complied with the Council’s June 29, 2021 Interim Order.
 - The Custodian shall comply with the Council’s *In Camera* Examination Findings.
 - The knowing and willful analysis is deferred.
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Mr. Stewart noted that the *In Camera* Examination table on page 7 was amended to clarify those portions of the responsive recordings requiring redaction. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as amended. Mr. Alexy made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

2. **Joseph Holzli v. City of Clifton (Passaic) (2021-113) (SR Recusal)**

- The GRC must conduct an *in camera* review of the requested report to determine the validity of the Custodian's assertion that same was lawfully denied under the "inter-agency, or intra-agency advisory, consultative, or deliberative material" exemption. 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's response to the portion of the request seeking personnel records 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). Thus, the Council should decline to order disclosure.
- 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. **David Weiner v. County of Essex (2022-217) (SR Recusal)**

- 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); Kohn v. Twp. of Livingston Library (Essex), GRC Complaint No. 2007-124 (March 2008). However, the GRC declines to order any further action because the Custodian responded on April 19, 2022.
- 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. **Bruce Miller v. Hudson County Sheriff's Office (2022-370) (SR Recusal)**

- 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 GRC declines to order disclosure because the Custodian responded on August 12, 2022 disclosing responsive records.
- 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.

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

B. Individual Complaint Adjudications with no Recusals:

1. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Camden (Camden) (2018-291)**
2. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Camden (Camden) (2018-306) CONSOLIDATED**
 - The Council should reconsider its November 10, 2020 Interim Order due to the Appellate Division's decision in Owoh v. City of Camden, 2023 N.J. Super. Unpub. LEXIS 597 (App. Div.), cert. denied 2023 N.J. LEXIS 1237 (2023), which reversed said Order.
 - The Council should rescind Conclusion Nos. 1 and 2 requiring the Custodian to obtain from the Camden County Police Department responsive records for disclosure and instead find that no unlawful denial of access occurred.
 - As no violation of OPRA occurred, the GRC will not address the knowing and willful analysis.
 - 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 Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
3. **Benjamin Palombi v. NJ Department of Labor and Workforce Development (2019-122)**
 - This complaint should be dismissed because the Complainant withdrew it verbally, which was memorialized in writing by the Office of Administrative Law ("OAL"), on December 28, 2023. No further adjudication is required.
 - 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 Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
4. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Cape May Point Police Department (Cape May) (2021-300)**
 - The Custodian's response was insufficient because she failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008). However, the GRC declines to order disclosure because the Custodian did so on November 9, 2021 in response to the June OPRA request.
 - Notwithstanding the insufficient response, the Custodian did not unlawfully deny access to the Complainant's OPRA request because all was disclosed. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 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. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
5. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Merchantville Police Department (Camden) (2021-333)**
- The Custodian performed an insufficient search. N.J.S.A. 47:1A-6; Weiner v. Cnty. of Essex, GRC Complaint No. 2013-52 (September 2013). However, the GRC declines to order disclosure because the Custodian did so on December 27, 2021 simultaneous to the Statement of Information (“SOI”).
 - The Custodian did not unlawfully deny access to the portion of the Complainant’s OPRA request seeking certain personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*
 - The Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking the “amount and type of pension” and agreements 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).
 - 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. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
6. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Park Ridge Police Department (Bergen) (2021-340)**
- The Custodian’s response was insufficient because he failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272.
 - The Custodian did not unlawfully deny access to the portion of the Complainant’s OPRA request seeking certain personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*
 - The Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking agreements because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
 - 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 Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

7. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. East Greenwich Police Department (Gloucester) (2021-343)**
- The Custodian complied with the Council's December 12, 2023 Interim Order.
 - 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. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
8. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Beverly City Police Department (Burlington) (2021-348)**
- The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA request seeking certain personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*
 - The Custodian's response to the portion of the request seeking settlements was consistent with prevailing case law and the Council's prior decisions. Libertarians, 465 N.J. Super. 11. 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. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.
9. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. West Amwell Township Police Department (Hunterdon) (2021-350)**
- The Custodian's response was insufficient because he failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272. However, the GRC declines to order disclosure because the Custodian did so on February 1, 2022 as part of the SOI.
 - Notwithstanding the insufficient response, the Custodian did not unlawfully deny access to the portion of the Complainant's OPRA request seeking certain personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*
 - The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking agreements because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
 - 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. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

10. Paul Salerno v. Township of Piscataway (Middlesex) (2022-191)

- The Custodian failed to timely respond to the Complainant’s April 19, 2022 OPRA request and two (2) of the three (3) OPRA requests submitted on May 2, 2022. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- Ms. Mitch’s response to the Complainant’s April 19, 2022 OPRA request was insufficient because she failed to address each request item individually. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272.
- A portion of the Complainant’s April 19, 2022 request and one (1) of the May 2, 2022 requests was invalid because they sought information and generic records. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009).
- The Custodian did not unlawfully deny access to the remainder of the Complainant’s OPRA requests because all was disclosed. Danis, GRC 2009-156, *et seq.*

11. Dominick Aboosamara v. Borough of Flemington (Hunterdon) (2022-356)

- The Custodian lawfully denied access to the security camera footage responsive to the Complainant’s OPRA request because same was exempt under the security and surveillance exemption. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; Gilleran v. Twp. of Bloomfield, 227 N.J. 159, 174-177 (2016).
- 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 Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

12. Tineen Howard v. NJ State Police (2022-358)

- The Complainant’s request was invalid because it sought generic documents and required research. MAG, 375 N.J. Super. 534; Bent, 381 N.J. Super. 30; Lagerkvist, 443 N.J. Super. 230; LaMantia, GRC 2008-140. Thus, the Custodian’s denial was lawful. 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. Ritardi made a motion and Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

13. Rafael D. Brito v. NJ Department of Corrections (2022-378)

- This complaint should be dismissed because the Complainant failed to state a claim. Loigman v. Monmouth Cnty. Prosecutor's Office, GRC Complaint No. 2013-342 (July 2014).
- 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 Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

14. Kerry Brown v. Borough of Chester (Morris) (2022-383)

- The current Custodian, through Counsel, timely responded in writing. As such, no "deemed" denial occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- 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 Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

15. Boris Boretsky v. Middlesex County Prosecutor's Office (2023-259)

- The Complainant's request for reconsideration should be denied.
- 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 Mr. Hahn seconded the motion. The motion passed by a unanimous vote.

VIII. Court Decisions of GRC Complaints on Appeal: None

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

- Dalnoky v. Pinelands Reg'l Sch. Dist., 2023 N.J. Super. Unpub. LEXIS 2241 (App. Div. 2023): On September 17, 2020, the plaintiff submitted an OPRA request to the defendant for various records. The defendant denied the request on October 23, 2020. The plaintiff subsequently submitted several more requests on April 25, May 6, May 9, and November 15, 2021. On December 6, 2021, the plaintiff filed suit. The trial court found that because the plaintiff's subsequent OPRA requests sought essentially the same records as the first, the October 23, 2020 denial was the accrual date for filing a challenge. The trial court therefore held that the plaintiff's action was time-barred by the forty-five (45) day statute of limitations. On appeal, the Appellate Division found that allowing a plaintiff to renew the forty-five (45) day period by filing identical OPRA requests would frustrate the purpose of the statute of limitations. The court held that the plaintiff's subsequent requests did not restart the limitations clock. Affirmed.
- Fuster v. Twp. of Chatham, 2023 N.J. Super. LEXIS 132 (App. Div. 2023) (App'd for Publication): The plaintiff requested body worn camera (BWC) footage. The defendant denied access pursuant to N.J.S.A. 47:1A-9(b), asserting judicial case law which granted

confidentiality to persons who were not arrested or charged with an offense. On appeal, the plaintiff argued that the state's Body Worn Camera Law ("BWCL") abrogated OPRA's exemptions since the law identified only four (4) enumerated exemptions. The Appellate Division disagreed, finding that the exemptions listed in the BWCL were in addition to OPRA exemptions, and not a replacement. Thus, the court held that N.J.S.A. 47:1A-9(b) precluded release of the BWC footage. Affirmed.

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 2:33 p.m.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: February 27, 2024

Appendix A – Anonymous v. Twp. of Irvington (Essex), Complaint Numbers

1. GRC 2022-482
2. GRC 2022-483
3. GRC 2022-484
4. GRC 2022-487
5. GRC 2022-488
6. GRC 2022-501
7. GRC 2022-502
8. GRC 2022-506
9. GRC 2022-509
10. GRC 2022-511
11. GRC 2022-521
12. GRC 2022-529
13. GRC 2022-537
14. GRC 2022-553
15. GRC 2022-554
16. GRC 2022-555
17. GRC 2022-565
18. GRC 2022-566
19. GRC 2022-583
20. GRC 2022-609
21. GRC 2022-625
22. GRC 2022-626