



**Minutes of the Government Records Council
April 11, 2006 Public Meeting – Open Session**

The meeting was called to order at 9:55 a.m. at the Department of Community Affairs, Room 129, Trenton, New Jersey. The Open Public Meetings Act statement was read. Ms. Luzzatto called the roll:

Present: Mr. Maltese, Ms. Michelle Richardson (designee of Commissioner Susan Bass Levin, Department of Community of Affairs), Ms. Kathryn Forsyth (Designee of Commissioner Lucille Davy, Department of Education) Ms. Robin Berg Tabakin, GRC Staff: Executive Director Catherine Starghill, Operations Manager, Gloria Luzzatto, Deputy Attorney General Debra Allen, Kimberly Gardner, Dara Lownie, Jennifer Arozamena, Colleen McGann and Marion Davies.

Mr. Maltese read the Resolution for Closed Session, Resolution Number 2006-04-11 and called for a motion to go into closed session for legal advice and anticipated and pending litigation regarding:

1. Teeters v. NJ Department of Human Services, Division of Youth & Family Services (2002-6 and 2002-15)
2. Fisher v. Department of Law & Public Safety, Division of Law (2004-55 and 2004-82)
3. Slate v. Woodbridge Police Department (2004-198)
4. Renna v. County of Union – Complaint instituted with Superior Court concerning OPRA
5. O’Shea v. West Milford Board of Education (2004-93)

A motion was made by Ms. Tabakin and seconded by Ms. Forsyth to go into closed session. The motion was adopted by a unanimous vote.

The Council met in closed session from 10:00 a.m. to 10:25 a.m.

Open Session reconvened at 10:25 a.m. Ms. Luzzatto called the roll:

In attendance:

Mr. Maltese, Ms. Tabakin, Ms. Richardson, Ms. Forsyth.

The pledge of allegiance was recited.

Mr. Maltese called for a motion to approve the closed session minutes of October 28, 2005, the open and closed session minutes of November 10, 2005, December 8, 2005, January 27, 2006, February 17, 2006 and March 9, 2006.

The motion was made by Ms. Tabakin and seconded by Ms. Forsyth. The minutes were approved by a unanimous vote.

NJ Libertarian Party v. NJDHS, Division of youth & Family Services (2004-114)

Ms. Starghill reviewed the parties' respective positions and GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director – *Case Reconsideration*. Ms. Starghill presented the following recommendations to the Council:

The Executive Director respectfully recommended that the Council find that:

1. Given the plain language of OPRA, the Custodian is under no obligation to convert the CD-ROM to "some other meaningful medium" since the agency *does* maintain the record in the medium requested. However, the Administrator of the Policy Development Unit for Division of Youth and Family Services ("DYFS") has certified that the Policy Unit can technically export the Field Operations Manual from Folio Views 3.1 to MS WORD. Therefore, the Complainant may purchase a copy of the Field Manual in MS WORD from DYFS.
2. The Custodian is permitted to charge \$20.87 for analyzing, testing and preparing to export the manual and only \$1.00 for the cost of the CD-ROM.
3. The Custodian has offered the Complainant the record requested in the medium requested. The Custodian has also offered to convert the record into MS WORD. Thus, the Custodian's actions have gone beyond the requirements of OPRA. Given the facts in this case, the Custodian has not knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances.

Mr. Maltese called for a motion to accept the Executive Director's recommendations as written. A motion was made by Ms. Forsyth and seconded by Ms. Tabakin. The motion passed unanimously.

Tina Renna v. County of Union (2004-134)

Ms. Gardner reviewed the parties' respective positions and GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Gardner presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council find that since the Complainant did advise the Executive Director that she did not want to purchase the requested records, this case is closed without further action.

Mr. Maltese called for a motion to accept the Executive Director's recommendation as written. A motion was made by Ms. Forsyth and seconded by Ms. Tabakin. The motion passed unanimously.

Gregory Slate v. Woodbridge Police Department (2004-198)

Ms. Gardner reviewed the parties' respective positions and GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Gardner presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council find that the Complainant has not submitted any correspondence to the Council regarding his failure to appear for his proceeding at the Office of Administrative Law. Therefore, the case is closed without further action.

Mr. Maltese called for a motion to accept the Executive Director's recommendation as written. A motion was made by Ms. Forsyth and seconded by Ms. Tabakin. The motion passed unanimously.

Philip Boggia v. Borough of Oakland (2005-36)

Ms. Starghill reviewed the parties' respective positions and GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Starghill presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council find that based on the February 27, 2006 response to the Council's Interim Order, the Custodian has released the government records in accordance with the Council's February 17, 2006 Interim Order and has appropriately done so within (10) business days from receipt of the Council's Order.

Mr. Maltese called for a motion to accept the Executive Director's recommendation as written. A motion was made by Ms. Forsyth and seconded by Ms. Tabakin. The motion passed unanimously.

Ms. Richardson recused herself from Deborah Glenn v. NJ Department of Community Affairs, Division of Housing, GRC Complaint No. 2005-47 and Michael Deluca v. NJ Department of Community Affairs, Codes and Standards, GRC Complaint No. 2005-61.

Deborah Glenn v. NJ Department of Community Affairs, Divison of Housing (2005-47)

Ms. McGann reviewed the parties' respective positions and GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. McGann presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council find that pursuant to N.J.S.A. 47:1A-5.f. and N.J.S.A. 47:1A-5.g., the Complainant's records request was not a valid OPRA request and as such the Custodian's failure to recognize and respond to the records request in a timely manner does not amount to an unlawful denial of access pursuant to the provisions of OPRA.

Mr. Maltese called for a motion to accept the Executive Director's recommendation as written. A motion was made by Ms. Tabakin and seconded by Ms. Forsyth. The motion passed unanimously.

Michael Deluca v. NJ Department of Community Affairs, Codes and Standards (2005-61)

Ms. Gardner reviewed the parties' respective positions and GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Gardner presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council find that pursuant to N.J.S.A. 47:1A-9.a, N.J.A.C. 5:3-3.2.a. and the unpublished decision in Newark Morning Ledger Co., Publisher of the Star-Ledger v. Division of the State Police of the New Jersey Department of Law and Public Safety, Superior Court of New Jersey, Law Division - Mercer County, Docket No.: MER-L-1090-05 (Decided July 5, 2005), the proposed rule exempting the plans from being disclosed pursuant to OPRA does apply and the requested plans are exempt from disclosure and the Custodian did not unlawfully deny access to the requested records.

Mr. Maltese called for a motion to accept the Executive Director's recommendation as written. A motion was made by Ms. Tabakin and seconded by Ms. Forsyth. The motion passed unanimously.

John McCormack v. NJ Department of Treasury (2005-58)

Ms. McGann reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. McGann presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council find that an *in camera* inspection of the documents responsive to the Complainant's February 23, 2005 OPRA request shall be conducted by the Council to determine what information, if any, is disclosable.

The Council members discussed the scheduling of the *in camera* proceedings. Mr. Maltese called for a motion to accept the Executive Director's recommendation as written. A motion was made by Ms. Tabakin and seconded by Ms. Richardson. The motion passed unanimously.

Daryle Pitts v. NJ Department of Corrections (2005-71)

Ms. Starghill reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Starghill presented the following recommendations to the Council:

The Executive Director respectfully recommended the Council find that:

1. Based on the fact that the Custodian has raised a viable defense for denying access to the records under Executive Order #26, as well as responded within the time period allotted under OPRA, the Council should find that the

Custodian did not unlawfully deny access to the records requested pursuant to OPRA.

2. Because the Custodian has certified that she responded to the original request within the time period allotted by OPRA as well as asked for further clarification of the request, there is no evidence that the Custodian's actions were consistent with the legal standards established for knowing and willful conduct by the New Jersey courts. The Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances pursuant to N.J.S.A. 47:1A-11.a.
3. The courts of the state have determined that the State's fee-shifting statutes are intended to compensate an attorney hired to represent a plaintiff not the plaintiff representing himself. Therefore, the Complainant is not entitled to reasonable attorney's fees pursuant to OPRA.

Mr. Maltese called for a motion to accept the Executive Director's recommendations as written. A motion was made by Ms. Forsyth and seconded by Ms. Richardson. The motion passed unanimously.

John McCormack v. NJ Department of Treasury (2005-103)

Ms. McGann reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. McGann presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council find that based on the March 20, 2006 response to the Council's Interim Order, the Custodian has released government records in accordance with the Council's March 9, 2006 Interim Order and has appropriately done so within ten (10) business days from receipt of the Council's Order.

Mr. Maltese called for a motion to accept the Executive Director's recommendation as written. A motion was made by Ms. Tabakin and seconded by Ms. Forsyth. The motion passed unanimously.

Maryann Allacci v. NJ Division on Civil Rights MDRR (2005-110)

Ms. Gardner reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Gardner presented the following recommendations to the Council:

The Executive Director respectfully recommended that the Council find that:

1. While having a heavy workload is understandable, it is not a lawful reason for delaying a response to an OPRA records request. The Custodian should have obtained a written agreement from the Complainant extending the time period to respond. Thus, the Custodian violated N.J.S.A. 47:1A-5.i. and N.J.S.A. 47:1A-5.g. by failing to provide the Complainant with a written response within the statutorily mandated seven (7) business days, therefore, creating a “deemed” denial.
2. The Complainant’s records request was not a valid OPRA request and as such the Custodian’s refusal to fulfill the records request does not amount to an unlawful denial of access pursuant to the provisions of OPRA. Moreover, the Custodian was not obligated to fulfill the Complainant’s request, however they chose to do so and has certified that all records responsive to the request have been released.

Mr. Maltese called for a motion to accept the Executive Director’s recommendations as written. A motion was made by Ms. Forsyth and seconded by Ms. Richardson. The motion passed unanimously.

John Paff v. Township of Old Bridge (2005-123)

Ms. McGann reviewed the parties’ respective positions and the GRC’s analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. McGann presented the following recommendations to the Council:

The Executive Director respectfully recommended the Council find that:

1. Based on the fact that the Custodian has not provided a lawful basis for denying access to the executive session minutes pursuant to N.J.S.A. 47:1A-6, the Custodian shall disclose the requested December 1, 2003 and March 1, 2004 executive session minutes with appropriate redactions pursuant to the Open Public Records Act (“OPRA”), providing a detailed and lawful basis for each redaction.
2. The Custodian violated N.J.S.A. 47: 1A-5.g. in not providing a specific basis for the denial of access to the requested executive session minutes.
3. Based on N.J.S.A. 47:1A-5.f. and N.J.S.A. 47:1A-5.g. the Custodian acted properly in requiring the Complainant to complete the agency’s adopted OPRA request form.
4. In light of the insufficiencies in the form adopted by the Custodian in this case the Custodian violated N.J.S.A. 47:1A-5.f and the Custodian shall amend their OPRA request form to ensure full compliance with OPRA.

Mr. Maltese inquired if the recommendation in 1. of this case was consistent with the Council’s prior decisions on this issue. The Council was advised that the recommendation in this case was consistent with Council’s prior decisions.

The Council members discussed amending 1. of said recommendations to include language that states “the disclosure with appropriate redactions pursuant to the Open Public Records Act (“OPRA”) and providing a detailed and lawful basis for each redaction.”

Mr. Maltese called for a motion to accept the Executive Director's recommendations with the amendment. A motion was made by Ms. Tabakin and seconded by Ms. Richardson.

Lawrence Simons v. Lakewood NJ Board of Education (2005-179)

Ms. McGann reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. McGann presented the following recommendations to the Council:

The Executive Director respectfully recommended the Council find that:

1. Given the facts of this case and pursuant to the decision in Mag Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super 534, 546 (March 2005), there was no unlawful denial of access to records in this case.
2. The Custodian did properly respond to the Complainant's request within the statutorily required seven (7) business day time frame pursuant to N.J.S.A. 47:1A-5.i indicating that the only document relating to the settlement with Dr. Cannava is the Settlement Agreement, and such document was made available for the Complainant's inspection at that time.
3. Per the Custodian's March 22, 2006 certification, no other documents exist that are responsive to the Complainant's September 6, 2005 OPRA request.
4. This complaint is closed with no further action.

Mr. Maltese called for a motion to accept the Executive Director's recommendations as written. A motion was made by Ms. Tabakin and seconded by Ms. Richardson. The motion passed unanimously.

Larry Angel v. Township of Mullica (2005-207)

Ms. Lownie reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendations to the Council:

The Executive Director respectfully recommended the Council find that:

1. The Custodian unlawfully denied access to the requested 2005 executive session minutes due to a heavy workload and awaiting attorney review are not lawful reasons for a denial of access pursuant to N.J.S.A. 47:1A-6. The Custodian should have obtained a written agreement from the Complainant extending the seven (7)-business day time frame required under the Open Public Records Act ("OPRA") to respond to the records request.
2. The Custodian shall redact the exempt information contained in the 2005 executive session minutes, providing a detailed and lawful basis for each redaction and disclose to the Complainant the redacted minutes within ten (10) business days from receipt of the Council's Interim Order and

simultaneously provide certified confirmation of compliance to the Executive Director.

Mr. Maltese called for a motion to accept the Executive Director's recommendations as written. A motion was made by Ms. Tabakin and seconded by Ms. Richardson. The motion passed unanimously.

Leonard Lucente v. City of Union (2005-213)

Ms. Lownie reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendations to the Council:

The Executive Director respectfully recommended that:

1. As the Complainant's request for W-2 forms pertains to tax return information, and such information is exempt from public access pursuant to N.J.S.A. 47:1A-9.a. and 26 U.S.C. § 6103 (2004), the Custodian has met his burden of proving that he did not unlawfully deny access to the requested records pursuant to N.J.S.A. 47:1A-6.
2. The Custodian has unlawfully denied access to the requested medical application information pursuant to N.J.S.A. 47:1A-1 and Michelson v. Wyatt 379 N.J. Super 611 (App. Div. August, 2005).
3. The Custodian shall disclose to the Complainant the requested medical application information with the appropriate redactions pursuant to OPRA and Michelson v. Wyatt 379 N.J. Super 611 (App. Div. August, 2005), providing a detailed and lawful basis for each redaction within ten (10) business days from receipt of the Council's Interim Order and simultaneously provide certified confirmation of compliance to the Executive Director.

Mr. Maltese called for a motion to accept the Executive Directors recommendations as written. A motion was made by Ms. Tabakin and seconded by Ms. Forsyth. The motion passed unanimously.

Mr. Maltese recused himself from Windish v. Mount Arlington Public Schools, GRC Complaint No. 2005-216 and Maryann Cottrell v. Rowan University, GRC Complaint No. 2006-4. Ms. Tabakin chaired the meeting for these two cases.

John Windish v. Mount Arlington Public Schools (2005-216)

Ms. Starghill reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Starghill presented the following recommendations to the Council:

The Executive Director respectfully recommended the Council find that:

1. Pursuant to the fact that the Complainant made an official OPRA request on October 20, 2005 asking for "a breakdown of actual copying costs for paper copies of government records as per N.J.S.A. 47:1A-5.b." the Custodian should have given the Complainant a copy of the Board of Education's OPRA

request form instead of just informing him where he could find that information. Based on the above, the Custodian is in violation of N.J.S.A. 47:1A-1. However, the Complainant's October 26, 2005 letter should be viewed as a clarification of the original request, and not an entirely new request, the Custodian should not be held to the time required standards under N.J.S.A. 47:1A-5.i., and therefore, is not in violation of same.

2. Although the Custodian should have responded to the Complainant's original request with a copy of the Board of Education's OPRA request form (a specific government record responsive to the request), and the fact that the Custodian did respond within one (1) business day as well as tried to direct the Complainant to the information the Custodian thought he was seeking, the Custodian's actions do not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.
3. Based on the fact that the Custodian has certified that in the case at hand the fees are not in excess of those prescribed under OPRA, the costs charged are not excessive and are not in violation of OPRA.

Ms. Tabakin called for a motion to accept the Executive Directors recommendations as written. A motion was made by Ms. Forsyth and seconded by Ms. Richardson. The motion passed unanimously.

Maryann Cottrell v. Rowan University (2006-4)

Ms. Lownie reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council find that the Custodian would not have unlawfully denied access to the requested records as he certifies that he provided the Complainant with records responsive to item #2 of her request, provided the Complainant with information responsive to item #3 and item #5, and that no documents currently exist in response to item #1, item #4, and item #6, except that his failure to respond within the statutorily mandated seven (7) business days resulted in a "deemed" denial pursuant to N.J.S.A. 47:1A-5.i.

Ms. Tabakin called for a motion to accept the Executive Directors recommendation as written. A motion was made by Ms. Richardson and seconded by Ms. Forsyth. The motion passed unanimously.

Brian Pincus (Joy DeSanctis) v. Newark Police Department (2005-219)

Ms. Lownie reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council find that based on the Custodian's March 17, 2006 certification, the Custodian has complied with the Council's

February 17, 2006 Interim Order by releasing the requested photographs to the Complainant on March 13, 2006; however, he failed to do so within the fifteen (15) calendar days ordered by the Council.

The Council members discussed the Council's enforcement powers when the Custodian fails to comply with the Council's order with the prescribed time period. The Council requested legal advice on this issue.

Mr. Maltese called for a motion to accept the Executive Directors recommendation as written. A motion was made by Ms. Tabakin and seconded by Ms. Richardson. The motion passed unanimously.

Maryann Cottrell v. Borough of Glassboro (2005-247)

Ms. Lownie reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Findings and Recommendations of the Executive Director. Ms. Lownie presented the following recommendations to the Council:

The Executive Director respectfully recommended the Council find that:

1. The Custodian violated N.J.S.A. 47:1A-5.g. by not providing the Complainant with a written response to her request within the statutorily mandated time frame prescribed under OPRA as well as failing to obtain a written agreement from the Complainant extending the time frame required to respond.
2. Based on the Custodian's certifications of February 17, 2006 and March 15, 2006 that she provided the Complainant with records responsive to her request and that no other records responsive exist pursuant to N.J.S.A. 47:1A-1.1, the Custodian would not have unlawfully denied access to the requested records. However, the Custodian's failure to respond to the Complainant's request within the statutorily mandated seven (7) business days pursuant to N.J.S.A. 47:1A-5.i., as well as her failure to obtain a written agreement from the Complainant extending the seven (7) business day time frame resulted in a "deemed" denial of the request.
3. Additionally, as awaiting legal advice is not a lawful reason for a delay in access, the Custodian has not borne the burden of providing a lawful reason for the denial of access to the Complainant's request pursuant to N.J.S.A. 47:1A-6.

Mr. Maltese called for a motion to accept the Executive Directors recommendations as written. A motion was made by Ms. Richardson and seconded by Ms. Tabakin. The motion passed unanimously.

Mary Pawar v. Sossex County Soil Conservation District (2005-256, 2005-257 and 2005-258)

Ms. Luzzatto reviewed the parties' respective positions and the GRC's analysis and issues in the cases as set forth in the Findings and Recommendations of the Executive Director. Ms. Luzzatto presented the following recommendations to the Council:

The Executive Director respectfully recommended the Council find that:

1. the Custodian provided the Complainant access to the entire file on October 13, 2005, which contained the requested records. Additionally, since the records were in storage at an off site location and required retrieval, the Custodian appropriately requested that the Complainant schedule a time to review the records, however, the Custodian did not receive a response from the Complainant. Therefore, it should be concluded that there was not an unlawful denial of access pursuant to N.J.S.A. 47:1A-1, and N.J.S.A. 47:1A-5.g.
2. While the Custodian counsel's comments may be viewed as inappropriate, the Complainant was provided access to the file containing those records in existence and responsive to the request and the Council's authority under OPRA may only "... adjudicate a complaint ... concerning a denial of access to a government record *by a records custodian.*" (Emphasis added.) N.J.S.A. 47:1A-7.b. However, as the Council stated in Mary Ann Cottrell v. Borough of Glassboro, GRC Case No. 2003-28M (July 2003), the Governing Body, as employer, may elect to review inappropriate conduct of its employees.

Mr. Maltese suggested amending the findings and recommendations on page 5 and 6 from "the Council found" to "the Council stated" in reference to the Mary Ann Cottrell v. Borough of Glassboro, GRC Case No. 2003-28M (July 2003). The Council noted that it did not have authority under OPRA to take any action concerning 2. of the Executive Director's recommendations.

Mr. Maltese called for a motion to accept the Executive Directors recommendations as amended. A motion was made by Ms. Forsyth and seconded by Ms. Richardson. The motion passed unanimously.

Martin O'Shea v. West Milford Board of Education (2004-93)

Ms. Luzzatto reviewed the parties' respective positions and the GRC's analysis and issues in the case as set forth in the Supplemental Findings and Recommendations of the Executive Director. Ms. Luzzatto presented the following recommendation to the Council:

The Executive Director respectfully recommended the Council not oppose the Complainant's Motion to Settle the Record.

Mr. Maltese called for a motion to accept the Executive Directors recommendations as written. A motion was made by Ms. Richardson and seconded by Ms. Tabakin. The motion passed unanimously.

Administrative – Adjudication:

- 1) Gerard Morey v. Central Regional High School (2005-124)
- 2) Esti Mosee v. Atlantic City Police Department (2005-175)
- 3) Martin O'Shea v. Township of West Milford (2005-187)
- 4) Sherry Norman v. Township of Rockaway (2005-237)
- 5) Thomas Caggiano v. NJ Department of Agriculture (2005-242)

- 6) Manuel Bermudez v. Ocean County Freeholders (2005-244)
- 7) Diane Galuppo v. Township of Little Egg Harbor (2006-6)
- 8) Darnell Hardwick v. NJ Department of Transportation (2006-14)
- 9) John Paff v. Township of Maplewood (2006-15)
- 10) Christopher Vaz v. Board of Fire Commissioners, Jackson Township (2006-61)
- 11) Vesselin Dittrich v. County of Hudson (2006-65)

Mr. Maltese called for a motion to accept the Executive Directors recommendations as written in all of the above Administrative Case Dispositions. A motion was made by Ms. Tabakin and seconded by Ms. Richardson. The motion passed unanimously.

Executive Directors Report:

Ms. Starghill asked whether the Council had any comments regarding the GRC's Proposed Rules; the Council indicated that they had no comments. Ms. Starghill stated that the public comment period to respond to the GRC's Proposed Rules concludes May 6, 2006.

Ms. Starghill noted that the GRC received the following correspondence:

1. Richard Gutman, letter dated March 7, 2006 with his comments concerning the GRC's Proposed Rules
2. John Paff, letter dated March 10, 2006 with his comments concerning the GRC's Advisory Opinion 2006-01.
3. Thomas Cafferty and Nomi Lowy of Scarinci & Hollenbeck, letter dated March 27, 2006 with their comments concerning the GRC's Advisory Opinion 2006-01.

The Council requested legal advice regarding the comments from John Paff and Thomas Cafferty regarding the GRC's Advisory Opinion 2006-01. The Council discussed presenting proposed advisory opinions and providing a 30-day period for the Council to review comments before final approval.

The Council discussed that OPRA does not provide the Council with the authority to determine how a public agency maintains its records. The Council also discussed charging for the conversion a record to a requested medium pursuant to N.J.S.A. 47:1A-5.d. and prior decisions.

Public Comment:

There were no public comments.

Meeting adjourned at 12:20 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Robin Berg Tabakin".

Robin Berg Tabakin, Secretary

Dated Approved: May 11, 2006

