



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
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PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**FINAL DECISION**

**November 9, 2021 Government Records Council Meeting**

Rotimi Owoh, Esq. (o/b/o African American  
Data and Research Institute)  
Complainant

Complaint No. 2018-163

v.

Borough of Rumson Police Department (Monmouth)  
Custodian of Record

At the November 9, 2021 public meeting, the Government Records Council (“Council”) considered the October 26, 2021 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The Custodian has borne her burden of proof that the proposed special service charge of \$207.06 comprised of fourteen (14) hours at a rate of \$14.79 to locate, retrieve, assemble, review, and redact 225 pages of records is warranted and reasonable here. N.J.S.A. 47:1A-5(c); Courier Post v. Lenape Reg’l High Sch. Dist., 360 N.J. Super. 191, 202 (Law Div. 2002); Rivera v. Rutgers, The State Univ. of New Jersey, GRC Complaint No. 2009-311 (Interim Order dated January 31, 2012). Furthermore, the Custodian demonstrated that the \$11.25 in copying costs estimated to provide the records electronically was the “actual cost.” See Paff v. Twp. of Teaneck (Bergen), GRC Complaint No. 2010-09 (Interim Order dated May 24, 2011). However, since the Complainant has already received the responsive records, the GRC declines to order disclosure once payment has been remitted. See Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).
2. The Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian’s conduct. Teeters v. DYFS, 387 N.J. Super. 423, 432 (App. Div. 2006). Additionally, no factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 71 (2008). Specifically, the Complainant was in possession of the responsive records prior to the complaint filing, and the special service charge was warranted and reasonable. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51.

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk's Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the  
Government Records Council  
On The 9<sup>th</sup> Day of November 2021

Robin Berg Tabakin, Esq., Chair  
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary  
Government Records Council

**Decision Distribution Date: November 15, 2021**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
November 9, 2021 Council Meeting**

**Rotimi Owoh, Esq., (On Behalf of<sup>1</sup>  
African American Data and Research Institute)  
Complainant**

**GRC Complaint No. 2018-163**

v.

**Borough of Rumson Police Department (Monmouth)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of:<sup>3</sup>

1. Driving While Intoxicated/Driving Under the Influence (“DWI/DUI”) complaints prepared and filed by the Borough of Rumson Police Department (“RPD”) from January 2016 through present.
2. Drug possession complaints prepared and filed by the RPD from January 2016 through present.
3. Arrest Listings from January 2016 through present.
4. Drug paraphernalia complaints and summonses prepared by the RPD from January 2016 through present.

**Custodian of Record:** Shannon M. McCurdy<sup>4</sup>

**Request Received by Custodian:** July 23, 2018

**Response Made by Custodian:** July 24, 2018; August 1, 2018

**GRC Complaint Received:** August 2, 2018

**Background**<sup>5</sup>

**Request and Response:**

On July 23, 2018, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On July 24, 2018, the Custodian responded to the Complainant in writing stating that because additional personnel were needed to process the request, a special service charge would be imposed. The Custodian stated that the

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<sup>1</sup> The Complainant represents the African American Data and Research Institute.

<sup>2</sup> Represented by Martin M. Barger, Esq., of the Reussille Law Firm, LLC (Shrewsbury, N.J.).

<sup>3</sup> The Complainant sought additional records that are not at issue in this complaint.

<sup>4</sup> The current Custodian of Record is Thomas S. Rogers.

<sup>5</sup> The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

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estimated charge ranged between \$116 to \$348. That same day, the Complainant responded to the Custodian requesting an itemized cost for each request item and asked whether responsive records were being provided for each item. The Complainant also requested a deposit amount.

Later that same day, the Custodian responded to the Complainant stating that she was unable to provide an itemized cost for each item, as the charge was estimated based on the need for a part-time worker to cover the Custodian's dispatch duties while she searched for, pulled, duplicated, prepared, and delivered the records. The Custodian stated that since she was the full-time records clerk and police dispatcher, processing the request would disrupt her regular duties. The Custodian stated that the assessment was based on the part-time worker's hourly wage of \$14.50 per hour, and the range in time spent processing the request was between an estimated 8-24 hours. The Custodian further stated that a deposit was not required, and the Complainant would receive a bill once the request was completed. The Custodian also stated that she would send any responsive records barring those exemption from disclosure under OPRA. The Custodian stated that she would notify the Complainant of the reason should any records be withheld.

On August 1, 2018, the Custodian responded in writing, providing 225 pages of responsive records to the Complainant for all four (4) requested items. The Custodian stated that four (4) juvenile complaints from 2016 were not provided pursuant to N.J.S.A. 2A:4A-60. The Custodian stated that fourteen (14) hours were spent processing the records at an hourly rate of \$14.79. The Custodian stated that total labor charge totaled \$207.06. The Custodian also stated there was a copying cost of \$11.25, for a total charge of \$218.31.

#### Denial of Access Complaint:

On August 2, 2018, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant asserted that it was improper to impose a special service charge for just 225 pages of records. The Complainant also asserted that the Custodian failed to provide a 14-point analysis to justify the special service charge. The Complainant asserted that other police departments have provided the same records at a much lower cost.<sup>6</sup>

The Complainant requested that the Council find the Custodian in violation of OPRA for charging excessive fees and failing to provide a 14-point analysis required to impose a special service charge. The Complainant also requested that the Council award him counsel fees.

#### Statement of Information:

On August 20, 2018, the Custodian filed a Statement of Information ("SOI"). The Custodian certified that she received the Complainant's OPRA request on July 23, 2018. The Custodian certified that on July 24, 2018, she e-mailed the Complainant requesting an extension of time to gather information on the request items. The Custodian certified that her search included using the RPD's computer-aided dispatch ("CAD") system to locate records by year. The Custodian certified that once a list was compiled for each requested year, each case file had to be

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<sup>6</sup> The Complainant identified five (5) municipalities that complied with similar requests submitted by the Complainant on behalf of AADARI.

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pulled from various locations within the municipal building. The Custodian certified that once pulled, the record was copied, redacted, and the originals returned to their original location. The Custodian certified that the records were redacted and organized based on the specific request item and scanned into PDF format. The Custodian certified that she responded on August 1, 2018 providing the responsive records electronically via e-mail.

The Custodian asserted that she was the only records clerk employed by the RPD and had a dual responsibility as a police dispatcher. The Custodian asserted that the size of the request warranted the use of additional personnel as processing the request required her to assemble the responsive records located in various sections of the municipal building. The Custodian also asserted that the records were not stored electronically.

As part of the SOI, the Custodian included responses to the GRC's 14-point analysis:

**1. What records are requested?**

**Response:**

- a. Driving While Intoxicated/Driving Under the Influence ("DWI/DUI") complaints prepared and filed by the Borough of Rumson Police Department ("RPD") from January 2016 through present.
- b. Drug possession complaints prepared and filed by the RPD from January 2016 through present.
- c. Arrest Listings from January 2016 through present.
- d. Drug paraphernalia complaints and summonses prepared by the RPD from January 2016 through present.

**2. Give a general nature description and number of the government records requested.**

**Response:** Records requested are individual arrest listing (only available on individual arrest reports), summonses, complaints, and tickets. Approximate amount of documents: approximately 230 pages.

**3. What is the period of time over which the records extend?**

**Response:** Records include 2016, 2017, through present 2018.

**4. Are some or all of the records sought archived or in storage?**

**Response:** Yes, the records requested are maintained in various parts of the municipal building. Records for years prior are stored in different sections than current records.

**5. What is the size of the agency (total number of employees)?**

**Response:** The RPD consists of seventeen (17) sworn officers (including the Chief of Police), four (4) full-time dispatchers, and five (5) part-time dispatchers.

**6. What is the number of employees available to accommodate the records request?**

**Response:** One (1) employee. Police Records/Police Dispatching Monday-Thursday during business hours is completed by one employee. All Police Records functions are completed by this single employee.

**7. To what extent do the requested records have to be redacted?**

**Response:** The records required redaction in accordance with OPRA exemptions. This included looking through each individual document and redacting personal identifying information (ex. Social Security numbers, Dates of Birth, Drivers' License numbers, and Telephone numbers), Motor Vehicle Information, Victim Information, and Medical Information.

**8. What is the level of personnel, hourly rate and number of hours, if any, required for a government employee to locate, retrieve, and assemble the records for copying?**

**Response:** The Police Records Clerk is the required personnel needed to fulfill the above listed. The hourly rate for the Police Records Clerk is \$22.67. In this specific request, the Complainant was only charged for having a part-timer dispatcher, at the rate of \$14.79 per hour. The estimated amount of hours for copying records is approximately 6-8 hours.

**9. What is the level of personnel, hourly rate, and number of hours, if any, required for a government employee to monitor the inspection or examination of the records requested?**

**Response:** The Police Records Clerk is the required personnel needed to fulfill the above listed. The hourly rate for the Police Records Clerk is \$22.67. In this specific request, the Complainant was only charged for having a part-timer dispatcher, at the rate of \$14.79 per hour. The estimated amount of hours to monitor/examine the records requested is approximated 6-8 hours.

**10. What is the level of personnel, hourly rate, and number of hours, if any, required for a government employee to return records to their original storage place?**

**Response:** The Police Records Clerk is the required personnel needed to fulfill the above listed. The hourly rate for the Police Records Clerk is \$22.67. In this specific request, the Complainant was only charged for having a part-timer dispatcher, at the rate of \$14.79 per hour. The estimated amount of hours to return records to their original storage place is approximated 1-2 hours.

**11. What is the reason that the agency employed, or intends to employ, the particular level of personnel to accommodate the records request?**

**Response:** The Police Records Clerk is the required personnel needed to fulfill the above listed. The Police Records Clerk has years of experience, specifically within this department, in Open Public Records, and filing and maintaining police records. There would be no other employee within the Police Department suitable to complete such a request.

**12. Who (name and job title) in the agency will perform the work associated with the records request and that person's hourly rate?**

**Response:** The Police Records Clerk, Shannon M. McCurdy, is the required personnel needed to fulfill the above listed request. Her hourly rate is \$22.67.

**13. What is the availability of information technology and copying capabilities?**

**Response:** The Rumson Police Department does not possess a database that has digital copies of the requested summonses, complaints, and tickets, or arrest listings. This information needed to be electronically searched, manually pulled from each individual case file, and individually copies and refiled.

**14. Give a detailed estimate categorizing the hours needed to identify, copy or prepare for inspection, produce, and return the requested documents.**

**Response:** As previously stated, it was estimated that the timeframe to complete all the above necessary would be approximately one to three business days (8 hours each day).

- In estimation it would take approximately 6-8 hours to manually search and pull all necessary case folders. This included pulling each individual document from each case folder, copying it and replacing it back to the applicable case folder.
- It was estimated to then take an additional 6-8 hours to search through documents, ensuring that proper examination and inspection was completed and that appropriate redactions were made to each document.
- Lastly, it was estimated to take approximately 1-2 hours to return each of the documents to their original location.
- Again, this was impossible to originally itemize as it required physically completing the work to create the final invoice. The final total was well within the original estimated amount related to the Complainant prior to fulfilling the request.

### Analysis

#### Special Service Charge

Whenever a records custodian asserts that fulfilling an OPRA records request requires an “extraordinary” expenditure of time and effort, a special service charge may be warranted pursuant to N.J.S.A. 47:1A-5(c). In this regard, OPRA provides that:

Whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied

pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an *extraordinary expenditure of time and effort to accommodate the request*, the public agency may charge, in addition to the actual cost of duplicating the record, a *special service charge that shall be reasonable and shall be based upon the actual direct cost of providing the copy or copies . . .*

[Id. (emphasis added).]

The determination of what constitutes an “extraordinary expenditure of time and effort” under OPRA must be made on a case by case basis and requires an analysis of a variety of factors. These factors were discussed in Courier Post v. Lenape Reg’l High Sch. Dist., 360 N.J. Super. 191, 199 (Law Div. 2002). There, the plaintiff publisher filed an OPRA request with the defendant school district, seeking to inspect invoices and itemized attorney bills submitted by four law firms over a period of six and a half years. Id. at 193. Lenape assessed a special service charge due to the “extraordinary burden” placed upon the school district in responding to the request. Id.

Based upon the volume of documents requested and the amount of time estimated to locate and assemble them, the court found the assessment of a special service charge for the custodian’s time was reasonable and consistent with N.J.S.A. 47:1A-5(c). Id. at 202. The court noted that it was necessary to examine the following factors in order to determine whether a records request involves an “extraordinary expenditure of time and effort to accommodate” pursuant to OPRA: (1) the volume of government records involved; (2) the period of time over which the records were received by the governmental unit; (3) whether some or all of the records sought are archived; (4) the amount of time required for a government employee to locate, retrieve and assemble the documents for inspection or copying; (5) the amount of time, if any, required to be expended by government employees to monitor the inspection or examination; and (6) the amount of time required to return the documents to their original storage place. Id. at 199.

The court determined that in the context of OPRA, the term “extraordinary” will vary among agencies depending on the size of the agency, the number of employees available to accommodate document requests, the availability of information technology, copying capabilities, the nature, size and number of documents sought, as well as other relevant variables. Id. at 202. “[W]hat may appear to be extraordinary to one school district might be routine to another.” Id.

Moreover, OPRA provides that providing access to records electronically “shall be provided free of charge, but the public agency may charge for the actual costs of any needed supplies such as computer discs.” N.J.S.A. 47:1A-5(b); see also McBride v. Borough of Mantoloking (Ocean), GRC Complaint No. 2009-138 (Interim Order dated April 8, 2010). However, the foregoing does not necessarily mean that a custodian can never charge for electronic delivery unless supplies are involved. For example, the Council has also previously held that a custodian could charge a per-page copy cost for redacted records if the agency did not have ability to electronically redact same. Paff v. Twp. of Teaneck (Bergen), GRC Complaint No. 2010-09 (Interim Order dated May 24, 2011). Thus, it follows that requestors seeking records electronically may be subject to the imposition of actual costs for duplication of records. N.J.S.A. 47:1A-5(b)-(c).



In Rivera v. Rutgers, The State Univ. of N.J., GRC Complaint No. 2009-311 (Interim Order dated May 29, 2012), the complainant sought in part motor vehicle recording (“MVR”) footage from the Rutgers University Police Department (“RUPD”). The custodian certified that there was one (1) out of the seventy-five (75) employees qualified to fulfill the complainant’s OPRA request. The employee certified that he expended approximately twelve (12) hours fulfilling the entire request, but RUPD charged only for the two (2) hours spent locating and copying the requested MVR footage on his work computer. The employee also certified that while creating a copy of the footage, he was unable to perform any other work on his computer. The Council held that the disruption to the employee’s regular duties, as well as the fact that RUPD did not charge the entire time expended to fulfill the request, warranted the special service charge.

In the instant matter, the Complainant disputed the assessed special service charge of \$218.31 for 225 pages of records (\$14.79 per hour x 14 hours + \$11.25 for copying). The Complainant asserted that the charge was unwarranted due to the number of pages involved. The Custodian argued that the charge was warranted due to the need for redactions, the size of the Borough, and that the records were not available electronically. The Custodian also stated that the records were stored in various parts of the municipal building and would disrupt her regular duties as she performs work as both the records clerk and as a dispatcher.

A review of the forgoing supports that the Borough’s fourteen (14) hours represents an extraordinary time and effort to produce responsive records given the size of the agency and the disruption to the Custodian’s regular duties. See Rivera, GRC 2009-311. In particular, the Custodian’s 14-point analysis highlighted her dual role as RPD’s sole records clerk and as a dispatcher, and completing the task of locating, retrieving, copying, and redacting the requested records would wholly disrupt her regular duties. The GRC is further persuaded by the fact that the agency’s size of twenty-six (26) employees is a fraction of the RUPD in Rivera, thereby increasing the “extraordinary” effort incurred in processing the request. See Courier Post, 360 N.J. Super. at 202. An additional factor includes the Custodian’s assertion that the rate charged was based on that of a part-time dispatcher, and not her own rate. Thus, the evidence of record adequately supports that a special service charge for fourteen (14) hours of time is warranted here.

Moreover, the Custodian demonstrated that the complaints and summonses required copying costs. As was the case in Paff, GRC 2010-09, the Custodian certified that the records were not available electronically, therefore needed to make copies for redactions. Therefore, the estimated cost of \$11.25 is supported by the evidence.

Accordingly, the Custodian has borne her burden of proof that the proposed special service charge of \$207.06 comprised of fourteen (14) hours at a rate of \$14.79 to locate, retrieve, assemble, review, and redact 225 pages of records is warranted and reasonable here. N.J.S.A. 47:1A-5(c); Courier Post, 360 N.J. Super. at 202; Rivera, GRC 2009-311. Furthermore, the Custodian demonstrated that the \$11.25 in copying costs estimated to provide the records electronically was the “actual cost.” See Paff, GRC 2010-09. However, since the Complainant has already received the responsive records, the GRC declines to order disclosure once payment has been remitted. See Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).

## Prevailing Party Attorney's Fees

OPRA provides that:

A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may: institute a proceeding to challenge the custodian's decision by filing an action in Superior Court . . .; or in lieu of filing an action in Superior Court, file a complaint with the Government Records Council . . . . A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

[N.J.S.A. 47:1A-6.]

In Teeters v. DYFS, 387 N.J. Super. 423, 432 (App. Div. 2006), the Appellate Division held that a complainant is a “prevailing party” if he achieves the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct. Additionally, the court held that attorney’s fees may be awarded when the requestor is successful (or partially successful) via a judicial decree, a quasi-judicial determination, or a settlement of the parties that indicates access was improperly denied and the requested records are disclosed. Id.

Additionally, the New Jersey Supreme Court has ruled on the issue of “prevailing party” attorney’s fees. In Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 71 (2008), the Court discussed the catalyst theory, “which posits that a plaintiff is a ‘prevailing party’ if it achieves the desired result because the lawsuit brought about a voluntary change in the defendant’s conduct” (quoting Buckhannon Bd. & Care Home v. West Virginia Dep’t of Health & Human Res., 532 U.S. 598, 131 S. Ct. 1835, 149 L. Ed. 2d 855 (2001)). In Buckhannon, the Supreme Court held that the phrase “prevailing party” is a legal term of art that refers to a “party in whose favor a judgment is rendered.” Id. at 603 (quoting Black’s Law Dictionary 1145 (7<sup>th</sup> ed. 1999)). The Supreme Court rejected the catalyst theory as a basis for prevailing party attorney fees, in part because “[i]t allows an award where there is no judicially sanctioned change in the legal relationship of the parties . . .” Id. at 605, 121 S. Ct. at 1840, 149 L. Ed. 2d at 863. Further, the Supreme Court expressed concern that the catalyst theory would spawn extra litigation over attorney's fees. Id. at 609, 121 S. Ct. at 1843, 149 L. Ed. 2d at 866.

However, the Court noted in Mason that Buckhannon is binding only when counsel fee provisions under federal statutes are at issue. 196 N.J. at 72, citing Teeters, 387 N.J. Super. at 429; see, e.g., Baer v. Klagholz, 346 N.J. Super. 79 (App. Div. 2001) (applying Buckhannon to the federal Individuals with Disabilities Education Act), certif. denied, 174 N.J. 193 (2002). “But in interpreting New Jersey law, we look to state law precedent and the specific state statute before us. When appropriate, we depart from the reasoning of federal cases that interpret comparable federal statutes.” 196 N.J. at 73 (citations omitted).

The Mason Court accepted the application of the catalyst theory within the context of OPRA, stating that:

OPRA itself contains broader language on attorney's fees than the former RTKL did. OPRA provides that “[a] requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.” N.J.S.A. 47:1A-6. Under the prior RTKL, “[a] plaintiff in whose favor such an order [requiring access to public records] issues . . . may be awarded a reasonable attorney's fee not to exceed \$500.00.” N.J.S.A. 47:1A-4 (repealed 2002). The Legislature's revisions therefore: (1) mandate, rather than permit, an award of attorney's fees to a prevailing party; and (2) eliminate the \$500 cap on fees and permit a reasonable, and quite likely higher, fee award. Those changes expand counsel fee awards under OPRA. [196 N.J. at 73-76.]

The Court in Mason, further held that:

[R]equestors are entitled to attorney’s fees under OPRA, absent a judgment or an enforceable consent decree, when they can demonstrate (1) “a factual causal nexus between plaintiff’s litigation and the relief ultimately achieved”; and (2) “that the relief ultimately secured by plaintiffs had a basis in law.” Singer v. State, 95 N.J. 487, 495, cert. denied, New Jersey v. Singer, 469 U.S. 832 (1984).

[Id. at 76.]

The Complainant filed the instant complaint requesting that the GRC determine that the Custodian violated N.J.S.A. 47:1A-5(c) by imposing an “excessive” special service charge. However, the charge itself was reasonable and warranted. Furthermore, the Complainant received the responsive records prior to the filing of the instant complaint. Therefore, the complaint did not bring about a change in the Custodian’s conduct since the Complainant was already in possession of the responsive records, and the charge itself was warranted and reasonable.

Therefore, the Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian’s conduct. Teeters, 387 N.J. Super. 423. Additionally, no factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason, 196 N.J. 51. Specifically, the Complainant was in possession of the responsive records prior to the complaint filing, and the special service charge was warranted and reasonable. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian has borne her burden of proof that the proposed special service charge of \$207.06 comprised of fourteen (14) hours at a rate of \$14.79 to locate, retrieve, assemble, review, and redact 225 pages of records is warranted and reasonable here. N.J.S.A. 47:1A-5(c); Courier Post v. Lenape Reg’l High Sch. Dist., 360 N.J. Super.

191, 202 (Law Div. 2002); Rivera v. Rutgers, The State Univ. of New Jersey, GRC Complaint No. 2009-311 (Interim Order dated January 31, 2012). Furthermore, the Custodian demonstrated that the \$11.25 in copying costs estimated to provide the records electronically was the “actual cost.” See Paff v. Twp. of Teaneck (Bergen), GRC Complaint No. 2010-09 (Interim Order dated May 24, 2011). However, since the Complainant has already received the responsive records, the GRC declines to order disclosure once payment has been remitted. See Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).

2. The Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian’s conduct. Teeters v. DYFS, 387 N.J. Super. 423, 432 (App. Div. 2006). Additionally, no factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 71 (2008). Specifically, the Complainant was in possession of the responsive records prior to the complaint filing, and the special service charge was warranted and reasonable. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51.

Prepared By: Samuel A. Rosado  
Staff Attorney

October 26, 2021