

LONG HILL TOWNSHIP BOARD OF EDUCATION
PRIVATE SESSION
APRIL 23, 2007

The Long Hill Township Board of Education held a private session during the Reorganization and Regular Meeting on Monday, April 23, 2007 in the Gillette Board Office.

The following Board Members were present: Mr. Butterworth, Mr. Dreyer, Mr. McCarthy, Mr. Meringolo, Mrs. Nyquist, Mrs. Scanlon and Ms. Becker.

Mr. Heller and Mrs. Shalov were not present as they resigned tonight.

Also present were Mr. DiBenedetto, Mr. Esposito and Dr. Wetherell.

The private session began at 8:25 p.m. and ended at 9:38 p.m.

The following topics were discussed:

Mr. DiBenedetto reviewed [REDACTED]

Dr. Wetherell left the meeting at this time (8:27 p.m.) so the Board could discuss [REDACTED]

Ms. Becker reviewed her discussions with the Board Attorney, Nick Celso. He advised [REDACTED]

[REDACTED] Ms. Becker shared a letter from Mr. Celso with a list of alternative actions the Board might take. [REDACTED]

[REDACTED] The Board reviewed and discussed the letter from Mr. Celso with his suggestions.

Mr. McCarthy expressed a desire to reach a final resolution to this issue [REDACTED]

[REDACTED] Discussion ensued regarding the seven potential Board actions, and which are the appropriate choices.


The Board opted to [REDACTED]

[REDACTED] The communication would essentially contain [REDACTED]

On a different topic, Mr. DiBenedetto talked about [REDACTED]

[REDACTED] The Board discussed the [REDACTED]

Respectfully submitted,


John Esposito
Business Administrator/Board Secretary

State of New Jersey
Long Hill Township Board of Education
RECORDS REQUEST FORM

This form available at the GRC website:

www.nj.gov/grc

Important Notice

The reverse side of this form contains important information related to your rights concerning government records. Please read it carefully.

Requestor Information – Please Print

First Name John MI _____ Last Name Paff

Company _____


Mailing Address PO Box 5424

City Somerset State NJ 08875 Email paff@pobox.com

Business Hours Telephone: Area Code 732 Number 873-1251 Extension _____

Preferred Delivery: Pick Up _____ US Mail email On Site Inspect _____

Circle One: Under penalty of N.J.S.A. 2C:28-3, I certify that I **HAVE NOT** been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.

Signature  Date 08/04/07

Payment Information

Maximum Authorization Cost \$ 6

Select Payment Method

Cash ___ Check ___ Money Order ___

Fees: Pages 1-10 @\$0.75
 Pages 11-20 @\$0.50
 Pages 21 - @\$0.25

Delivery: Delivery / postage fees additional depending upon delivery type.

Extras: Extraordinary service fees dependent upon request.

Record Request Information: To expedite the request, be as specific as possible in describing the records being requested. Also, please include the type of access requested (copying or inspection), and if data, the medium requested.

See attached supplement

AGENCY USE ONLY

Est. Document Cost _____

Est. Delivery Cost _____

Est. Extras Cost _____

Total Est. Cost _____

Deposit Amount _____

Estimated Balance _____

Deposit Date _____

AGENCY USE ONLY

Disposition Notes

Custodian: If any part of request cannot be delivered in seven business days, detail reasons here.

In Progress - Open _____

Denied - Closed _____

Filled - Closed _____

Partial - Closed _____

AGENCY USE ONLY

Tracking Information		Final Cost	
Tracking #	_____	Total	_____
Rec'd Date	_____	Deposit	_____
Ready Date	_____	Balance Due	_____
Total Pages	_____	Balance Paid	_____
Records Provided			
Custodian Signature _____		Date _____	

Supplement to John Paff's August 4, 2007 records request

Attached is a copy of the Board's April 23, 2007 nonpublic session minutes, which have been redacted by the Board.

On May 18, 2007 Business Administrator John Esposito sent me an email that stated:

The closed session discussion of 4-23-07 concerned a matter of threatened litigation concerning an affirmative action complaint and the Board's consideration of its attorney's recommended course of action regarding this matter. The 'other' issue referred to in the minutes involves a negotiation strategy. I trust this response addresses your concerns.

I now have information, which is unverified, that the referred to "affirmative action complaint" was filed by a female official within the administration after some inappropriate remarks were made to her by a former elected official. If this information is true, I believe that the public (via the newspapers and the Internet) has a right to be informed of it. Further, if it is true, the perpetrator needs to be publicly identified else he may be able to again run for public office without being held publicly accountable for his actions.

I wish to purchase copies of the following records in accordance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., and the common law.

1. Another copy of the April 23, 2007 nonpublic session minutes. I specifically ask that this version of the minutes be more narrowly redacted than the attached version of the minutes. I also specifically ask that any redactions be explained in a manner compliant with the law.
2. Any notice of tort claim, civil complaint, administrative complaint or any other type of complaint that was filed by the party who, as stated in the May 18, 2007 email, "threatened litigation concerning an affirmative action complaint."
3. Mr. Esposito's May 18th email refers to an "other" issue privately discussed on April 23, 2007 relating to a "negotiation strategy." I wish to purchase a copy of any contract, lawsuit or other document that forms the basis of the "negotiation" for which the Board felt the need to develop a "strategy."

Be advised that your refusal to properly respond to this request will likely result in litigation without further notice.

Envelope-to: paff@patmedia.net
Delivered-To: paff@pobox.com
X-Pobox-Delivery-ID:
<36866C40-4451-11DC-8CDA-DBC95D2C9D18-97442625@indigo.pobox.com>
Subject: RE: Closed session minutes
Date: Mon, 6 Aug 2007 15:13:07 -0400
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
Thread-Topic: Closed session minutes
Thread-Index: AcfW7oxihO5iYyehQMuNnFyHm+R8VwBbVEGA
From: "John Esposito" <jesposito@longhill.org>
To: "John Paff" <paff@pobox.com>
X-Antivirus: AVG for E-mail 7.5.476 [269.11.6/938]

Mr. Paff:

In response to your request for information received August 6, 2007:

1. Attached is a redacted copy of the minutes from the April 23, 2007 private session. The reasons for the redactions are attorney/client privilege, as well as the material being advisory, consultative and deliberative.
2. The harassment complaint you are requesting is exempt from disclosure under OPRA.
3. You may purchase a copy of the teacher contract, along with any sidebar agreements, for the standard Board fee. Please complete the attached form specifying this contract, which is approximately 36 double-sided pages.

I trust this responds to your query.

Thank you,

John Esposito
Business Administrator/
Board Secretary
Long Hill Township BOE
Phone: 908-647-1200 x 1035
Fax: 908-647-7818

-----Original Message-----

From: John Paff [<mailto:paff@pobox.com>]
Sent: Saturday, August 04, 2007 7:24 PM
To: John Esposito
Cc: 1908-647-7818@j2send.com
Subject: RE: Closed session minutes

Mr. Esposito:

Attached please find a records request form. This is being sent to

LONG HILL TOWNSHIP BOARD OF EDUCATION
PRIVATE SESSION
APRIL 23, 2007

The Long Hill Township Board of Education held a private session during the Reorganization and Regular Meeting on Monday, April 23, 2007 in the Gillette Board Office.

The following Board Members were present: Mr. Butterworth, Mr. Dreyer, Mr. McCarthy, Mr. Meringolo, Mrs. Nyquist, Mrs. Scanlon and Ms. Becker.

Mr. Heller and Mrs. Shalov were not present as they resigned tonight.

Also present were Mr. DiBenedetto, Mr. Esposito and Dr. Wetherell.

The private session began at 8:25 p.m. and ended at 9:38 p.m.

The following topics were discussed:

Mr. DiBenedetto reviewed the personnel changes that were being proposed and finalized.

Dr. Wetherell left the meeting at this time (8:27 p.m.) so the Board could discuss the Affirmative Action case pending.

Ms. Becker reviewed her discussions with the Board Attorney, Nick Celso [REDACTED]

[REDACTED] Ms. Becker shared a letter from Mr. [REDACTED]

[REDACTED] The Board reviewed and discussed the letter from Mr. Celso with his suggestions.

Mr. McCarthy expressed a desire to reach a final resolution to this issue [REDACTED]

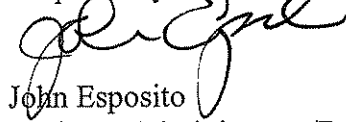
[REDACTED] Discussion ensued regarding the seven potential Board actions, and which are the appropriate choices.

The Board [REDACTED]

[REDACTED]. The [REDACTED] #7 of Mr. Celso's recommendations.

On a different topic, Mr. DiBenedetto talked about a potential buy-out of experienced teachers. The Board discussed the financial implications of offering money above and beyond the contractual amount.

Respectfully submitted,



John Esposito
Business Administrator/Board Secretary



Walter M. Luers, Esq.
Law Offices of Walter M. Luers, LLC
165 First Avenue
Atlantic Highlands, NJ 07716
Phone: 732-872-8088
Fax: 732-872-8044
Attorney for Plaintiff John Paff

<p>John Paff, Plaintiff, v. Long Hill Board of Education and John Esposito in his official capacity as Records Custodian of the Long Hill Board of Education, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY: LAW DIVISION MORRIS COUNTY DOCKET NO. _____ CIVIL ACTION</p>
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Plaintiff John Paff, by way of Complaint against Defendants Long Hill Board of Education (hereafter "Defendant Board") and John Esposito in his capacity as Records Custodian of the Long Hill Board of Education ("Defendant Custodian"), alleges as follows:

General Allegations

1. Plaintiff John Paff is an individual who resides in Franklin Township, Somerset County, New Jersey and receives mail at P.O. Box 5424, Somerset, New Jersey 08875. Mr. Paff is an advocate of open government in New Jersey who monitors and tests municipal compliance with New Jersey's Open Public Records Act ("OPRA") and Open Public Meetings Act ("OPMA").

2. Defendant Board is a public body as that term is defined by N.J.S.A. 10:4-8(a) whose principal offices are located at 759 Valley Road, Gillette, New Jersey 07933.

3. Defendant Custodian is the "Custodian of a government record" for Defendant Board as that term is defined by N.J.S.A. 47:1A-1.1, and who works at 759 Valley Road, Gillette, New Jersey 07933.

4. On August 4, 2007, Plaintiff submitted a request to Defendant Custodian for, among other records, "[a]ny notice of tort claim, civil complaint, administrative complaint or any other type of complaint that was filed by a party who . . . threatened litigation concerning an affirmative action complaint" (hereinafter "Harassment Complaint") and a more narrowly redacted copy of minutes of Defendant Board's non-public April 23, 2007 meeting. (Defendant Custodian had previously provided a redacted copy of those minutes). Mr. Paff's request was made pursuant to OPRA and his New Jersey common law right of access.

5. On August 6, 2007, Defendant Custodian denied access to the "Harassment Complaint," claiming in an email to Plaintiff "it is exempt from disclosure under OPRA."

6. Also on August 6, 2007, Defendant Custodian also provided a more narrowly redacted version of the April 23, 2007 non-public Board meeting. Defendant Custodian claimed the redactions were based on "attorney/client privilege" and "the material being advisory, consultative and deliberative." Defendant Custodian violated OPRA because the redactions were too broad, and the reason for each redaction was not given.

7. Regarding the Harassment Complaint, it is a public record under OPRA because sexual harassment complaints are made or kept by Defendants in the ordinary course of their official business. In addition, other responsive documents such as a tort claims notice may exist that are responsive to Plaintiff's OPRA request.

8. Defendants Custodian and the Board violated OPRA because they denied Plaintiff Access to the Harassment Complaint. First, Defendants violated OPRA because they did not cite a specific OPRA exemption in denying access to the document. Second, the Harassment Complaint should have been disclosed because it was not “generated by or on behalf of public employers or public employees.” (N.J.S.A. 47:1A-1.1).

9. The Harassment Complaint is also a public record under New Jersey’s common law right of access because it is a written record that must be retained by Defendants in discharging their legal duties.

10. Plaintiff has an interest in the Harassment Complaint because, first, he is an advocate of open government in New Jersey, second, he wants to know what allegations have been made, and, third, the incident has been reported on the Internet and Mr. Paff is attempting confirm whether the Internet report is true.

WHEREFORE, Plaintiff demands judgment:

A. Declaring that Defendants violated the Open Public Records Act by denying Plaintiff access to the Harassment Complaint and other responsive documents that may exist;

B. Declaring that Defendants violated the Open Public Records Act by denying access to the April 23, 2007 non-public meeting minutes when they redacted information that was not subject to any privilege and when they failed to specify the privileges that applied to each redaction;

C. Ordering Defendants to produce the Harassment Complaint, other documents (if they exist) that are responsive to Plaintiff’s August 4 OPRA request, and an unredacted copy of the April 23, 2007 non-public meeting minutes;

D. Alternatively, ordering Defendants to produce the Harassment Complaint, other documents (if they exist) that are responsive to Plaintiff’s August 4 OPRA request, and an

unredacted copy of the April 23, 2007 non-public meeting minutes pursuant to New Jersey's common law right of access;

E. Awarding Plaintiff his costs of suit and a reasonable attorney fee pursuant to N.J.S.A. 47:1A-6.

F. Fining Defendants for knowing and willful violations of OPRA; and

G. Such other relief as the Court deems equitable and just.

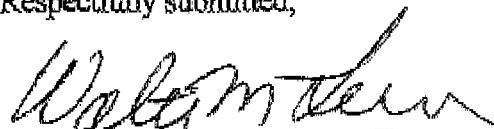
Designation of Trial Counsel

Plaintiff designates Walter M. Luers as trial counsel in this action.

Certification Of No Other Actions

Pursuant to R.4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my belief, no other action or arbitration proceeding is pending or contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

Respectfully submitted,



Walter M. Luers, Esq.
Law Offices of Walter M. Luers, LLC
165 First Avenue
Atlantic Highlands, NJ 07716
Phone: 732-872-8088
Fax: 732-872-8044
Attorney for Plaintiff John Paff

Dated: September 18, 2007