



# New Jersey Libertarian Party

Open Government Advocacy Project

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Kevin Pollison, President  
Sparta Board of Education  
18 Mohawk Ave  
Sparta, NJ 07871

*(via email to [alice.bresett@sparta.org](mailto:alice.bresett@sparta.org))*

Dear President Pollison and Board Members:

I write, both individually and in my capacity as Chairman of the New Jersey Libertarian Party's Open Government Advocacy Project. I ask that you please distribute copies of this letter<sup>1</sup> to all the Board members and discuss it, if possible, at tonight's special Board meeting. If time doesn't permit discussion at tonight's meeting, I ask that it be discussed at the next Board meeting.

As an initial matter, I can't find the Board's official records request form anywhere on the Board's Internet site. If it is there, would you please direct me to the appropriate link? If it is not there, would you consider putting a link to the form on your site to make it easier for members of the public who wish to request public records?

My main reason for writing is to request the Board to consider amending the form of resolution used to go into nonpublic (i.e. executive or closed session). The Board's present form of resolution is typified by the motion passed at the June 5, 2008 meeting, which states:

*On a motion by Mrs. Curcio, seconded by Dr. Guarraia and unanimously carried by roll call vote of members present, the Board of Education recessed at 7:07 pm and moved to closed session from 7:07 pm to 8:25 pm to discuss personnel, negotiations and legal matters.*

This motion is deficient in two main ways. First, it completely ignores the requirement set forth in N.J.S.A. 10:4-13b that closed session resolutions state "as precisely as possible, the time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public."

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<sup>1</sup> For your convenience, I have placed a copy of this letter on-line at <http://www.lpcnj.org/OGTF/SpartaBOE.pdf>

Second, the motion does not give the public much information on what topics are being privately discussed. For example, instead of just listing “Legal Matters” and “Negotiations,” could you perhaps be a bit more descriptive and list something like “Litigation – Smith v. Board, Docket No. SSX-L-1234-07” and “Contract Negotiations – XYZ Company, regarding the provision of drug testing services”? This way, the public is better informed of the topics being discussed, but the Board’s negotiation position or litigation strategy is still preserved.

I litigated this issue last year in Middlesex County and the judge there held<sup>2</sup> that that “Judge Carchman's decision clearly articulates the public policy behind the Act, i.e., **that closed session resolutions should contain as much information as is consistent with full public knowledge without doing any harm to the public interest.**” (Emphasis supplied.)

Even though this unpublished decision from Middlesex County is not binding on courts in Sussex County, would the Board be willing to abide by it, in order to provide more transparency to the members of the public who attend your meetings? If so, I recommend the form of closed session resolution used by Delanco Township in Burlington County, which is available at <http://www.lpcnj.org/OGTF/DelancoResolution.pdf>

I appreciate your time and look forward to receiving your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Paff', with a stylized flourish at the end.

John Paff

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<sup>2</sup> My complaint and court’s unpublished decision are on-line at <http://www.lpcnj.org/OGTF/Monroe.pdf>