



# New Jersey Libertarian Party

Open Government Advocacy Project

*John Paff, Chairman*

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July 15, 2009

Leonard Levene, Chairman  
Monroe District # 3 Board of Fire Commissioners  
PO Box 7212  
Monroe Twp, NJ 08831

*(via Fax only to 609-409-4568)*

Dear Chairman Levene and members of the Board:

As you are aware, I wrote to the Middlesex County Prosecutor's office on July 9, 2009 seeking to have fines assessed against you for violating the Sen. Byron M. Baer Open Public Meetings Act (OPMA). In addition to seeking the Prosecutor's enforcement, I am also contemplating suing the Board for an injunction requiring it to comply with the OPMA going forward. If you check my blog at <http://njopengovt.blogspot.com/> you'll find that I routinely file such suits in the public's interest.

I don't want sue a public entity if it has already undertaken a genuine effort to bring itself into OPMA compliance. It would be an unfortunate waste of time and taxpayer money for me to file suit today, only to learn that the Board had previously spoken with its attorney and determined to honor the OPMA.

I'd like to know whether or not the Board has any interest in bringing itself into compliance. If so, please let me know what, specifically, the Board intends to do differently and advise me of any assistance that I can provide in order to bring the Board's plans to fruition. I'd like to hear from you in that regard by no later than close of business on **Friday, July 24, 2009**. If you need additional time within which to provide a substantive response, please let me know before then.

If I don't receive a timely response from you, please be advised that I may file suit without further notice.

Sincerely,

John Paff

cc. Robert M. Schwartz, Esq.

*(via Fax only to 609-860-2777)*

**ROBERT M. SCHWARTZ  
MONROE CENTRE AT FORSGATE  
12 CENTRE DRIVE  
MONROE TOWNSHIP, NEW JERSEY 08831**

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**ROBERT M. SCHWARTZ**  
*Member of the NJ Bar*

FACSIMILE: (609) 860-2777

July 24, 2009

Mr. John Paff  
New Jersey Libertarian Party  
Open Government Advocacy Project  
P.O. Box 5424  
Somerset, NJ 08875-5124

Re: Monroe Township Fire District #3

Dear Mr. Paff:

Leonard Levene, Chairman of Monroe Township Fire District #3 forwarded to me your letter of July 15, 2009. He has asked that I respond to the issue you have raised.

First, the Fire District shares in your interest in avoiding any litigation regarding the Open Public Meetings Act. With this said, the Fire District is in compliance with the Open Public Meetings Act based on the following:

- The Fire District adopts a resolution at the reorganizational meeting on an annual basis designating the dates on which meetings shall take place and designating the newspapers to which the notice shall be provided.
- Agenda of all meetings shall be posted, prior to the meeting, on the website belonging to Monroe Township Fire District #3.
- Minutes are taken at each meeting.
- Public sessions are recorded.
- Executive sessions are entered into by resolution.

- Executive sessions are not recorded. Minutes of executive sessions consist of a list of items discussed.
- Any action required following an a executive session discussion is acted upon after the Board of Commissioners reconvenes into public session.

Please advise if you have any further concerns.

Thank you.

Very truly yours,



Robert M. Schwartz

RMS:pg

cc: Leonard Levene, Chairman



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*Email: [lpsmc@pobox.com](mailto:lpsmc@pobox.com)*

July 24, 2009

Robert M. Schwartz, Esq.  
12 Centre Drive  
Monroe Twp, NJ 08831

*(via Fax only to 609-860-2777)*

Dear Mr. Schwartz:

I am in receipt of your July 24, 2009 letter. Unfortunately, I find it confusing and need clarification.

The sixth bulleted item in your letter says, in part: "Minutes of executive sessions consist of a list of items discussed." Yet, the Board's unsigned letter of July 1, 2009 (copy attached) states that "minutes of executive sessions are not taken." These two statements conflict with each other.

Does the Board take executive session minutes or not? If it does, I'd like to see some of the Board's executive session minutes so that I can determine whether or not they meet the "reasonable comprehensible" standard of N.J.S.A. 10:4-14? In order to learn whether or not the Board indeed keeps executive session minutes, I have submitted the following request, under separate cover, to the Board of Commissioners:

**The minutes of the three (3) most recent executive sessions held during the past five years for which minutes are available either in full or redacted form.**

Please take this opportunity to clearly and plainly advise me of whether the Board has been keeping executive minutes, and if not, whether it agrees to start keeping them going forward. Be advised that no response or an evasive response will cause litigation to be filed without further notice.

Sincerely,

John Paff

cc. Monroe District # 3 Board of Fire Commissioners *(via Fax only to 609-409-4568)*

RJB



# Board of Fire Commissioners

## Monroe Township Fire District Three

**Leonard Levene, Chairman**  
**Ernest B. Turp, Vice Chairman**  
**Douglas Martin, Treasurer**  
**Gerald Kaplan, Secretary**  
**Joel Kaplan, Tri-District Liaison Asst. Treasurer, Asst. Secretary**

**16 Centre Drive**  
**Monroe Township, N.J. 08831**  
**(609) 409-2980**  
**(609) 409-4568 FAX**

July 1, 2009

Mr. John Paff

Dear Sir:

Referring to your OPRA request, dated June 25, 2009, the Board of Fire Commissioners of Monroe Township Fire District 3 responds as follows:

Re OPRA requests (1) and (2), executive sessions are limited to discussions of personnel items, legal issues or other issues more specifically provided in the exceptions to the Open Public Meetings Act.N.J.S.A. 10:4-12(b). As the subject matters of these executive session meetings are not open to public scrutiny, minutes of executive session meetings are not taken.

As to the OPRA request (3) and (4), at the conclusion of the public portion of the meetings the Board of Fire Commissioners resolves unanimously to go into private session to discuss items reserved for executive session discussion (ie, personnel and legal). At the conclusion of the private discussion the Board reconvenes into public session. Attached hereto are the pages of the meeting minutes of January, February and March, 2007 and the meeting minutes of the April and May, 2009 meeting minutes at which point the Board went into executive session and then reconvened for the public session discussion. The meeting minutes for the June 2009 meeting will be available after approval by the Board at the July 2009 meeting.

For the Board of Fire Commissioners of Monroe Township Fire District 3