



New Jersey Libertarian Party

Open Government Advocacy Project

John Paff, Chairman

P.O. Box 5424

Somerset, NJ 08875-5424

Phone: 732-873-1251 - Fax: 908-325-0129

Email: lpsmc@pobox.com

September 11, 2009

Hon. William P. James, Mayor and
Members of the Gloucester City Council
512 Monmouth St
Gloucester City, NJ 08030

(via e-mail only to kathyj@cityofgloucester.org)

Dear Mayor James and Council Members:

I write both individually and in my capacity as Chairman of the New Jersey Libertarian Party's Open Government Advocacy Project. I write for two related reasons, both having to do with Gloucester City's compliance with the Local Government Ethics Law.

First, I want to put the Mayor and Council on notice of a complaint that I filed today with the Local Finance Board against nineteen (19) Gloucester City officials who failed to file the Financial Disclosure Statement (FDS) forms that were due more than sixteen months ago—on April 30, 2008. A copy of that complaint is attached. As you can see, one of the non-filing officials is a sitting member of the City Council and several others sit as either members or alternates on the Planning/Zoning Board.

I understand that these officers' failure to file may be at least partially due to the Local Finance Board's standing policy of not meaningfully enforcing the filing requirement. As you may be aware, while \$100 to \$500 fines could theoretically be imposed against these non-filing officers, the Local Finance Board, to my knowledge, has never actually fined anyone for failing to file an FDS. I predict that these nineteen (19) non-filing officers can simply file their tardy FDS forms anytime during the next several months and, unless the Board departs from its standing procedure, it will dismiss¹ my complaint for "no longer having a reasonable factual basis."

Even in the absence of a realistic enforcement mechanism, however, I think that the Gloucester City Mayor and Council would, as a matter of policy, find it unacceptable for its municipal officials to not comply with the Local Government Ethics Law's financial filing requirements. In other words, I am hopeful that the Mayor and Council will bring these officials in line with the law even if nobody in Trenton is willing to enforce it.

¹ For an example of such a dismissal, please see my blog entry at <http://njopengovt.blogspot.com/2009/05/penns-grove-councilwoman-finally.html>

The Legislature passed the Local Government Ethics Law because “[t]he vitality and stability of representative democracy depend upon the public's confidence in the integrity of its elected and appointed representatives.” N.J.S.A. 40A:9-22.2(b). One of the law’s objects is to require Local Government Officers (but not Local Government Employees) to report their income sources so that the public can detect possible conflicts of interest.

Suppose, hypothetically, that non-filing Planning/Zoning Board member Robert Bevan’s spouse works for a company owned by an applicant seeking the Board’s approval. Had Bevan filled out his FDS, the public, having been put on notice of the sources of his family’s income, would realize that it would be a possible conflict for Bevan to vote on or participate in this zoning application. By not filing his FDS, however, Bevan is depriving the public of this important knowledge and thus undermining the Legislature’s intent.

My question: Will the Mayor and Council promptly require all their Local Government Officers to bring their FDS filings up to date?

My second reason for writing is to request that the City review its Roster and consider amending it both include more categories of officers and also to delete some categories of officers. Specifically:

a. Municipal Prosecutors and Public Defenders

Every municipality has at least one municipal prosecutor and public defender. Yet, Gloucester City’s Roster does **not** require any of these officers to file annual FDS forms. I invite your attention to the Municipal Clerks' Association of New Jersey’s Desk Reference § IV.B which indicates that “Municipal Court Prosecutors and Municipal Court Public Defenders are ‘local government officers.’”

b. Emergency Management Coordinator

Every municipality in New Jersey is required to appoint an Emergency Management Coordinator. N.J.S.A. App. A:9-40.1. Attorney General Opinion letter 92-0109² states that Emergency Management Coordinators are Local Government Officers who are required to file an annual FDS. Yet, Gloucester City’s roster does not list its Emergency Management Coordinator as a Local Government Officer.

d. Court Administrator

The City’s Roster indicates that Court Administrator Betty Ann Rainwater is a Local Government Officers who must file annual FDS forms. Yet, Attorney General Opinion 91-0096³ holds to the contrary.

My question: Will the City review and update its Roster?

² On-line at http://www.state.nj.us/dca/lgs/ethics/ag_opinions/92-0109.shtml

³ On-line at http://www.state.nj.us/dca/lgs/ethics/ag_opinions/91-0096.shtml

Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "John Paff". The signature is stylized with several loops and a long horizontal stroke at the bottom.

John Paff



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September 11, 2009

Susan Jacobucci, Chair
Local Finance Board
101 S Broad St – PO Box 803
Trenton, NJ 08625-0803

Dear Ms. Jacobucci:

I intend this letter to be my complaint against nineteen (19) Local Government Officers in the of Gloucester City, Camden County. In accordance with N.J.A.C. 5:35-1.1(b), following are the required elements of the complaint:

1. **State the point of the Local Government Ethics Law alleged to be violated.**

N.J.S.A. 40A:9-22.6 requires Local Government Officers to file annual Financial Disclosure Statements (FDS) on or before April 30th of each year.

2. **State the name(s) and title(s) of the parties involved in the action and against whom the complaint is filed.**

- Complainant John Paff and the New Jersey Libertarian Party
- The following nineteen (19) Gloucester City officials

1. Hagan, William R., Sr.; Council
2. Murphy, Ryan; Planning/Zoning Board
3. Smallock, Michael; Planning/Zoning Board
4. Wunsch, Frank; Planning/Zoning Board
5. Cerrone, Patrick; Planning/Zoning Board Alt.
6. Brandt, Jack; Planning/Zoning Board Alt.
7. Hagan, Colleen; Library Board
8. McLaughlin, Jean; Library Board
9. Kain, Mary Francis; Library Board
10. Gurick, Joanne B.; Library Board
11. Hartzel, Joseph; Board of Health
12. Schmidt, John; Board of Health
13. Gorman, Bernadette; Board of Health
14. Dobleman, Dan; Board of Health
15. Bonner, Michael; Board of Health Solicitor

16. Goheen, Mary Jane; Historic Preservation Committee
17. Fisher, Dianne; Urban Enterprise Zone
18. Gorman, Kathy J.; Housing Authority
19. Fisher, William; Electrical Inspector

3. **Set forth in detail the pertinent facts surrounding the alleged violative action.**

In response to a recent records request, the Gloucester City City Clerk provided a "2008 Local Government Officer Roster" showing that the nineteen (19) individuals named above did not file the Financial Disclosure Statements that were due to be filed on or before April 30, 2008. (Note that these are the forms that were due more than 16 months ago). A copy of the Roster is enclosed.

4. **Indicate whether the complaint concerns the complainant in any way and what, if any, relationship the complainant has to the subject of the complaint.**

Complainant has no interest in or relationship to this complaint greater than any other citizen or organization who wishes for all government officers and employees to comply fully with the Local Government Ethics Law.

5. **Indicate any other action previously taken in an attempt to resolve the issue and indicate whether the issue is the subject of pending litigation elsewhere.**

No other action has been taken previously in an attempt to resolve this issue and this issue is not the subject of any pending litigation.

Thank you for your attention to this matter. I ask that you please acknowledge your receipt of this complaint within 30 days.

Sincerely,

John Paff

MUNICIPALITY: GLOUCESTER CITY		COUNTY: CAMDEN	
I. List the names of all officials elected to any office of the Municipality such as Mayor, Governing Body Members and Fire District Commissioners (include the Municipal attorney):			
NAME	POSITION	DID THEY FILE?	
		YES	NO
William P. James	Mayor	X	
William R. Hagan, Sr.	Council Member		X
Jay F. Brophy	Council Member	X	
Nicholas F. Marchese, Jr.	Council Member	X	
Bruce Parry	Council Member	X	
John Hutchinson	Council Member	X	
Kellie Ferry	Council Member	X	
John B. Kearney	Municipal Attorney	X	

MUNICIPALITY: GLOUCESTER CITY		COUNTY: CAMDEN			
II. List the names of all officials serving in the Municipality which have the authority to enact ordinances, approve development applications or grant zoning variances, such as Planning Board (included the Board attorney), Zoning Board Members (include the Board attorney), Board of Health Members (include the Board attorney), and Members of other such Boards (include the Board attorney). Please list the name of the Board.					
NAME	NAME OF BOARD	POSITION	DID THEY FILE?		
			YES	NO	
Timothy Carpenter	Planning Board	Member	X		
Robert Bevan	Planning Board	Member	X		
Ryan Murphy	Planning Board	Member			X
Michael Smollock	Planning Board	Member			X
Frank Wunsch	Planning Board	Member			X
Daniel Spencer	Planning Board	Member	X		
Ralph Randolph	Planning Board	Member	X		
Jess Torres	Planning Board	Member	X		
Patrick Cerrone	Planning Board	Alt. #1			X
Jack Brandt	Planning Board	Alt. #2			X
Steve Martarano	Planning Board	Alt. #3	X		
Lynn Bucher	Planning Board	Alt. #4	X		
Nicholas Marchese	Planning Board	Member	X		
Anthony P. Costa	Planning Board	Solicitor	X		
Consulting Engineer Services	Planning Board	Engineer	X		
The Waetzman Planning Group	Planning Board	Planner	X		
Barbara Moody	Library Board	Member	X		
Colleen Hagan	Library Board	Member			X
William Labbree	Library Board	Member	X		
Jean McLaughlin	Library Board	Member			X
Mary Francis Kain	Library Board	Member			X
Joanne B. Gurick	Library Board	Member			X
Francis Stief	Library Board	Alt.	X		
Elizabeth Egan	Library Board	Director	X		
Joseph Hartzel	Board of Health	Member			X
John Schmidt	Board of Health	Member			X
Eleanor Kain	Board of Health	Member	X		

Bernadette Gorman	Board of Health	Member		X
Anna Marie Smith	Board of Health	Member	X	
Dan Dobleman	Board of Health	Member		X
Michael Bonner	Board of Health	Solicitor		X
Roseann Michel	Board of Health	Member	X	
Mary Jane Goheen	HPC	Member		X
Paula Conroy	HPC	Member	X	
Louisa Llewellyn	HPC	Member	X	
Mary Lou Adams	HPC	Member	X	
David Munn	HPC	Member	X	
William Giesey	HPC	Member	X	
Dave Townsend	HPC	Member		X
Rachel Whelan	HPC	Member	X	
Frances Pollander	HPC	Member	X	
Regina Dunphy	UEZ	Director	X	
Bob Booth	UEZ	Member	X	
Dianne Fisher	UEZ	Member		X
Patrick Healey	UEZ	Member	X	
Dave Stallwood	UEZ	Member	X	
Joseph Kenney	UEZ	Member	X	
Nicholas Marchese	UEZ	Member	X	
Peter Preleas	UEZ	Member	X	

MUNICIPALITY:GLOUCESTER C COUNTY: CAMDEN				
III. List the Names of all Members of each independent municipal authority (include the authority attorney). Please list the name of each authority.				
NAME	AUTHORITY	POSITION	DID THEY FILE?	
			YES	NO
Kathy J. Gorman	Housing Authority	Member		X
Patrick Hagan	Housing Authority	Member	X	
Roseann Michel	Housing Authority	Member	X	
Michael J. McSweeney	Housing Authority	Member	X	
Paul M. Kormann	Housing Authority	Member	X	
Charles Pacifico	Housing Authority	Member	X	
Martha Dougherty	Housing Authority	Member	X	
Charles Wigginton	Housing Authority	Solicitor	X	
Roseann Michel	Housing Authority	Member	X	

MUNICIPALITY:GLOUCESTER CITY		COUNTY: CAMDEN	
IV. List the Names of all managerial executives or confidential employees (i.e. Business Administrator, Clerk, Engineer, other Attorneys) as delineated in Attorney General (AG) Opinion 91-0093 and the other AG opinions listed on the Division's web site (www.state.nj.us/dca/lgs):			
NAME	POSITION	DID THEY FILE?	
		YES	NO
Paul J. Kain	City Clerk/Administrator	X	
Kathleen M. Jentsch	Asst. City Clerk	X	
Frank Robertson	CFO	X	
John A. Dymond	Tax Assessor	X	
Joanne Marone	Tax Collector	X	
Brian Hagan	Fire Chief	X	
Robert Saunders	Chief EMT	X	
William Crothers	Police Chief	X	
Betty Ann Rainwater	Court Administrator	X	
James Johnson	Superintendent Public Works	X	
Fred Schindler	Asst. Director Public Works	X	
Robert Scouler	Construction Official	X	
Edward Gorman	Electrical Inspector	X	
William Fisher	Electrical Inspector		X
Ralph R. Jones, Jr.	Fire Prevention Subcode Official	X	
John D. McMichael	Plumbing Inspector	X	
David Munoz	Fire Protection Inspector	X	
Nicholas J. Falconieri	Building Inspector	X	
Joseph Stecklair	Chief Housing Inspector	X	
Edward Vernick	Engineer	X	