



New Jersey Libertarian Party

Open Government Advocacy Project

John Paff, Chairman

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October 1, 2009

Hon. Joseph DeIorio, Mayor and Members of the
Roselle Park Borough Council
110 E Westfield Ave
Roselle Park, NJ 07204-2038

Dear Mayor DeIorio and Council members:

I write, both individually and in my capacity as Chairman of the New Jersey Libertarian Party's Open Government Advocacy Project, for two related reasons, both having to do with Roselle Park'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 twenty seven (27) Roselle Park officials who failed to file the Financial Disclosure Statement (FDS) forms that were due more than a year ago—on April 30, 2008. A copy of that complaint is enclosed.

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 twenty seven (27) 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 Roselle Park 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.

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

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>

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 Zoning Board chairman James Nicoll's spouse works for a company owned by an applicant seeking the Board's approval. Had Nicoll 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 Nicoll to vote on or participate in this application. By not filing his FDS, however, Nicoll 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 Borough review its Roster and consider amending it to include more categories of officers. Specifically:

a. Emergency Management Coordinator

According to its Internet site, the Borough, through Code § 59-1, has established a position of Emergency Management Coordinator. Yet, this position is not listed on the roster even though Attorney General Opinion 92-0109² holds that the OEM coordinator is subject to the FDS filing requirements. While I realize that the OEM Coordinator is presently Police Chief Morrison, I believe that the Emergency Management Coordinator should be listed separately on the roster in case someone other than the police chief is appointed to that office in the future.

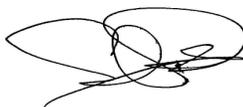
b. Shade Tree Commission members

Roselle's Code § 90-2 provides for Shade Tree Commission which is empowered by statute to regulate the planting and removal of trees in the Borough and, in some cases, assess adjoining property owners for the cost of such planting and removal. N.J.S.A. 40:64-5 and 40:64-8. Thus, it appears that the members of the Commission—if it has been staffed and is functional—exercise significant policy-making responsibilities thus bringing them within the definition of "managerial executives," which in turn brings them within the definition of "local government officers." N.J.S.A. 40A:9-22.3(g).

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

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

Sincerely,



John Paff

² See on-line at http://www.nj.gov/dca/lgs/ethics/ag_opinions/92-0109.shtml



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October 1, 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 twenty-seven (27) Local Government Officers in the Borough of Roselle Park, Union 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 twenty-seven (27) Roselle Park officials

1. Laurence Dinardo; Council member
2. Giuseppe Barberio; Planning Board member
3. John Stephen; Planning Board member
4. John Velazquez; Planning Board alternate
5. Debbie Buli; Planning Board clerk
6. Frank Callicchio; Zoning Board member
7. Eileen Hackett; Zoning Board member
8. Loren Harms; Zoning Board alternate
9. Bill Heim; Zoning Board alternate
10. Richard Huxford; Zoning Board member
11. James Nicoll; Zoning Board chairman
12. Janet Landis; Board of Health member
13. Gail Bradley; Board of Health member
14. Nuchelle Bodtmann; Board of Health member
15. Margaret Schaffer; Board of Health member

16. Maria Gordon; Library Board member
17. Jeff Regan; Library Board member
18. Robert Schoemer; Library Board member
19. Elisa Miranda; Library Board member
20. Linda Vansco; Library Board member
21. Cris Tucci; Police Captain
22. Robert Tobe; Fire Chief
23. Robert Knapp; Uniform Fire Code Official
24. Angelo Rossi; Plumbing Sub Code Official
25. Michael Frisch; Fire Sub Code Official
26. Charles Medallis; Electrical Inspector
27. Dominick Villano; Collection System Operator

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

In response to a recent records request, the Roselle Park Borough Clerk provided a "2008 Local Government Officer Roster" (attached) showing that the twenty-seven (27) 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 nearly 16 months ago).

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

c. Board of Health Members (include the Board attorney):

<u>NAME</u>	<u>POSITION</u>	<u>DID THEY FILE?</u>	
<u>Carole Langzemis</u>	<u>Board of Health President</u>	<u>yes</u>	no
<u>Janet Landis</u>	<u>Board of Health, VP</u>	yes	no
<u>Gail Bradley</u>	<u>Board of Health, Secretary</u>	yes	no
<u>Nuchelle Bodtmann</u>	<u>Board of Health</u>	yes	no
<u>Margaret Schaffer</u>	<u>Board of Health</u>	yes	no
<u>Larry Dinardo</u>	<u>Council Liaison</u>	yes	no
<u>Robert Sherr</u>	<u>Health Officer</u>	<u>yes</u>	no
<u>_____</u>	<u>_____</u>	yes	no
<u>_____</u>	<u>_____</u>	yes	no
<u>_____</u>	<u>_____</u>	yes	no
<u>_____</u>	<u>_____</u>	yes	no
<u>_____</u>	<u>_____</u>	yes	no
<u>_____</u>	<u>_____</u>	yes	no

d. Members of other such Boards (include the Board attorney). List the name of the Board:

<u>NAME</u>	<u>POSITION</u>	<u>DID THEY FILE?</u>	
<u>Anita Miller</u>	<u>Library Board President</u>	<u>yes</u>	no
<u>Marie Gordon</u>	<u>Library Board</u>	yes	no
<u>Alex Balaban</u>	<u>Library Board</u>	<u>yes</u>	no
<u>Jeff Regan</u>	<u>Library Board</u>	yes	no
<u>Robert Schoemer</u>	<u>Library Board</u>	yes	no
<u>Elisa Miranda</u>	<u>Library Board</u>	yes	no
<u>Linda Vansco</u>	<u>Library Board, BOE Rep.</u>	yes	no
<u>Susan Calantone</u>	<u>Librarian</u>	<u>yes</u>	no
<u>_____</u>	<u>_____</u>	yes	no
<u>_____</u>	<u>_____</u>	yes	no
<u>_____</u>	<u>_____</u>	yes	no
<u>_____</u>	<u>_____</u>	yes	no

