



New Jersey Libertarian Party

Open Government Advocacy Project

John Paff, Chairman

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March 7, 2012

Thomas H. Neff, Chair
Local Finance Board
101 S Broad St – PO Box 803
Trenton, NJ 08625-0803

(via e-mail to Tom.Neff@dca.state.nj.us)

Dear Mr. Neff:

I intend this letter to be my complaint against Mayor Joseph C. Parisi, Jr., the Mayor of Englewood Cliffs Borough in Bergen 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:9-22.5(a) and (e)

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
- Englewood Cliffs Mayor Joseph C. Parisi, Jr.

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

Factual allegations:

- a) According to its Internet site, Englewood Cliffs Mayor Joseph C. Parisi, Jr. serves as “Chairman & CEO” of Otterstedt Insurance Agency (Exhibit pages 1 - 2). On information and belief, he served in this capacity in 2010.
- b) According to its Internet site, Mayor Parisi also serves on the Board of Directors of North Jersey Community Bank (Exhibit page 3). On information and belief, he served in this capacity in 2010.
- c) At its May 3, 2010 reorganization meeting, the Englewood Cliff Board of Education a) appointed the Otterstedt Insurance Agency as its “agent of

record for the 2010-2011 school year” and b) designated North Jersey Community Bank as one of its approved depositories. (Exhibit pages 4-6).

- d) At an election held on April 20, 2010, Englewood Cliffs voters rejected a \$9.8 million budget presented by the Englewood Cliffs Board of Education. At a May 3, 2010 special meeting of the Borough Council, Mayor Parisi indicated that “he had met with Councilwoman McMorrow, Councilman Agresta, the Superintendent, the Board President and the Business Administrator to review the budget.” (May 3, 2010 meeting minutes, p. 8, Exhibit page 7). At the May 3, 2010 and May 12, 2010 meetings, the Mayor actively participated in the discussion of the school budget. For example:
- He “asked everyone to keep in mind that we’ve always had a good relationship with our schools and that they can just as easily affect our budget as we can affect theirs. They could turn around and charge for recreation or using the facilities.” (May 3, 2010 meeting minutes, p. 9, Exhibit page 8).
 - He stated that the Council is on the same team as the school. It’s not us vs. them. He felt it was best not to worry about political ramifications, the school can’t take too much of a hit. I don’t believe they are holding that much back.” (May 3, 2010 meeting minutes, p. 10, Exhibit page 9).
 - He “felt that timing is our worst enemy and wanted to meet again with School Board.” (Ibid.)
 - “He recommended making no cuts at this time. He was concerned that there would be no surplus in case of emergencies such as new students with transportation or special needs, a boiler that breaks down, etc. Without a surplus, the Board would have to go to the state to get approval for addressing these issues. He further advised that leaving the budget as is (with the automatic \$87,000 reduction for retired employees) would impact every resident’s taxes by \$10.00. He advised that the deadline for Council to make a decision is May 19.” (May 12, 2010 meeting minutes, pp. 2-3, Exhibit pages 10-11).

Discussion:

N.J.S.A. 40A:9-22.5(a) states:

No local government officer or employee or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;

N.J.S.A. 40A:9-22.5(d) states:

No local government officer or employee shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment;

Here, Mayor Parisi served in high positions in both the insurance agency and one of the banks designated by the Board of Education. “It is the potential for conflict, rather than proof of an actual conflict or of actual dishonesty, that commands a public official to disqualify himself from acting on a matter of public interest. Thompson v. City of Atlantic City, 190 N.J. 359, 374 (2007). “Determination of whether a conflict of interest exists must be done on a case-by-case, fact-sensitive basis. ‘The question will always be whether the circumstances could reasonably be interpreted to show that they had the likely capacity to tempt the official to depart from his sworn public duty.’ “ Shapiro v. Mertz, 368 N.J. Super. 46, 53 (App.Div.2004) (internal citations omitted). Another way of analyzing the issue is to understand that “[t]here cannot be a conflict of interest where there do not exist, realistically, contradictory desires tugging the official in opposite directions.” LaRue v. Township of East Brunswick, 68 N.J. Super. 435, 448, (App.Div.1961).

Mayor Parisi had a divided interest. He could not realistically support a cut to the school district’s budget without imperiling his bank’s and insurance agency’s financial arrangement with the school board. Given his position, he ought to have completely recused himself from any and all deliberations regarding the defeated budget. Rather, he was a proponent of the school board’s budget and tried to influence the council to adopt his point of view. Accordingly, he violated the Local Government Ethics Law.

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,

A handwritten signature in black ink, appearing to read 'John Paff', with a large, stylized flourish above the name.

John Paff



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Locations to Serve You

Englewood Cliffs
 301 Sylvan Avenue
 Direct: 201-816-8900

Fort Lee
 1620 Lemoine Avenue
 Direct: 201-816-1332

Fort Lee/Clyside Park
 899 Palisade Avenue
 Direct: 201-816-4037

Cresskill
 1 Union Ave.
 Direct: 201-816-8877

Hackensack
 142 John Street
 Direct: 201-816-8511

West New York
 5914 Park Avenue
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 171 East Ridgewood Avenue
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 963 Holmdel Road
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A Reorganization Meeting of the Englewood Cliffs Board of Education was held in the Media Center of the Upper School, Charlotte Place, Englewood Cliffs, New Jersey on Monday, May 3, 2010.

I. CALL TO ORDER

Mrs. Welfel, Business Administrator/Board Secretary, opened the meeting at 8:00 P.M. and called the meeting to order.

A. PLEDGE OF ALLEGIANCE

Mrs. Welfel asked everyone to join in the Pledge of Allegiance and then read the meeting provision of the New Jersey Open Public Meeting Law.

ROLL CALL (Present Board)

Board Members present: Mr. Drimones, Mrs. Marino, Mr. Ofleck, Mr. Patti, Mr. Starr, Mrs. Yuan, and Mr. Luppino.

Board Members absent: Mr. Chang

Also present: Mr. Mucci, Superintendent, Mr. Spano, Principal, and Mrs. Welfel, Business Administrator/Board Secretary

Staff Members: None

Public: Mr. & Mrs. J. Merlino and Ms. R. Geoghegan,
M. Pichigian, R. Stein, S. Sutera, C. Colmenar

PRESENTATION

**CERTIFICATION OF ELECTION RESULTS FOR THE ANNUAL SCHOOL
ELECTION: APRIL 20, 2010:**

Ballots Cast: 681

**General Fund Tax Levy: Yes: 308
No: 341**

**Board of Education:
Three Year Terms**

**Ilene (Schlossman) Cohen
Frank Patti, Jr.
Paul S. Starr**

One Year Unexpired Term

Eugene Chang

D. Appointment of Fixed Asset Appraisal Company

BE IT RESOLVED THAT THE BOARD OF EDUCATION appoints AM Consultants to provide Fixed Asset Appraisal update services for the 2010-2011 school year at an annual fee not to exceed \$750.00.

E. Appointment of Treasurer of School Monies

BE IT RESOLVED that Mr. Joseph Iannaconi, Jr., be appointed to serve as Treasurer of School Monies for the Englewood Cliffs School District for the term beginning with the date of this Organization meeting until the Board Organization Meeting in the next calendar year at an annual salary of \$4945.00.

F. Appointment of School District Doctor

BE IT RESOLVED that Dr. Patrick Perin be appointed as the school district doctor for the term beginning with the date of this Organization Meeting until the Board Organization Meeting in the next calendar year at an annual stipend of \$578.00.

G. Appointment of Insurance Agency

BE IT RESOLVED that Otterstedt Agency, Englewood Cliffs, be appointed as the agent of record for the 2010-2011 school year in accordance with NJSA 18A:18A-5.10.

H. Environmental Protection Agency

WHEREAS, the Englewood Cliffs Board of Education is obligated to comply with AHERA 40CFR Part 763 as required by the United States Environmental Protection Agency requiring monitoring of asbestos.

WHEREAS, the Board is obligated to name a designated person and file semi-annual reports.

THEREFORE, BE IT RESOLVED that the Board of Education approves Frank Bolognini as the District Designated person for the 2010/2011 school year.

I. Integrated Pest Management Plan

BE IT RESOLVED THAT THE BOARD OF EDUCATION appoints Frank Bolognini as the Integrated Pest Management Coordinator and Indoor Air Quality Designee for the 2010/2011 school year.

RESOLUTIONS (J-R)

Motion was made by Mr. Patti, seconded by Mr. Drimones to approve resolutions "J-R".

J. Accounts Banking/Designation of Depositories

BE IT RESOLVED that the below listed Financial Institutions, Fund and Corporation be designated as approved depositories for Englewood Cliffs School District funds and that the financial institutions be required to be insured by either SLIC or the FDIC and/or as required by both Federal and State statutes:

- (1) Bank of America, National Association
- (2) Chase Bank
- (3) North Jersey Community Bank

K. Investment Funds

BE IT RESOLVED that the Business Administrator/Board Secretary be authorized to invest Board of Education funds as available without prior Board approval, with said action to be ratified at the next public meeting of the Board following said investment(s) when appropriated; and

BE IT FURTHER RESOLVED, investments shall only be made with the banks heretofore approved as designated depositories for Board funds, and only in instrumentality's approved for investments of these public moneys:

L. Payroll Authorization

BE IT RESOLVED that the Business Administrator/Board Secretary be authorized to transfer funds from the general accounts to the net payroll and agency accounts, as needed to provide for payment of payrolls and legal obligations in connection therewith, and to disburse funds from the net payroll and agency accounts to and on behalf of employees, all in a manner consistent with law and the contractual obligations between the Board and its employees, and

BE IT FURTHER RESOLVED that the Board President, the Superintendent of Schools, and the Business Administrator/Board Secretary shall certify each payroll as required by law.

School Budget

Mayor Parisi started a discussion on what Council would be doing to review the defeated school budget. The Council has until May 19 to take action on the failed budget. He noted that the School Board had made program reductions prior to the public vote and that all of their State aid, about \$500,000, had been taken away. He advised that he had met with Councilwoman McMorrow, Councilman Agresta, the Superintendent, the Board President and the Business Administrator to review the budget.

Councilman Plawker asked Mr. Semrau if he would be able to be in on the resolution for the revised school budget since he was also on the State Board. He noted the Board had advised that that they did not consider it a conflict of interest. Mayor Parisi advised that he would refer the question to the Borough Attorney.

Councilwoman McMorrow advised what items had been discussed at the meeting she attended, which included the resignations of 2 employees which would be about \$230,000. They could save a minimum of \$75,000 to \$100,000 even after they would hire two new employees. They said they had no wiggle room and not sure if they were aware of the 3 major resignations that we were not made aware of when we met with the school. Other items included: they have surplus (\$115,000), contractual and salary increases. She suggested Council hire a consultant to assist in reviewing the Board's budget to see where they could suggest cuts.

Mr. Garbarini said that the State is making them use a portion of their surplus

Councilwoman McMorrow said that Mary Welfel was very helpful and said the teachers are in negotiations right now. She gave them the proposed increases for all of the teachers that they included in their budget, 4% increases for everyone across the board. So my question was how does that work?

Councilman Plawker remarked to not forget the 1.5% the teachers have to contribute from their salaries.

Mr. Garbarini added that State aid would be available if they do not ask for an increase.

Councilwoman McMorrow was curious about how far negotiations had gone.

If we ask Municipal employees to take a pay freeze how come the teachers can't do the same?

Councilman Plawker responded that they are not our employees.

Councilwoman McMorrow asked who does the negotiating for the school.

For the teachers Councilman Plawker explained that the Union delegate negotiates for the school.

Ms. Cohen explained that the School Board attorney, mediator, and the school Board members on the negotiating committee, Joe Luppino and Ron Ofeck, are present at negotiation meetings. The principal, Superintendent, and Business Administrator are not present.

Councilwoman McMorrow said she called Mr. Semrau and he said schools in other districts are getting an outside auditor to look at the schools budget line by line.

The cost for the outside consultant is \$1500.

Councilman Plawker thought the council has always handled this easily in the past.

Councilman Petrone said that doesn't mean its right.

The Mayor asked everyone to keep in mind that we've always had a good relationship with our schools and that they can just as easily affect our budget as we can affect theirs. They could turn around and charge for recreation or using the facilities.

Councilwoman McMorrow said she is receiving calls from more parents than seniors about the school's budget.

Councilman Plawker said we have parents that are happy and education has nothing to do with the budget. Our test scores are not as high as they should be. Why don't we push on retirements and we would be saving.

The Mayor said the one town that hired a consultant and it was \$10,000. The fact is that we only have until May 19th and no qualified consultant can review everything in such a short amount of time.

Councilman Petrone asked that if the consultant was qualified would you be in agreement.

Mr. Garbarini said that he agreed with the Mayor that there is very little time to decide and the Council needed to act quickly. He is a fan of negotiated agreements instead of hiring a firm. It seems like you already

Councilman Plawker said that the Council had always been able to negotiate easily with the school in the past. He said the Council should agree on a number, whether it's \$400,000, the 4%, and then tell them they should review and come back to the Council. He felt that one or two resignations could satisfy reductions.

Mr. Garbarini made some suggestions on how to approach the matter and noting the insight of Ms. Cohen from her Board of Education background.

Ms. Cohen stated that only the school board is involved in negotiations, along with the board Attorney. Councilwoman McMorrow was concerned about having Ms. Cohen contribute as it may be a conflict. The Mayor said it was not a conflict and Ms. Cohen said that there was little to discuss as negotiations had only just begun.

Further discussions followed on the review process and Council's options of how to proceed. Councilwoman McMorrow felt that the school should have disclosed the two retirements that they knew about. She felt that there is a defeated school budget and a lot of people want a lot of money cut. Councilman Plawker said that there were 30 people in the whole town who voted against the budget and Councilwoman McMorrow felt that was 5% of the people who voted. Councilman Plawker pointed out that was 20% of the people who were eligible to vote.

Discussion among all of the council ensued and Mr. Garbarini explained how his company would conduct an audit of a school's budget. The hardest part of this whole thing is the clock.

Mayor Parisi wants to negotiate and be fair.

Councilman Plawker said once again that the Council should agree on a number, whether it's \$400,000, the 4%, we discussed it we analyzed it and these are the numbers and then tell them they should come back to the Council with what they are going to cut.

Mayor Parisi thought that there were pending retirements and he wasn't clear on how certain they were. If they were to occur then they now they have the 4% in the budget and there's a reason for that. When they finalize the negotiations they have to have something in there to pay whatever the negotiated agreement winds up being.

Councilwoman McMorrow said that all the non unions are at a 4% also and that's more money that should be looked at.

Councilman Asatrian asked Acting Clerk/Administrator Ilene Cohen to speak. She said Councilman Plawker had 30 years more experience, but anything said would not be divulging anything confidential because negotiations had just barely started. Negotiation Committee knew that the Governor would be setting certain limits and they wouldn't have to negotiate them (like the 1.5%). We had only met once. We talked about cleaning up contract language. It is a process and they don't want to potentially lose any more. Process is similar to what Joe I. does. They put in the maximum amount that they could settle on, hoping that is not what settlement is reached. But this has to be done because you can't wind up settling on a percentage that was never put into the budget. Tape machine is running and Ms. Cohen felt that the 4% is there just as a buffer. If our town settled on those numbers, we would be one of the only people to settle that high. Mr. Plawker said that is the bottom line. He asked about throwing out courtesy busing.

Councilwoman McMorrow said that's why we should get the \$1500 analysis.

Councilman Plawker believed going to an outside consultant was a waste and that the council was doing this now. When I was on the School Board we always put the padding in there. They know they have to cut.

Mayor Parisi said there were three options: To hire an outside consultant, to hire a different consultant, or to go back to the school board with information and take \$170,000 off, or 2% off the budget, or retirement. We stated that we are on the same team as the school. It's not us vs. them. He felt it was best not to worry about political ramifications, the school can't take too much of a hit. I don't believe they are holding that much back.

Councilman Plawker said the teachers are getting out because they know what's coming down from the Governor and they want to protect their retirement.

Councilman Agresta asked if Council really thought that the general public wants the layoffs that come with a 20% reduction in school budget.

Mayor Parisi felt that the Council didn't need to go to war. He recommended meeting with the Business Administrator and asked Councilman Plawker to look closely at the numbers.

Councilwoman McMorrow said that she would like to hear more about busing from the school. She felt that they were totally representing something different and it was a major part of the conversation they had with them.

Ms. Cohen explained the busing and that there would still be parts that were mandatory. The busing would have to continue within the 2 mile circle around the school. The portion that could be discontinued would only save \$130,000.

Mayor Parisi felt that timing is our worst enemy and wanted to meet again with School Board.

Construction Code Official's Report of April, 2010
Collector/Treasurer's Report of March 2010

Payment of Claims

Council President Agresta moved to approve the payment of claims of April 15-May 12. Upon second by Councilwoman McMorrow, motion carried and the claims were approved.

AYES: Agresta, Petrone, McMorrow, Plawker, Asatrian, Manolio

NAYS:

ABSTAIN:

The Mayor advised the audience that Council would be changing the order of business in order to address the School Board Budget issue first. He reviewed the results of the vote at the polls and advised what the process is for governing bodies to address this issue. He further advised that Council members had met with the Board to try to resolve the budget issues to the best interests of the residents. He noted that the Council would be voting this evening to either approve the budget as it was or to change it by majority vote. He advised that he does not get a vote unless there is a tie, in which case he would then vote.

Mayor Parisi advised that some major issues the Board was faced with, in addition to the loss of state aid, was that tuition for students from outside of the town was down but the tuition costs per student had risen. He also noted that enrollment at the academy has increased. The end result of all that is about an \$800,000 reduction in revenue.

Councilwoman McMorrow thanked the members of the audience for coming out to the meeting for this very important issue. The Councilwoman gave an overview of what Council had done to come to a decision on how to resolve the school budget issues.

Council President Agresta advised that the vote cast in the election was a very unclear voice, with low voter turnout, and yet the budget was defeated. He had received more communication over this subject in the last few weeks than he had received during the entire time since he was elected. This meant to him that this was a very passionate issue with residents, with 3 different sets of interests: the residents who want the taxes reduced; the teachers who want to be paid commensurate with their education; and parents who want the best for their children. He felt that the Englewood Cliffs school system is a very good one. During the discussions with the Board the Council was advised that once the state had determined specific guidelines and instructions, they made cuts to their preliminary budget in an effort to meet those rules. He felt that they had done an admirable job in those efforts, and acknowledged that the residents would have had no knowledge of those cuts. He felt that by defeating the budget they were sending a message to the Board for a second look at the budget. He advised that he was looking forward to a debate on the merits of the budget this evening.

Mayor Parisi advised that with an \$800,000 loss from last year's budget, the Board had to have a plan of what to revise in the event the budget was defeated. Those revisions included cutting back staff, revising schedules to reflect the loss of staff, and cutting non-core curriculum programs. After their budget was filed with the state, the Board was advised of 4 retirements. The corresponding financial impact of those retirements was not included in the budget at the polls. The financial impact is \$87,000. Those positions would be refilled but at a lower amount.

He recommended making no cuts at this time. He was concerned that there would be no surplus in case of emergencies such as new students with transportation or special needs, a boiler that breaks down, etc. Without a surplus, the Board would have to go to the state to get approval for addressing these issues. He further advised that leaving the budget as is (with the automatic \$87,000 reduction for retired employees) would impact every resident's taxes by \$10.00. He advised that the deadline for Council to make a decision is May 19.

The Council President advised that he did not want to reduce the quality of education and felt that the \$87,000 reduction would not affect any programs. He agreed with most of what the Mayor had said, but noted that the surplus was not something that changed from the Board's original budget and therefore the Board was not concerned with it at the current level.

Councilman Petrone noted that this was the most difficult decision he had had to make in the 1½ years that he had been on the Council. He advised that this had been a very careful review. He felt the \$87,000 is appropriate.

Councilwoman McMorrow felt Council took a very detailed analysis of the school budget. She felt that the \$87,000 reduction would be appropriate and would not affect the programs, stressing that the retirements had not been known prior to the election. She advised that she was pleased that the Council was in agreement. She expressed a concern relative to the information circling by emails that there was a belief held by some that the Council majority did not have children – she does have children and her youngest had gone through the Englewood Cliffs school system.

Council members all noted that the welfare of the children was the most important aspect of any decisions that Council would be recommending.

Councilman Plawker advised that he was conflicted due to split interests – he is on the state Board of Education as well as being a resident whose children and some grandchildren attended or attend the Englewood Cliffs schools. He chose to recuse himself from the state level. He noted that he was opposed to the cuts as the process was not something he was comfortable with. In the past 15 years Council has met with the Board in January to go over the proposed budget. He noted that the cost per pupil is higher due to the smaller district, but yet near the top of the scale in student performance. He felt it was a good idea to go outside for an audit and could have been looked into more. He noted that he would be voting no on the \$87,000 cut and would prefer to leave the numbers as they were.

Councilman Asatrian advised that everyone at the meeting cared about the children and wanted what is best for them. He is a great proponent of education. He thanked everyone for coming out. He felt that this process of fiscal responsibility was a teachable moment and our children can learn from that and that runaway spending and giving someone everything they want has a price tag attached to that. Reality is we're the adults here and we're making the decision. The decision is very modest. We cut the waste, fraud, and abuse and let the children learn that you cannot have runaway spending because ultimately they will have to pay the bill. We all have to learn to spend according to our means. He felt the \$87,000 cut was very modest.

Councilman Manolio thanked everyone for coming. He advised that Englewood Cliffs is a great town with great home values. With the state taking away \$800,000 and Council taking away \$87,000 means