

# MIKE ASSAD

March 8, 2012

VIA CERTIFIED MAIL# 70111570000260228790

Hon. Theodore F.L. Housel  
Atlantic County Prosecutor  
Atlantic County Criminal Courts Complex  
4997 Unami Boulevard  
Suite 2  
Mays Landing, New Jersey 08330

Dear Mr. Housel:

I wish to bring to your attention a series of electronic messages recently exchanged between members and officials of the Absecon Board of Education. It is my judgement that the content of said messages violate provisions of N.J.S.A 10:4-6 to -21, the Senator Byron M. Baer Open Public Meetings Act.

Although the nature of this correspondence concerns official business and documents that I have obtained in my capacity as a member of the board, none of my remarks or judgments contained herein are authorized by any member of the board other than myself. Furthermore, I make no claim of representing the school district, the board or any member of the board other than myself as it pertains to this matter.

On March 6, Tina Davisson, the board secretary and business administrator, sent a message (Exhibit A) to the seven members of the board and the district superintendent of schools, requesting that board members reply to said message with their approval of an amendment to a budgetary resolution that was adopted at the most recent board meeting. The proposed amendment concerned adding language to said resolution, which is required to be submitted to the executive county superintendent of schools for his approval.

I immediately responded to said message (Exhibit B) stating that the requested action was not appropriate and a potential violation of the Act. Shortly thereafter, William Thompson, the board president, replied to my message (Exhibit D) stating his disagreement and instructing members of the board to state their approval individually by e-mail to Mrs. Davisson.

For your information, I have enclosed copies of all electronic messages exchanged during this period, although not all are referenced in this correspondence.

The next day, James Giaquinto, the superintendent of schools, sent a message to the full membership of the board (Exhibit K) addressing my concerns. He stated that Lou Greco, the board solicitor, advised him that no violation of the Act had occurred. However, he stated that the administration would instead submit the amended resolution to the county superintendent without the board's immediate approval and ask the board to ratify said amendment at the next regular board meeting. It should be noted that Mr. Giaquinto took care

Hon. Theodore F.L. Housel  
March 8, 2012  
Page 2

to state that he was merely informing the board of an administrative decision and that no reply to his message was necessary because he was not requesting approval.

According to the Act, meetings of the board must be open to the public (N.J.S.A 10:4-12) and advertised in advance (N.J.S.A 10:4-9). A meeting is defined by N.J.S.A. 10:4-8 as follows;

*"Meeting" means and includes any gathering whether corporeal or by means of communication equipment, which is attended by, or open to, all of the members of a public body, held with the intent, on the part of the members of the body present, to discuss or Act as a unit upon the specific public business of that body. Meeting does not mean or include any such gathering (1) attended by less than an effective majority of the members of a public body, or (2) attended by or open to all the members of three or more similar public bodies at a convention or similar gathering.*

Because all members of the board were in receipt of the messages sent by Mrs. Davisson and Mr. Thompson, and because the messages requested the approval of official business, it is my judgement that both messages constitute a meeting and therefore violate the Act. Furthermore, the subsequent message from Mr. Giaquinto seems to imply that the action initially requested was not appropriate.

I know Mrs. Davisson to be an individual of character and integrity, and I do not believe that she knowingly intended to violate the Act. However, Mr. Thompson is an attorney who has served as a member of the board since 2001 and as its president since 2006. As president of the board, it is expected that he have a thorough knowledge of applicable law, and it is incumbent upon him to see to it that such laws are adhered to. In my judgement, his message clearly indicates his intent to circumvent the Act.

The Open Public Meetings Act is one of the most important laws regulating the conduct of local elected officials. Its enforcement is vital to protecting the integrity of this process and maintaining public faith in government. I respectfully ask your office to investigate this matter to the fullest extent possible in order to determine if a violation of the law occurred in fact.

Very truly yours,

/s/ MIKE ASSAD

MA  
Enclosures

CC: Hon. Jeffrey S. Chiesa, Attorney General (*Via Certified Mail# 70111570000260228769*)  
William Thompson, Esq. (*Via Certified Mail# 70111570000260228783*)  
Mr. James Giaquinto (*Via Certified Mail# 70111570000260228776*)



**From:** "Davisson, Tina" <TDavisson@abseconschools.org>  
**Subject:** (No Subject)  
**Date:** March 6, 2012 7:53:17 PM EST  
**To:** Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDELTA20@YAHOO.COM>, Alex Corkhill <cork875@comcast.net>, Mary Hughes <vegas214@comcast.net>, jjhoenes@yahoo.com, Tom Grites <Tom.Grites@stockton.edu>, William Thompson <thompson01@comcast.net>  
**Cc:** "Giaquinto, James" <JGiaquinto@abseconschools.org>

Please respond to this e-mail. I am requesting your approval to amend the motion to submit the 2012/2013 Budget to the County Office. I omitted a required paragraph - and need to include the paragraph in order to receive approval by the County to advertise the budget in the newspaper.

Since we are using banked cap - we must specify in the motion - what we are using it for and that the expense we are using it for will be paid by the end of the budget year.

Paragraph to be added:

BE IT FURTHER RESOLVED, The Absecon Board of Education has appropriated \$250,263 of the \$395,580 of banked cap to pay for the increase in high school tuition. This expense will be paid by June 30, 2013.

\*\*\*\*\*  
 MOTION FROM FEBRUARY 27, 2012 - WITH THE OMITTED PARAGRAPH ADDED:

- 4. Resolution to Approve the 2012/2013 School Budget for Submission to the County Office  
 BE IT RESOLVED, the committee moves to approve the 2012/2013 school district budget for submission to the county office, as follows:

	Budget	Local Tax Levy
General Fund	\$ 12,304,049	\$ 10,426,515
Special Revenue Fund	\$ 710,792	\$ - 0 -
Debt Service Fund	\$ 304,800	\$ 304,700
Total Budget	\$ 13,319,641	\$ 10,731,215

BE IT FURTHER RESOLVED, that pursuant to N.J.S.A. 18A: 11-12, in each pre-budget year, the Absecon Board of Education is required to establish a maximum travel expenditure amount for the budget year which may not be exceeded; and

Whereas, The Board of Education has determined that the maximum travel expenditure amount includes all travel that is supported by State and local funds; and

Whereas, The Board of Education had previously established a maximum amount for the pre-budget year 2011/2012 as \$20,000; and

Whereas, The Board of Education has expended \$1,071.67 of the maximum amount for the 2011/2012 year: and

Whereas, The Board of Education has elected to exclude travel expenditures supported by federal funds from the maximum travel expenditure amount; and

Whereas, The Board of Education has determined that the total amount of travel expenditures supported by federal funds from the 2011/2012 school year is \$234, and

Resolved, That the Absecon Board of Education hereby establishes the maximum travel expenditure amount for the 2012/2013 school year as \$20,000.

BE IT FURTHER RESOLVED, The Absecon Board of Education has appropriated \$250,263 of the \$395,580 of banked cap to pay for the increase in high school tuition. This expense will be paid by June 30, 2013.

In addition, The Board of Absecon approves the use of the 2011/2012 additional state aid of \$119,120, not appropriated in the 2011/2012 budget, to be appropriated In the 2012/2013 budget.

\*\*\*\*\*

Tina Davisson, CPA  
 Business Administrator/Board Secretary  
 Absecon Public Schools



**From:** Mike Assad <mike@assad.us>  
**Subject:** Re:  
**Date:** March 6, 2012 8:11:12 PM EST  
**To:** "Davisson, Tina" <TDavisson@abseconschools.org>  
**Cc:** Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDDELTA20@yahoo.com>, Alex Corkhill <acork875@comcast.net>, Mary Hughes <vegas214@comcast.net>, "jjhoenes@yahoo.com" <jjhoenes@yahoo.com>, Tom Grites <Tom.Grites@stockton.edu>, William Thompson <thompson01@comcast.net>, "Giaquinto, James" <JGiaquinto@abseconschools.org>

If a quorum of the board replies to this message it will have violated the Open Public Meetings Act. If approval is necessary we must do so at a properly advertised meeting.

Sent from my iPhone

On Mar 6, 2012, at 7:53 PM, "Davisson, Tina" <[TDavisson@abseconschools.org](mailto:TDavisson@abseconschools.org)> wrote:

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Whereas, The Board of Education has determined that the maximum travel expenditure amount includes all travel that is supported by State and local funds;and

Whereas, The Board of Education had previously established a maximum amount for the pre-budget year 2011/2012 as \$20,000; and

Whereas, The Board of Education has expended \$1,071.67 of the maximum amount for the 2011/2012 year: and

Whereas, The Board of Education has elected to exclude travel expenditures supported by federal funds from the maximum travel expenditure amount; and

Whereas, The Board of Education has determined that the total amount of travel



**From:** Alex Corkhill <acork875@comcast.net>  
**Subject:** Re:  
**Date:** March 6, 2012 9:04:04 PM EST  
**To:** Mike Assad <mike@assad.us>  
**Cc:** "Davisson, Tina" <TDavisson@abseconschools.org>, Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDELTA20@yahoo.com>, Mary Hughes <vegas214@comcast.net>, "jjhoenes@yahoo.com" <jjhoenes@yahoo.com>, Tom Grites <Tom.Grites@stockton.edu>, William Thompson <thompson01@comcast.net>, "Giaquinto, James" <JGiaquinto@abseconschools.org>

Tina - If this is true, how soon can we have a meeting? I can make myself available any time this week.

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Sent from my iPhone

On Mar 6, 2012, at 8:11 PM, Mike Assad <[mike@assad.us](mailto:mike@assad.us)> wrote:

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 Whereas, The Board of Education has determined that the maximum travel



**From:** "William A. Thompson, III" <thompson01@comcast.net>  
**Subject:** Re:  
**Date:** March 6, 2012 10:18:49 PM EST  
**To:** Alex Corkhill <acork875@comcast.net>  
**Cc:** Tina Davisson <TDavisson@abseconschools.org>, Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDELTA20@yahoo.com>, Mary Hughes <vegas214@comcast.net>, jjhoenes@yahoo.com, Tom Grites <Tom.Grites@stockton.edu>, James Giaquinto <JGiaquinto@abseconschools.org>, Mike Assad <mike@assad.us>

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I respectfully disagree. We cannot discuss this request among ourselves by email so replies should be made individually. However if a majority of board members privately respond and agree to amend the motion in my opinion that is permissible.

William A. Thompson, III  
Callaghan Thompson & Thompson  
2428 Atlantic Avenue  
Atlantic City, NJ 08401

(609) 348-5300

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**From:** "Alex Corkhill" <acork875@comcast.net>  
**To:** "Mike Assad" <mike@assad.us>  
**Cc:** "Tina Davisson" <TDavisson@abseconschools.org>, "Mike Assad" <mikeassad@me.com>, "Keith Bennett" <ACPDELTA20@yahoo.com>, "Mary Hughes" <vegas214@comcast.net>, jjhoenes@yahoo.com, "Tom Grites" <Tom.Grites@stockton.edu>, "William Thompson" <thompson01@comcast.net>, "James Giaquinto" <JGiaquinto@abseconschools.org>  
**Sent:** Tuesday, March 6, 2012 9:04:04 PM  
**Subject:** Re:

Tina - If this is true, how soon can we have a meeting? I can make myself available any time this week.

Alex

Sent from my iPhone

On Mar 6, 2012, at 8:11 PM, Mike Assad <[mike@assad.us](mailto:mike@assad.us)> wrote:

If a quorum of the board replies to this message it will have violated the Open Public Meetings Act. If approval is necessary we must do so at a properly advertised meeting.

Sent from my iPhone



**From:** Mike Assad <mike@assad.us>  
**Subject:** Re:  
**Date:** March 6, 2012 10:39:53 PM EST  
**To:** "William A. Thompson, III" <thompson01@comcast.net>  
**Cc:** Alex Corkhill <acork875@comcast.net>, Tina Davisson <TDavisson@abseconschools.org>, Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDELTA20@yahoo.com>, Mary Hughes <vegas214@comcast.net>, "jjhoenes@yahoo.com" <jjhoenes@yahoo.com>, Tom Grites <Tom.Grites@stockton.edu>, James Giaquinto <JGiaquinto@abseconschools.org>, Mike Assad <mike@assad.us>

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This request requires board approval. A quorum of the board must approve. A quorum of the board can only lawfully approve at a public meeting. That's the law. If a majority of the board replies to said email either individually or as a group I will report the issue to the County Prosecutor.

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**From:** "Alex Corkhill" <[acork875@comcast.net](mailto:acork875@comcast.net)>  
**To:** "Mike Assad" <[mike@assad.us](mailto:mike@assad.us)>  
**Cc:** "Tina Davisson" <[TDavisson@abseconschools.org](mailto:TDavisson@abseconschools.org)>, "Mike Assad" <[mikeassad@me.com](mailto:mikeassad@me.com)>, "Keith Bennett" <[ACPDELTA20@yahoo.com](mailto:ACPDELTA20@yahoo.com)>, "Mary Hughes" <[vegas214@comcast.net](mailto:vegas214@comcast.net)>, [jjhoenes@yahoo.com](mailto:jjhoenes@yahoo.com), "Tom Grites" <[Tom.Grites@stockton.edu](mailto:Tom.Grites@stockton.edu)>, "William Thompson" <[thompson01@comcast.net](mailto:thompson01@comcast.net)>, "James Giaquinto" <[JGiaquinto@abseconschools.org](mailto:JGiaquinto@abseconschools.org)>  
**Sent:** Tuesday, March 6, 2012 9:04:04 PM  
**Subject:** Re:

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Alex

Sent from my iPhone

On Mar 6, 2012, at 8:11 PM, Mike Assad <[mike@assad.us](mailto:mike@assad.us)> wrote:



**From:** "Grites, Tom" <Tom.Grites@stockton.edu>  
**Subject:** RE:  
**Date:** March 7, 2012 8:21:49 AM EST  
**To:** "Davisson, Tina" <TDavisson@abseconschools.org>, Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDELTA20@YAHOO.COM>, Alex Corkhill <acork875@comcast.net>, Mary Hughes <vegas214@comcast.net>, "jjhoenes@yahoo.com" <jjhoenes@yahoo.com>, William Thompson <thompson01@comcast.net>  
**Cc:** "Giaquinto, James" <JGiaquinto@abseconschools.org>

I approve of the added paragraph.

Thomas J. Grites, Ph.D.  
 Assistant to the Provost  
 Richard Stockton College of New Jersey  
 101 Vera King Farris Drive  
 Galloway, NJ 08205

Phone: (609) 652-4871  
 FAX: (609) 626-5509

**From:** Davisson, Tina [mailto:TDavisson@abseconschools.org]  
**Sent:** Tuesday, March 06, 2012 7:53 PM  
**To:** Mike Assad; Keith Bennett; Alex Corkhill; Mary Hughes; jjhoenes@yahoo.com; Grites, Tom; William Thompson  
**Cc:** Giaquinto, James  
**Subject:**  
**Importance:** High

Please respond to this e-mail. I am requesting your approval to amend the motion to submit the 2012/2013 Budget to the County Office. I omitted a required paragraph - and need to include the paragraph in order to receive approval by the County to advertise the budget in the newspaper.

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**From:** "Grites, Tom" <Tom.Grites@stockton.edu>  
**Subject:** RE: Re:  
**Date:** March 7, 2012 8:29:22 AM EST  
**To:** Mike Assad <mike@assad.us>, "William A. Thompson, III" <thompson01@comcast.net>  
**Cc:** Alex Corkhill <acork875@comcast.net>, Tina Davisson <TDavisson@abseconschools.org>, Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDELTA20@yahoo.com>, Mary Hughes <vegas214@comcast.net>, "jjhoenes@yahoo.com" <jjhoenes@yahoo.com>, James Giaquinto <JGiaquinto@abseconschools.org>

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As you can see, I "voted," or more appropriately "approved," Tina's request prior to reading the rest of the discussion. I do not have time to verify, but I would expect that there are provisions in the applicable laws to do what Tina is suggesting. It seems we are also bound by law to have an approved (by the County Supt) and advertised budget by a specific date in order to have an open public hearing on the budget. The latter will not be violated and certainly meets the intent (and letter, in my opinion), of the Open Public Meetings Act.

Tom

Thomas J. Grites, Ph.D.  
Assistant to the Provost  
Richard Stockton College of New Jersey  
101 Vera King Farris Drive  
Galloway, NJ 08205

Phone: (609) 652-4871  
FAX: (609) 626-5509

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**From:** Mike Assad [mailto:mike@assad.us]  
**Sent:** Tuesday, March 06, 2012 10:40 PM  
**To:** William A. Thompson, III  
**Cc:** Alex Corkhill; Tina Davisson; Mike Assad; Keith Bennett; Mary Hughes; jjhoenes@yahoo.com; Grites, Tom; James Giaquinto; Mike Assad  
**Subject:** Re:

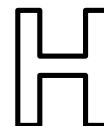
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William A. Thompson, III  
Callaghan Thompson & Thompson



**From:** Mike Assad <mike@assad.us>  
**Subject:** Re: Re:  
**Date:** March 7, 2012 9:39:13 AM EST  
**To:** "Grites, Tom" <Tom.Grites@stockton.edu>  
**Cc:** "William A. Thompson, III" <thompson01@comcast.net>, Alex Corkhill <acork875@comcast.net>, Tina Davisson <TDavisson@abseconschools.org>, Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDELTA20@yahoo.com>, Mary Hughes <vegas214@comcast.net>, "jjhoenes@yahoo.com" <jjhoenes@yahoo.com>, James Giaquinto <JGiaquinto@abseconschools.org>

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**N.J.S.A. 10:4-8:**

b. "Meeting" means and includes any gathering whether corporeal or by means of communication equipment, which is attended by, or open to, all of the members of a public body, held with the intent, on the part of the members of the body present, to discuss or act as a unit upon the specific public business of that body. Meeting does not mean or include any such gathering (1) attended by less than an effective majority of the members of a public body, or (2) attended by or open to all the members of three or more similar public bodies at a convention or similar gathering.

c. "Public business" means and includes all matters which relate in any way, directly or indirectly, to the performance of the public body's functions or the conduct of its business.

**N.J.S.A. 10:4-12:**

7. a. Except as provided by subsection b. of this section all meetings of public bodies shall be open to the public at all times. Nothing in this act shall be construed to limit the discretion of a public body to permit, prohibit or regulate the active participation of the public at any meeting, except that a municipal governing body and a board of education shall be required to set aside a portion of every meeting of the municipal governing body or board of education, the length of the portion to be determined by the municipal governing body or board of education, for public comment on any governmental or school district issue that a member of the public feels may be of concern to the residents of the municipality or school district.



**From:** "Grites, Tom" <Tom.Grites@stockton.edu>  
**Subject:** RE: Re:  
**Date:** March 7, 2012 11:57:39 AM EST  
**To:** Mike Assad <mike@assad.us>  
**Cc:** "William A. Thompson, III" <thompson01@comcast.net>, Alex Corkhill <acork875@comcast.net>, Tina Davisson <TDavisson@abseconschools.org>, Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDELTA20@yahoo.com>, Mary Hughes <vegas214@comcast.net>, "jjhoenes@yahoo.com" <jjhoenes@yahoo.com>, James Giaquinto <JGiaquinto@abseconschools.org>

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Only have a short break here, so I have 3 quick comments...

How does what Tina asks (our approval) differ from "straw votes" or "consensus nods" that we have often used?

The action requested, in fact required, only provides more information to the voter, i.e., more transparency.

The public will have full opportunity to respond at our public meeting on March 27.

Thomas J. Grites, Ph.D.  
Assistant to the Provost  
Richard Stockton College of New Jersey  
101 Vera King Farris Drive  
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Phone: (609) 652-4871  
FAX: (609) 626-5509

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**From:** mike@mikeassad.com [mailto:mike@mikeassad.com] **On Behalf Of** Mike Assad  
**Sent:** Wednesday, March 07, 2012 9:39 AM  
**To:** Grites, Tom  
**Cc:** William A. Thompson, III; Alex Corkhill; Tina Davisson; Mike Assad; Keith Bennett; Mary Hughes; jjhoenes@yahoo.com; James Giaquinto  
**Subject:** Re: Re:

**N.J.S.A. 10:4-8:**

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**From:** Mike Assad <mike@assad.us>  
**Subject:** Re: RE: Re:  
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**To:** "Grites, Tom" <Tom.Grites@stockton.edu>  
**Cc:** Mike Assad <mike@assad.us>, "William A. Thompson, III" <thompson01@comcast.net>, Alex Corkhill <acork875@comcast.net>, Tina Davisson <TDavisson@abseconschools.org>, Mike Assad <mikeassad@me.com>, Keith Bennett <ACPDELTA20@yahoo.com>, Mary Hughes <vegas214@comcast.net>, "jjhoenes@yahoo.com" <jjhoenes@yahoo.com>, James Giaquinto <JGiaquinto@abseconschools.org>

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It's different because it's not a straw vote or consensus nod. It is request to amend a resolution previously adopted by the board, which requires the formal approval of the board.

Sent from my iPhone

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Phone: (609) 652-4871  
FAX: (609) 626-5509

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**From:** [mike@mikeassad.com](mailto:mike@mikeassad.com) [mailto:[mike@mikeassad.com](mailto:mike@mikeassad.com)] **On Behalf Of** Mike Assad  
**Sent:** Wednesday, March 07, 2012 9:39 AM  
**To:** Grites, Tom  
**Cc:** William A. Thompson, III; Alex Corkhill; Tina Davisson; Mike Assad; Keith Bennett; Mary Hughes; [jjhoenes@yahoo.com](mailto:jjhoenes@yahoo.com); James Giaquinto  
**Subject:** Re: Re:

**N.J.S.A. 10:4-8:**

b. "Meeting" means and includes any gathering whether corporeal or by means of communication equipment, which is attended by, or open to, all of the members of a public body, held with the intent, on the part of the members of the body present, to discuss or act as a unit upon the specific public



**From:** "Giaquinto, James" <JGiaquinto@abseconschools.org>  
**Subject:** Information on Banked Cap Resolution  
**Date:** March 7, 2012 1:30:18 PM EST  
**To:** <mikeassad87@gmail.com>, <acpddelta20@yahoo.com>, <acork875@comcast.net>, <gritest@stockton.edu>, <jjhoenes@yahoo.com>, <vegas214@comcast.net>, <thompson01@comcast.net>

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I spoke to Lou Greco today regarding the concerns raised by Mike Assad. Lou informed me that our need to include additional language regarding banked cap is not a violation of the Open Public Meetings Act. You have already voted on the budget which includes banked cap and the additional language does not alter the budget you approved. It is a clarifying statement which needs to be included as per the County BA. Lou advised since time is of the essence that we forward the resolution with the clarifying statement and ratify it at the March 27th meeting. You do not need to respond to this e mail since I am not requesting your approval. I am informing you of an administrative decision which you'll have the opportunity to ratify at the March 27th meeting. Thank you - Jim Giaquinto