

John Paff

P.O. Box 5424

Somerset, New Jersey 08875

E-mail – CJSC@pobox.com

April 27, 2006

Telephone – 732-873-1251

Fax 908-325-0129

Michael M. Rubbinaccio, Prosecutor
Morris County Prosecutor's Office
P.O. Box 900 - Court Street
Morristown, NJ 07963-0900

(via PDF email attachment to mtaran@co.morris.nj.us
and via Fax to 973-285-6226)

RE: Chester Township Council
Open Public Meetings Act

Dear Prosecutor Rubbinaccio:

I believe that the Chester Township Council has violated the Open Public Meetings Act and ask that you investigate and take whatever action you deem appropriate.¹ I base my complaint upon the Township Council's Resolution 2006-35, which is attached to this letter.

N.J.S.A. 10:4-13(a)² requires previous public disclosure of the "general nature" of the matters to be discussed during closed session. Does identifying the topic as only "pending litigation," as Chester Township did in Resolution 2006-35, satisfy this requirement? Or, was the Township Council required to identify the *specific items* of litigation (i.e. Doe v. Chester Township, Docket No. MRS-L-00000-04, etc.) that were going to be discussed?

While no reported New Jersey case precisely answers this question, the leading and most recent case on the topic, Council of N.J. State College Locals v. Trenton State College Bd. of Trustees, 284 N.J. Super. 108 (Law. Div. 1995), provides some guidance.

[N.J.S.A. 10:4-13] mandates that the public be informed of "the general nature of the subject to be discussed." The Board, like many other public bodies, must tread a fine line--informing the public about its executive-session activities while not compromising the privacy interests of those whose business is being discussed.

Id. at 113

The above passage suggests that a public body must disclose the topics of its intended closed session discussion in as much detail as possible without compromising a vital governmental interest.

¹ The Open Public Meetings Act, N.J.S.A. 10:4-17, empowers your office to enforce monetary penalties against officials who knowingly violate the Act. Or, perhaps you may wish to correspond with the Council and require it to comply with the Act in the future. I specifically reserve my right to enforce the Township Council's future compliance through the civil remedies provided by N.J.S.A. 10:4-16.

² N.J.S.A. 10:4-13 states: "No public body shall exclude the public from any meeting to discuss any matter described in subsection [10:4-12] until the public body shall first adopt a resolution, at a meeting to which the public shall be admitted: a. Stating the general nature of the subject to be discussed; and b. Stating as precisely as possible, the time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public."

If this is the standard, then the Township Council was required to disclose the names of the parties to the "Pending Litigation" described in Resolution 2006-35.

Council of N.J. State College Locals goes on to state that:

The statutory requirement is not an onerous one - only the general nature of subject need be disclosed; **specificity is not required**. For example, a resolution authorizing a closed session meeting to "Review the performance of individual personnel" comports with N.J.S.A. 10:4-13. Cole v. Woodcliff Lake Bd. of Educ., 155 N.J. Super. 398, 407, 382 A.2d 966 (Law Div. 1978); See also Houman v. Mayor of Pompton Lakes, 155 N.J. Super. 129, 149-50, 382 A.2d 413 (Law Div. 1977) ("The statement that personnel matters would be considered, without specific disclosure that the personnel question involved the retention of legal counsel, is arguably sufficient. However, the resolution made no mention of the fact that the closed meeting would also involve the discussion of whether, in the first instance, to pursue the appeals. Therefore, this resolution is not in conformity with the mandatory requirements of N.J.S.A. 10:4-13.").

Id. at 114 (Emphasis supplied).

The court's statement that "specificity is not required" appears to directly contradict its previous statement supporting greater disclosure. However, both cases cited by the court in support of its conclusion that "specificity is not required" deal with personnel matters.

Personnel discussions are exempted from a public airing by N.J.S.A. 10:4-12(b)(8), and possibly (b)(3), while litigation is exempted by (b)(7). The specific government employee who is being discussed in closed session, especially if termination or imposition of discipline is at issue, is not equivalent, and cannot be fairly compared, to a party to a typical lawsuit. Naming a particular employee who is going to be discussed during closed session may unfairly impugn that employee or violate his or her privacy rights.

Disclosure of the parties to, or other details regarding, a lawsuit, however, which is already a matter a public record³, does not raise similar concerns. Accordingly, I assert that the Council of N.J. State College Locals court's statement that "specificity is not required" is limited to cases where personnel matters are discussed during closed session.

Finally, the Council of N.J. State College Locals court quotes the late Michael Pane:

Although there is no case law on the subject good practice would dictate that resolutions be as specific as possible, e.g., the 'general nature of the subject to be discussed' should not be set forth as 'litigation' but, rather, as 'litigation--A vs. B.' Resolutions should contain as much information as is consistent with full public knowledge without doing any harm to the

³ Filed litigation is a matter of public record. Anyone can go the courthouse and review the file of a typical civil case. R.1:38.

public interest. 34 New Jersey Practice, Local Government Law § 141, at 174 (Michael A. Pane) (2d ed. 1993).

Ibid.

The court's inclusion of Mr. Pane's statement is significant and strongly indicates that court's view that N.J.S.A. 10:4-13 requires closed session resolutions to "contain as much information as is consistent with full public knowledge without doing any harm to the public interest."

I assert that the Chester Township Council should have identified within its resolution the parties, courts and docket numbers of the "Pending Litigation" that was discussed. No governmental interest would have been imperiled or compromised had the Council publicly identified the court cases that its members were going to discuss. And, being aware of the identities of those cases would have assisted members of the public who wish to inform themselves of what their local government is doing. Providing the public with this type of information is to be encouraged because it allows the public to better "fulfill its role in a democratic society." N.J.S.A. 10:4-7.

Thank you for your attention to this matter. I look forward to learning the results of your investigation and what action, if any, that you have elected to take.

Sincerely,

A handwritten signature in black ink, appearing to read "John Paff", with a vertical line to its right.

John Paff

cc. Carol Isemann, Chester Township Clerk (*via Fax only to 908-879-8281*)
John H. Suminski, Esq., Chester Township Attorney (*via Fax only to 973-425-0161*)

2006-35

BE IT RESOLVED by the Township Council of the Township of Chester
as follows:

WHEREAS, it is necessary for the Township Council to discuss a matter
relating to:

Pending Litigation

which matter is permitted by Section b.7. of the Open Public Meetings Act to be
discussed in closed session in the absence of the public; and

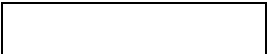
WHEREAS, the Township Council has determined that it is necessary in
the public interest that the matter in fact be discussed in closed session, and has
estimated that, as nearly as can now be ascertained, the results of the
discussion can be disclosed to the public at the following time and under the
following circumstances:

At the conclusion of the matter

NOW, THEREFORE, it is resolved that the public be excluded from this
portion of the meeting, during which only the aforestated matter will be
discussed.

March 21, 2006

*Still Under
Litigation*



New Jersey Government Records Council Denial of Access Complaint

Please read these instructions before completing this form:

- This form is to be used only for claims of denial of access to public records that you want the Government Records Council (GRC) to decide. Your request must have been made on or after July 8, 2002 under "OPRA," the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.).
- If you believe you have wrongfully been denied access to a public record under OPRA, you may ask the GRC staff for informal assistance in resolving the matter by calling 866-850-0511, by e-mail at grc@dca.state.nj.us, or by writing to the GRC at P.O. Box 819, Trenton, NJ 08625. If a resolution cannot be reached or if you do not wish to consult the GRC staff, you may EITHER file this Complaint with the GRC or seek relief from the Law Division of Superior Court, but not both.
- Please print or type your responses, and provide ALL information requested. Incomplete forms will delay processing. This form is available in downloadable format from the GRC web site at www.nj.gov/grc.
- Only one complaint is required for each OPRA request form, regardless of the number of documents sought in the request.
- *The GRC recommends that you send the Custodian listed in Section 2 a copy of this complaint and that you keep a copy for your own files.*

1. About the Requester of the Documents:

Full Name: John Paff

Mailing Address: P.O. Box 5424

City: Somerset State: NJ ZIP 08875-5424

Please provide a phone number at which GRC staff can contact you between 8 A.M.-5 P.M., Monday-Friday: 732-873-1251

Fax Number: 908-325-0129 E-Mail address (if used): paff@pobox.com

If you are represented by an attorney, please provide:

Name: n/a Telephone Number: _____ Fax Number: _____

Should we contact your attorney for further information on this Complaint? Yes No

2. About the Custodian of Records:

Name of the public agency from which records were sought: Township of Chester

Name of custodian on whom records request was served: Mary Edwards, Deputy Township Clerk

Telephone Number: 908-879-5100 E-Mail address (if used): _____

Name of custodian who denied records request: Same

Telephone Number: Same Other Telephone (if used): _____

Fax Number: 908-879-8281 E-Mail address (if used): _____

3. About the Record Request:

Date your records request was provided to the custodian: April 3, 2006

Did you receive a reply to your request? Yes No

If so, state the date your request was denied: April 10, 2006

Has there been any other complaint filed with the GRC concerning this record request or any document sought in it?
Yes No

If yes, state the date the Complaint was submitted to the GRC, the case number of the Complaint, and the final disposition of the Complaint, if known.

Date: _____ Case Number: _____

Disposition: _____

Have you ever before spoken with or written to the GRC or its staff about the record request or any document sought in it?

Yes Date: _____ No

Have you filed any action with the N.J. Superior Court concerning this record request or any document sought in it?

No Yes If Yes, Docket Number: _____

4. Documents to submit with this Form:

- o **Complete** the attached **Records Denied List** to describe the records to which you were denied access.
- o **Attach** a copy of the Records Request Form you filed with the public agency and any correspondence between you and the record custodian(s) or staff that concern the portion of your OPRA request that was denied. Be sure to include any e-mail, memoranda, phone messages, or any other documents such as affidavits, or certifications related to the request and the denial.
- o **Summarize** in writing the content, time and date of any conversations regarding this complaint, along with the names of the participants and any witnesses. Use the attached **Detail Summary** for this purpose.
- o **Provide** any written arguments or other information you would like the Council to consider in deciding your complaint.

5. Verification of Complaint:

By signing this complaint, I affirm that:

- o I am the person who submitted the OPRA request for records which is the subject of this Complaint;
- o The information I have provided is true to the best of my knowledge and belief;
- o The documents submitted with this Complaint are true copies of material which I believe is relevant to my claim; and
- o I am not seeking disclosure of any personal information pertaining to the victim of any crime committed by me which is an indictable offense under the laws of the State of New Jersey or any other State, or pertaining to the family of that victim.



Signature (required)

April 27, 2006

Date

MAIL THIS COMPLAINT AND ALL SUPPORTING DOCUMENTATION TO:

Government Records Council, PO Box 819, Trenton, New Jersey 08625

The GRC recommends that Requester send the Custodian listed in Section 2 a copy of this complaint

***New Jersey Government Records Council
Denial of Access Complaint – Supplement
In RE Paff v. Township of Chester***

Statement of Facts:

1. On April 3, 2006, I submitted a government records request form, along with my \$8.00 check, to the Township of Chester. The three-page request form, as it was return to me by Deputy Clerk Mary Edwards, is attached as Exhibits 1, 2 and 3.
2. I submitted the records request form and my \$8.00 check after being informed by Deputy Clerk Edwards that the documents responsive to my request would cost \$8.00 to fulfill. Ms. Edwards' one-page fax is attached as Exhibit 4.
3. On or about April 12, 2006, I received the following records in response to my request:
 - a. R. 2003-72 with a yellow "sticky note" attached with the following written upon it: "Still under litigation." One page, attached as Exhibit 5.
 - b. R. 2006-35 with a yellow "sticky note" attached with the following written upon it: "Still under litigation." One page, attached as Exhibit 6.
 - c. Resolution No. R-2006-28. One page, attached as Exhibit 7.
 - d. Draft minutes of the Township Council's March 7, 2006 meeting. Four pages, attached as Exhibits 8, 9, 10 and 11.
 - e. March 3, 2006 letter from the New Jersey State League of Municipalities. Two pages, attached as Exhibits 12 and 13.
 - f. Financial Disclosure Statement filed by Chester Municipal Prosecutor Brian W. Mason, Esq. Two pages, attached as Exhibits 14 and 15.
4. No documents, such as a cover letter, accompanied the records that Deputy Clerk Edwards sent to me.

Legal Argument:

¶ 2 of Exhibit A to my request (See Exhibit 3), specifically asked for "any minutes of the Township Committee's closed (executive) sessions held during October 2003, April 2004, May 2005 and March 2006." Yet, none of the records furnished in response to my request are closed session minutes. Exhibit 5 and Exhibit 6, however, indicate that there were indeed closed sessions held by the Township Council on October 7, 2003 and March 21, 2006.

***New Jersey Government Records Council
Denial of Access Complaint – Supplement
In RE Paff v. Township of Chester***

Accordingly:

- a) Chester Township was required to record minutes of those its October 7, 2003 and March 21, 2006 closed meetings (N.J.S.A. 10:4-14);
- b) those minutes, unless otherwise exempt from access, are “government records” in under the Open Public Records Act (Davis v. Rumson-Fair Haven Board of Education, GRC Case 2003-56); and
- c) Chester Township is required to make at least redacted versions of its closed session minutes promptly available to the public. See,; Payton v. New Jersey Turnpike Authority, 148 N.J. 524, 556-57 (1997)

Requested Relief:

1. An Order declaring that the Custodian violated OPRA by either a) not providing me with minutes, in full or redacted, of the Township Council’s October 7, 2003 and March 21, 2006 closed meetings; and/or b) not indicating the “specific bases” for why those closed meeting minutes were suppressed, as required by N.J.S.A. 47:1A-5(g).
2. An Order requiring Custodian to promptly provide me with at least redacted versions of the of the Township Council’s October 7, 2003 and March 21, 2006 closed meetings and to indicate the specific basis for any redactions made to those minutes.

Certification of Service:

On March April 27, 2006, I served a copy of this complaint, with all attachments upon John H. Suminski, Esq. Chester Township Attorney, by PDF email attachment to jsuminski@mdmc-law.com.



John Paff

Dated: April 27, 2006

TOWNSHIP OF CHESTER

1 Parker Road Chester, NJ 07930
908 879-5100 908 879-8281 (Fax)

Ch # 2283
\$8.00

REQUEST FOR ACCESS TO GOVERNMENT RECORDS (Other Than Police Records)

SEE INSTRUCTIONS ON THE OTHER SIDE

Name: John Paff

Address: PO Box 5424

Telephone (Day): Somerset, NJ 08875-5424 732-873-1251

Information Requested:

 Copy of Minutes (specify board or entity, date, topic or other identifying information)

 Copy of Ordinance or Resolution (specify date, number, or other identifying information)

XXXX Other (specify): See Exhibit A

 License Information (Specify) _____

Information on Specific Property

Address _____ Block _____ Lot _____

 Municipal Lien Search Fee \$10.00

Municipal Lien Searches are provided by the designated search officer and will be provided within 15 Days after the request is received and the fee paid, as provided in N.J. S.A 54:5-11, et seq.

 List of Property Owners within 200' Fee: _____
As provided in N.J.S.A 55D-12, the fee is the greater of \$25 per name or \$10.00

A request for access to or for a copy of Government Records should be submitted on this form which has been adopted by the Municipal Clerk as the Custodian of Records. Some records will be immediately available during normal business hours, some records will require time to compile and to make the copies requested, but will normally be available during normal business hours and within seven (7) business days. If any document or copy which has been requested is not a public record or cannot be provided within the seven (7) business days, you will be provided with a response with that information within the 7 business days. Some records requested have specific fees or other response times established by statute. There is no fee involved in simply inspecting a document during normal business hours. This request may be filed electronically. In general:

- Immediate access is ordinarily available to budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information. Minutes of public meetings will be generally available immediately after the minutes have been approved.
- Records which are not readily available or which will require a search of records will be made available as soon as possible and the applicant will be provided with an interim report within seven (7) business days indicating the time which will be required to provide the records.
- Except as otherwise provided by law or regulation, the fee assessed for the duplication of a printed record shall be: first page to tenth page, \$0.75 per page; eleventh page to twentieth page, \$0.50 per page; all pages over twenty, \$0.25 per page; for a police accident report there is an additional fee when the request is not made in person of \$5.00 for the first 3 pages and \$1.00 for each additional page, as provided by N.J.S.A. 39:4-131.
- Where a request is for a copy in a format other than a photocopy, reasonable efforts will be made to provide the information in the format requested. The cost will be based on the costs of producing the format requested.

Where a legal determination must be made as to whether records are "public records" as provided by law, the request will be reviewed by the Municipal Attorney.

The term "public records" generally includes those records determined to be public in accordance with N.J.S.A. 47:1 A-1. The term does not include employee personnel files, police investigation records, public assistance files or other matters in which there is a right of privacy or confidentiality or inter-agency or intra-agency advisory, consultative, or deliberative material or other material which is specifically exempted by law. The applicant hereby acknowledges receipt of a copy of this form with the date on which the information is expected to be available and the estimated cost.

Signature of applicant

Date

4-3-06

Date Request Received: _____

Request Granted: _____ Request Denied: _____

Reason for Denial: _____

Information requested will be ready on: once check rec'd

Estimated number of pages: _____ Estimated Cost: \$8.00

Deposit: _____

Payment amount: \$8.00 Date: 4-7-06

Municipal Official

Mary Edwards
Deputy Clerk

Date

4-10-06

Exhibit A

Supplement to Record Request to the Township of Chester

I request copies of the following records, in accordance with the Open Public Meetings Act, the Open Public Records Act and the common law:

1. Any and all resolutions passed by the Township Committee during the months of October 2003, April 2004, May 2005 and March 2006 that authorized a Township Committee closed (executive) session, as required by N.J.S.A. 10:4-13.
2. Any minutes of the Township Committee's closed (executive) sessions held during October 2003, April 2004, May 2005 and March 2006.
3. The resolution recently passed by the Township Committee regarding Senate Bill 1219 (revising the Open Public Meetings Act.)
4. The draft minutes from the meeting at which the resolution described by # 3 above was passed.
5. Any correspondence and/or draft resolutions received from the League of Municipalities that urged or otherwise led to the Committee's passing of the resolution described by # 3 above
6. Most recently filed Financial Disclosure Statement by the Municipal Prosecutor, regardless of whether the person who filed the Statement is still the prosecutor.

1 Parker Road
Chester, NJ 07930
Phone: (908) 879-5100
Fax: (908) 879-8281

Township of Chester

Fax

To: Mr. John Paff

From: Mary Edwards, Deputy Clerk

Fax: 908-325-0129

Date: 4/3/06

Phone:

Pages: (Including cover sheet) 2

Urgent

For Your Information &/or Review

Please Comment

Please Reply

•Comments:

Mr. Paff:

Please complete the Township's OPRA form for your request which we received on Friday, March 31, 2006.

Please send back to us this form with your original signature along with a check payable to Chester Township for \$8.00. Once this is received, we will mail you your requested information.

Thank you.

R2003-72

BE IT RESOLVED by the Township Council of the Township of Chester
as follows:

WHEREAS, it is necessary for the Township Council to discuss a matter
relating to:

Anticipated Litigation

which matter is permitted by Section b.7. of the Open Public Meetings Act to be
discussed in closed session in the absence of the public; and

WHEREAS, the Township Council has determined that it is necessary in
the public interest that the matter in fact be discussed in closed session, and has
estimated that, as nearly as can now be ascertained, the results of the
discussion can be disclosed to the public at the following time and under the
following circumstances:

At the conclusion of the matters

NOW, THEREFORE, it is resolved that the public be excluded from this
portion of the meeting, during which only the aforestated matter will be
discussed.

October 7, 2003

*Still under
Litigation*

2006-35

BE IT RESOLVED by the Township Council of the Township of Chester
as follows:

WHEREAS, it is necessary for the Township Council to discuss a matter
relating to:

Pending Litigation

which matter is permitted by Section b.7. of the Open Public Meetings Act to be
discussed in closed session in the absence of the public; and

WHEREAS, the Township Council has determined that it is necessary in
the public interest that the matter in fact be discussed in closed session, and has
estimated that, as nearly as can now be ascertained, the results of the
discussion can be disclosed to the public at the following time and under the
following circumstances:

At the conclusion of the matter

NOW, THEREFORE, it is resolved that the public be excluded from this
portion of the meeting, during which only the aforestated matter will be
discussed.

March 21, 2006

*Still Under
Litigation*

**TOWNSHIP OF CHESTER
RESOLUTION OPPOSING SENATE BILL S 1219
R-2006-28**

WHEREAS, Senator Robert Martin has sponsored Senate Bill 1219 concerning certain amendments to the Open Public Meetings Act (OPMA); and

WHEREAS, the Township Council of the Township of Chester obviously supports the principle that the public has a right to know what their government officials are doing; and

WHEREAS, Senate Bill 1219 imposes unreasonable fines and penalties for any violation of the Open Public Meetings Act (OPMA), and further imposes requirements of:

- a. the recording of executive sessions,
- b. promotes overly long meetings,
- c. removes appropriate discretion from government officials including the management of Council meetings,
- d. imposes additional burdens of requirements upon sub-committee meetings,
- e. provides for the awarding of attorney fees only to a successful plaintiff but not to a public body if found not to have violated the law,
- f. requires that minutes be available within five (5) business days thereby creating undo hardship upon the office of the municipal clerk,
- g. requires local government to establish an internet site at the Municipal Building; and

WHEREAS, Senate Bill 1219 continues the unfair exemption provided to the legislative branch of State government by exempting the State government from the same requirement that Senate Bill 1219 would oppose on municipalities, counties, school districts, and authorities.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Chester, County of Morris, and State of New Jersey as follows:

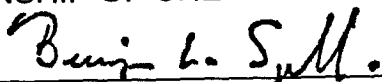
1. That the Township Council of the Township of Chester does hereby Oppose the adoption of Senate Bill 1219 for the reasons noted above.
2. That a copy of this Resolution be forwarded to the 16th, 21st, 24th, 25th, & 26th Legislative District representatives and the New Jersey State League of Municipalities.

March 7, 2006

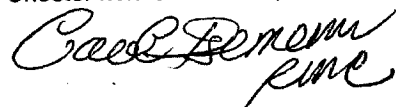
ATTEST:


Carol Isemann, Municipal Clerk

TOWNSHIP COUNCIL OF THE
TOWNSHIP OF CHESTER


Benjamin L. Spinelli, Mayor

Adopted at a meeting of the
Township Council of the Township
Of Chester held on March 7, 2006.



Draft Subject to Correction

CHESTER TOWNSHIP COUNCIL MARCH 7, 2006

A Regular Meeting of the Township Council of The Township of Chester was held on March 7, 2006 at 7:30 P.M. at the Municipal Building located at 1 Parker Road.

Adequate notice of this meeting of the Township Council of the Township of Chester was given to the Observer Tribune and the Daily Record on January 4, 2006 and was posted on the Bulletin Board, Council Chambers, Chester Township Municipal Building on January 4, 2006 and was mailed to all those persons who have requested individual notice and paid the required fee.

Members Present: Benjamin L. Spinelli, Mayor
Joan G. Fischer
Leonard Taylor
Karen Powell

Member Absent: William Cogger
Also Present: John H. Suminski, Esq.

MINUTES

Motion to accept minutes of February 21, 2006 Council meeting: Fischer
Second: Taylor
YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

REPORTS

Motion to accept and place on file reports from Tax Collector, Public Works Department and Construction Office: Fischer
Second: Taylor
YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

BUDGET TRANSFERS

Resolution 2006 -20 offered by Mrs. Fischer:

R 2006-20 2005 Appropriation Reserve Budget Transfer

Motion: Fischer
Second: Powell
YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

BILLS

Motion to pay bills, subject to audit by the Finance Committee: Fischer
Second: Powell
YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

CORRESPONDENCE

Correspondence Received:

- o Resident Wendy Hanks regarding mailbox reimbursement.
- o Letter from resident Gary Mallard regarding dumpster at Dogwood School
- o Letter of commendation to Sgt. Wayne Martini from Chief of Irvington Police Department regarding kidnapping situation

State of New Jersey:

- Invitation from Governor Corzine to participate in regional community meetings regarding Budgeting
- DEP: Declining recycling rates

Invitations:

- Morris County Board of Freeholders County Government Primer March 29, 2006
- Morris County St. Patrick Day Parade, March 11, 2006
- The 11th Annual Beefsteak Dinner honoring Sen. Anthony Bucco, March 31, 2006

Public Hearing:

- Chester Borough Board of Adjustment: Site Plan Approval 31 Main Street
- Mendham Township Planning Board: Notice of Adoption of Stormwater Management Plan Element

DISCUSSION: FIRE COMPANY FOAM TANKER TRUCK GRANT

Present for this discussion was Fire Company President Lou Case and Scott DiGeralmo from the Morris County Dept. of Law and Public Safety.

Mr. DiGeralmo explained under grants issued by the Dept of Homeland Security, The County of Morris has been able to purchase dual use equipment for use in response to terrorism, natural disasters, etc. This equipment has been distributed to several different areas in Morris County. The Chester Volunteer Fire Company has been chosen to receive a four thousand gallon foam tanker truck for use in the event of a flammable liquid fire. This truck is to be utilized for local firefighting, as well as responding to mutual aid requests. He also explained in this area of Morris County there is no equipment with this fire fighting capability. With the exception of insurance and normal maintenance, there will be no cost to the municipality. The Council agreed to enter into a Memorandum of Understanding with the County for a period of 10 years. It was the consensus of the Council that this vehicle be titled in the name of the Chester Fire Company.

RESOLUTIONS

2006-21 offered by Mrs. Fischer:

R 2006- 21 Tax Overpayment

Motion: Fischer

Second: Powell

YEAS: Taylor, Fischer, Powell, Spinelli

NAYS: None

2006-22 offered by Mrs. Fischer:

R 2006-22 Appointment of Chief Financial Officer/Deputy Tax Collector
Theresa A. Vervaet

Motion: Fischer

Second: Powell

YEAS: Taylor, Fischer, Powell, Spinelli

NAYS: None

2006-23 offered by Mrs. Fischer:

R 2006-23 Appointment of Certified Tax Collector, Deputy Finance Officer,
Tax Search Official, Antoinette Theesfeld

Motion: Fischer

Second: Powell

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

2006-24 offered by Mr. Taylor:

R 2006 - 24 Appointment of Alternate Deputy Registrar, Mary Nowicki

Motion: Fischer

Second: Powell

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

2006-25 offered by Mayor Spinelli:

R 2006-25 Fireman of the Year, Dave Dietz

Motion: Fischer

Second: Powell

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

2006-26 offered by Mrs. Fischer:

R 2006 - 26 Naomi Caruso

Motion: Fischer

Second: Powell

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

2006-27 offered by Mrs. Fischer:

R 2006-27 Urging Reintroduction Of Legislation To Exempt Municipal
Clerks From Penalties For Open Public Record Act Violations
Under Certain Circumstances

Motion: Fischer

Second: Powell

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

APPOINTMENTS TO BOARD OF ADJUSTMENT

A motion was made by Mrs. Fischer, with a second by Ms. Powell, for the following appointments to be made to the Board of Adjustment.

Joe DiPaolo as Alternate # 3 Sam Champi as Alternate #4

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

MACPHERSON CONSERVATION EASEMENT

A motion was made by Mr. Taylor, with a second by Ms. Powell, for the Mayor to sign the amended conservation easement on the property located on Block 1, Lot 28 owned by Irving & Elizabeth MacPherson

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

CHESTER TOWNSHIP COUNCIL
MARCH 7, 2006
PAGE 4

ORDINANCE INTRODUCTION

Ordinance 2006-3 offered for introduction by Mrs. Fischer:

AN ORDINANCE TO AMEND ORDINANCE 2003-12 REGARDING THE OPERATION AND MAINTENANCE OF A CABLE TELEVISION SYSTEM BY PATRIOT MEDIA COMMUNICATIONS, CNJ, LLC, WITHIN THE TOWNSHIP OF CHESTER, COUNTY OF MORRIS, STATE OF NEW JERSEY AND FOR THE PROVIDING OF FEES (2006-3)

Motion to approve on first reading: Fischer
Second: Taylor

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

RESOLUTION

2006-28 offered by Ms. Powell:

R 2006- 28 OPPOSING SENATE BILL 1219,
REVISION TO THE OPEN PUBLIC MEETINGS ACT (OPMA)

Motion: Powell
Second: Spinelli

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

Resolution 2006-29 offered by Mrs. Fischer:

R 2006-29 RESOLUTION AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$5,714,000 BOND ANTICIPATION NOTES OF THE TOWNSHIP OF CHESTER, IN THE COUNTY OF MORRIS, NEW JERSEY

Motion: Fischer
Second: Powell
YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

Motion to adjourn meeting: Fischer
Second: Spinelli

YEAS: Taylor, Fischer, Powell, Spinelli NAYS: None

Carol Isemann
Municipal Clerk

William G. Dressel, Jr., EXECUTIVE DIRECTOR ■ Michael J. Darcy, CAE, ASSISTANT EXECUTIVE DIRECTOR

March 3, 2006

Also sent via E-mail

Re: **Senate Bill 1219, Revising the Open
Public Meetings Act**

Dear Mayor:

We would like to bring to your attention our concerns with Senate Bill 1219, a bill sponsored by Senator Robert Martin concerning amendments to the Open Public Meetings Act (OPMA).

It is important to understand that the League supports the principal that the public has a right to know what their government officials are doing, to be present at meetings of the elected governing bodies, the planning board, the zoning board of adjustment where formal action is to be taken and to obtain copies of documents that enable them to understand governmental decisions. There are, and must be, exceptions where confidentiality is appropriate to serve the overall public interest.

We are very concerned, however, with many of the proposals in S-1219.

First, the bill provides that "any violation" of OPMA or the Open Public Records Act by a public official, not just a willful violation, be punishable by substantial fines, which must be paid individually by the official, not by the municipality. The fines are specified and are not simply maximums. The fines begin at \$1,000 for a first violation and increase to \$5,000 for a third violation. This will have a chilling effect on participation in municipal government by the volunteers upon which so much of municipal government depends, who may be subject to such a fine for a mere mistake in interpretation of sometimes unclear requirements of these laws. Furthermore, attorneys, who are also specifically included in these provisions, will be reluctant to give opinions on issues concerning these laws for this reason as well.

Second, the requirement that all "executive sessions" be recorded is problematic. The Act was written to require notes of such meetings rather than transcripts because the subject matter is privileged—that is why the public is excluded. Recordings of privileged discussions are as inappropriate as transcripts would be. Those recordings could have a serious negative effect on long term labor negotiation strategies and on other issues that are appropriate for closed session discussion.

Third, the increased public participation requirements will make public meetings overly long and accomplishing anything at them very difficult. All public meetings, not just municipal governing body meetings, will have to set aside at least an hour, and allow five minutes per speaker, at the start of the meeting for public comment, and time before any action is taken as well. There is no requirement that those making comments stick to issues over which the public body has some control. The law requiring a public comment period at governing body meetings is applied to "any governmental issue that the member of the public feels may be of concern", language that is so broad that it applies to matters of national foreign

Exhibit 12

*Use
J. Summerville*

Mayors Fax Advisory

policy, over which the municipality has no jurisdiction, in the same manner as it applies to comments on a road reconstruction program.

This takes away discretion and control over municipal meetings from the municipality. Furthermore, it is unnecessary, because OPMA is supposed to make sure the public has the right to attend and view governmental meetings. It does not require that the public have the power to participate in government meetings on a par with the officials they elected to run the government for them.

The expansion of the concept of a public body and public meetings to subcommittees of the governing body and to purely advisory bodies is unduly burdensome and accomplishes little in the public interest. The public already has a right to be present at meetings where decisions and votes are taken by the governing body and by the other entities that impact on land use approvals, health regulations, etc.

Fourth, the enforcement section allows for attorneys fees in enforcement actions to be awarded only to a successful plaintiff, not to a successful public body. Thus, even if there has been no violation, a municipality cannot recover its expenses in defending itself. That is basic unfairness that must be resisted.

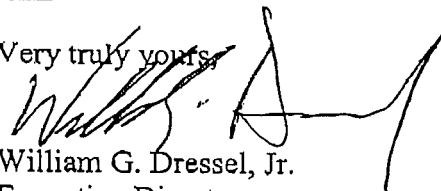
Fifth, while the minutes from a meeting should be available on a reasonably prompt basis, the requirement in the bill to require those minutes to be available within five (5) business days imposes an administrative burden on the municipal clerk that is simply unreasonable. It is especially problematic for municipalities with limited staff.

Sixth, the legislation would require local governments to have an internet site, or to allow some local resident to set up an internet site that the local government would have to use. While internet presence is desirable and many municipalities are establishing those sites, the mandating of that is an unreasonable requirement. To require that a municipality use a site set up by someone not affiliated with the municipality raises problems with regard to other content on the site, advertising on the site that might imply some type of municipal endorsement and other issues that could expose the municipality to liability.

The conversion of the Government Records Council to an Open Government Council has substantial merit, but the proposal continues the unfair exemption provided to the Legislative branch of State Government. Under Senator Martin's proposal the legislature is exempted from the requirements that the legislation would impose on municipalities, counties, school districts and authorities.

For these reasons we urge you to contact your legislators and ask them to oppose this bill. If you have any questions or concerns about this communication, please contact Deborah M. Kole, Staff Attorney, at the League, ex. 37, or at dkole@njslom.com.

Very truly yours,


William G. Dressel, Jr.
Executive Director

WGD/sc

Exhibit 13

This Financial Disclosure Statement is required annually of all local government officers in accordance with N.J.S.A. 40A:9-22.1 et seq, the Local Government Ethics Law.
 (Please Type or Print)
 Year of Service: 2006

Section I. Personal Information- Local Government Officer

Local Government Served: CHESTER TOWNSHIP County: MORRIS Other: _____
 Municipality: _____
 First Name: BRIAN Middle: W. Last Name: MASON Suffix: _____
 Spouse's First Name: LISA Middle: J. Last Name: MASON Suffix: _____
 Home Address: 178 LINDEN AVE Home: _____ Telephone Numbers (optional) 973-857-8591
 (optional) VERONA NJ 07044 Business: 973-366-9306
 1. CHESTER TOWNSHIP Agency Position Held PROSECUTOR Term Expires (if applicable) 12/31/06
 2. _____
 3. _____

Section II. Financial Information

Provide the following information for yourself and members of your immediate family for the prior calendar year. If none, please indicate NONE in the space provided. If additional space is needed, please use Extension Forms.

- A. List the name and address of each source of income, earned and unearned, which you received in excess of \$2,000. If a publicly traded security is the source of income, the security need not be reported unless you or a member of your immediate family has an interest in the business organization.
- | | | | | | |
|----|----------------------------------|---|-------------------------------------|--|--|
| 1. | <u>NUZZI & MASON, LLC</u> | <u>50 MERSON ST. DOWER NJ 07801</u> | <input checked="" type="checkbox"/> | | |
| 2. | <u>CHESTER TOWNSHIP</u> | <u>1 PARKER RD, CHESTER NJ 07930</u> | <input checked="" type="checkbox"/> | | |
| 3. | <u>BOROUGH OF MOUNTAIN LAKES</u> | <u>400 BULLAVILLE MT. LAKES NJ 07046</u> | <input checked="" type="checkbox"/> | | |
| 4. | <u>COMP SOLUTIONS</u> | <u>101 RAMONA VALLEY RD. DOKLAND NJ 07436</u> | <input checked="" type="checkbox"/> | | |
| 5. | <u>VERONA TOWNSHIP</u> | <u>1000 Blodgett Ave, Verona NJ 07044</u> | <input checked="" type="checkbox"/> | | |
- B. List the name and address of each source of fees and honorariums having an aggregate amount exceeding \$250 received from any single source for personal appearances, speeches, or writing.

1.	<u>N/A</u>	<u>N/A</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Last Name: WASON
 State of New Jersey
 Department of Community Affairs

First Name: BRIAN

Middle: W

(for DLGS use only)
 Municode: _____

**Local Government Ethics Law
 Financial Disclosure Statement**

Division of Local Government Services
 Local Finance Board

Section II. Financial Information- continued

C. List the name and address of each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source, excluding relatives.

	Name	Address	Self	Spouse	Dependent Name
1.	<u>NUZZI & MASON, LLC</u>	<u>50 WILSON ST. DOVER NJ 07801</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2.			<input type="checkbox"/>	<input type="checkbox"/>	
3.			<input type="checkbox"/>	<input type="checkbox"/>	
4.			<input type="checkbox"/>	<input type="checkbox"/>	
5.			<input type="checkbox"/>	<input type="checkbox"/>	

D. List the name and address of all business organizations in which an interest was held.

	Name	Address	Self	Spouse	Dependent Name
1.	<u>NUZZI & MASON, LLC</u>	<u>50 WILSON ST. DOVER, NJ 07801</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2.			<input type="checkbox"/>	<input type="checkbox"/>	
3.			<input type="checkbox"/>	<input type="checkbox"/>	
4.			<input type="checkbox"/>	<input type="checkbox"/>	
5.			<input type="checkbox"/>	<input type="checkbox"/>	

E. List the address and a brief description of all real property in the State of New Jersey in which an interest was held.

	Municipality	County	Block	Lot	Address (if applicable)	% of Ownership	Self	Spouse	Dependent Name
1.	<u>VERONA</u>	<u>ESSEX</u>			<u>179 LINDEN AVENUE</u>	<u>50/50</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
2.	<u>DOVER</u>	<u>DOVER</u>			<u>113 KAMDEN STREET</u>	<u>50</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3.							<input type="checkbox"/>	<input type="checkbox"/>	
4.							<input type="checkbox"/>	<input type="checkbox"/>	
5.							<input type="checkbox"/>	<input type="checkbox"/>	

F. Please add any other information you believe is necessary to complete this form.

Section III. Certification

I hereby certify that this Financial Disclosure Statement contains no willful misstatement of fact or omission of material fact and, together with any and all statements previously submitted in writing to the clerk of my local government or the Local Finance Board, constitutes a full disclosure with respect to all matters required by N.J.S.A. 40A:9-22.1 et seq., to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to fines and possible disciplinary action.

April 1, 2012
 Date

Brian W Mason
 Signature of Local Government Officer
 (Original Signature)