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September 5, 2006

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Hon. William J. Park, Mayor, and
Haddon Township Board of Commissioners
135 Haddon Ave
Westmont, NJ 08108

Dear Mayor Park and Commissioners Hogan and Broderick:

I am an open government advocate who seeks to bring public bodies throughout New Jersey into better compliance with the Open Public Meetings Act, Open Public Records Act¹ and other open-government statutes and regulations.

I have read most of the Board's 2005 and 2006 public meeting minutes² and have obtained the closed session resolutions³ authorizing the Board's March 15, 2005 and March 22, 2005 closed (executive) meetings and the minutes from those closed meetings. Copies of these resolutions and minutes, in date order, are enclosed as Exhibits A through D.

My research so far raises three areas of concern:

- a) The vagueness of the descriptions contained within the closed session resolutions.
- b) That some of the matters discussed during closed session should have been discussed with the public in attendance.
- c) That the Board apparently does not subsequently approve or adopt its closed session minutes.

I will address each of these concerns below.

Vague Descriptions

The resolutions that authorize the closed sessions (Exhibits A and C) each inform the public that "matters involving employment and/or litigation" will be discussed outside of public view.

¹ On September 2, 2006, I filed a Denial of Access complaint against Haddon Township with the Government Records Council. In case you have not yet received a copy of that complaint, it is available for download at <http://www.lpcnj.org/OGTF/HaddonGRC.pdf>

² I appreciate that the Board has posted its public meeting minutes on the Internet. I note, however, that the most recent minutes presently available on-line are for the June 27, 2006 meeting. If there were Board meetings in July and August (I can find nothing on the website indicating whether or not meetings were held during these months), the website would be more useful if these more recent minutes were posted as well.

³ Resolutions Nos. 2005-033A and 2005-052.

I believe that the Open Public Meetings Act, specifically N.J.S.A. 10:4-13, requires the Board to pass more precise resolutions before going into closed session. Instead of stating, for example, that "Litigation" is going to be discussed outside of public view, the Board ought to state the **specific matter** (e.g. Smith v. Haddon Township, Docket No. CAM-L-000000-06) that is going to be discussed. This way, the public has a much clearer idea of the topics of the Board's private discussions while not being privy to the Board's litigation strategy or other sensitive information that needs to be kept confidential.

Two years ago, I filed suit against the Perth Amboy City Council to challenge the legality of its closed session resolutions, which were similar to the ones passed by Haddon's Board. My lawsuit resulted in a July 15, 2004 Order by the Hon. Robert A. Longhi, A.J.S.C., Middlesex County, a copy of which is enclosed as Exhibit E. As you can see, Judge Longhi ordered the City Council to comply with the guidelines set forth in Council of N.J. State College Locals v. Trenton State College Bd. of Trustees, 284 N.J. Super. 108 (Law. Div. 1995) and to reimburse my court costs.

Are the Board's more recent closed session resolutions, such as Res. 2006-092A which was passed on June 20, 2006 caucus meeting, still in the same form as Exhibits A and C? If so, would the Board change its procedure, going forward, so that more detail is provided within its closed session resolutions? Giving more specific reasons for closing a meeting will assist those members of the public who wish to inform themselves of what their mayor and commissioners are doing.

Unauthorized Items Privately Discussed

It is not clear why certain matters that were discussed privately could not have been discussed publicly. For example, Exhibit D shows that Betty Band's concern "with the number of requests she was receiving for use of the Town Car for non-senior or handicapped use" was discussed during a closed meeting. Discussion regarding usage requests of a municipal vehicle does not appear to be authorized by any of the exceptions contained within N.J.S.A. 10:4-12(b).

I note that Commissioner Hogan expressed a similar concern during the May 23, 2006 regular meeting. According to that meeting's minutes

Commissioner Hogan objected to the discussion of legal bills in closed session, indicating that it was a violation of the Open Public Meetings Act. She noted that the items are a matter of spending taxpayer's money and should be discussed in open session or taken off the agenda and discussed at the next caucus meeting, and requested a legal opinion from the solicitor. Mr. Higgins indicated that payment of the bills is subject to discussion in open session,

as they are not a matter of any pending litigation or an employment related matter as it relates to Chapter 38 of the Township Code. Mayor Park indicated that based on the solicitor's opinion, the matter should be discussed in open session.

Did Solicitor Higgins' opinion above cause the Board to change its procedure so that, going forward, only topics that strictly fit within the N.J.S.A. 10:4-12(b) exceptions would be discussed in private? If not, is the Board willing to effect such a change now?

Unapproved Closed Session Minutes

Exhibits B and D are both labeled as "Unadopted Exec. Session Minutes." Further, I cannot find anything on the Township's website indicating that these minutes were subsequently approved at a future meeting.

I believe that it would be good practice for the Board to review and approve its closed session minutes in the same manner as it approves its public meeting minutes. Such would ensure that the minutes accurately reflect what occurred at closed meetings. Is the Board willing to adopt this suggestion?

Conclusion

When the Legislature enacted the Open Public Meetings Act in 1975, it declared that

. . . the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation, and decision making of public bodies, is vital to the enhancement and proper functioning of the democratic process; that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society . . .

I hope that the Board will reflect on this policy statement when it deliberates the issues raised within this letter.

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

Respectfully,



John Paff

RESOLUTION # 2005-033A
TOWNSHIP OF HADDON
COUNTY OF CAMDEN

SUBJECT: CLOSED EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12b, permits a public body to exclude the public from any meeting to discuss matters involving employment and/or litigation; and

WHEREAS, the Board of Commissioners of the Township of Haddon, County of Camden and State of New Jersey, desire to close the caucus meeting of March 15, 2005 to executive session in order to discuss the above-referenced matters:

NOW THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Township of Haddon, that the following portion of the Commissioner's Meeting will be conducted in closed session.

BE IT FURTHER RESOLVED, that the public disclosure of this closed executive session will be made available in the near future.

Excused
William J. Park, Jr.
Kathleen V. Hogan
Kathleen V. Hogan
James T. Broderick, Sr.
James T. Broderick, Sr.

I, hereby certify the foregoing to be a true copy of a Resolution adopted by the Board of Commissioners of the Township of Haddon at a meeting held on the 15th day of March 2005.

Denise P. Adams
Denise P. Adams, Township Clerk

Closed Executive Session – March 15, 2005

The Clerk reviewed the Police Contract terms with the Commissioners, noting that a change had been recommended after the last caucus. The Commissioners approved the negotiated terms of the five year contract. The Clerk reported that the police officers had requested a special meeting to adopt the salary ordinance in order to accommodate the pay period schedule for retro pays. It was noted that the 2004 retro would be included in the April 29th pay, with the 2005 retro in the 1st pay of May. The Clerk explained that the April 19th caucus meeting fell on School Board Election day and suggested that a special meeting be conducted before the caucus meeting to address the second reading on the salary ordinance. She further requested that the meeting be moved to an earlier time in order to be available to receive the election results at 9:00 PM. It was determined that a special meeting would be scheduled for 6:00 PM on Tuesday, April 19, 2005 with the Caucus Meeting immediately following.

RESOLUTION # 2005-052
TOWNSHIP OF HADDON
COUNTY OF CAMDEN

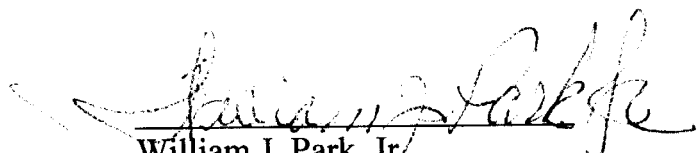
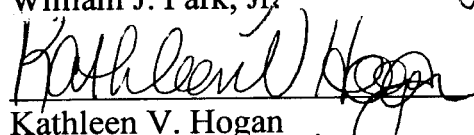
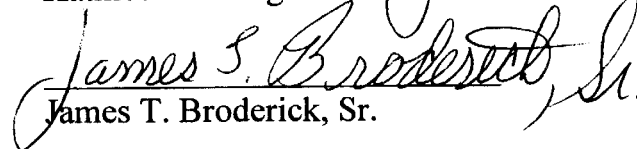
SUBJECT: CLOSED EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12b, permits a public body to exclude the public from any meeting to discuss matters involving employment and/or litigation; and

WHEREAS, the Board of Commissioners of the Township of Haddon, County of Camden and State of New Jersey, desire to close the Commissioners meeting of March 22, 2005 to executive session in order to discuss the above-referenced matters:


NOW THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Township of Haddon, that the following portion of the Commissioner's Meeting will be conducted in closed session.

BE IT FURTHER RESOLVED, that the public disclosure of this closed executive session will be made available in the near future.


William J. Park, Jr.

Kathleen V. Hogan

James T. Broderick, Sr.

I, hereby certify the foregoing to be a true copy of a Resolution adopted by the Board of Commissioners of the Township of Haddon at a meeting held on the 22nd day of

March 2005.


Denise P. Adams, Township Clerk

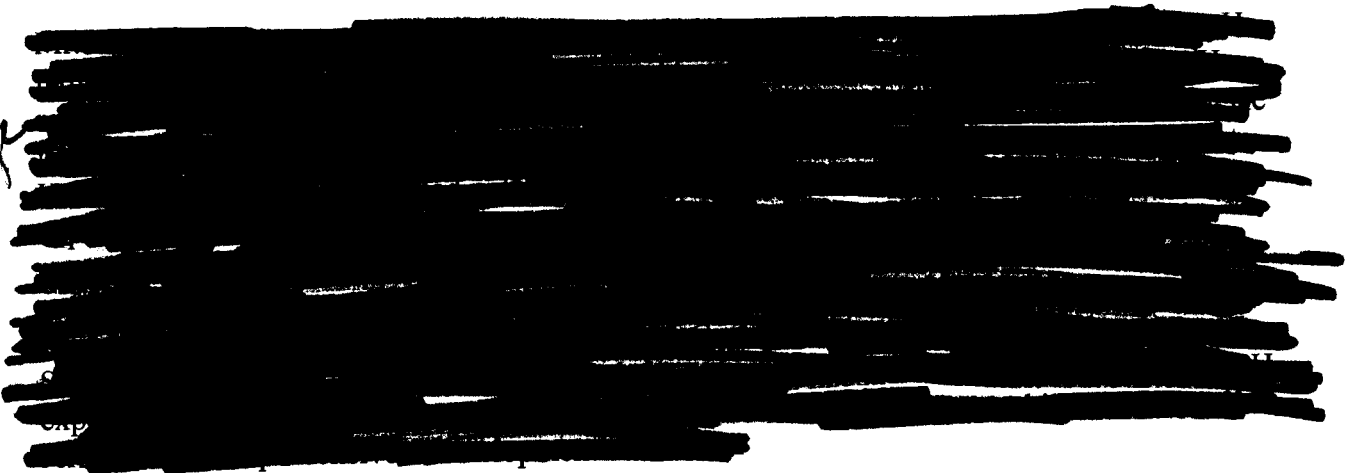
Closed Executive Session – March 22, 2005

Commissioner Hogan questioned the salary provided in the 2005 Municipal Budget for the Administrative Assistant. The Clerk reported that the salary had been redistributed between Administration and the Water/Sewer budgets and noted that it reflected the negotiated salary provided in the contract.

The Clerk reported that the Police Union Representatives had requested an increase in the hospital insurance waiver reimbursement from the current amount of \$2,000.00. She indicated that the statutes permitted a reimbursement up to 50% and noted that if a number of employees opted for the waiver, a savings in health insurance fees could be realized by the Township. Mr. Higgins observed that one of his other communities's offered a 30% reimbursement paid on a quarterly basis. The Commissioners acknowledged that a savings could be realized and authorized the Clerk to authorize a 30% reimbursement.

The Commissioners discussed overtime payment to the senior bus driver, for Saturday and Sunday trips. It was noted that use for purposes other than for senior or disabled residents could not be paid with community Development Block Grant funding. It was further noted that there was no provision for other forms of overtime use. Betty Band expressed her concern with the number of requests she was receiving for use of the Town Car for non-senior or handicapped use. She further explained that the trip Commissioner Hogan had planned for May 8th fell on Mother's Day, and she was not sure if a driver would be available. It was noted that the driver was recovering from surgery and the back-up driver had religious obligations on Sundays. Commissioner Hogan reported that she had discussed the matter with Mr. Higgins, and they would be looking at alternatives. Mayor Park recommended that they limit use of the bus for other types of community activities.

Att
Client
Privilege



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FILED

JUL 15 2004

ROBERT A. LONGHI, A.J.S.C.

Attorneys for Defendant Perth Amboy City Council

JOHN PAFF, :
 :
Plaintiff, :
 :
v. :
 :
PERTH AMBOY CITY COUNCIL, :
 :
Defendant. :

SUPERIOR COURT OF NEW JERSEY
MIDDLESEX COUNTY - LAW DIVISION
DOCKET NO.: L-3470-04 *W*

Civil Action

~~ORDER FOR SETTLEMENT~~

WHEREAS on May 27, 2004 the Court granted Plaintiff's application and entered an order to show cause regarding the Open Public Meeting Act (OPMA), N.J.S.A. 10:4-8, et. seq., and

WHEREAS *appeared before the Court for oral argument* the parties having amicably resolved their differences and agreed to enter an *consented oral agreement and the* Order for Settlement; and the Court having *agreed with the terms of the settlement and the entry* of the within Order; *submission of the parties and for good cause shown*

IT IS ON THIS 15 DAY OF July, 2004

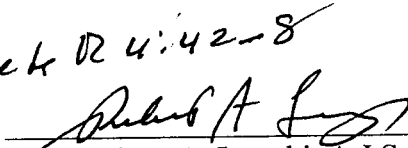
ORDERED that the above captioned matter be and is hereby marked settled between the parties, and it is further *[Signature]*

ORDERED that the defendant Perth Amboy City Council shall comply with N.J.S.A. 10:4-13 and the guidelines set forth in Council of New Jersey State College Locals, NJSFT, AFT/AFL-CIO, Local 2364 v. Trenton State College Board of Trustees, 284 N.J. Super 108 (Law Div. 1995) and shall set forth in any resolution authorizing a closed or executive session meeting

pursuant to the OPMA the general nature of the subject to discussed and state 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 pursuant, and it is further

ORDERED that a copy of this Order will be filed with the Court and served on all parties within seven (7) days of the date hereof.

*Further ordered that pursuant to DE 4:42-8
Plaintiff is entitled to taxed
costs of \$230 to be paid
by defendant*



Hon. Robert A. Longhi, A.J.S.C.