

Libertarian Party of Central New Jersey

Open Government Task Force

John Paff, Task Force Chairman

P.O. Box 5424

Somerset, NJ 08875-5424

January 16, 2007

Ann R. Rubin, Esq., Assistant Prosecutor
Union County Prosecutor's Office
32 Rahway Avenue
Elizabeth, NJ 07202-2115

RE: Plainfield City Council - Open Public Meetings Act

Dear Assistant Prosecutor Rubin:

The Libertarian Party of Central New Jersey has created an Open Government Task Force of which I am the chairman. The Task Force's goal, as well as my personal goal, is to bring all local government agencies in our tri-county area (Somerset, Middlesex and Union Counties) into full compliance with the Open Public Meetings Act, Open Public Records Act and other open-government statutes and regulations.

We assert that the Plainfield City Council has violated the Open Public Meetings Act and ask that you investigate the following matters and take whatever action you deem appropriate. We base our complaint upon the following documents, all of which are attached as exhibits:

- E1 - E2: March 13, 2006 Executive Session Minutes
- E3 - E4: Clerk's June 28, 2006 letter to the Government Records Council
- E5 - E6: Clerk's January 11, 2007 letter to the Government Records Council

I. Minutes are not "reasonably comprehensible" as required by N.J.S.A. 10:4-14.

Meetings minutes "are intended to recite and disclose any official decision or action taken by a public body, and necessarily must contain sufficient facts and information to permit the public to understand and appraise the reasonableness of the public body's determination." South Jersey Publishing Co. v. New Jersey Expressway Authority, 124 N.J. 478, 493 (1991).

While reasonably comprehensible "does not mean word for word recitation of every event or a verbatim detailing of every public comment or objection," N.J.S.A. 10:4-14 does require that "minutes adequately reflect what transpired at the meeting [so that] a citizen . . . who reviewed the minutes along with [other public records] would fully understand what had occurred." Liebeskind v. Mayor and Council of Bayonne, 265 N.J. Super. 389, 400-02 (App. Div. 1993).

One can scarcely imagine how the City Council's March 13, 2006 minutes could provide **less** information about what transpired at the closed meeting. Other than identifying the nonpublic meeting attendees, the public is told no more than a) that the City Attorney "opened discussion on various matters," and b) the Council President ejected everyone from the room, including the Clerk, so that the elected council members could hold a caucus, the reason for which was "not offered."

In sum, we believe that the March 13, 2006 minutes are woefully inadequate and constitute a violation of the Open Public Meetings Act.

II. Minutes were not made "promptly available to the public" as required by N.J.S.A. 10:4-14.

On June 5, 2006, I filed a Denial of Access Complaint against the Plainfield City Clerk because she did not provide me with City Council closed session minutes that I had requested on April 1, 2006. Exhibits E3 and E4 show that the Clerk acknowledged, as of June 28, 2006, that a) the closed session minutes were the only "outstanding item" remaining to fulfill my request, b) that her reluctance so far to produce the minutes "does not indicate closure," and c) that she stands ready to provide me with the minutes once they have been reviewed and it has been decided that their disclosure "will no longer cause endangerment."

Exhibits E5 and E6 show that it was not until January 11, 2007—after having received an Interim Order from the Government Records Council—that the Clerk finally released the requested closed session minutes. Thus, it took over nine months and the filing of a Government Records Council Denial of Access Complaint for the minutes to be secured. Further, since the March 13, 2006 minutes disclose essentially nothing that happened during that meeting, there could have been no "endangerment" had the Clerk produced them immediately upon receipt of the request.

In sum, we believe that the failure to promptly produce the requested minutes constitutes a violation of both the Open Public Meetings Act and the Open Public Records Act.

Thank you for your attention to this matter. We look forward to learning the results of your investigation and what action, if any, you elect to take.

Very truly yours,



John Paff
Task Force Chairman

Ann R. Rubin, Esq., Assistant Prosecutor
January 16, 2007
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EXECUTIVE SESSION – not for public distribution

Plainfield, New Jersey
March 13, 2006
6:05 p.m.

MUNICIPAL COUNCIL OF THE CITY OF PLAINFIELD

**Plainfield, New Jersey
MINUTES of the Executive Session of the City Council
Held on Monday, March 13, 2006, 6:05 p.m.
City Hall Library, Mayor's Complex
515 Watchung Avenue**

WELCOME and ROLL CALL

Council President Blanco welcomed all present and requested a call of the roll with the result that Councilmembers Burney, Carter, Davis, Van Blake and Blanco were marked present.

Councilmen Storch and Simmons would arrive presently at 6:15 and 6:19 p.m. respectively.

Also present were Mayor Robinson-Briggs, Mr. McGee, Ms. Dabney, Mr. Williamson, Mrs. Wyatt and Mr. Phoenix.

Council President Blanco read the Open Public Meetings Act, Chapter 231, P.L. 1975 and indicated that tonight's planned and advertised Executive Session would discuss matters pertaining to:

**PENDING/ANTICIPATED LITIGATION; and
PERSONNEL MATTERS**

Chairman Van Blake moved to convene Executive Session as announced by President Blanco. This motion was seconded by Councilwoman Carter; on a voice vote, the motion was unanimously ordered approved.

The Executive Session was thereupon convened.

DISCUSSION

Counsel Williamson opened discussion on various matters that had been under consideration of Council.

EXECUTIVE SESSION – not for public distribution

At approximately 6:50 p.m. the Council President made inquiry on his authority to ask everyone who was not an elected councilperson to clear the chambers which resulted in an affirmative ruling.


The Clerk asked the President if he were calling for a caucus which he responded in the affirmative. The reason for the caucus was not offered. The Honorable Mayor, City Administrator, Corporation Counsel, City Clerk and Assistant Transcriber immediately vacated the chambers.

At approximately 7:15 p.m. the President then called for a return to the regular order of business and immediately announced that there being no other business to entertain, there will be a recess until the 7:30 p.m. scheduled Agenda Fixing Session this evening. A motion was entertained by Ms. Carter and unanimously ordered approved.

ADJOURNMENT

The Council President requested a motion to adjourn the Executive Session and return to public session.

Councilwoman Carter so moved. This motion was seconded by Chairman Van Blake. On a voice vote, the motion was unanimously ordered approved.



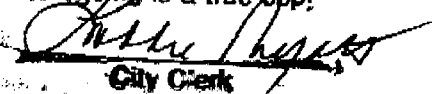
Ray Blanco, President
Plainfield City Council

Respectfully submitted,



Laddie Wyatt, RMC/MMCA
Municipal Clerk

This will certify that the foregoing is a true copy:



City Clerk



CITY OF PLAINFIELD

NEW JERSEY

OFFICE OF THE CITY CLERK
LADDIE WYATT C.M.C. / M.M.C.A.
REGISTERED MUNICIPAL CLERK

CITY HALL - 07061
515 WATCHUNG AVENUE
P.O. BOX 431
PHONE: (908) 753-3221
FAX: (908) 753-3674

June 28, 2006

Government Records Council
ATTN: Ms. Gloria Luzzatto,
Operations Manager
101 South Broad Street
P.O. Box 819
Trenton, New Jersey 08625-0819

reference: John Paff v. City of Plainfield, GRC Case No. 2006-103

Dear Ms. Luzzatto:

The enclosed items represent GRC Case No. 2006-103 and hopefully closure regarding the above referenced matter. These items include:

- GRC Identifying Information Form, items 1 through 10;
- Statement of Information attachment item 8;
- Letter to complainant dated 4/12/06;
- Letter dated 6/6/06 from Philip George accompanied with financial disclosure statements;
- Executive session minutes for April 2003, May 2005 and March 2006.

when you and I last spoke, it was my understanding that the executive session minutes were the only outstanding item; however, as indicated in my Statement of Information, I have included the items initially sought by the complainant regarding the employment of Mr. Philip George, Esq.


continued...

Exhibit E3

Ms. Gloria Luzzatto
June 28, 2006
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Again, let me emphasize that this office never denied the complainant review of, or refused submission of any minutes at any time. My statement does not indicate closure. Upon review of the specific minutes it has been concluded that said minutes will no longer cause endangerment.

Yours truly,


Laddie Wyatt,
Municipal Clerk

lw/el

encl:



CITY OF PLAINFIELD

NEW JERSEY

OFFICE OF THE CITY CLERK
LADDIE WYATT C.M.C. / M.M.C.A.
REGISTERED MUNICIPAL CLERK

January 11, 2007

CITY HALL - 07061
515 WATCHUNG AVENUE
P.O. BOX 431
PHONE: (908) 753-3221
FAX: (908) 753-3674

Ms. Tiffany L. Mayers
Government Records Council
101 South Broad Street
P.O. Box 819
Trenton, NJ 08625

Re: John Paff v. City of Plainfield
GRC Complaint No. 2006-103

Dear Ms. Mayers:

Consistent with the Interim Order reviewed by the Government Records Council (GRC) and the findings and recommendation of the Executive Director in the above referenced matter, I submit the following:

- ♦ Requested Executive Session Minutes for the closed session meeting held on or about April 21, 2003, with appropriate redactions if applicable, inclusive of certified confirmation of compliance to the Executive Director approved by the Governing Body prior to OPRA requests.
- ♦ Requested Executive Session Minutes for the closed session meeting held on or about May 9, 2005, with appropriate redactions if applicable, inclusive of certified confirmation of compliance to the Executive Director approved by the Governing Body prior to OPRA requests.
- ♦ Requested Executive Session Minutes for the closed session meeting held on or about March 2006, with appropriate redactions if applicable, inclusive of certified confirmation of compliance to the Executive Director approved by the Governing Body prior to OPRA requests.

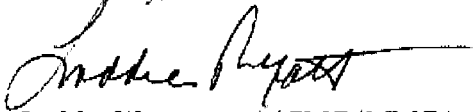
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Ms. Tiffany L. Mayers
Paff v. City of Plainfield

CERTIFICATION

I, LADDIE WYATT, duly appointed Clerk of the City of Plainfield and the Recording Secretary of the Plainfield City Council, certify that the aforementioned Executive Session Minutes as delivered for the years 2003, 2005 and 2006, are true and accurate accounts of the minutes requested by the complainant; John Paff.

Copy of Certified Confirmation of Compliance provided for and delivered to Executive Director, Catherine Starehill, Esq.

Yours truly,

A handwritten signature in black ink, appearing to read "Laddie Wyatt", written over a horizontal line.

Laddie Wyatt, RMC/CMC/MMCA
Municipal Clerk

ENCL:
C: John Paff