

John P. Leon, Esq.  
Subranni Ostrove & Zauber  
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Attorneys for Defendants Borough of Longport and Borough of Longport Custodian

John Paff,  Plaintiff  v.  Absecon Custodian, et. al.  Defendants
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - CIVIL PART  
ATLANTIC COUNTY

DOCKET NO. L-08-003392

Civil Action

**Consent Judgment Between Plaintiff and Defendants  
Borough of Longport and Borough of Longport Custodian**

Plaintiff John Paff and defendants Borough of Longport and Borough of Longport Custodian (named in the Complaint as Longport City Custodian) (collectively referred to herein as “Longport”), have presented this Consent Order for entry by the Court. No cause appears why this Order should not be entered.

It is, therefore, on this \_\_\_\_\_ day of March, 2009 Ordered and Adjudged as follows:

1. Longport shall release minutes of meetings pursuant to any OPRA request, regardless of whether such minutes have yet been approved by the Board of Commissioners.
2. Absent extraordinary circumstances, Longport shall make a draft version, marked as “draft,” of the nonexempt portion of Board’s nonpublic (i.e. closed or executive) meeting minutes available to the public within two weeks after that meeting, or two business-days before the Board’s next regular meeting, whichever is sooner. For example, if the Board went into a nonpublic meeting during its regularly scheduled Wednesday, April 2, 2008 meeting, and if its

next regularly scheduled meeting was on Wednesday, April 16, 2008, then the nonexempt portion of the April 2, 2008 nonpublic meeting must be publicly available by the close of business on Monday, April 14, 2008. As another example, if the Board held a special meeting on Thursday, June 26, 2008 and went into a nonpublic meeting during that meeting, and if its next regularly scheduled meeting was on Wednesday, July 2, 2008, then the nonexempt portion of the June 26, 2008 nonpublic meeting must be publicly available by June 30, 2008.

3. Longport acknowledges that its description of the topics to be discussed during the March 19, 2008 executive meeting was not sufficiently clear to inform the public of the specific topics that were actually discussed during that meeting. In the future, Longport shall describe each topic to be discussed during an executive meeting with sufficient clarity for members of the public to understand what specific topics will be discussed at such meeting.

4. Within 20 days after the receipt by Longport's attorney of a copy of this Consent Order executed by the Court, Longport shall pay Plaintiff \$59.78 as Longport's share of Plaintiff's costs to date in this case.

5. Plaintiff and Longport have executed a memorandum of understanding ("Memorandum") contemporaneously with execution of this Consent Order. The purpose of the Memorandum is to (a) set forth the positions of the parties, (b) clarify their intentions with respect to this Consent Order, and (c) provide guidance to future officials of the Borough of Longport with respect to complying with the requirements of New Jersey's Open Public Meetings Act and Open Public Records Act.

6. This Consent Judgment is entered into with no admission of fault by Longport.

7. This Consent Judgment resolves all the matters alleged in the Complaint (and First Amended Complaint) as they relate to Longport, as well as any issues that have been asserted or could be asserted by Longport against Plaintiff.

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Steven P. Perskie, J.S.C.

We hereby consent to the form and entry of this Order.

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John Paff

Subranni Ostrove & Zauber  
Attorneys for defendants Longport Borough  
and Longport Borough Custodian

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John P. Leon, Esq.

## Memorandum of Understanding

The Legislature finds and declares 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, and hereby declares it to be the public policy of this State to insure the right of its citizens to have adequate advance notice of and the right to attend all meetings of public bodies at which any business affecting the public is discussed or acted upon in any way except only in those circumstances where otherwise the public interest would be clearly endangered or the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion

N.J.S.A. 10:4-7. The Legislative Findings and Recommendations underpinning the Senator Byron M. Baer Open Public Meetings Act.

This Memorandum is entered into among John Paff (hereafter "Plaintiff"), Defendant Longport Borough Board of Commissioners (hereafter "Board") and Defendant Longport Borough Custodian (hereafter "Custodian"). Its purpose is to explain and provide future guidance regarding the Consent Judgment that has been simultaneously signed by the parties.

Plaintiff chairs the New Jersey Libertarian Party's Open Government Advocacy Project which seeks to increase governmental transparency and accountability. On October 3, 2008, Plaintiff filed suit against seventeen municipalities in Atlantic County. Among the defendants are Longport Borough's Custodian and Board. The Custodian and the Board were named in the suit because a) on the date Plaintiff filed suit they had not yet given Plaintiff the non-exempt portions of the Board's June 18, 2008 nonpublic (i.e. executive or closed) meeting even though Plaintiff requested them more than two months prior to that date, and b) because some of the discussion held during the Board's March 19, 2008

nonpublic meeting probably ought to have been discussed in public while other topics ought to have justified for reasons other than those set forth in the Board's March 19, 2008 N.J.S.A. 10:4-13 resolution.

Plaintiff doesn't allege or believe that Custodian or the Board delayed disclosure of the minutes or privately discussed topics on March 19, 2008 with an intent to violate the Sen. Byron M. Baer Open Public Meetings Act and Open Public Records Act or that it engaged in any wrongdoing or chicanery. From Plaintiff's experience, many if not most, municipalities do not provide nonpublic meeting minutes promptly. Indeed, in the present suit, eleven—nearly half—of Atlantic County's twenty-three municipalities are being sued for the same reason. Also, Plaintiff's experience has shown him that many if not most public bodies are not as vigilant as they could be when deciding which topics may be discussed privately and how to publicly identify those topics in their N.J.S.A. 10:4-13 resolutions.

Accordingly, the object of Plaintiff's lawsuit is not to embarrass or pillory Custodian or the Board. Rather, Plaintiff seeks to use this lawsuit to impress upon Atlantic County's municipalities and other public bodies the vital importance of open government and, hopefully, to convince them to adopt and adhere to a set of "best practices" that will maximize the amount and quality of official information available to the public and the speed in which citizens receive that information. Similarly, Board and Custodian recognize this lawsuit as an opportunity to publicly reaffirm their ongoing commitment to open and transparent government.

Against this backdrop, the merits of the Sixth Count and Seventh Count of the Complaint (and First Amended Complaint) are addressed below.

## Sixth Count

All parties acknowledge that there are legitimate reasons for a municipal governing body to suppress certain portions of the minutes of its nonpublic meetings. Among these reasons is the need to prevent the adverse parties in litigation or contracts from gaining an unfair advantage. But, the fact that some material may need to be redacted or suppressed from the body's nonpublic meeting minutes<sup>1</sup> does not force a conclusion that the remaining, non-exempt material need not be made promptly available to the public. Indeed, N.J.S.A. 10:4-14 states that “reasonably comprehensible minutes of all [a body's] meetings . . . shall be promptly available to the public to the extent that making such matters public shall not be inconsistent with [N.J.S.A. 10:4-12b].” (Emphasis supplied.)

Also, there is no need for minutes to be “approved” by a governing body before drafts of those minutes can be publicly released. Since approval cannot take place but at a meeting, requiring approval before public release makes it impossible for meeting minutes to be available to prior to the body's next meeting.

New Jersey courts have held that draft minutes of public meetings must be publicly disclosed prior to the meeting at which formal approval is to occur. Liebeskind v. Mayor and Municipal Council of Bayonne, 265 N.J. Super. 389, 394, 395 (App. Div. 1993) (minutes to be publicly available within two weeks after each meeting and at least three business days before the next meeting). The same principle should apply to the nonexempt portion of the body's nonpublic meeting minutes.

Finally, there is real value in interested members of the public promptly knowing the nature of the nonexempt portions of nonpublic meetings. An opportunity to read the nonexempt portions of the minutes of the previous nonpublic session the day before the next

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<sup>1</sup> See, e.g. Payton v. New Jersey Turnpike Authority, 148 N.J. 524, 557, 58 (1997).

meeting allows citizens to offer cogent, informed comments during the public portion of the next meeting. Delaying the release of those minutes, on the other hand, deprives citizens from being informed of and commenting on important public issues until after those issues may have become stale.

### **Seventh Count**

#### **1. Lifeguard Unemployment Claim**

From speaking with Borough Attorney Subranni on November 6, 2008, Plaintiff learned that:

- a. Longport Borough pays its employees unemployment compensation benefits directly as opposed to having unemployment compensation insurance coverage.
- b. The Borough's lifeguards are unionized and a collective bargaining agreement exists between the Borough and the lifeguards' union.
- c. Some lifeguards have been filing for and receiving unemployment benefits after the end of the shore season. Since the benefits are paid by the Borough, they are, in effect, additional compensation to the lifeguards.
- d. The receipt by some lifeguards of unemployment benefits stuck some members of the Board and the Borough's administration as unfair because the fact that the shore season ends when colder weather begins was known to all parties and anticipated when the collective bargaining agreement was entered into.
- e. In order to remedy this perceived unfairness, the Borough filed an action with the appropriate State tribunal to get a ruling on whether the lifeguards' collection of unemployment benefits was permissible under the collective bargaining agreement.

f. Prior to March 19, 2008, the tribunal ruled that the collection of unemployment benefits by the lifeguards was not permissible and that the Borough will be made whole by the State for any previous unemployment benefits improperly received by the lifeguards.

Mr. Subranni stated that it was the Borough's position that the action before the tribunal sought an interpretation of and ruling on an existing collective bargaining agreement, that it was properly discussed in nonpublic session.

However, prior to the March 19, 2008 nonpublic meeting at which the tribunal's decision was privately discussed, the tribunal had already made its determination in the action. Therefore, this litigation appears to have been neither pending nor "anticipated" within the meaning of N.J.S.A. 10:4-12(b)(7)<sup>2</sup> on March 19, 2008. Further, while the litigation arose out of a collective bargaining agreement, the fact that the Borough prevailed before the tribunal appears to not have enough to do with the collective bargaining agreement itself to qualify it for nonpublic discussion under N.J.S.A. 10:4-12(b)(4)<sup>3</sup>. Accordingly, the discussion at the March 19, 2008 nonpublic meeting relating to the tribunal's decision on the unemployment matter does not appear to be within any of the N.J.S.A. 10:4-12(b) exceptions, which must be strictly construed against closure and in favor of openness<sup>4</sup>, and therefore at least some of that discussion probably ought to have been discussed with the public present.

## 2. Longport Police Overtime

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<sup>2</sup> "Any pending or anticipated litigation or contract negotiation other than in subsection b. (4) herein in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer."

<sup>3</sup> "Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body."

<sup>4</sup> See, e.g., Hartz Mountain Industries, Inc. v. New Jersey Sports and Exposition Authority, 369 N.J. Super. 175, 186 (App. Div. 2004)

From speaking with Borough Attorney Subranni on November 6, 2008, I learned that the issue discussed was whether two police officers who attended a PBA convention charged the correct amount of overtime and/or took the proper number of days off for attending that convention.

Again, the matter discussed was whether the actions of two employees were within the terms of their collective bargaining agreement with the Borough. While the conclusions reached from that discussion and Commissioner Stroebele's investigation of the matter may very well lead to the Board wishing to amend and supplement future collective bargaining agreements, the discussion itself was not within the scope of N.J.S.A. 10:4-12(b)(4) or N.J.S.A. 10:4-12(b)(7). Rather, the discussion was more appropriately a "personnel matter" that was exempt from public discussion under N.J.S.A. 10:4-12(b)(8)<sup>5</sup>. Accordingly, the matter and should have been described as such in the Board's N.J.S.A. 10:4-13 resolution. Also, the two employees involved probably ought to have been given a "Rice" notice in accordance with Rice v. Union County Regional High School Teachers Ass'n, 155 N.J. Super. 64, (App.Div.1977), certif. denied, 76 N.J. 238 (1978).

Again, Plaintiff attributes no malice or wrongful conduct toward Custodian and Board. And, Custodian and Board may not necessarily agree that the Open Public Meetings Act requires, as a matter of law, that which is set forth in the Consent Judgment and this Memorandum of Understanding. Rather, both parties recognize that the public benefits from open and transparent government and it is this goal that motivates the parties to enter into this Consent Judgment.

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<sup>5</sup> "Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting."

We hereby agree to the terms of this Memorandum of Understanding.

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John Paff

Subranni Ostrove & Zauber  
Attorneys for defendants Longport Borough  
and Longport Borough Custodian

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John P. Leon, Esq.

*This is an abbreviated version of my civil complaint against seventeen Atlantic County municipalities. It is intended to show only those claims made against the Borough of Longport.*

John Paff  
P.O. Box 5424  
Somerset, NJ 08875-5424  
Tel. 732-873-1251  
Email: paff@pobox.com  
Plaintiff

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JOHN PAFF	:	SUPERIOR COURT OF NEW JERSEY
Plaintiff,	:	LAW DIVISION, CIVIL PART
	:	ATLANTIC COUNTY
vs.	:	DOCKET NO. L -003392-08
	:	
BOROUGH OF LONGPORT et al	:	Civil Action
	:	
Defendants	:	FIRST AMENDED COMPLAINT

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Plaintiff John Paff, by way of complaint against the above named Defendants states as follows:

**General Allegations**

1. Plaintiff John Paff (“Plaintiff”) is an individual who resides in Franklin Township, Somerset County, New Jersey and receives mail at P.O. Box 5424, Somerset, NJ 08875.
2. Defendants **[many, including Longport Borough Custodian]** are each the “custodian of a government record,” as that term is defined by N.J.S.A. 47:1A-1.1, for their respective municipalities and are sued only in their official capacity.
3. Defendants **[many, including Longport Borough Council]** are municipal governing bodies and each is a public body as that term is defined by N.J.S.A. 10:4-8(a).

*This is an abbreviated version of my civil complaint against seventeen Atlantic County municipalities. It is intended to show only those claims made against the Borough of Longport.*

**Sixth Count**

*(Nonexempt portions of nonpublic meetings minutes not promptly available, OPMA, N.J.S.A. 10:4-14)*

4. Plaintiff repeats the allegations stated above as if set forth at length herein.

5. On August 19, 2008, Plaintiff submitted requests to Defendants *[many, including Longport Borough Custodian]*, for, among other records, the “minutes of the [first] two municipal governing body nonpublic sessions” held by their respective municipal governing bodies on or after January 7, 2008.

6. In August 27, 2008 and September 4, 2008 correspondence, Defendant Longport City Custodian informed Plaintiff that Defendant Longport City Council met in nonpublic session on March 19, 2008 and June 18, 2008 but that Plaintiff’s access to the minutes of latter nonpublic meeting would be denied until the “legal matter is resolved.”

**WHEREFORE**, Plaintiff demands judgment:

A. Declaring that Defendants *[many, including Longport Borough Custodian]* violated the Open Public Records Act by not making the nonexempt portions of their governing bodies’ nonpublic meeting minutes available to Plaintiff within seven business days after receiving Plaintiff’s request.

B. Declaring that Defendants *[many, including Longport Borough Council]* violated N.J.S.A. 10:4-14 by not making the nonexempt portions of their governing bodies’ nonpublic meeting minutes “promptly available to the public.”

*This is an abbreviated version of my civil complaint against seventeen Atlantic County municipalities. It is intended to show only those claims made against the Borough of Longport.*

C. Fixing a time, going forward, within which Defendants [*many, including Longport Borough Council*] shall make the nonexempt portions of their governing bodies' nonpublic meeting minutes available to the public.

D. Enjoining Defendants [*many, including Longport Borough Council*] from violating the time period fixed in accordance with ¶ C above.

E. Compelling Defendants [*many, including Longport Borough Council*] to provide Plaintiff with at least redacted versions of the minutes with the scope of Plaintiff's requests.

F. Awarding Plaintiff his costs of suit.

G. Such other relief as the Court deems equitable and just.

### **Seventh Count**

*(Privately discussing matter outside the scope of the N.J.S.A. 10:4-13 resolution)*

7. Plaintiff repeats the allegations stated above as if set forth at length herein.

8. On March 19, 2008, Defendant Longport City Council passed Resolution 2008-23 which authorized a nonpublic session that day where the Council would be privately discussing: "Update on Labor Contract Issues.

9. The minutes of the March 19, 2008 nonpublic meeting, however, revealed that the matters Defendant Longport Borough Council actually discussed were: a) receipt of a ruling on a lifeguard's unemployment claim, and b) that Commissioner Stroebele is pursuing a matter where Longport's delegates to a PBA convention in Atlantic City used five days instead of four days.

10. The Senator Byron M. Baer Open Public Meetings Act does not permit

*This is an abbreviated version of my civil complaint against seventeen Atlantic County municipalities. It is intended to show only those claims made against the Borough of Longport.*

Defendant Longport City Council to discuss these two matters after informing the public only that “update on labor contract issues” were going to be privately discussed.

**WHEREFORE**, Plaintiff demands judgment:

H. Declaring that Defendant Longport City Council violated the Senator Byron M. Baer Open Public Meetings Act by discussing matters during the March 19, 2008 nonpublic meeting which were not within the scope of that meeting’s authorizing resolution.

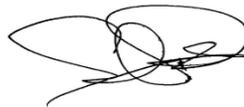
I. Enjoining Defendant Longport City Council, going forward, from discussing matters during nonpublic session unless those matters are identified in the session’s authorizing resolution.

J. Awarding Plaintiff his costs of suit.

K. Such other relief as the Court deems equitable and just.

#### **Certification Of No Other Actions**

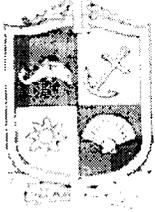
Pursuant to R.4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.



Dated: October 21, 2008

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John Paff  
Plaintiff



State of New Jersey  
**Borough of Longport**  
**GOVERNMENT RECORDS REQUEST FORM**  
**2008**

**Important Notice**

The reverse side of this form contains important information related to your rights concerning government records. Please read it carefully.

**Requestor Information – Please Print**

First Name \_\_\_\_\_ *John T. Paff* \_\_\_\_\_ ne \_\_\_\_\_  
 Company \_\_\_\_\_ *P.O. Box 5424* \_\_\_\_\_  
 Mailing Address \_\_\_\_\_ *Somerset, NJ 08875-5424* \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Email \_\_\_\_\_  
 Business Hours Telephone: Area Code *732* Number *873-1251* Extension \_\_\_\_\_  
 Preferred Delivery: Pick Up \_\_\_\_\_ US Mail *FAX/EMAIL* ~~On Site Inspect~~ \_\_\_\_\_  
**Circle One:** Under penalty of N.J.S.A. 2C:28-3, I certify that I **HAVE / HAVE NOT** been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States. I certify that I am a citizen of the State of New Jersey.  
 Signature \_\_\_\_\_ *[Signature]* Date *8/18/08*

**Payment Information**

Maximum Authorization Cost \$ *125*  
 Select Payment Method  
 Cash \_\_\_\_\_ Check \_\_\_\_\_ Money Order \_\_\_\_\_  
 Fees: Pages 1-10 @\$0.75  
 Pages 11-20 @\$0.50  
 Pages 21 - @\$0.25  
 Additional fees per ordinance 2008-05  
 Delivery: Delivery / postage fees additional depending upon delivery type.  
 Extras: Extraordinary service fees dependent upon request.

**Record Request Information:** To expedite the request, be as specific as possible in describing the records being requested. Also, please include the type of access requested (copying or inspection), and if data, the medium requested.

*See attached*

**AGENCY USE ONLY**

Est. Document Cost \_\_\_\_\_  
 Est. Delivery Cost \_\_\_\_\_  
 Est. Extras Cost \_\_\_\_\_  
 Total Est. Cost \_\_\_\_\_  
 Deposit Amount \_\_\_\_\_  
 Estimated Balance \_\_\_\_\_  
 Deposit Date \_\_\_\_\_

**AGENCY USE ONLY**

**Disposition Notes**  
 Custodian: If any part of request cannot be delivered in seven business days, detail reasons here.  
 In Progress - Open \_\_\_\_\_  
 Denied - Closed \_\_\_\_\_  
 Filled - Closed \_\_\_\_\_  
 Partial - Closed \_\_\_\_\_

**AGENCY USE ONLY**

Tracking Information		Final Cost	
Tracking #	_____	Total	_____
Rec'd Date	_____	Deposit	_____
Ready Date	_____	Balance Due	_____
Total Pages	_____	Balance Paid	_____
Records Provided			
Custodian Signature _____		Date _____	

## **Supplement to John Paff's August 19, 2008 records request to the Borough of Longport**

*(faxed after hours on August 18, 2008 to 609-823-1781)*

### **Records Requested:**

1. Resolutions that, in accordance with N.J.S.A. 10:4-13, authorized the first two nonpublic (i.e. closed or executive sessions) held by the Borough governing body. after January 7, 2008.
2. The resolution that, in accordance with N.J.S.A. 10:4-13, authorized the most recent nonpublic (i.e. closed or executive sessions) held by the Borough governing body.
3. Minutes of the two Borough governing body nonpublic sessions authorized by the resolutions responsive to ¶ 1 above.
4. For each person who served as the Borough's municipal prosecutor during 2007 but who did not file a Financial Disclosure Statement in 2008, I would like the governing body's resolution that appointed each such person to serve as prosecutor during 2007. (Note: I am seeking to identify only those lawyers who both a) served as municipal prosecutor during 2007, and b) did NOT file a Financial Disclosure Statement in 2008. In other words, if all the Borough's municipal prosecutors who served in 2007 filed their 2008 FDS forms, there would be "no documents responsive" to this paragraph of my request.
5. The Internal Affairs Summary Report Forms filed by the Borough's police department for the years 2003 through 2007, inclusive. (see Appendix R at [http://www.state.nj.us/lps/dcj/agguide/internalaffairs2000v1\\_2.pdf](http://www.state.nj.us/lps/dcj/agguide/internalaffairs2000v1_2.pdf))

### **Basis for Request:**

I request the above records in accordance with the Open Public Records Act (OPRA), the Senator Byron M. Baer Open Public Meetings Act and the common law right of access.

### **Requested Medium for Response and for Documents Responsive to Request:**

Please respond to this request in the following order of preference: a) email to [paff@pobox.com](mailto:paff@pobox.com), b) fax to 908-325-0129, c) regular mail to P.O. Box 5424, Somerset, NJ 08875-5424.

Please send the responsive documents to me by whichever of the above stated methods (i.e. a, b, and c in the immediately preceding paragraph) is the least expensive method. If two or more methods tie for the least expensive method, please transmit the documents in accordance with the order of preference set forth in the immediately preceding paragraph



# Borough of Longport

August 27, 2008

Mr. John Paff  
(908) 325-0129  
Response via facsimile  
Re: OPRA request received August 19, 2008

Dear Mr. Paff:

Thank you for your OPRA request regarding executive session resolutions, executive session minutes, municipal prosecutors and police Internal Affairs Summary Report Forms.

Enclosed please find three resolutions in reference to Borough of Longport executive session meetings numbered: R2008-23, R2008-63 and R2008-67. The minutes from executive session 2008-23 are scheduled to be approved at the Sept. 3, Board of Commissioners meeting. Upon approval we will forward a copy of those records to you. Litigation is still ongoing pertaining to executive session minutes for R2008-63 and R2008-67. Once the legal matter is resolved the minutes will be available to the public.

There are no responsive documents to section 4 of your OPRA request.

There are a total of five pages in response to your request for the Internal Affairs Summary Report Forms filed by the Borough of Longport Police Department for years 2003 through 2007.

There are total of eight pages copied for this request, the cost for these copies is \$6.00. Checks can be made to the Borough of Longport and mailed to 2305 Atlantic Avenue, Longport, NJ 08403.

Thank you again for your interest and we will provide copies of the minutes to the executive session meetings as requested as soon as they are available to the public as permitted by law.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Hiltner".

Tom Hiltner, RMC  
Longport Borough Clerk

**BOROUGH OF LONGPORT****RESOLUTION # 2008-23****A RESOLUTION TO AUTHORIZE THE CONVENING OF A CLOSED  
(EXECUTIVE) SESSION**

WHEREAS, it is in the interest of the Borough of Longport to conduct a closed session for the purpose of discussing: UPDATE on LABOR CONTRACT issues.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Longport to convene a closed session for the foregoing purposes; and the minutes of the meeting will be available to the public at such time as the need for confidentiality is no longer needed.

All resolutions or parts of resolutions inconsistent herewith are hereby repealed and this resolution shall take effect immediately.

ADOPTED: MARCH 19, 2008

BOROUGH OF LONGPORT

RESOLUTION # 2008-63

A RESOLUTION TO AUTHORIZE THE CONVENING OF A CLOSED  
(EXECUTIVE) SESSION

WHEREAS, it is in the interest of the Borough of Longport to conduct a closed session for the purpose of discussing: Pending OPRA litigation.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Longport to convene a closed session for the foregoing purposes; and the minutes of the meeting will be available to the public at such time as the need for confidentiality is no longer needed.

All resolutions or parts of resolutions inconsistent herewith are hereby repealed and this resolution shall take effect immediately.

ADOPTED: June 18, 2008

**BOROUGH OF LONGPORT**

**RESOLUTION 2008-67**

**RESOLUTION TO GO INTO EXECUTIVE SESSION  
TO DISCUSS PENDING OPRA LITIGATION**

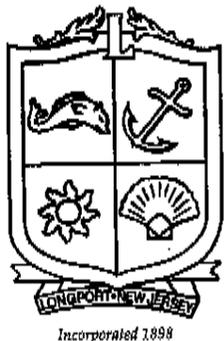
"In accordance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-13, be it resolved that the Longport Board of Commissioners go into closed (executive) session to discuss matters falling within the attorney client privilege, and/or matter in which litigation is pending or anticipated, pursuant to N.J.S.A. 10:4-12(7).

The minutes of such meeting shall remain confidential until after such time as the Board determines that the need of confidentiality no longer exists and provided the matters discussed can be disclosed and the Board waives the attorney-client privilege."

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Longport to convene a closed session for the foregoing purposes; and

All resolutions or parts of resolutions inconsistent herewith are hereby repealed and this resolution shall take effect immediately.

ADOPTED: July 2, 2008



# *Borough of Longport*

September 4, 2008

Mr. John Paff  
(908) 325-0129  
Response via facsimile

Re: OPRA request received August 19, 2008

Dear Mr. Paff:

Please find attached two pages of minutes for the March 19, 2008 Executive Session held by the Longport Board of Commissioners. These were recently approved at a commission meeting held last night. The charge for these two copies is \$1.50.

Also, per your letter to Mayor Nicholas Russo, dated August 28, 2008, please find one document attached addressing your concerns regarding the preparation of the Longport Police Department's Internal Affairs Summary Reports.

Thank you again for your interest and we will provide copies of the minutes to the remaining two executive session meetings, as requested, as soon as they are available to the public as permitted by law.

Sincerely,

Tom Hiltner, RMC  
Longport Borough Clerk

## Minutes from Executive Session of March 19, 2008

5:20 p.m.

Mayor Mary Garvin introduced Resolution #2008-23 to go into executive session to discuss labor contract issues include the lifeguard and police personnel.

### RESOLUTION # 2008-23

#### A RESOLUTION TO AUTHORIZE THE CONVENING OF A CLOSED (EXECUTIVE) SESSION

WHEREAS, it is in the interest of the Borough of Longport to conduct a closed session for the purpose of discussing: UPDATE on LABOR CONTRACT issues.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Borough of Longport to convene a closed session for the foregoing purposes; and the minutes of the meeting will be available to the public at such time as the need for confidentiality is no longer needed.

All resolutions or parts of resolutions inconsistent herewith are hereby repealed and this resolution shall take effect immediately.

Commissioner John Stroebele made a Motion, with a Second by Mayor Garvin to approve Resolution 2008-23 authorizing the convening of an executive session. All in favor – AYE – APPROVED.

Commissioner John Stroebele said that the Borough received a ruling on the lifeguard unemployment claim.

Commissioner Stroebele, Lou McFadden, Esq. and Jenna Kelly appeared at the hearing on behalf of the Borough.

The borough will get a credit for what was overpaid and the State will seek reimbursement from the employee.

There was a second matter, also labor contract related discussed in this executive session. Please see the following page for details.

The second matter discussed in the executive session meeting held on March 19, 2008 involves employees of the Longport Police Department.

A Police Benevolent Association convention was held in Atlantic City – the PBA president and a delegate attended from Longport – the cost was 32 hours in over time – the employees used 5 days – it should have been 4.

Commissioner Stroebele is pursuing this matter.

Closed Executive Session at 6 p.m.

Adjourned regular meeting at 6:01 pm.

**SUBRANNI OSTROVE & ZAUBER, ESQS.**

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Margaret A. Holland\* - *Of Counsel*

*\*Members of NJ and PA Bar*

**FAX TRANSMISSION**

Date: December 3, 2008

To: **John Paff**



Fax No.: 908-325-0129

From: John Leon, Esq.  
Phone: (609) 238-9255  
Fax: (856) 596-6123

Total Number of pages (including this page): 2

**Re: Paff v. Absecon Custodian, et. al.**

**Comments:** I am sending a copy of the July 2, 2008 redacted minutes of the Longport Board of Commissioners nonpublic meeting. I would appreciate it if you would send Judge Perskie an e-mail confirming that your pending motion for partial summary judgment is moot as to the Borough of Longport (with a copy to me).

Thank you.

John Leon

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EXECUTIVE SESSION MEETING MINUTES JULY 2, 2008

BOROUGH OF LONGPORT

EXECUTIVE SESSION TO DISCUSS OPRA LITIGATION, O'BOYLE VS.  
BOROUGH OF LONGPORT

July 2, 2008

ATTENDANCE: Mayor Nicholas Russo, Commissioner Jim Leeds, Commissioner Dan Lawler, Tom Subranni, Esq., Mike Barker, Esq., and Joe Scott, Esq.

\_\_\_\_\_  
Mayor Nicholas Russo

\_\_\_\_\_  
Commissioner James P. Leeds, Sr.

\_\_\_\_\_  
Commissioner Daniel Lawler

\_\_\_\_\_  
Borough Clerk Thomas Hiltner, RMC