

EASTAMPTON TOWNSHIP COUNCIL

REGULAR SESSION MINUTES

September 27, 2010

7:30 p.m.

Mayor Springer called the meeting to order at 7:30 p.m.

Mayor Springer certified that the meeting was published in the Burlington County Times on January 8, 2010. Notice was posted on the Municipal Bulletin Board. All requirements of the "Open Public Meetings Act" were satisfied.

Present were: Mayor Jay Springer, Deputy Mayor Louise Campbell, Council Member Joseph Maroccia, Council Member Keith Nagler, and Council Member Walter Tafe. Also present were: Township Attorney Eileen Fahey, Municipal Clerk Kim-Marie White and Township Manager Scott Carew.

PUBLIC COMMENT:

Peter Ulyett, 19 Chelsea Road said he was at the July 26, 2010 Council meeting and raised a concern regarding why his OPRA request for closed session minutes was denied. He stated that Township Attorney Fahey said she would get back to him because the topics still could be in litigation. Since that date a series of letters have been written by him and Ms. Fahey. Mr. Ulyett asked that these letters be a part of the permanent meeting minutes.

Township Attorney Fahey said that the form she uses for closed session is almost the same as what he submitted in the September 2, 2010 letter.

Township Clerk White said the day after the meeting the closed session resolution could be provided to him if he requests it.

Township Attorney Fahey said the original request for the closed session minutes was denied until she could review them; upon review she saw there were no remaining issues which would keep the minutes from being distributed.

Mr. Ulyett said at a previous meeting a resident asked if the 35 acres of land on Woodlane Road was deed restricted.

Township Attorney said there are two issues; there is a deed restriction and an encumbrance on that property. Ms. Fahey said she would be more than happy to sit down with him again and go over it.

PRESENTATION:

- Deputy Mayor Campbell Recognition of Mr. Leon Jones (Donated tile for Mosaic)

Deputy Mayor Campbell gave Mr. Leon Jones framed pictures of the mosaic and cards from the children of the Summer Park Program thanking him for the donated tile.

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- Redevelopment Proposal for the Waste Management Landfill

Mr. Bernardi gave a presentation for the landfill to Mayor and Council; his intent is to put solar panels on the site.

- Fraternal Order of Police Lodge #146 Concession Proposal

Sgt. Iacovitti said the proposed concession would change the rotation schedule while still providing the required coverage. Reducing the need for overtime by fifty percent, but would not eliminate overtime. The amended concession proposal would expire on December 31, 2011.

All of Council commended the FOP for its concessions to help the Township in this time of need for the second year in a row.

TOWNSHIP MANAGER'S REPORT:

Township Manager Carew said lightening hit the building during the storm it is going to cost a lot to repair the equipment that was damaged.

Township Manager Carew said they are switching to Verizon for cell phone service; the savings would be approximately \$200-\$300 a month. Everyone will have "push to talk" capabilities.

Township Manager Carew said he met with the Township Engineer and discussed the 35 acres on Woodlane Road. There are wetlands that cross through the property and the likelihood of something being developed probably would not happen since a bridge would need to be built. A park would be suitable back there if the church would give the Township access through their parking lot. Mr. Carew said he would like to take the 18 acres and put them back into open space. The Township would be left with 17 acres on Woodlane Road.

Township Manager Carew and all of Council congratulated Township Clerk Kim White for receiving her designation of a Certified Municipal Clerk.

APPROVAL OF MINUTES:

September 12, 2010

It was MOVED by NAGLER and seconded by MAROCCIA that the September 12, 2010 minutes be approved.

ROLL CALL: Ayes - Maroccia, Nagler, Tafe, Springer

Nays - None

Abstain - Campbell

There being four (4) ayes and one (1) abstention the September 12, 2010 minutes were approved.

RESOLUTIONS:

Resolution R2010-76

Appointing Sussex Real Estate Services, LLC as Redeveloper for the Redevelopment Area Located at Block 1400, Lot 25, Block 1401, Lots 1, 1.02, 2, 3, 4 and 18 and Block 1402, Lot 4 with the Township of Eastampton

It was MOVED by TAFE and seconded by NAGLER to approve Resolution R2010-76.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

There being five (5) ayes and no nays, Resolution R2010-76 was approved.

Resolution R2010-77

Authorizing Execution of Contract Amendment with the Eastampton Police Lodge #146

It was MOVED by TAFE and seconded by NAGLER to approve Resolution R2010-77 adding a number fifteen in the proposed amendment to say during the duration of this amendment, the police personnel would not exceed fourteen full time police officers.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

There being five (5) ayes and no nays, Resolution R2010-76 was approved adding a number fifteen in the proposed amendment to say during the duration of this amendment, the police personnel would not exceed fourteen full time police officers.

Resolution R2010-78

Authorizing the Township of Eastampton to participate in the Joint Purchasing Agreement with MRTTS

It was MOVED by NAGLER and seconded by CAMPBELL to approve Resolution R2010-78.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

There being five (5) ayes and no nays, Resolution R2010-78 was approved.

Resolution R2010-79

Award of Contract with Regan Young England and Butera for Manor House Restroom Renovations

It was MOVED by MAROCCIA and seconded by NAGLER to approve Resolution R2010-79.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

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There being five (5) ayes and no nays, Resolution R2010-79 was approved.

Resolution R2010-80 Issuance of Bond Anticipation Note in the Amount of Two Hundred Sixty-Three Thousand One Hundred Fifty Dollars (\$263,150.00) with Respect to the Purchase of Road Improvements, the Purchase of a Dump Truck, Computers, Office Equipment, and Maintenance Repairs by the Township of Eastampton as Authorized by Bond Ordinance No. 2010-15

It was MOVED by NAGLER and seconded by TAFE to approve Resolution R2010-80.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

There being five (5) ayes and no nays, Resolution R2010-80 was approved.

Resolution R2010-81 Authorize Executive Session Pursuant To N.J.S.A. 10:4-12 (Matters Relating to Litigation, Negotiation and the Attorney – Client Privilege and Matters involving Personal Privacy with respect to the Felenzak litigation and related investigations and Matters Relating to Collective Bargaining Agreements with respect to agreement with Eastampton Lodge #146.)

It was MOVED by NAGLER and seconded by CAMPBELL to approve Resolution R2010-81.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

There being five (5) ayes and no nays, Resolution R2010-81 was approved.

ACCEPTANCE OF REPORTS:

- Construction
- Police (July and August)
- Tax Collector
- Treasurer
- Westampton Court

It was MOVED by NAGLER and seconded by CAMPBELL to approve the Construction, Police (July and August), Tax Collector, Treasurer and Westampton Court reports.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

There being five (5) ayes and no nays, the monthly reports for the Construction, Police (July and August), Tax Collector, Treasurer and Westampton Court were approved.

APPROVAL OF BILLS:

It was MOVED by NAGLER and seconded by CAMPBELL that the September 23, 2010 bill list be approved.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

There being five (5) ayes and no nays, the bills dated September 23, 2010 were approved.

NEW BUSINESS:

- Municipal Park Grant Program

Township Manager Carew said he has a meeting scheduled with the Township Engineer to discuss the grant opportunity for the park.

Township Manager Carew said he may have a potential buyer for the Gsell warehouse. A Printing company from Robbinsville is interested in the site and they would be going before the Land Use Planning Board next month.

OLD BUSINESS:

- Recycling Depot (tires)

Councilman Tafe said he has someone who would take the tires for free, but the Township would have to deliver the tires to him.

Mayor Springer said he knows an Eagle Scout who is working on a project of collecting old tattered flags. The Eagle Scout could provide a box or a container at the Manor House.

- Best Practices Deadline (October 1)

Township Manager Carew said the Best Practices Initiative would be submitted on time.

STAFF AND PROFESSIONAL COMMENTS:

Township Attorney Fahey congratulated Township Clerk White on her Certified Municipal Clerk designation.

Township Manager Carew and Council congratulated Deputy Mayor Campbell on a fantastic Fun Day.

Township Clerk White said she would not be at the next Council meeting because she is on vacation.

Councilman Tafe said he would not be at the next Council meeting because he is on vacation.

Deputy Mayor Campbell thanked everyone involved with the Fun Day preparations and all of the

help she received on Fun Day.

PUBLIC COMMENT:

Leon Jones, 4 Worchester Court, said he noticed some of the dead trees were taken down in the park and thanked Township Manager Carew for addressing his concern. He said his wife and grandkids had a great time at fun day. He also asked if Council had taken action on the Responsible Contractor ordinance. Mayor Springer indicated that Council did not take action.

It was MOVED by NAGLER and seconded by MAROCCIA to go into closed session at 9:45 p.m.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

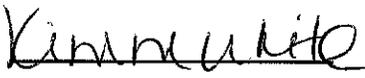
There being five (5) ayes and no nays, the motion passed to adjourn the meeting and proceed into closed session.

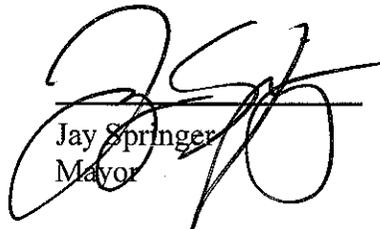
The Township Council came out of closed session at 10:25 p.m. and took action on Resolution R2010-77.

It was MOVED by NAGLER and seconded by CAMPBELL to adjourn meeting at 10:30 p.m.

ROLL CALL: Ayes - Campbell, Maroccia, Nagler, Tafe, Springer
Nays - None

There being five (5) ayes and no nays, the motion passed to adjourn the meeting.


Kim-Marie White
Municipal Clerk


Jay Springer
Mayor

Approved: November 8, 2010

EILEEN K. FAHEY, ESQUIRE
Attorney At Law
7A North Main Street
Post Office Box 212
Medford, New Jersey 08055

Telephone: (609) 654-9629

Fax: (609) 654-1648

August 18, 2010

Peter Ulyett
19 Chelsea Road
Eastampton, New Jersey 08060

Re: OPRA Request

Dear Mr. Ulyett:

In response to your questions raised at the last Township Council meeting regarding your most recent OPRA request, when you made your request last Fall, the Township Clerk called me and I asked if the Closed Session minutes you requested had been released by the prior the Township Clerk. When she advised me that they had not, I told her the minutes should not be made available for distribution.

When you renewed your request, I asked to review the minutes and saw that there were no remaining issues which kept the minutes from being distributed. Apparently, these minutes had not been subject to the prior Clerk's periodic review for release. Upon confirmation that the minutes could be released, you were provided with a copy of the minutes.

You are correct that there was a delay in providing you with material that should have been released. But this delay was not the result of any intentional action to deny you access to the records.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,


EILEEN K. FAHEY

EKF:pah

cc:- Scott Carew, Township Manager
Kim-Marie White, Township Clerk

19 Chelsea Road
Eastampton, NJ 08060
September 2, 2010

Mayor Springer and Members of the Council
Township of Eastampton
12 Manor House Court
Eastampton, NJ 08060

Dear Mayor Springer and Council Members:

I am writing to you to address my concern that Eastampton Township may be in violation of the Open Public Meeting and Open Public Records Acts with regard to the manner in which the Township goes to closed session (per my comments at the July, 26th Township Council meeting).

This issue is very relevant to me since, in response to an OPRA request I made for information discussed in closed session, I was told I have to provide a timeframe when the matter was discussed. This was asking the impossible of me, as the Township only loosely described matters discussed in closed session with terms such as "items of litigation".

The Senator Byron M. Baer Open Public Meetings Act requires a public body, such as Eastampton Township Council, to publicly pass a resolution before excluding the public from a meeting. The statute requires the resolution states:

N.J.S.A. 10:4-13—Closed meetings; resolution to conduct.

No public body shall exclude the public from any meeting to discuss any matter described in subsection 7. b. (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.

While reviewing Eastampton Township Council meeting minutes, I noticed the following resolutions to authorize closed session meetings:

3-22-10. *It was MOVED by NAGLER and seconded by MAROCCIA to adjourn meeting at 10:05 p.m. and go into closed session.*

12-14-09. *Township Council went into closed session which was motioned by Maroccia and second by Tafe at 9:09 p.m.*

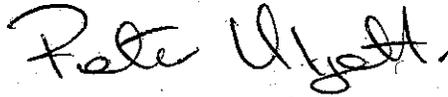
I don't think that this form of resolution satisfies N.J.S.A. 10:4-13 because it gives the public no sense of what is being discussed privately.

In response to this issue, John Paff (Chair New Jersey Libertarian Party's Open Government Advocacy Project) has provided a "model resolution" and "model content" (attached) which I ask Council to consider adopting going forward. Will Council use this format, or will it otherwise provide the level of detail required by law regarding matters discussed in closed session?

I look forward to hearing from you on the changes you will make in response to this letter and how you will inform Eastampton residents of the issues discussed in the closed sessions I have cited in this letter.

I thank you very much for your attention to this matter and look forward to your response.

Sincerely,

A handwritten signature in cursive script that reads "Peter Ulyett".

Peter Ulyett

CC. John Paff (email)

EASTAMPTON TOWNSHIP COUNCIL
RESOLUTION NO. _____ AUTHORIZING CLOSED SESSION

WHEREAS, while the Sen. Byron M. Baer Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) requires all meetings of Eastampton Township Council to be held in public, N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in "Executive Session," i.e., without the public being permitted to attend, and

WHEREAS, Eastampton Township Council has determined that _____ (insert number) issues are permitted by N.J.S.A. 10:4-12(b) to be discussed without the public in attendance shall be discussed during an Executive Session to be held on _____, 20____ at _____ P.M, and

WHEREAS, the nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b) are listed below, and next to each exception is a box within which the number of issues to be privately discussed that fall within that exception shall be written, and after each exception is a space where additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

(1) Any matter which, by express provision of Federal law, State statute or rule of court shall be rendered confidential or excluded from public discussion." The legal citation to the provision(s) at issue is: _____ and the nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

(2) Any matter in which the release of information would impair a right to receive funds from the federal government." The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

(3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly." The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

(4) Any collective bargaining agreement, or the terms and conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body" The collective bargaining contract(s) discussed are between the Council and _____;

(5) Any matter involving the purchase lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed." The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

(6) Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law." The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

(7) Any pending or anticipated litigation or contract negotiation 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." The parties to and docket numbers of each item of litigation and/or the parties to each contract discussed are _____

_____ and nature of the discussion, described as specifically as possible without undermining the need for confidentiality is _____

(8) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, 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 individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting." Subject to the balancing of the public's interest and the employee's privacy rights under South Jersey Publishing Co. v. New Jersey Expressway Authority, 124 N.J. 478, the employee(s) and nature of the discussion, described as specifically as possible without undermining the need for confidentiality are _____

(9) Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act of omission for which the responding party bears responsibility." The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____

WHEREAS, the length of the Executive Session is estimated to be _____ minutes after which the public meeting of the Council shall (circle one) reconvene and immediately adjourn or reconvene and proceed with business.

NOW, THEREFORE, BE IT RESOLVED that Eastampton Township Council will go into Closed Session for **only** the above stated reasons;

BE IT FURTHER RESOLVED that the Council hereby declares that its discussion of the aforementioned subject(s) will be made public at a time when the public's interest in disclosure is greater than any privacy or governmental interest being protected from disclosure. For each of the above items, the estimated date by which such disclosure can be made and/or the occurrence that needs to take place before disclosure can be made are listed below (attach separate sheet if necessary)

Subject of Discussion	Estimated Date	Necessary Occurrence

BE IT FURTHER RESOLVED that the Clerk, at the present public meeting, shall read aloud enough of this resolution so that members of the public in attendance can understand, as precisely as possible, the nature of the matters that will privately discussed.

BE IT FURTHER RESOLVED that the Clerk, on the next business day following this meeting, shall furnish a copy of this resolution to any member of the public who requests one at the fees allowed by N.J.S.A. 47:1A-1 et seq.

Mayor

I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF THE RESOLUTION APPROVED BY THE EASTAMPTON TOWNSHIP COUNCIL AT ITS PUBLIC MEETING HELD ON _____ 20__.

Clerk _____

To paraphrase the highest court of another state, a body which only announces "legal matters" or "personnel negotiations" before going into executive session has said nothing. It might as well have stated to the audience, "Ladies and gentlemen, we are going into executive session," and stopped there. *Hinds County Board of Supervisors v. Common Cause of Mississippi*, 551 So.2d 107, 114 (MS 1989).

There, of course, can be no dispute that the Township Council often has legitimate reasons to meet in nonpublic session. Among these reasons is the need to prevent the adverse parties in litigation or contract negotiations from gaining an unfair advantage and to allow members of the governing body to debate and deliberate personnel matters without public scrutiny or participation. But, the need to discuss matters privately should not prevent the public from being informed, as precisely as possible, of the topics that are being privately discussed.

For example, suppose that Eastampton Township is being sued by a Mr. Jones who was injured after he slipped and fell on what he claims to be negligently maintained municipal property. Since the lawsuit is already a public record, there is no public purpose served by vaguely describing a private discussion of it as a discussion involving "legal and personnel matters." Rather, the resolution should at the very least describe the private discussion as "Discussion of slip and fall negligence suit, Jones v. Eastampton Township docket No. BER-L-012345-10." This way, the public has a very good sense of what the Council's private discussion is about, while the ability of the Council to develop its lawsuit strategy is not undermined.

Using the same example, suppose that Jones' attorney sent the Township's attorney an offer to fully settle the lawsuit upon the Township's payment of \$20,000. While the Council would obviously not discuss their response to the offer in public session, lest Jones or his attorney are in the audience witnessing the discussion, there is no reason why the public cannot be informed in the N.J.S.A. 10:4-13 resolution that the Council will meet in private to discuss "a settlement offer received from the Plaintiff in the slip and fall negligence suit known as Jones v. Eastampton Township, Docket No. BER-L-012345-10, in which the Plaintiff offers to settle the suit in exchange for the Township paying him \$20,000." While it may initially seem that this would provide "too much" information to the public, this concern disappears once it is realized that the sole purpose of the exception that allows litigation matters to be discussed in private is to keep the adverse party to the litigation in the dark regarding the Township's position. Since, in this example, the adverse party (i.e., Jones) already knows that he offered to settle the lawsuit for \$20,000, there is no legitimate reason why the public should not also know of the tendered settlement offer.

As another example, suppose that a personnel matter, such as whether or not a Mrs. Smith, a public works employee, should be disciplined because of repeatedly arriving late to work, is to be discussed in closed session. In such a case, the amount of detail set forth in the N.J.S.A. 10:4-13 resolution should correspond to the amount of detail that the Council and its attorney predict will be publicly disclosed in the closed meeting's minutes, when those minutes are made public.

The standard that the Council is to use when determining how much information about a personnel matter is to be disclosed in the closed session's minutes is set forth in *South Jersey Publishing Company, Inc. v. New Jersey Expressway Authority*, 124 N.J. 478 (1991). That standard is that a) the public needs information if it is to properly fulfill its role of evaluating the wisdom of governmental action or a decision not to act, b) New Jersey's strong public policy requires that a public body's actions and decisions to not act be disclosed in the body's closed meeting minutes along with sufficient facts and information to permit the public to understand and appraise the reasonableness of the body's determination, and c) to the extent a cognizable privacy interest may be compromised by the required disclosure, the extent of disclosure may be modified through redactions of the minutes, provided the public interest in disclosure is not subverted.

Thus, regardless of whether the Council disciplines Ms. Smith or chooses to not impose discipline due to her lateness, the outcome should be recorded in the closed meeting minutes. The question of whether that entry in the minutes should be redacted before the minutes are made public requires a balancing of Ms. Smith's interest in keeping the disciplinary matter private against the public's interest in effectively monitoring the Council. If the Council, with counsel's advice, determines after balancing these interests that the outcome will be published unredacted in the closed session's minutes (i.e., if the minutes will disclose to the public, e.g., that "Ms. Smith was suspended for three days on account of her habitual lateness"), then the exact nature of the matter (i.e., that "the Council will discuss disciplining Ms. Smith for excessive lateness") should be set forth in the closed meeting's N.J.S.A. 10:4-13 resolution. Inversely, if the Council determines that Ms. Smith's privacy interest exceeds the public's right to know, then less information (e.g., "the Council will discuss disciplining an employee for excessive lateness") should be set forth in the closed meeting's N.J.S.A. 10:4-13 resolution.

In other words, if the officer or employee being discussed doesn't have a privacy interest sufficient to withstand a citizen's request for the executive session minutes, why should the public not know the topic of the executive session prior to it occurring?

19 Chelsea Road
Eastampton, NJ 08060
September 9, 2010

Ms. Eileen Fahey, Esq.
7A North Main Street
P.O. Box 212
Medford, NJ 08055

Dear Ms. Fahey:

Thank you for your letter of August 18, 2010 in response to the questions I raised at the July 26 Township Council meeting. However, I feel you did not address my questions. Your response addresses "a delay" in providing me with a government record I requested through the Open Public Records Act. My concerns have nothing to do with a delay but with:

1. The fact that Eastampton Township may have violated the law in denying my October 16, 2009 request for the March 22, 2004 closed session meeting minutes,
2. Why the following was discussed in closed session and not in public session:

"Mr. Czerniecki reported he received a letter from Tom Carroll stating the property purchased from Daniel Solonndz is deed restricted open space. Mr. Czerniecki stated he believes golf course is a permitted use for open space. Ms. Fahey advised Township Council on how best to respond to Mr. Carroll. Township Council indicated they prefer not to respond. A discussion ensued regarding a redevelopment proposal and setting up a sub committee to handle the matter, obtaining clarification from Green Acres regarding a golf course with clubhouse and parking," and

3. The fact that my OPRA request was denied by the township since *"the closed session minutes have not been released yet according to the clerk's records"* as *"the matter they discussed is not resolved"*. What was the issue that was not resolved and what was the eventual resolution?

Also, I consider the basis of the township's decision to deny my request to be of great concern. To base the decision on a memorandum dated July 8, 2004 from the then township clerk, Ms. Jones (who left the employ of Eastampton Township approximately five years ago) is, in my opinion, incompetent, shows little regard or understanding of the Open Public Records Act, and is disrespectful to the Eastampton taxpayer. Had I decided to sue the township for these minutes, by virtue of your statement *"materials that should have been released"*, I have no doubt any court would have released them to me. This would have had a significant financial impact on the Eastampton taxpayer, since under the Open Public Records Act, the township would have been responsible for all legal fees.

Finally, I disagree with your statement, *"this delay was not the result of any intentional action to deny you access to the record"* - - clearly, the action of denying my request was intentional.

I look forward to your response on the above issues.

Sincerely,

Peter Ulyett

CC. Mayor Springer and Council Members
Township Secretary Kim White, Township Manager Scott Carew
John Paff, Chair, NJ Libertarian Party, Open Government Advocacy Project