

April 5, 2021

Local Finance Board, Division of Local Government Services
NJ Department of Community Affairs
101 South Broad Street, PO-803
Trenton, NJ 08625-0803
ATTN: Ms. Patricia Parkin McNamara, Executive Secretary

Dear Members of the State Local Finance Board:

This letter is to serve as a signed, written complaint regarding comments and actions on January 26, 2021 by Brian C. Wahler, Mayor of the Township of Piscataway, while acting in his official capacity, that violate New Jersey's Local Government Ethics Law and Code of Ethics, N.J.S.A. 40A:9-22.1 et seq. and N.J.A.C. 5:35-1.1 et seq. Specifically, we believe he has violated 40A:9-22.5:c, which states that "no local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others."

We ask the State Local Finance Board to consider this electronically and hand-signed written complaint because the Township's Board of Ethics is not in compliance with the law and does not appear to be active. According to publicly available documents, Piscataway's Board has only four appointees instead of legally required six members [Exhibit Aⁱ]. It is unclear whether these four members are residents of the Township, as required by the law, nor is there any public indication that this group of four appointees meets the bipartisan appointment threshold required by the law. The publicly available information provided about the Board does not indicate which members are designated to represent the public, as required.

Further, none of the members are identified as the Chair of the Board, there is no address provided for any member of the public to send a written complaint to the Chair of the Ethics Board, nor is there any other publicly available method for concerned residents to engage with the municipal Board. Given that the municipal Board does not appear to be properly constituted, its members not properly and publicly identified and it does not appear to be active, this complaint is being sent to the State Local Finance Board for immediate action. We affirm that there is no pending litigation in this matter.

Additionally, we request that State Local Finance Board member Theodore Light recuse himself from this matter. He is the Chair of the Piscataway Democratic Organization of which Mr. Wahler is a prominent member [Exhibit Bⁱⁱ]. Mr. Wahler has been endorsed by PDO and by Mr. Light personally. Given Mr. Light's longstanding political support of Mr. Wahler and other ad hominem attacks that are similar to the ones under review here, Mr. Light cannot reasonably be expected to render an impartial decision in this particular matter [Exhibit Cⁱⁱⁱ].

We thus ask the State Local Finance Board to investigate the violation of the law and administrative code that occurred when Mr. Wahler used his official position during the Township Council meeting to target an individual member of the community participating in the democratic process and to send a chilling message to others who might consider doing the same. On January 26, 2021, while the meeting was ongoing but outside of any previously noticed agenda item, Mr. Wahler asked Council President Kapil Shah for permission to speak. Mr. Wahler then engaged in a hostile, personal attack on Piscataway resident and Democratic Committee member Staci Berger, stating during the meeting that:

*For lack of a better word, it appears Groundhog Day has come early to Piscataway. Um, like clockwork, again it's Staci Berger. Unnecessary complaints, phony problems, she's even, listen to this, on Thursday, **she's gonna hold the Zoning Board hostage...**" [Exhibit D^{iv}, AUDIO: <https://youtu.be/EajxjeoBYrY>].*

Many of us were planning to and encouraging other residents to participate in the January 28, 2021 hearing being conducted by the Zoning Board regarding a land use variance request. We were shocked and dismayed by Mr. Wahler's description of public participation in the democratic process. In the aftermath of the most violent attack on our Capitol in nearly 200 years, it is grossly irresponsible for Mr. Wahler to use incendiary rhetoric like "hostage taking" to describe people mobilizing and planning to attend a public meeting. Ms. Berger has publicly asked for an apology from Mr. Wahler for herself and the public at large. Mr. Wahler has not apologized privately or publicly to date, and thus, we seek accountability for Mr. Wahler's actions.

First, Mr. Wahler's words and actions fly directly in the face of the legislative findings that established the Code of Ethics [Exhibit E^v], which state:

- a. Public office and employment are a public trust;
- b. The vitality and stability of representative democracy depend upon the public's confidence in the integrity of its elected and appointed representatives;
- c. Whenever the public perceives a conflict between the private interests and the public duties of a government officer or employee, that confidence is imperiled;

While New Jersey's ethics rules have been primarily used to address instances of personal financial privileges or advantages secured by public officials, the legislative intent and the language of the governing statutes and rules do not explicitly limit their application. Instead, as noted above, the Code is intended to encourage the public's confidence in its elected officials and their appropriate use of their position. In this case, Mr. Wahler not did reap a direct financial benefit from this behavior, he enjoyed an advantage nonetheless: being able to use his position to attack political opponents. Acting in his official capacity as Mayor during a public meeting of the Township Council, Mr. Wahler's words matter [Exhibit F^v].

During elections and even during heated issue discussions, some back and forth is expected among and between parties. However, Mr. Wahler has repeatedly used his official position, after the close of official business of the approved agenda at Council meetings, to single out and disparage Ms. Berger. This is not the first, or even the second time, Mr. Wahler has used his personal privilege to attack Ms. Berger and other members of the public in his official role as Mayor, during a public meeting of the Township Council. On multiple previous occasions (including February 6, 2018; December 4, 2018; October 15, 2019; and December 10, 2019), Mr. Wahler has made remarks from the dais in his official capacity, after the close of the Council's public comment period, publicly disparaging Ms. Berger.

Mr. Wahler's repeated attacks on Ms. Berger are intended to damage her credibility on issues of import to the community and improve Mr. Wahler's own standing among the public. This is the first instance, however, where Mr. Wahler has used his privilege as Mayor to make unfounded accusations of possible political violence against a duly elected member of the Democratic Committee with whom he has policy disagreements. Given the escalating hostility and inflammatory nature of Mr. Wahler's comments, this pattern of behavior can no longer be ignored.

Second, Mr. Wahler demonstrated his disdain for the members of the public, their participation in the democratic process and New Jersey's public meeting law itself. In N.J.S.A. 10:4-6, the Senator Byron M. Baer Open Public Meetings Act ("OPMA" and "the Sunshine Law"), the New Jersey 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 [Exhibit G^{vii}]...

The January 26, 2021 Council meeting in which this ethics code violation occurred and the January 28, 2021 Zoning Board meetings, are both governed by OPMA. Both meetings have a public comment section set aside for organized and meaningful public participation. Yet, Mr. Wahler disparaged the lawful and time honored tradition as "taking hostages." **He used his official position during a public meeting to discourage public participation in the very process that the Code of Ethics and OPMA were intended to encourage.** In doing so, he attacked the idea of democratic participation itself, in direct contradiction to the findings in the Code of Ethics and OPMA.

Finally, Mr. Wahler's remarks were not only intended for Ms. Berger. They were intended to intimidate other people from standing up for themselves and to discourage anyone from speaking up about any issue. They are a signal to Piscataway residents who speak up during a lawfully allowed public comment portion of an OPMA compliant meeting that Mr. Wahler will make a public example out of them. It sends a chilling effect to the rest of the community, at a time when our nation and every community should be engaged in a constructive dialogue. Instead of welcoming a robust discussion, Mr. Wahler belittled himself and the office he holds by using his bully pulpit to be an actual bully.

Mr. Wahler's unethical use of his position did not go unnoticed by the public. In fact, one resident wrote to the Council following Mr. Wahler's remarks, and a copy of his comments were read during the public comment portion at the next Council meeting. He stated that he felt the "*...exchange in public comment [was] a means to shutdown voice as oppose to genuinely understand public concern...*" (emphasis added, February 9, 2021). Other members of the public in attendance at the January 26, 2021 meeting wrote to Ms. Berger. One note simply said, "Wow. It's not every day I hear an elected official call someone out during a public meeting!"

In addition to dampening the spirit of the Sunshine Act, Mr. Wahler's remarks and actions stand in stark contrast to the advice provided to local elected officials in his capacity by the New Jersey League of Municipalities ("the League"). The League, the statewide organization that provides training for and advocacy on behalf of local officials, encourages elected officials to refrain from engaging in personal attacks and urges them to promote civility between parties, even during hotly contested discussions. The League expressly encourages officials to lead by example and show good judgement [Exhibit H^{viii}]. Despite being a former President of the League, Mr. Wahler seems unaware of these recommendations as his behavior on January 26, 2021 did neither.

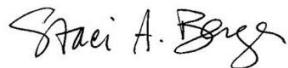
Now, more than ever, New Jersey needs to strengthen the public's confidence in our elected representatives and our democracy itself. Public officials like Mr. Wahler cannot use the privilege of their office to say whatever they please or hide behind a veil of semantics. The world has seen how dangerous this behavior can get, if unchecked. As Americans around the nation work to restore and bolster our democratic institutions after January 6, 2021, Piscataway residents should be encouraged to

participate in public meetings and in the decisions that affect their lives. Our officials should not be able use the privilege of their office to attack individuals who are participating in the democratic process and to promote their own agenda.

Mr. Wahler's reprehensible behavior on January 26, 2021 violates the spirit of the Open Public Meetings Act as well as the letter of New Jersey's Code of Ethics, and impacts all of us as residents of Piscataway. We respectfully request the State Local Finance Board investigate this matter and hold Mr. Wahler accountable for his actions without delay. Due to the ongoing pandemic, we are submitting this letter and links to all supporting materials electronically to the Secretary of the Board, and mailing hard copies of the letter, with hyperlinks for the exhibits, to the members listed on the state website. If additional hard copies of the exhibits are requested, please advise us. We happy to answer any questions and/or provide additional materials should the Board find that helpful. Thank you for your immediate attention to this matter.

Very truly yours,

Juliet Pastras, 9 Juniper Lane, Piscataway, NJ 08854;
Syed Shoaib, 240 Hampshire Ct., Piscataway, NJ 08854;
Reese Garcia, 80 Kossuth Street, Piscataway, NJ 08854;
Ann Bastian, 113 Fountain Ave., Piscataway, NJ 08854;
Quiyana Butler, 44 Lincoln Ave., Piscataway, NJ 08854;
Herb Tarbous, 411 New Market Rd., Piscataway, NJ 08854;
Laura Leibowitz, 102 S. Stratton St., Piscataway, NJ 08854;
Kamuela Tillman, 280 River Rd, #86B, Piscataway, NJ 08854;
Mindy Goldstein Walsh, 200 8th St., Piscataway, NJ 08854;
William Irwin, 233 Ellis Parkway, Piscataway, NJ 08854;
Darshni Patel, c/o 10450 Breckinridge Lane, Fairfax, VA, 22030; and



Staci A. Berger, 233 Ellis Parkway, Piscataway, NJ 08854, staciberger1@gmail.com

C: Members of the State Local Finance Board, by U.S. Mail,
https://www.nj.gov/dca/divisions/dlgs/programs/lfb_docs/lfbmembs.pdf

ⁱ **Exhibit A**, Piscataway Township Board of Ethics, Publicly Listed Members of the Township Board of Ethics," <https://cms9files.revize.com/piscatawaynj/Boards%20&%20Commissions%202021.pdf>;

Date Stamped Screenshot available

ⁱⁱ **Exhibit B**, "Piscataway Democratic Organization," <https://www.piscatawaydemocrats.org/about>

ⁱⁱⁱ **Exhibit C**, "Theodore "Ted" Light Letter re: Democratic Primary, June 2019," <https://tinyurl.com/lightletter2019>.
Also of note, Mr. Light's voter registration and public address for his role on the Board is listed as 37 Lackland Ave., Piscataway, NJ. However, he has submitted campaign contribution reports to the Election Law Enforcement Commission showing his address as 3400 Jefferson Avenue, Toms River, NJ. It is unclear where he resides and whether his participation on the State Local Finance Board is appropriate, if he is voting in one location but presenting his domicile as another.

^{iv} **Exhibit D**, “Township of Piscataway Council Meeting, January, 26, 2021, Public Recording”
<https://youtu.be/EajxjeoBYrY>

^v **Exhibit E**, “NJ Local Government Ethics Law and Code of Ethics,” pp 1-
https://www.nj.gov/dca/divisions/dlgs/programs/ethics_docs/Local%20Government%20Ethics%20Law%20and%20Rules.pdf

^{vi} **Exhibit F**: Mr. Wahler himself acknowledged this on January 12, 2021 when he championed [a municipal resolution calling for the removal of former President Trump](#). It is public knowledge that Mr. Trump did not go to the Capitol himself; his hateful rhetoric and words incited other people to act. Mr. Wahler may make an argument that “he didn’t mean it that way” or “he wasn’t being serious” but these are exactly the semantic arguments Mr. Trump used to gaslight the world for more than four years. Mr. Wahler has publicly committed himself to the idea that words cannot be simply brushed off as descriptive. In addition to contradicting his own public arguments about others, Mr. Wahler’s behavior flies in the face of the kind of ethical behavior the New Jersey Legislature set forth in the Code of Ethics, undermining the public trust in public officials and diminishing the vitality and stability of our democracy.

^{vii} **Exhibit G**, “NJ’s Open Public Meeting Act, aka *The Sunshine Law*,” pp 1-19
<https://www.njlm.org/DocumentCenter/View/520/The-Open-Public-Meetings-Act-PDF?bidId=>

^{viii} **Exhibit H**, “NJ State League of Municipalities, *Civility at Council Meetings – Seven Rules for the Gatekeepers*” pp 20-21 <https://www.njlm.org/DocumentCenter/View/520/The-Open-Public-Meetings-Act-PDF?bidId=>