

Recently inaccurate and at times scurrilous information has been promulgated by various individuals regards what is commonly referred to as the “Sunshine Law”. False representations have been made as to specific lawful actions taken by the Berkeley Heights governing body.

The Township of Berkeley Heights is one of the most transparent and public friendly municipalities in the State. Not only is the Township in full compliance with all laws, but goes above and beyond the minimum legal requirements in order to ascertain the public’s input and discussion on all matters of the Township. There is a small group of individuals who are spreading misinformation regarding the Township’s transparency and claim the Township’s public bodies are conducting secret meetings in violation of the law. This is simply not true. The following outlines the legal requirements for public meetings and explains how the Township meets, and in fact, exceeds the minimum obligations, allowing for more public access and input than most other municipalities.

Generally, public meetings of governmental bodies are subject to the Open Public Meetings Act, also known as the “Sunshine Law”, which became effective on January 19, 1976, and is codified at N.J.S.A. 10:4-6, et seq. (“OPMA” or the “Act”). OPMA was adopted to keep with the strong tradition of this State and the nation favoring public involvement in almost every aspect of government. The Act applies to “public bodies” which are defined as “a commission, authority, board, council, committee or any other group or two or more persons organized under the laws of this State, and collectively empowered as a voting body to perform a public governmental function affecting the rights, duties, obligations, privileges, benefits, or other legal relations of any person, or collectively authorized to spend public funds. N.J.S.A. 10:4-8.

In Berkeley Heights there are six (6) public bodies that are covered by the Act. These public bodies include (1) the Township Council, (2) the Planning Board, (3) the Zoning Board of Adjustment, (4) the Environmental Commission, (5) the Recreation Commission, and (6) the Board of Health. Additionally, the Township has ad hoc committees created by the Township Council which were established to provide information and advice on the maintenance and future development of certain Township parks and the downtown. These ad hoc committees include the Communications Committee, the Downtown Beautification Committee, the Memorial Park Renewal Committee, and the Peppertown Park Renewal Committee. These ad hoc committees are merely advisory bodies with no power or authority to act on behalf of the Township or spend public funds, thus are not subject to the Act.

For the 6 public bodies which the Act applies, there are specific requirements of OPMA that apply to the meetings held by these bodies. OPMA requires public notice of meetings; public participation at meetings, subject to limited allowable closed session discussions; and the taking and distribution of minutes of meetings. The Township Council complies with OPMA, and, in fact, exceeds all minimum requirements.

With regard to public notice, the Act requires that the public body must provide “adequate notice” of all public meetings. “Adequate notice” means that the public body must provide either 48-hours written notice of the time, date, location and agenda (to the extent known) of any public

meeting; or annual notice, within 7 days of the annual reorganization meeting, of the schedule of all regular meetings of the public body to be held during the succeeding year. If such annual notice is provided, then the public body is not required to provide the 48-hours written notice for each regular meeting held, including the posting of the agenda. The Township exceeds what is required by providing both the annual notice and the 48-hours written notice of each Council meeting, including the agenda for each meeting. The Township further provides notice of its public meetings on its website, which is in addition to the “adequate notice” requirements.

The Township Council not only allows for the minimum public comment period, but rather provides 2 public comment periods during each meeting: one at the beginning of the meeting to address anything on the agenda prior to action by the Council, and one at the end where the public can discuss anything of concern in the Township. In addition, on all major issues or presentations, the Township Council holds special public meetings or discusses same in conference session thereat allowing the public an additional opportunity to raise questions, concerns or comments relating to the matter. The Township Council expends every opportunity to allow for public input.

Finally, OPMA requires the public body to keep reasonably comprehensive minutes of all its meetings. “Reasonably comprehensive” means that the minutes must show what took place at the meeting and what final action was taken; and does not mean a verbatim transcript of the meeting. Specifically, the Act provides that the minutes are to include the time and place of the meeting, the members present, the subjects discussed, the actions taken, the votes of each member and any other information required by law to be recorded by minutes. The Act further requires that these minutes shall be promptly available to the public, except when subject to a closed session exception. The Township Council provides reasonably comprehensive minutes in compliance with the Act. These minutes are adopted and available to the public in a timely manner. It is important to note that while the Township’s ad hoc committees are not required to keep minutes of their respective meetings as the Act does not apply to them; nevertheless, many of these committees do keep minutes of their meetings and make same available to the public.

Moreover, OPMA does not require that any public meeting be audio or video recorded. Yet, the Township Council does create an audio recording of all of its public meetings, which recordings are available to the public. Furthermore, the Township Council recently began live streaming its meetings over the Internet to the public.

There is no question that the Township Council is in full compliance with all of the requirements of OPMA. In fact, the Township Council goes above and beyond OPMA’s requirements by providing 48-hour notice with agendas of all meetings; by the audio recording of all public meetings; and, more recently, by video streaming all public meetings over the Internet. Further, the Township Council schedules special public meetings and discusses important matters in conference session thereby allowing the public additional input and discussion on same.

While there are small groups within the Township who are distributing misinformation and inaccurate accounts about the Township and the conduct of its public meetings to fulfill their own agendas, the facts irrefutably demonstrate that Berkeley Heights is more transparent and provides more public input than most municipalities in the State.

Your governing body takes its responsibilities to provide for transparency most seriously. Personal attacks by those who have opted to disrespect the efforts of our volunteers is unfortunate. Those who populate these committees – Peppertown Park, Memorial Park Renewal, Downtown Beautification and Communications do not determine policy, expend Township funds nor speak on behalf of the Township. They simply want Berkeley Heights to be a better place to live. Common decency suggests we respect their privacy

Thank you.