

Township of West Milford

Passaic County, New Jersey

~ Resolution 2019 – 325 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY CALLING FOR STUDY COMMISSION TO REVIEW THE OPEN PUBLIC RECORDS ACT

WHEREAS, the Township of West Milford strongly believes in and supports open transparent government, and that citizens and residents have the right to be informed about the workings of government in order to best participate in a democracy; and

WHEREAS, on January 8, 2002 then Acting Governor DeFrancesco signed into law what Open Public Records Act (OPRA) which mandates that government records shall be available, with limited exceptions, for public access and simplifying the procedures for requesting such specific records; and

WHEREAS, the intent of the law was to provide the public with easy access to government records with an uncomplicated process for obtaining the records and eliminating bureaucratic red tape; and

WHEREAS, over the course of 18 years OPRA has been a positive light, but it has also been fraught with abuse and misuse, and has become an unanticipated financial cost to the taxpayers of New Jersey; and

WHEREAS, Township of West Milford has labored under a well-intended law that has spiraled out of control, due to the volume and nature of requests, the cost to taxpayers in responding to the requests and the potential liability in having to pay disproportionate prevailing party attorney's fees should the requests turn into litigated matters, as well as the liability in determining which documents shall be released with or without redaction, while attempting to maintain individual privacy; and

WHEREAS, it is not only the volume of OPRA requests that challenge our resources, but it is also the cost associated with reviewing, retrieving, and processing the OPRA request(s) by public entity personnel and counsel and possibly defending our action(s) before the Government Records Council or in Superior Court; and

WHEREAS, the Township of West Milford received and responded to 361 OPRA requests in 2017, 501 OPRA requests in 2018 and to date, has received and responded to 573 OPRA requests received as of October 28; and

WHEREAS, the Township of West Milford municipal staff has spent approximately 450 hours responding to OPRA requests received in 2019 to date and a yearly average of approximately 810 annual hours spent in 2017 & 2018; and

WHEREAS, due to the often conflicting case law and Government Record Council decisions, as well as the unique characteristics of OPRA request, the Township of West Milford must often times rely on the municipal attorney to review certain OPRA requests, resulting in additional fees in response to OPRA; and

WHEREAS, when sensitive or private information is within an OPRA request, that information must be carefully reviewed within the OPRA guidelines but interrupts daily operations as redactions may also need to be processed ; and

WHEREAS, with limited exceptions, OPRA has not been amended to address the clear and apparent advancement in technology that has changed the way government records are created, stored and/or transmitted; the various interpretive decisions; privacy concerns; abuse for commercial gain; and/or the ever increasing cost to taxpayers; and

WHEREAS, as the current law approaches its twentieth (20th) anniversary, it has outgrown its original intended use and has become ripe for comprehensive review and reform.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Township of West Milford appeals to the legislature to form a Commission comprised of Mayors, Municipal Clerks, Municipal Managers, Attorneys, Police Chiefs, open government advocates, privacy experts, members of the media, citizens and other appropriate stakeholders, to review and examine the effects of OPRA on local government and the needs to be fulfilled by the law, and use the Commission's findings to perform a comprehensive reform of OPRA; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to Assemblywoman Betty Lou DeCroce, Assemblyman Jay Webber, Senator Joseph Pennacchio, Assembly Speaker Craig Coughlin, Senate President Stephen Sweeney, Senator Weinberg, Executive Director of the Government Records Council, the Governor of the State of New Jersey, The Municipal Clerks Association of New Jersey and New Jersey State League of Municipalities.

Adopted: November 6, 2019

Adopted this 6th day of November, 2019
and certified as a true copy of an original.

Diane Curcio, Acting Township Clerk

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