

## **Resolution Calling for Study Commission to Review the Open Public Records Act**

**WHEREAS**, the (*insert name of municipality*) 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 DiFrancesco signed into law the 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**, (*insert name of municipality*) 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**, (*insert name of municipality*) received and responded to (*insert number of OPRA request received in 2017*) OPRA requests in 2017, (*insert number of OPRA request received in 2018*) OPRA requests in 2018, and to date has received and responded to (*insert number of OPRA request received to date as of September 1, 2019*) OPRA requests as of September 1, 2019; and

**WHEREAS**, (*insert name of municipality*) municipal staff has spent approximately (*insert number of hours*) responding to OPRA requests received in 2019 to date, and a yearly average of approximately (*insert number of average annual hours spent in 2017 & 2018*) hours since 2017; and

**WHEREAS**, due to the often conflicting case law and Government Record Council decisions, as well as the unique characteristics of OPRA request, the (*insert name of municipality*) must often times rely on the municipal attorney to review certain OPRA requests, resulting in additional fees of approximately (*insert OPRA related attorney fees for 2017*) in response to OPRA requests in 2017, (*insert OPRA related attorney fees for 2018*) in response to OPRA requests in 2018, and currently has spent (*insert OPRA related attorney fees for to date 2019*) in response to OPRA requests in 2019; and

**WHEREAS**, (*insert example(s) of OPRA requests that was costly, interrupted operations etc.*); 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 (20<sup>th</sup>) 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 (*insert name of municipality*) 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 (*insert names of Assembly Representatives*), (*insert name of Senator*), 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.

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