

**FRANKLIN TOWNSHIP
RESOLUTION #2019-54**

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

WHEREAS, the Township of Franklin in the County of Hunterdon 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, Franklin Township 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, Franklin Township received and responded to 99 OPRA requests in 2017, 118 OPRA requests in 2018, and to date has received and responded to 85 OPRA requests as of November 1, 2019; and

WHEREAS, Franklin Township municipal staff has spent approximately 40 hours responding to OPRA requests received in 2019 to date, and a yearly average of approximately 60 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 Franklin Township must often times rely on the municipal attorney to review certain OPRA requests, resulting in additional fees of approximately \$9,250.00 in response to OPRA requests in 2018, and currently has spent \$4,507.49 in response to OPRA requests in 2019; and

WHEREAS, the OPRA request for records pertaining to the Verizon Monopole on Municipal Building Property and two OPRA requests investigating public employees were costly and interrupted operations; and

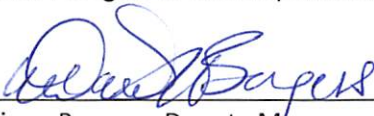
WHEREAS, with limited exceptions OPRA has not been amended to address the clear and apparent advancement in technology that has changed the way government records are created, stored, and/or transmitted; the various interpretive decisions; privacy concerns; abuse for commercial gain; and/or the ever 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 Franklin Township 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 Assemblyman Erik Peterson, Assemblyman John DiMaio, Senator Michael J. Doherty, 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: 11/14/2019



Diane Burgess, Deputy Mayor
Township Committee

Attest and Affix Seal:

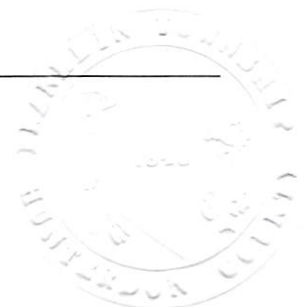



Christine J. Burke, RMC
Municipal Clerk

I, Christine J. Burke, Municipal Clerk of the Township of Franklin, County of Hunterdon, do hereby certify this to be a true copy of a resolution adopted by the Township Committee at a meeting held on November 14, 2019.



Christine Burke, RMC
Municipal Clerk



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