

**TOWNSHIP OF RARITAN
COUNTY OF HUNTERDON, NEW JERSEY**

RESOLUTION #19-285

**A RESOLUTION REQUESTING THE LEGISLATURE FORM A STUDY
COMMISSION TO REVIEW AND EXAMINE THE EFFECTS OF OPRA ON
LOCAL GOVERNMENT**

WHEREAS, the Township of Raritan 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 eighteen (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, the Township of Raritan 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 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 Raritan received and responded to 392 OPRA requests in 2017; 502 OPRA requests in 2018; and 594 OPRA requests as of December 13, 2019; and

WHEREAS, the Township of Raritan municipal staff has spent approximately 1,920 hours responding to OPRA requests received in 2019 to date; and

WHEREAS, due to the often conflicting case law and Government Records Council decisions, as well as the unique characteristics of OPRA requests, the Township of Raritan must

often times rely on the municipal attorney to review certain OPRA requests, which have resulted in additional fees including litigation and settlement costs of approximately \$10,000.00 to date for 2019 in response to OPRA requests; and

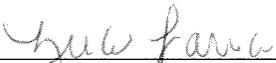
WHEREAS, with limited exceptions, OPRA has not been amended to address the clear and apparent advancement in technology that has changed the way government records are created, stored, and/or transmitted; the various interpretive decisions; privacy concerns; abuse for commercial gain; and/or the ever-increasing 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 Raritan 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 Andrew Zwicker; Assemblyman Roy Freiman; Senator Christopher Bateman; Assembly Speaker, Craig Coughlin; Senate President, Stephen Sweeney; Senator Loretta Weinberg; Executive Director of the Government Records Council; the Governor of the State of New Jersey; the Municipal Clerks Association of New Jersey; and the New Jersey State League of Municipalities.

ATTEST:



Lisa Fania, RMC
Township Clerk

**TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF RARITAN**



Jeff Kuhl
Mayor

CERTIFICATION

I, Lisa Fania, Clerk of the Township of Raritan, County of Hunterdon, State of New Jersey, hereby certify that the foregoing Resolution is a true, complete and accurate copy of a resolution adopted by the Township Committee of the Township of Raritan at a meeting held on December 17, 2019.



Lisa Fania, RMC
Township Clerk