

**BOROUGH OF GARWOOD**  
**UNION COUNTY, NEW JERSEY**  
MUNICIPAL BUILDING  
403 SOUTH AVENUE  
GARWOOD, NJ 07027

**RESOLUTION NO. 19-280**

**RESOLUTION CALLING FOR STUDY COMMISSION TO REVIEW THE OPEN PUBLIC RECORDS ACT**

**WHEREAS**, the Borough of Garwood 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**, the Borough of Garwood 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 Borough of Garwood received and responded to approximately 120 OPRA requests in 2017, 175 OPRA requests in 2018, and to date has received and responded to 255 OPRA requests as of September 1, 2019; and

**WHEREAS**, the Borough of Garwood's extremely limited municipal staff has spent approximately 255 hours responding to OPRA requests received in 2019 to date, and a yearly average of approximately 200 hours since 2017; and

**WHEREAS**, while for some municipalities those numbers may seem low; the Borough of Garwood does not have a Deputy Municipal Clerk nor excess staff therefore all OPRA requests are completed by the Municipal Clerk herself who also serves as the Administrator; and

**WHEREAS**, the requirements of Municipal Clerk's role in the law are broad and complex; the requirements of OPRA, time to respond, what to redact, the redacting process, denial of records, failure to be able to local records; and the consequences to the clerk in this law are unfair; and

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

**WHEREAS**, requests for records that must be located via IT staff have costed thousands of dollars and taken countless hours of the Municipal Clerks time, prohibiting and affecting all of her other many responsibilities; 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 Borough of Garwood 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 Assembly Representatives Bramnick and Munoz, Senator Thomas Kean Jr., 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.

***I, Christina M Ariemma, Municipal Clerk of the Borough of Garwood hereby attest that this Resolution was adopted by the Council of the Borough of Garwood on November 14, 2019.***



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**CHRISTINA M. ARIEMMA, Municipal Clerk**