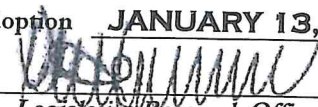


RESOLUTION OF THE TOWNSHIP OF IRVINGTON, NJ

No. MC 20-0113-2

Date of Adoption JANUARY 13, 2020

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY


Legislative Research Officer

PRESENTED BY COUNCIL MEMBER

FREDERIC

SECONDED BY

BURGESS

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

WHEREAS, the Township of Irvington 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 Township of Irvington 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 requests by public entity personnel and counsel and possibly defending our actions before the Government Records Council or in Superior Court; and

WHEREAS, the Township of Irvington received and responded to 962 OPRA requests in 2017, 1112 OPRA requests in 2018, and 1304 OPRA requests in 2019; and

WHEREAS, the Township of Irvington municipal staff has spent approximately 543 hours responding to OPRA requests received in 2019 to date, and an average of approximately 468 hours per year 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 Township of Irvington must often times rely on the municipal attorney to review certain OPRA requests, resulting in substantial additional costs to the municipality; and

WHEREAS, many of the OPRA requests interrupted operations, required retrieval of archived documents taking excessive amounts of time and resulted in excessive costs to the Township of Irvington; 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 Irvington 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 the Municipal Clerks Association of New Jersey and Irvington's representatives in the State Legislature.

RECORD OF COUNCIL VOTE

X = Indicates Vote

N.V. = No Vote

A.B. = Absent

<u>COUNCIL MEMBER</u>	<u>YES</u>	<u>NO</u>	<u>N.V.</u>	<u>A.B.</u>	<u>COUNCIL MEMBER</u>	<u>YES</u>	<u>NO</u>	<u>N.V.</u>	<u>A.B.</u>
BEASLEY	X				INMAN		X		
COX	X				VICK	X			
FREDERIC	X				BURGESS	X			
DR. HUDLEY	X								

PRESIDENT OF COUNCIL

MUNICIPAL CLERK

DATE January 13, 2020

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK

DATE JAN 13 2020

ADMINISTRATOR ☐ ASSESSOR ☐ BLDG ☐ CFO ☐ COLLECTOR ☐ COURT ☐ EDGO ☐ ENGINEER ☐ FIRE ☐ CF ☐ HEALTH ☐ HOUSING ☐ INIC ☐
 JUDGE ☐ LEGAL ☐ LIBR ☐ LICEN ☐ MAYOR ☐ NPP ☐ OCDP ☐ PARKS ☐ PAYROLL ☐ PUBLIC SAFETY ☐ DIR ☐ PUBLIC WORKS ☐ PURCHASING ☐
 SEC~PB/ZBA ☐ TRAFFIC ☐ ZONING~OFF ☐ DLGS ☐ GNCD ☐ OTHER(S): _____