

## RESOLUTION 2024-219

### RESOLUTION OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY, CALLING FOR THE MODERNIZATION OF THE OPEN PUBLIC RECORDS ACT (OPRA) AND THE SWIFT PASSAGE OF S-2930/A-4045

**WHEREAS**, in the 2002 “lame duck” session the Open Public Records Act (OPRA) was approved to make government records, “readily accessible for inspection, copying, or examination by the citizens of this State, with certain exceptions, for the protection of the public interest” while protecting “a citizen’s right to a reasonable expectation of privacy”; and

**WHEREAS**, as local leaders we reaffirm our support and commitment to open and transparent government and public access to records, at the same time, we strongly support necessary reforms; and

**WHEREAS**, in the twenty years since the enactment of OPRA and with the advent of new technologies, we have witnessed unintended consequences and, in some cases, abuses of OPRA that place an unfair burden on local governments and taxpayers; and

**WHEREAS**, municipal staff and budgets are increasingly utilized to accommodate the requestors and commercial entities who inundate municipalities with public records requests to the extent that in some instances, additional personnel are hired primarily to handle such requests; and

**WHEREAS**, OPRA has become broadly construed in favor of access and the requestor who prevails in any proceeding in appealing a denial of access of records is permitted to collect exorbitant attorney’s fees, which impacts the taxpayers and municipalities who must pay these fees; and

**WHEREAS**, municipalities have seen outside businesses and interests who abuse OPRA for marketing and commercial gains while utilizing municipal employees paid by the taxpayers for this benefit; and

**WHEREAS**, due to court decisions over the years, reasonable expectations of privacy have been diminished when it comes to the balance of transparency and OPRA perpetuates for-profit data-mining, unsolicited marketing, and uncontrolled publications of records on internet search engines specifically designed to circumvent and bypass what few protective measures currently exist under OPRA, all while allowing the requestor to remain cloaked in anonymity, should they choose to exercise that option; and

**WHEREAS**, when commercial entities are constantly emailing OPRA requests looking for the latest lists of dogs licensed that month, inground pool permits issued, solar roof permits issued, etc., it causes our residents to not want to license their dogs, comply with permits, or interact with the municipality because they don’t want to lose their privacy and/or have their information tracked and monetized for commercial purposes; and

**WHEREAS**, reforms to modernize OPRA are long overdue, among them: the need to address requests by commercial entities that utilize public records and the services of local government employees to generate profits, mandatory prevailing attorney fees, which created a cottage industry, and to add language so that such fees are based on facts and circumstances and not an automatic granting; and

**WHEREAS**, Senators Sarlo and Bucco and Assemblyman Danielsen and Assemblywoman Flynn have introduced S-2930/A-4045, which makes commonsense reforms that do not hinder residents or journalists from using OPRA to access public records, but will protect citizens' personal information from disclosure, addresses the burdensome commercial requests and provide discretion when awarding prevailing attorney fees;

**NOW, THEREFORE, BE IT RESOLVED**, the Barnegat Township Committee in the County of Ocean respectfully request the adoption of much-needed reforms to modernize and strengthen the legislative intent of the Open Public Records Act (OPRA) and urges the swift passage of S-2930/A-4045; and

**BE IT FURTHER RESOLVED**, as local leaders, we reaffirm our support and commitment to open and transparent government and public access to records but at the same time, we strongly support necessary reforms; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to Senate President Scutari, Assembly Speaker Coughlin, Senator Carmen Amato, Assemblymen, Greg Myhre and Brian E. Rumpf, Governor Murphy, and the New Jersey League of Municipalities.

### **CERTIFICATION**

I, Donna M. Manno, Municipal Clerk of the Township of Barnegat, County of Ocean, State of New Jersey do hereby certify that the foregoing resolution was duly adopted by the Barnegat Township Committee at their regular meeting held at the Municipal Complex, 900 West Bay Avenue, Barnegat, New Jersey, on the 7<sup>th</sup> day of May, 2024

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Donna M. Manno, RMC  
Municipal Clerk