

## MERCHANTVILLE-PENNSAUKEN WATER COMMISSION

### Resolution Requesting And Urging the Legislature to Establish A Study Commission to Review the Open Public Records Act

**WHEREAS**, the Merchantville-Pennsauken Water Commission was established pursuant to the grant of the Legislature and upon Application and Order of the Supreme Court in 1926 pursuant to N.J.S.A. 40: 62-108 et seq. and subsequently by permanent agreement and ordinances of the Township of Pennsauken and the Borough of Merchantville in 1942; and

**WHEREAS**, thereby the Legislature, and said entities specifically granted the obligation, responsibility and authority to the Commission to regulate and protect the drinking water supply of the citizens of the designated towns water supply system in northern Camden County; and

**WHEREAS**, these Commissioners strongly believes in and supports open access to all areas of 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 simplified the procedures for requesting such specific records; and

**WHEREAS**, the intent was to provide the public with easy access to existing government records with an uncomplicated process for obtaining the records efficiently; and

**WHEREAS**, over that course OPRA has been a positive light, but it has become fraught with abuse and misuse, similar to the that of sales and “robo” calls which now have an unanticipated financial cost to the taxpayers of New Jersey frequently for inane requests from foreign companies; and

**WHEREAS**, the MPWC has labored under a well-intended law, attempting to control its expenditures and staffing to keep its rates and costs to its citizens down , but due to the volume and nature of requests, the cost to taxpayers in responding to the requests spirals out of control, as the vast majority are not the taxpaying local citizens bearing the costs but foreign businesses and the potential risk of liability of 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 given *Paff v Galloway*, the cost and time of now researching and creating non-existing documents from data in our possession, and the risk of determining how much of this is required; and

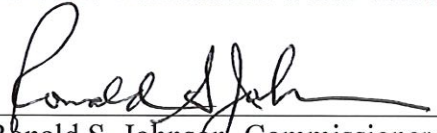
**WHEREAS**, it is not only the volume of OPRA requests that challenge our resources, but it is also, the cost associated with reviewing, retrieving, and processing the OPRA request(s) by public entity personnel and counsel and possibly defending our action(s) before the Government Records Council or in Superior Court; and

**WHEREAS**, the MPWC has over 50,000 customers with 220 miles of water mains and 16,000 accounts and manages to charge approximately 1/3 of the water rate of the BPU regulated for-profit company supplying the water to all other towns around our franchise area ; and it can accomplish charging per quarter what that private company without OPRA obligations charges per month in part because it has done so with so little staff of less than 33 people; and

**WHEREAS**, notably this staff has not received a OPRA request which came from any of its constituent citizens in memory or any recent record and if including any person within the 5 closest adjoining counties the most recent OPRA request was a month short of four years ago in April of 2016; however, we are routinely and regularly abused by record and data and sales requests from businesses across the country that are unrelenting and are routine; and **WHEREAS**, due to the often-conflicting case law and Government Record Council decisions, as well as the unique characteristics of OPRA request, the MPWC must rely on its attorney to review all of its OPRA requests but even so they are costly interruptions to operations etc.; 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 Merchantville-Pennsauken Water Commission, a regional governmental water authority, appeals to the legislature to form a Commission comprised of various government representatives, attorneys, , legislators, 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 review and reform of OPRA; and **BE IT FURTHER RESOLVED**, that copies of this resolution be forwarded to (insert names of Assembly Representatives), (insert name of Senator), 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, and the New Jersey State League of Municipalities.

This Resolution shall take effect immediately upon adoption on this 12th day of March 2020 and continue until further notice. I hereby certify that this a true copy of a Resolution adopted by the Merchantville-Pennsauken Water Commission on March 12, 2020.

Merchantville-Pennsauken Water Commission

By:   
Ronald S. Johnson, Commissioner &  
Secretary to The Commission

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