Litigation Matters – Fran Brooks v. Township of Tabernacle and Custodian of Records (BUR-I-001048-18)

Solicitor Lange met members of the Township Committee to discuss the litigation matter instituted by Fran Brooks and the settlement with Judge Bookbinder.

The Township has reached a settlement agreement and receive exposure on (1) one account as it relates to a civil penalty for Lisa Love (Cummins) and the filing maintenance in the construction office; a document as it relates to the Hall application was not provided timely. Fran Brooks filed suit after the document was received.

In an effort to resolve this matter, the Township agreed to other conditions which DO NOT relate to any Open Public Meetings Act violations.

Municipal Clerk Barber provided copies of OPRA LOGS as listed on the Township Official Website; however, the OPRA LOGS as specifically prepared for this case was labeled HARRASSMENT LOG which highlighted the number of requests submitted by Fran Brooks that spans over several years.

• In an effort to resolve this case, request made to retract the written statement as provided in Discovery that characterized OPRA Request as “harassment” and state in writing that all OPRA request submitted to Tabernacle, including those submitted by Fran Brooks, do not constitute “harassment.”

• In an effort to resolve this case, Township agreed to remove the following paragraph from the Township Official Website; Fran Brooks felt it was argumentative. Township will provide the public with educational materials which instruct the public on their rights under OPRA and the process:

GOVERNMENT RECORDS REQUEST

Open Public Records Act (OPRA) has been an opportunity for more “Transparency in Government.” The public can obtain government records legally allowed for release in the State of New Jersey. The intent of the law is good; however, there has come to point in many towns that OPRA is financially draining municipal resources. There is a nominal charge of 5 cents per copy for a letter size page and 7 cents to copy a legal-size page when applicable. Electronic documents are free. The price per page is fair, the hidden cost is the salary of the employee to locate the document that may span several years and, in some cases, take several hours to locate. This process is often very time consuming and under certain circumstances, some documents may no longer be available under State Law that allows for records to be destroyed after a certain time period. Municipal Clerks have become the hub of government and the direct link between the taxpayers and the governing body.

Tabernacle’s Municipal Clerk’s Office is staffed with two full-time employees; however, depending on vacation, training, and the attendance of other departments, this office may only have one employee available to provide these functions. When individuals request documents through the OPRA process it immediately creates a time constraint on our schedules. While it is important to know about OPRA, you need to understand the downside as well.
In an effort to resolve, Township will continue with its current practices regarding review and release of closed session minutes pursuant to the Open Publics Meetings Act and adopt an Ordinance regarding their practice. Township will place executive session minutes on the Township Official Website.

Solicitor Lange spoke that he was able to successfully settle this matter with limited attorney fees for the plaintiff. Members of the Township Committee expressed their desire to indemnify employee Lisa Love (Cummins) and approve payment to settle this matter following closed session.

Members of the Township Committee came out of closed session at 8:43 p.m. to pursue passage of a resolution which will indemnify their employee and also approve the cost for settlement agreement.

Respectfully submitted,

La Shawn R. Barber, RMC/CMR
Municipal Clerk

APPROVED: 07/22/2019

RELEASED: 12/04/2019