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**TABERNACLE TOWNSHIP COMMITTEE  
EXECUTIVE SESSION MINUTES OF JUNE 26, 2017**

**In Attendance: Governing Body**

Joseph W. Barton, Township Committee  
Kimberly A. Brown, Township Committee  
**Richard J. Franzen, Township Committee (Absent)**  
Joseph Yates, IV, Deputy Mayor  
Stephen V. Lee, IV, Mayor

**Professionals**

Col. William C. Lowe, Emergency Management Coordinator  
Douglas A. Cramer, Township Administrator  
Peter C. Lange, Jr., Township Solicitor  
La Shawn R. Barber, RMC, Municipal Clerk

The members of the Governing Body met in executive session with Solicitor Lange to discuss litigation matters related to Fran Brooks vs. Township of Tabernacle, La Shawn R. Barber in her official capacity as Municipal Clerk and Records Custodian, Docket No. L-1198-17.

Solicitor Lange provided the background of the lawsuit in which Fran Brooks filed a complaint against the Township of Tabernacle in Burlington County Superior Court. In her complaint, she alleged a violation of the Open Public Records Act and violation of the common law right of access. Ms. Brooks submitted an OPRA request for copies of the rosters of Tabernacle Rescue Squad contained inside and outside of the Emergency Operations Plan ("EOP"). The Tabernacle Emergency Operations Plan (EOP) is a protected document and exempt from disclosure; therefore, the Municipal Clerk responds there are no records responsive to your request existing outside of the EOP. It was also not known to the Municipal Clerk that an old roster existed as part of the EOP.

Solicitor Lange discussed the claims and the legal standards applicable to the OPRA demand made by Ms. Brooks. Mr. Lange explained that an unpublished letter opinion from the Hudson County Superior Court touched on the issue of the EOP and its subparts and explained that he thought it was likely that the court would order production of the document. On the other hand, that must be balanced against the potential harm that results from not protecting the EOP under the applicable exemptions. Mr. Lange explained that the costs could be significant and that the benefits associated with litigating the issue are outweighed by the risks posed by the cost shifting mechanism included in the statute. It was also explained that the document should have been identified even if a privilege or protection was claimed.

Col. Lowe spoke of concern for the integrity of the EOP and its protection. His concerns regarding partial release of any material contained within the EOP whether it be the roster or any part of the EOP is that release will ultimately compromise the effectiveness and protection of the EOP. Col. Lowe further explained that you cannot be "a little pregnant" and not separate any document from the EOP.

Ms. Brown spoke of wanting to contact the Department of Homeland Security for guidance since they are the authority for emergency and security of information and procedures. It is worth a phone call.

Members of the Township Committee suggested the Township request that the Tabernacle Rescue Squad provide Township Committee with current roster in effort to settle this matter.

Mr. Lange was asked to contact the Tabernacle Rescue Squad to provide the Township Committee for a current roster with the hopes and an effort to settle and continue to protect the EOP. Mr. Lange indicated that he would write a letter to the TRS in an effort to obtain a copy of the current roster to be offered to Ms. Brooks instead of the roster which is part of the EOP in an effort to protect the EOP in

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light of Col. Lowe's concerns. Mr. Lange is to resolve the matter as soon as possible and, if necessary, to provide the roster which is included in the EOP should the TRS have a reasonable objection to providing the roster in view of the prior decision of the court holding the TRS not being subject to OPRA.

There being no further discussion, members of the Township Committee came out of executive session at 10:00 p.m. and returned to the regular meeting to pursue adjournment.

Respectfully submitted,

La Shawn R. Barber, RMC  
Municipal Clerk

Approved: 07/24/2017

Release Date: 5/21/2018  
Res. 2018-60

**RELEASED**