

Township of West Milford

Passaic County, New Jersey

~ Resolution 2012 - 274 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY REQUESTING THAT THE MEMBERS OF THE STATE SENATE REJECT S-1451 IN ITS CURRENT FORM AND ALLOW FOR CONSTRUCTIVE COMMENT AND DIALOGUE FROM MUNICIPAL ELECTED AND APPOINTED OFFICIALS BEFORE CONSIDERING AMENDMENTS TO THE OPEN PUBLIC MEETINGS ACT

WHEREAS, local government in the State of New Jersey is directly affected by the provisions of the Open Public Meetings Act; and

WHEREAS, local elected and appointed officials must conduct business within the confines of such existing legislation and compelled to any amendments thereto; and

WHEREAS, on April 18, 2012 the Township Council of the Township of West Milford did adopt a comprehensive, much-deliberated resolution expressing concerns for the proposed amendments to the Open Public Meetings Act; and

WHEREAS, on June 21, 2012 S-1451 was redistributed for circulation with committee amendments; and

WHEREAS, the revised legislation containing committee amendments fails to address significant concerns expressed by the West Milford governing body; and

WHEREAS, we, the elected officials of the Township Council of the Township of West Milford do hereby provide the following comments with regard to S-1451 as distributed on June 21, 2012 with committee amendments with the expectation that the members of the State Senate will give these deliberated comments greater consideration than that shown for the resolution adopted on April 18, 2012:

1. This governing body vehemently opposes any provision that precludes any level of government from engaging in transparent government. The proposed amendments to the Open Public Meetings Act exclude the State Legislature, those persons who are being asked to legislate transparency for others, from accountable practices. In addition to the inherent concerns related to the cloak of secrecy being afforded those persons elected to the State Legislature, there is in inherent and undemocratic arrogance in this preclusion by legislation to protect one's self.
2. The Township Council objects to the proposed amendments that would define a quorum of a public body as a majority of a subcommittee thereof. This definition impedes local authorities from due diligence practices and levies costs that will make local government cumbersome and inefficient. Subcommittees of a municipal governing body are advisory in nature and cannot take action on behalf of the whole body.
3. The Township Council objects to legislative interference in agendas of meetings of local public entities. Such interference inhibits local elected officials from effectively and in good conscience acting expeditiously on behalf of their constituents.
4. This governing body objects to proposed language requiring that minutes contain statements as worded in the act. With the proposed fee shifting provisions in the act, this will subject local governments to frivolous, subjective and potentially expensive challenges. It places undue burden on administrative staff and has the potential to remove all objectivity from the permanent record of such meetings.
5. The objections stated in item #4 also apply to provisions that would require statements on agendas.
6. This governing body objects to amendments that would make public discussions about terms and conditions of employment as such matters are contractual in nature. This would inhibit local

- government's ability to effectively negotiate contracts and impedes elected officials' ability to represent the best interests of their constituents.
7. The Township Council objects to the Legislature's attempt to legislate naming a time for the start of a public portion of its meetings. With fee shifting provisions contained in the Act this language has the potential to result in frivolous and expensive litigation.
 8. The Legislature's attempt to legislate private communications of local elected officials is abhorrent specifically when one reads the public statements made by the bill's sponsor, Senator Loretta Weinberg, wherein she sought to legislate local officials because of "rumors" she heard without consultation, research or deference to local elected officials or without disclosing the source of such rumors! If the Legislature seeks to legislate based on baseless rumors, such legislative acts should begin with the complete disclosure of those "rumors" surrounding their respective bodies.
 9. This governing body objects to provisions that would prohibit executive session discussion of actual or potential contracts because public discussion of these matters would prejudice local governing bodies from representing the best interests of their constituents.
 10. Provisions that require recordings of public meetings to be part of the minutes is an unreasonable legislative act that shows no deference to technological advances being made now or to be made in the future. It does not recognize the need for records management and storage provisions nor does it provide for future generations of transferring obsolete media from one medium to another. This is an unfunded mandate. With the fee shifting provisions and lack of funding this language has the potential to subject local government to frivolous and expensive litigation in addition to the cost that would be incurred trying to comply with these provisions.
 11. Language in the proposed legislation that "provides that certain e-mails among members of a public body will be considered minutes that are publicly accessible" is subjective and notwithstanding that the emails may be public records, now the minutes will no longer reflect what occurred at a public meeting
 12. This governing body vehemently opposes all the language in the proposed legislation known as S-1451 that provides for legal fees, legal action and legal recourse for a host of reasons not the least of which is the irresponsibility of the State Legislature to enact legislation with full knowledge (based on the commentary received from the innumerable entities that would be subject to such laws expressing clearly, emphatically and in detail their concerns) that affected public bodies cannot practically and feasibly comply with the law in question.
 13. This Council objects to provisions that require posting of certain records on the Township's website for a period of five years. Records retention schedules promulgated by the Division of Archives & Records Management are adhered to by all public bodies.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Milford that we do hereby request that the members of the State Senate reject the amendments to the Open Public Meetings Act as proposed in S-1451; and

BE IT FURTHER RESOLVED that the Township Council of the Township of West Milford respectfully requests that the members of the State Senate insist, demand and commit that there be a means of constructive dialogue and comment provided to local elected and appointed officials from every public body within the State before amendments to this crucial legislation be considered at any future date.

Adopted: August 15, 2012

Adopted this 15th day of August, 2012
and certified as a true copy of an original

Antoinette Battaglia, Township Clerk

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