

TOWN OF WESTFIELD

*Tara Rowley, Town Clerk
Custodian of Records*
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REQUEST FOR GOVERNMENT RECORDS

(N.J.S.A. 47:1A – 1, et seq.)

GOVERNMENT RECORDS REQUEST RESPONSE

TO: opra+request-16504-69e951b2@requests.opramachine.com

DATE: September 23, 2020

The Town of Westfield received your OPRA request on September 8, 2020 for which you sought access to the following:

1. All correspondence by any means including text messages, emails and USPS mail to and from the members of the Westfield NJ historic preservation commission and staff members at the NJ historic preservation office within the NJ DEP for the period of January 1, 2019 to August 15, 2020 regarding Westfield becoming a certified local government and what is required in an Ordinance to qualify. The members of the Westfield Commission are Alison Carey, Carol Tener, Katie Spikes, Maria Boyes, Jennifer Jaruzelski, Robert Wendel, Greg Blasi, Kelly Kessler, Jacqueline Brevard, Mary Anne Healy, Michael La Place, and Linda Habgood. Employees at the NJ historic preservation office include Jonathan Kinney, Katherine Marcopul, Bob Craig, Andrea Tingey, Meghan Baratta and Michele Sbarro.
2. All correspondence by any means, including text messages, emails, and USPS mail, between members of the Westfield historic preservation commission on the subject of a new Ordinance and or becoming a certified local government from January 1, 2019 and August 15, 2020.
3. All minutes of the Westfield historic preservation commission from January 1, 2019 to August 15, 2020.
4. Copy of Westfield historic preservation commission's annual report for the year 2019 to the Planning Board and the Town Council as required in Section 4, part F, #13 of the current Ordinance.

As you are aware, the Town responded to your request via email on September 16, 2020 advising you that additional time until October 1, 2020 was needed to fill your request because the Town was still in the process of gathering responsive records and, once gathered, a legal review of those records was necessary in the event they include content that is deemed to be exempt from disclosure under OPRA.

A response to your request is as follows:

The following records are being provided in their entirety and are responsive to Item No. 3 of your request:

1. Westfield Historic Preservation Commission Meeting Minutes of January 28, 2019 (2 pages);
2. Westfield Historic Preservation Commission Meeting Minutes of February 25, 2019 (2 pages);
3. Westfield Historic Preservation Commission Meeting Minutes March 25, 2019 (3 pages);
4. Westfield Historic Preservation Commission Meeting Minutes of April 22, 2019 (1 page);
5. Westfield Historic Preservation Commission Meeting Minutes of May 20, 2019 (2 pages);
6. Westfield Historic Preservation Commission Meeting Minutes of June 24, 2019 (2 pages);
7. Westfield Historic Preservation Commission Meeting Minutes of September 30, 2019 (3 pages);
8. Westfield Historic Preservation Commission Meeting Minutes of October 28, 2019 (2 pages);
9. Westfield Historic Preservation Commission Meeting Minutes of November 25, 2019 (2 pages);
10. Westfield Historic Preservation Commission Meeting Minutes of January 27, 2020 (2 pages);
11. Westfield Historic Preservation Commission Meeting Minutes of February 24, 2020 (2 pages); and
12. Westfield Historic Preservation Commission Meeting Minutes of June 29, 2020 (2 pages).

The following record is being denied in its entirety in response to Item No. 3 of your request pursuant to the indicated authority:

1. Draft Westfield Historic Preservation Commission Meeting Minutes of July 27, 2020 (3 pages) are being denied pursuant to N.J.S.A. 47:1A-1.1, Exemption No. 1, Inter-agency or intra-agency advisory, consultative or deliberative material [is exempt from disclosure under OPRA]. This exemption generally refers to draft documents or documents used in a deliberative process.

The following records are being provided in their entirety and are responsive to Item No. 4 of your request:

1. 2019 State of HPC Report (3 pages); and
2. Town Council Regular Meeting Minutes of January 28, 2020 in which the Westfield Historic Preservation Commission presented its 2019 State of HPC Report to the Town Council (12 pages).

As to Item Nos. 2 and 3 of your request, it has been determined through an initial gathering of responsive records that there are several hundred pages of email and text messages responsive to your request. Once all have been gathered, a review is necessary to determine if certain content or entire records are deemed to be exempt from OPRA. It is estimated that it would take approximately 20 hours of staff time to fulfill these portions of request. It is also worth noting that a cursory review of these records indicates that the majority of them are deemed to be inter-agency, intra-agency advisory, consultative or deliberative material and would therefore be exempt from disclosure under OPRA.

OPRA allows public agencies to impose special service charges whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size **or when fulfilling a request requires an extraordinary expenditure of time and effort**. See N.J.S.A. 47:1A-5.c. Special service charges must be based upon the actual direct cost of providing the copy or copies.

OPRA mandates that the requestor shall have the opportunity to review and object to the charge prior to it being incurred. See N.J.S.A. 47:1A-5.c. As such, a detailed estimate is provided as follows:

The special service charge being imposed is based upon the hourly rate of the lowest level employee capable of filling the request, which is the Deputy Town Clerk, who is paid an hourly rate of \$30.95. The Deputy Town Clerk's hourly rate of \$30.95 x 20 hours = \$619.00.

Kindly respond in writing with your acceptance or rejection of this estimated charge of \$619.00. Processing of these portions of your request will not begin until your written acceptance has been received. If you are agreeable to the charge and it is determined that the estimated number of hours to complete your request is more or less than anticipated, you will be notified of a revised special service charge accordingly.

This response is being transmitted to you via email as per your request.

If your request for access to a government record has been denied or unfilled within seven (7) business days required by law, you have a right to challenge the decision by the Town of Westfield to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by

completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Dated: 9/23/20


Tara Rowley, RMC
Town Clerk