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August 2, 2024

Via Email: opra+request-63935-c8fe28e7@requests.opramachine.com

John Greaves

Re: OPRA Request- video of town meetings 2015 until present

Dear Mr. Greaves,

I serve as OPRA counsel to Clark Township. Your Open Public Records Act (OPRA) request was received by the Clerk's office on July 24, 2024. As such, the seven (7) business day deadline to respond to your request is August 2, 2024.

Your OPRA request sought access to the following:

Please make available on the town YouTube Channel or other means all the available video recorded meetings and also audio only recordings from 2015 until present for:

Town council meetings,

Planning board,

Zoning board,

And school board meetings

In regard to your request involving available video recorded meetings and audio only recordings of school board meetings from 2015 until the present, the town does not possess any retrievable documents. The Clark Township and the Clark Board of Education are two separate and distinct entities. The Clark Board of Education is not a sub-division of the Clark Township.

Otchy v. City of Elizabeth Bd. Of Educ. 325 N.J. Super. 98 (App. Div. 1999; *N.J.S.A.* 18A:11-1(d). Thus, any request for records should be addressed to the Clark Board of Education.

In regard to Council, Planning and Zoning meetings between the years 2015-2019, those meetings are on DVD's while current meetings are stored digitally. The Clark Township does not have a DVD player to verify if the DVD's have degraded due to time or disc storage and handling practices. If you would like copies of these meetings, they must be copied to a portable hard drive. As you are aware, *N.J.S.A.* 47:1A-5 provides rates of reimbursement for a public agency in providing documents. Subsection (c) of the statute allows for a reasonable service charge if the documents cannot be reproduced by ordinary document equipment in ordinary business size or involves an extraordinary expenditure of time and effort to accommodate the request. See also *N.J.S.A.* 47:1A-5(b)(1). The cost to complete the described transfer is \$2,592.00. If you wish for my client to do such a transfer, please forward a check in the amount of \$2,592.00 made payable to the Township of Clark. If you do not wish to pay the special service charge, there is an option for you to review the DVD's.

In regard to the option to review the DVD's, you would have to provide a DVD player and television and the DVD's would be made available to you to review in presence of a township employee. If you wish to choose this option, please advise and I will have my client calculate the special service charge for the man-hours involved with the employee. In regard to the 2021-present meetings, they can be viewed on the Township YouTube Channel. Playlists are available for the Council, Planning and Zoning meetings.

In regard to the 2020 meetings, most were held by a conference call without a camera so they are part of the audio recordings the Clerk performs. Both these meetings and your request for audio tapes are in a proprietary format called FTR by BIS Digital. The Township's audio system is no longer supported by that company. If you would like to listen to any or all recordings, I will arrange for you to listen to the audios in the Clerk's Office.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the clerk 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 Council 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.

Sincerely,
La Corte, Bundy, Varady & Kinsella

/s/Robert F. Varady
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Cc: Edith Merkel (Via Email: clerk@ourclark.com)