

RESOLUTION

WHEREAS, after the budget workshop, the full audio of the workshop was posted on the Township website and available for all to hear; and

WHEREAS, thereafter, Councilman Joseph Krakoviak requested the Zoom video of the workshop; and

WHEREAS, the Municipal Clerk consulted with the Zoom moderator and was advised that it did not exist but could be reconstructed at a cost of \$400 which was communicated to Councilman Krakoviak via e-mail; and

WHEREAS, Mr. Krakoviak never responded further and thereafter retained Walter M. Luers, Esq. to commence an action before the Superior Court of New Jersey, Essex County, Law Division, captioned Joseph Krakoviak v. Township of West Orange and Karen Carnevale in her official capacity as Municipal Clerk and Records Custodian of the Township of West Orange, Docket No. ESX-L-005352-20, wherein he sought to compel production of the Zoom video and fees and expenses pursuant to the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 (the "Lawsuit"); and

WHEREAS, after the Township Attorney learned of the filing of the Lawsuit as a result of a post on Mr. Krakoviak's Facebook account, the Township Attorney immediately reached out to the Zoom moderator; and

WHEREAS, the Township Attorney was advised that the Zoom moderator had gone ahead and done the work to create the video; and

WHEREAS, the Township Attorney directed that the video be turned over to the Municipal Clerk and posted on the Township website, which has occurred; and

WHEREAS, despite the Township's vigorous dispute concerning whether a violation of OPRA occurred, the matter has now been concluded and the video posted, and rather than

incurring additional fees and expenses in defending the Lawsuit or challenging a fee application by Mr. Luers, the Township Attorney recommends the resolution contained herein; and

WHEREAS, Councilman Krakoviak has executed the attached Release, subject to Township Council approval; and

WHEREAS, Mr. Krakoviak has recused himself from any discussion and consideration of the within settlement.

NOW, BE IT HEREBY RESOLVED, by the Township Council of the Township of West Orange that the Chief Financial Officer and Law Department be and are hereby authorized to finalize the proposed settlement and dismissal of the Lawsuit with prejudice with the payment of \$2,500 to Walter M. Luers, Esq., as counsel for Councilman Joseph Krakoviak.

Karen J. Carnevale, R.M.C.
Municipal Clerk

Michelle Casalino
Council President

Adopted: November 10, 2020