

RESOLUTION NO. 2008-09

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF EAST PENNSBORO TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA ESTABLISHING PROCEDURES AND RULES FOR COMPLIANCE WITH THE PENNSYLVANIA RIGHT-TO-KNOW LAW.

WHEREAS, by Act 3 of 2008, the General Assembly of the Commonwealth of Pennsylvania established the Pennsylvania Right-To-Know Law (the “Law”), which Law provides for, inter alia, access to public information; and

WHEREAS, municipalities and agencies of the Commonwealth shall be governed by the Law effective January 1, 2009; and

WHEREAS, this Resolution is established by the Board of Commissioners of East Pennsboro Township (the “Township”) for purposes of complying with the Law and to establish procedures for administering and processing requests for public information.

NOW THEREFORE, it is hereby RESOLVED by the Board of Commissioners of East Pennsboro Township as follows:

SECTION 1: Open Records Officer.

- A. The Board of Commissioners hereby designates the Township Manager as the Open-Records Officer for the Township in accordance with the Pennsylvania Right-To-Know Law.
- B. The Open-Records Officer shall perform the following duties:
 - 1. Receive requests submitted to the Township under the Right-To-Know Law;
 - 2. Direct requests to other appropriate persons within the Township or to the appropriate person in another agency;

3. Track the Township's progress in responding to requests; and
4. Issue interim and final responses as required by the Law.

SECTION 2: Process Upon Receipt of a Request For Public Road.

- A. Upon receipt of a written request for a public record, the Open-Records Officer shall do the following:
 1. Stamp the date of receipt on the written request;
 2. Compute the date on which the five-day response expires and make a notation of that date on the written request;
 3. Maintain an electronic or paper copy of the written report, including all documents submitted with the request until the request has been fulfilled. In the event the request is denied, the written request shall be maintained for 30 days; and
 4. If an appeal is filed, the request and any documents submitted with the request shall be kept until the final determination is issued pursuant to Section 1101(b) of Act 3 of 2008 or the appeal is deemed denied.
- B. The Open-Records Officer shall create a file and keep the original request, a copy of the response and a record of any written communications with the requester.

SECTION 3: Information Request Form.

A requester of records shall complete an information request form provided by the Office of Open Records and/or the Township and shall identify the requested records with sufficient specificity.

SECTION 4: Public and Non-Public Record Information.

If a requested record contains both public record information as well as non-public record information, the Township may redact the non-public record information from the record.

SECTION 5: Time For Response.

Upon receipt of a written request for access to a record, a good faith effort shall be made to determine if the record requested is a public record and to respond promptly under the circumstances existing at the time of the request. The time for response shall not exceed five business days from the date the written request is received by the Open-Records Officer. If the Township fails to send the response within five business days of receipt of the written request, the written request shall be deemed denied.

SECTION 6: Extension of Time.

- A. Upon receipt of a written request for access, the Open-Records Officer shall determine if one of the following applies:
1. The request for access requires redaction of a record;
 2. The request for access requires the retrieval of a record stored in a remote location;
 3. A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
 4. A legal review is necessary to determine whether the record is a record subject to access under the law;
 5. The requester has not complied with the Township's policies regarding access to records;
 6. The requester refuses to pay applicable fees authorized to be charged by the Right-To-Know Law; and
 7. The extent or nature of the request precludes a response within the required time period.
- B. Upon determination that one of the factors listed in Section 6.A., above applies, the Open-Records Officer shall send written notice to the requester within five business days of receipt of the request for access. The written notice shall include the following:
1. That the request for access is being reviewed;
 2. The reasons for the review;

3. The date when a response is expected to be provided; and
4. An estimate of applicable fees owed when the record becomes available.

In the event the date of a response is expected as noted in B.3, above, is in excess of 30 days following the five business days as noted in Section 5, the request shall be deemed to be denied unless the requester has agreed in writing to an extension to the date specified in the notice. If such an extension is agreed to in writing, the request shall be deemed denied on the day following the date specified in the notice if the Township has not provided a response by that date.

SECTION 7: Denial of Access.

- A. If a written request for access is denied, whether in whole or in part, the notice of denial must be in writing.
- B. A written notice of denial directed to the requester shall containing the following:
 1. A description of the record requested;
 2. The specific reasons for the denial, including a citation of supporting legal authority;
 3. The typed or printed name, title, business address, business telephone number and signature of the Open-Records Officer on whose authority the denial is issued;
 4. The date of the response; and
 5. The procedure to appeal the denial of access under the Right-To-Know Law.

SECTION 8: Appeal Procedure.

If the request is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under the Pennsylvania Right-To-Know Law within fifteen (15) business days of the mailing date of the Township's response or deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address my ground stated by the Township for denying or delaying the request.

SECTION 9: Severability.

In the event any provision, clause, Section or Paragraph of this Resolution shall be held to be invalid, such invalidity shall not affect or impair any remaining provisions, clauses, Sections or Paragraphs, it being the intent of the Board of Commissioners that the remaining portions of this Resolution shall remain in full force and effect.

SECTION 10: Repealer.

All resolutions or parts of resolutions which are inconsistent herewith are hereby repealed.

SECTION 11: Effective Date.

This Resolution shall take effect on January 1, 2009.

RESOLVED this 30th day of December, 2008.

Attest:

EAST PENNSBORO TOWNSHIP
BOARD OF COMMISSIONERS

Robert L. Gill, Twp. Mgr/Secretary

George A. DeMartyn, President