

MIDDLESEX TOWNSHIP  
CUMBERLAND COUNTY, PENNSYLVANIA

RESOLUTION NO. 2008-24

A RESOLUTION OF THE BOARD OF SUPERVISORS OF MIDDLESEX 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 Township Supervisors of Middlesex 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 Supervisors of Middlesex Township as follows:

SECTION 1: Open-Records Officer.

A. The Board of Supervisors of Middlesex Township Council hereby designates the Manager of Middlesex Township 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 the 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 Record.

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 of the written request;
2. Compute the day 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 request, 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 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 contain 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: Fees.

The following fees will be assessed and charged in the amounts and based upon the record types set forth below. Postage will be charged, when records are mailed, based upon actual cost of postage.

<u>Record Type</u>	<u>Fee</u>
Copies (a single sided copy or one side of a double-sided black and white copy, standard 8 1/2" x 11" size)	\$.25 per page
Certification of Record	\$1.00 per <u>record</u>
Specialized documents (e.g. color copies, plans, blue prints, non-standard size, etc.)	Actual Cost
Facsimile, microfiche or other media	Actual Cost

Redaction fee

No fee may be charged

Conversion to paper

If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium.

SECTION 9: 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 proceed in accordance with the Pennsylvania Right-To-Know Law. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address any ground stated by the Township for denying or delaying the request.

SECTION 10: 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 Board of Supervisors that the remaining portions of this Resolution shall remain in full force and effect.

SECTION 11: Repealer.

All resolutions or parts of resolutions which are inconsistent herewith are hereby repealed. Resolution No.        is specifically repealed hereby.

SECTION 12. Effective Date.

This Resolution shall take effect on January 1, 2009.

RESOLVED this 30 day of December , 2008 in public session duly assembled.

ATTEST:

MIDDLESEX TOWNSHIP

  
Township Secretary

By:   
Chairman, Board of Township Supervisors

(Township Seal)