

TOWNSHIP OF RUSH

RESOLUTION NO. 2008- 11

**A RESOLUTION OF THE TOWNSHIP OF RUSH, SCHUYLKILL
COUNTY PENNSYLVANIA, AMENDING PRIOR RESOLUTIONS
AND ESTABLISHING AN OPEN RECORDS POLICY**

WHEREAS, the Supervisors of Rush Township believe it necessary to establish An amended schedule of fees and set of rules related to open record requests to aid in the management of the Township.

NOW, THEREFORE, be it resolved and enacted by the Board of Supervisors of Rush Township that all prior Resolutions establishing and revising an Open Records Policy for the Township be and are hereby amended as follows:

1. **Purpose.** The purpose of this policy is to assure compliance with Act 3 of 2008, the Pennsylvania "Right-to-Know" Law, as amended, to provide access to public records of Rush Township; to preserve the integrity of Rush Township records; and to minimize the financial impact to the residents of the township regarding the resources utilized in the receipt and processing of public record request and the retrieval and copying of public records.

2. **Designated Open Records Officer and Record Request Procedure.** It is the policy of the Township to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of the township. Rush Township designates the Township Secretary as the Open Records Officer, responsible for assuring compliance with the Pennsylvania "Right-to-Know" law, in accordance with the following guidelines:

A. The Township Secretary may designate certain employee(s) to process public record requests.

B. The Township Secretary is responsible for minimizing, where possible, the financial impact to the township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

C. All requests for public records of the Township under this policy shall be specific in identifying and describing each public record requested. In no case shall the township be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the township does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and include the date of the request, requester's name, address and telephone number; certification of United States residency, signature of requester, and if duplication is requested, appropriate payment.

D. The designated employee shall make a good faith effort to determine whether each record requested is a public record.

E. The Township shall facilitate a reasonable response to a request for Rush Township's public records. IN no case is the Township expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the Township's administrative responsibilities and consistent with the requirements of the Pennsylvania "Right-to-Know" law.

F. The designated employee shall respond to the requester within five(5) business days from the date of receipt of the written request. If the Township does not respond within five(5) business days of receipt thereof, the request is deemed denied.

G. The response provided by the Township shall consist of (1) approval for access to the public record; (2) review of the request by the designated employee; or (3) denial of access to the record requested.

H. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Township. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect the Township public records from the possibility of theft and/or modifications. The presence of a designated employee is required when public records are examined and inspected.

I. Fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records. The Township may at its discretion

waive fees.

J. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Township resources.

K. If the request is being reviewed, the notice provided by the Township shall be in writing and include the reason for the review and the expected response date, which shall be within thirty(30) days of the notice of review. If the Township does not respond within thirty(30) days thereof, the request is deemed denied. Review of the request is limited to situations where:

- 1) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
- 2) The record requires retrieval from a remote location;
- 3) A timely response cannot be accomplished due to staffing limitations;
- 4) A legal review is necessary to determine whether the record requested is a public record;
- 5) The requester has failed to comply with the Township's policy and procedure requirements;
- 6) The requester refuses to pay the applicable fees;
- 7) The extent or nature of the request precludes a response within the required time period.

Upon a determination that one of the factors listed above applies, the Township shall send a written notice to the requester within five(5) business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of 30 days following the five(5) business days permitted by law, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the following the date specified in the notice if the agency has not provided a response by that date.