EAST BRADFORD TOWNSHIP

Resolution No. 4 of 2011

WHEREAS, The Board of Supervisors of East Bradford Township adopted an Open Records Policy on December 9, 2008; and

WHEREAS, The Board of Supervisors wish to amend and update the Open Records Policy.

NOW THEREFORE, it is hereby resolved by the East Bradford Township Board of Supervisors that the Open Records Policy as attached hereto at Exhibit A is hereby adopted.

Adopted this 6th day of January, 2011.

EAST BRADFORD TOWNSHIP

Vincent M. Pompo, Esquire, Chair

Dr. Thomas A. Egan, Vice Chair

John D. Snook, Member

Exhibit A

EAST BRADFORD TOWNSHIP OPEN RECORDS POLICY

§1-1001 Purpose.

The purpose of this policy is to assure compliance with Act 3 of 2008, The Pennsylvania Right-to-Know Law, as amended, 65 P.S. § 67.101 et. seq., to provide access to public records of the Township; to preserve the integrity of the Township's 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 requests and the retrieval and copying of public records.

§1-1002 Open Records Officer and Responsibilities.

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. The Township has designated the Township Assistant Manager as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines (in addition to the further guidelines provided for in this policy):

A. The Open Records Officer may designate certain employee(s) to process public record requests.

B. The Open Records Officer 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. The Open Records Officer shall receive requests submitted to the Township under this policy, review and respond to written requests in accordance with law, Township policy and administrative regulations, direct requests to other appropriate persons within the Township or legal counsel, track the Township's progress in responding to the requests, issue interim and final responses under this policy and maintain a log of all record requests and their disposition.

§1-1003 Requests for Access to Public Records and Responses.

A. 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 on the Township's or the Office of Open Record's form and include the date of the request, the requestor's name, address, and telephone number.

B. The Open Records Officer, or designated employee, shall make a good faith effort to determine whether each record requested is a public record.

C. The Township shall facilitate a reasonable response to a request for 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.

D. The Open Records Officer, or 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.

E. The response provided by the Township shall consist of one of the following: (1) approval for access to the public record; (2) a written statement that the request for access requires further review (see Para. G below for additional detail); or (3) denial of access to the record requested.

F. 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 Township public records from theft or modification. The presence of a designated employee is required when public records are examined and inspected.

G. If the request is being reviewed, the notice of such review shall be provided by the Township in writing within five (5) days of receipt of the request and shall include the reason for the review, an estimate of applicable fees owed when the record becomes available, and the expected response date, which shall be within thirty (30) days of the notice of review. If the Township does not respond within at least thirty (30) days, 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;

(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; or

(7) The extent or nature of the request precludes a response within the required time period.

If the response is expected to be provided in excess of 30 days (following the five business days allowed for), 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 day following the date specified in the notice if the agency has not provided a response by that extended date.

§1-1004 Standard Forms and Fees.

A. The Township shall provide requesters with a form to complete in order to submit a request for access and should also notify the requestor in writing as to determinations made upon requests for access. The following forms have been created and may be utilized (with updates to the forms as needed) by the Township to accept requests and to respond to requests:

(1) Right–To-Know Request Form;
(2) Right-To-Know Response Form – Granting Request;
(3) Right-To-Know Response Form – Partial Grant/Partial Denial; and
(4) Right-To-Know Response Form – Denial.
(5) Right-To-Know Response Form – Notice of Review
(6) Right-To-Know Response Form – Affidavit of Receipt

B. Fees for duplication of public records shall be consistent with the fees as established by the Commonwealth's Office of Open Records. If permitted by law, additional reasonable fees may be charged if incurred by the Township in fulfilling a request. The Township may at its discretion waive fees.

C. In the event the cost of fulfilling a request submitted under this policy is between $50.00 and $100.00, the designated employee(s) may require a simultaneous exchange of the records and fee.

D. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed $100.00, the designated employee(s) may obtain the expected cost in advance of fulfilling the request.

E. In the event a requestor has not paid for prior requests fulfilled by the Township, the Township may require payment of outstanding fees before fulfilling a new request.

§1-1005 Denials and Appeal Process.

A. If the request is denied or deemed denied, the requester may file an appeal with the Commonwealth's Office of Open Records within fifteen (15) business days of the mailing date of the Township's notice of denial, or within fifteen (15) days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the agency for delaying or denying the request.

B. Within 30 days of the mailing date of the final determination of the appeals officer, the requester or Township may file a petition for review or other document as required by rule of court with the Court of Common Pleas of Chester County. A petition for review under this section shall stay the release of documents until a decision is issued.

§1-1006 Retention of Records.

A. The Township will maintain all requests in accordance with the Municipal Records Manual published by the Pennsylvania Historical and Museum Commission dated December 16, 2008, as revised. A database cataloging all requests will be kept in perpetuity.

This Policy, the Request for Access to Information Form and Contact Information for the Open Records Officer and the Commonwealth's Office of Open Records shall be available for review, posted at the Township office and included on the Township's website.