

**THE BOARD OF SUPERVISORS OF EAST COVENTRY TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

RESOLUTION NO. 2008-42

A RESOLUTION ADOPTING NEW PROCEDURES AND REGULATIONS FOR PROCESSING RIGHT-TO-KNOW REQUESTS; DESIGNATING AN OPEN RECORDS OFFICER; POSTING CERTAIN INFORMATION ON THE TOWNSHIP WEBSITE; APPROVING FORMS TO BE USED FOR SUBMITTING RIGHT-TO-KNOW REQUESTS; AND VACATING AND REPEALING ANY PRIOR RESOLUTIONS SETTING FORTH PROCEDURES AND REGULATIONS RELATED TO RIGHT-TO-KNOW REQUESTS.

WHEREAS, Act 3 of 2008, known as the Pennsylvania Right-to-Know Law, as amended (the "Right-to-Know Law"), defines a public record as any record, including a financial record, of the Township that: (1) is not exempt under Section 708 of the Right-to-Know Law; (2) is not exempt from being disclosed under any other federal or state law or regulation or judicial order or decree; or (3) is not protected by a privilege; and

WHEREAS, a record is defined as any information, regardless of physical form or characteristics, that documents a transaction or activity of the Township and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the Township, which term includes a document, paper, letter, map, plan, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document; and

WHEREAS, the Right-to-Know Law permits public inspection and copying of all public records as defined above; and

WHEREAS, the Right-to-Know Law specifically exempts various types of records from disclosure, as set forth in Section 708(b) of the Right-to-Know Law and described on Schedule

"A" attached hereto and incorporated herein by reference, and other records considered to be non-public or private as provided by law or interpreted by the courts; and

WHEREAS, the Township is authorized to promulgate regulations and policies necessary to implement the Right-to-Know Law and to protect its interests in maintaining an orderly process for making records available for inspection and copying by the public; and

WHEREAS, the Right-to-Know Law requires that the Board of Supervisors provide for access to public records; establish procedures for processing Right-to-Know Law requests; designate an Open Records Officer; post certain contact and procedural information on the Township website; communicate the state-established fee schedule for reimbursement of administrative time spent processing the request and fair and reasonable copying charges; and communicate the process for appeals.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Board of Supervisors of East Coventry Township hereby adopts a new Right-to-Know Policy as set forth below.

2. The purpose of this policy is to assure compliance with the Right-to-Know Law; to provide access to public records of the Township; to preserve the integrity of 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 requests and the retrieval and copying of public records.

3. 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 state-established fees for duplication of public records of the Township. The Board of Supervisors designates the Township Manager or other individual as designated by the Board of Supervisors as the Open

Records Officer, who shall be responsible for assuring compliance with the Right-to-Know Law, in accordance with the guidelines set forth herein.

4. The duties of the Open Records Officer shall be to receive and document Requests, maintain copies of Requests and supporting documentation, direct Requests to the appropriate person in the Township to address, track the Township's progress in responding to Requests, and issue interim and final responses to Requests.

5. A Right-to-Know request may be made by any person who is a legal resident of the United States (hereinafter, the "Requester"). The request shall be in writing, shall be addressed to the Township's Open Records Officer, and shall include the following information: the date of the request, the Requester's name, address, and telephone number; identification or description of the public records requested with sufficient specificity to enable the Township to determine which public records are being requested; the signature of the Requester; and, if duplication is requested, appropriate payment (hereinafter, the "Request"). The Request shall include the certification of the Requester that he or she is a legal resident of the United States and shall be accompanied by a copy of a valid drivers license, social security card, passport, voter registration card or other valid supporting documentation of the Requester evidencing lawful residency in the United States. The Request shall be substantially in the form attached hereto as Appendix "A" entitled "Public Record Review/Duplication Request", or such form as may be developed by the Pennsylvania Office of Open Records, as amended from time to time.

6. Upon receiving a Request, the Township employee receiving same shall promptly forward the Request to the Open Records Officer for review. The Open Records Officer may designate certain employee(s) to process Requests.

7. Upon receiving a Request, the Open Records Officer or his designee shall take each of the following actions: (a) note the date of receipt on the Request; (b) calculate the day on

which the period of five (5) business days to respond will expire and make a notation of that date on the Request; (c) review the Request and make a determination as to whether the record requested is a public record; and (d) maintain either an electronic or paper copy of the Request, including all documents submitted with the Request, until such time as the Request has been fulfilled. The Open Records Officer, on behalf of the Township, shall respond to the Requester within five (5) business days from the date the Request is received by the Township. If the Open Records Officer does not respond within five (5) business days of receipt thereof, the Request shall be deemed denied.

8. In responding to Requests, the Open Records Officer shall endeavor to minimize, where possible, the financial impact to the Township in utilizing resources to process Requests and to retrieve and copy public records. However, the Township may not limit the number of records requested or made available for inspection or duplication. As provided in the Right-to-Know Law, the Township shall deny a Request where the Requester has made repeated requests for a particular record and the repeated requests have placed an unreasonable burden on the Township, as determined by the Township in its reasonable discretion.

9. The response of the Open Records Officer, on behalf of the Township, to the Requester shall: (a) grant the Request in its entirety; (b) deny the Request in its entirety; (c) grant part of the Request and deny other portions of the Request; (d) notify the Requester that the Request is being reviewed; or (e) notify the Requester that the public record is available on the Township's website or through other publicly accessible electronic means.

10. If the Request is approved in its entirety and is for inspection of public records, the Requester shall make an appointment to come to the Township Office, 855 Ellis Woods Road, Pottstown, PA 19465, for inspection of the records, which shall be during the regular business hours of the Township. The Open Records Officer or his designee shall cooperate in a

reasonable manner with the Requester, while also taking reasonable measures to protect Township public records from the possibility of theft and/or modification. The presence of the Open Records Officer or a designated employee of the Township shall be required when public records are examined.

11. If all or a portion of the Request is approved and is for copies of public records, the Township shall provide a copy of the public record within five (5) business days of the Request, provided the Requester pays the applicable duplication fees as provided herein. Actual postage fees incurred for mailing public records shall be paid by the Requester in advance.

12. If the Request is denied either in its entirety or in part by the Township, the denial shall be issued in writing and shall include: (a) a description of the record requested; (b) the specific reason(s) for the denial, including a citation of supporting legal authority; (c) the name, title, business address, business telephone number and signature of the Open Records Officer; (d) the date of the denial; and (e) the procedure to appeal the denial of access under the Right-to-Know Law. The denial shall be in the form attached hereto as Appendix "B" entitled "Denial of Request to Review and/or Duplicate Township Records."

13. If all or a portion of the Request is denied, the Request shall be maintained for thirty (30) days or, if an appeal is filed thereafter with the Pennsylvania Office of Open Records, until a final determination is issued or the appeal is deemed denied. At the request of the Open Records Officer, the Township Solicitor may respond to the Requester in writing.

14. If the Request requires review so that an appropriate determination of approval or denial can be made, the Township shall provide written notice to the Requester that the Request is being reviewed. The written notice shall include: (a) the reason for the review; (b) the expected response date, which shall be within thirty (30) days of the date of the Township's notice of review; and (c) the estimated duplication fees to be owed when the record becomes

18. Fees for postage shall equal the actual cost of mailing. Fees for duplication of public records shall be as described on Schedule "B" attached hereto or such higher fees as may be required or established by the Pennsylvania Office of Open Records. The Township may, in its discretion, waive fees for the duplication of public records.

19. In the event the estimated cost of fulfilling a Request is expected to exceed \$100.00, the Open Records Officer or his designee shall require that the Requester prepay one hundred percent (100%) of the expected cost in advance of fulfilling the Request to avoid unwarranted expense to the Township. Any unforeseen cost that remains will be paid by the Requester prior to receiving access to the requested records. Unless waived by the Township, all applicable fees shall be paid prior to receiving access to the records requested.

20. 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 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 Township for delaying or denying the Request.

21. Within thirty (30) days of the mailing date of the final determination of the Pennsylvania Office of Open Records, the Requester or the Township may file a petition for review with the Court of Common Pleas for Chester County. A petition for review shall stay the release of records until a decision on the petition is issued.

22. The Township shall post the following information on its Internet website: (a) the name and contact information for the Open Records Officer; (b) contact information for the

Pennsylvania Office of Open Records; (c) a link to the form the Requester may use to file a Request; and (d) a copy of this policy and any other procedures that may be established from time to time by the Township relating to public record requests. This policy also shall be available for review at the Township Office.

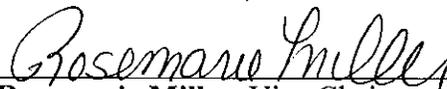
23. This Resolution shall take effect on January 1, 2009 and shall apply to all Requests submitted after December 31, 2008. Prior to January 1, 2009, the Township shall respond to requests for access to public records in accordance with the provisions and procedures of the predecessor to the Right-to-Know Law, Act of June 21, 1957 (P.L. 390, No. 212), as in effect on the date of adoption of this Resolution.

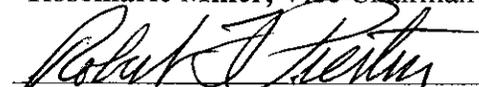
24. The Township hereby vacates and repeals any prior policies or resolutions setting forth procedures and regulations pertaining or related to Right-to-Know requests, which repealer shall take effect on January 1, 2009.

Adopted this 10th day of November, 2008.

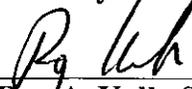
EAST COVENTRY TOWNSHIP

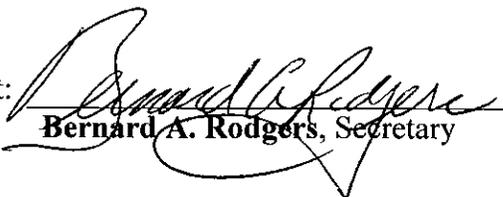
By: 
W. Atlee Rinehart, Chairman

By: 
Rosemarie Miller, Vice Chairman

By: 
Robert F. Preston, Supervisor

By: 
Timothy J. Rojand, Supervisor

By: 
Ray A. Kolb, Supervisor

Attest: 
Bernard A. Rodgers, Secretary

SCHEDULE "A"

The following are exempt from disclosure under the Right-to-Know Law:

1. A record the disclosure of which would result in the loss of federal or state funds by the Township;
2. A record the disclosure of which would be reasonably likely to result in substantial risk of physical harm or risk to the personal security of an individual;
3. Classified information and records of military personnel and law enforcement that, if disclosed, would threaten public safety;
4. Information the disclosure of which would endanger the safety or physical security of a building, public utility, resource, infrastructure, facility or information storage system, including computer security;
5. Individual medical, psychiatric, psychological and disability records, including drug tests, enrollment in a health care program, rehabilitation, workers compensation, unemployment compensation and other records containing individually identifiable health information;
6. The following personal identification information:
 - a. All or part of social security numbers, driver license numbers, personal financial information, personal telephone numbers, personal email addresses, or other confidential personal identification numbers;
 - b. Names of spouses, marital status, beneficiaries and dependents;
 - c. Home addresses of law enforcement officers and judges;
 - d. Redacted identifying information relating to undercover law enforcement officers or covert operatives;
 - e. Certain information about agency employees, including letters of reference, performance ratings, civil service or similar test results, grievance material, disciplinary information and academic transcripts;
 - f. Records relating to collective bargaining negotiations and related arbitration proceedings;
 - g. Drafts of ordinances, bills, resolutions, regulations, policies, management directives and amendments thereto;

h. Records that reflect internal, pre-decisional deliberations of the Township or between its members, employees or officials and members, employees or officials of another agency, including pre-decisional deliberations relating to the strategy used to develop or achieve successful adoption of budgets, legislative proposals, legislative amendments, proposed policies, or any research, memos or other documents used in the pre-decisional deliberations; provided such records are not presented to a quorum for deliberation at a public meeting;

i. Records containing trade secrets or confidential proprietary information;

j. Notes and working papers prepared by or for public officials or Township employees for their personal use;

k. Records disclosing the identity of donors and potential donors to the Township unless the donation is restricted to providing remuneration or personal tangible benefit to a named public official or employee;

l. Records relating to or resulting in criminal investigations;

m. Records relating to non-criminal investigations;

n. Dispatch and radio records other than time response logs, except that the Township may release 911 recordings or transcripts if the public interest and disclosure outweighs the interest in non-disclosure;

o. Genetic records;

p. Autopsy records other than reporting the name, cause and manner of death;

q. Draft minutes of any meeting of the Township until the next regularly scheduled meeting, minutes of an executive session and any record of discussions held in executive session;

r. Certain real estate records related to the Township's interest in real property, including appraisals, feasibility studies, environmental audits and evaluations relating to the leasing, acquiring, or disposing of real property and the purchase of supplies or equipment included in the transaction, and construction projects. This restriction applies only until a decision is made to proceed with the transaction;

s. A proposal pertaining to Township procurement or disposal of supplies, services or construction prior to the opening and rejection of all bids, financial information of the bidder or offeror provided to demonstrate economic capability; and the identity of members and other records of agency proposal evaluation committees;

t. Records relating to communications between an agency and its insurance carrier other than insurance contracts and financial records relating to the provision of insurance;

u. Certain social services records, including an individual's application for benefits, determination of eligibility, and financial information of an applicant; and

v. Records identifying the name, home address or date of birth of a child 17 years of age or younger.

SCHEDULE "B"

FEE SCHEDULE

Except where outside, commercial copying is needed, paper copies are \$0.10 per page per side. If a disk is requested, it will be provided by the Township only if the document is kept electronically and at the cost of \$2.50 per disk. A new disk will be necessary each time records are provided. If "True and Correct Certification" is requested, an additional charge of \$2.50 per document will be added. Where outside, commercial copying is needed in the discretion of the Open Records Officer, the ordinary rates charged by the commercial establishment shall apply along with the costs of pickup and delivery.

APPENDIX "A"

PUBLIC RECORD REVIEW/DUPLICATION REQUEST

Please print legibly

Date of Request: _____

Requester's Name: _____

Requester's Address: _____

Requester's Telephone: _____

I request ___ review ___ duplication (mark as appropriate) of the following records.

Important: You must identify or describe the records with sufficient specificity to enable the Township to determine which records are being requested. Use additional sheets if necessary.

I certify that I am a resident of the United States of America. ___ Yes ___ No (check which applies)

(You must produce valid identification showing you are a lawful U.S. resident)

Requested Method for Delivering Copies:

Pick-up ___ Mail ___ E-Mail ___ (email address _____)
Fax ___ (Fax Number _____)

Signature of Requester: _____

This request may be submitted in person, by mail, or by facsimile to:

East Coventry Township
855 Ellis Woods Road
Pottstown, PA 19465
Phone: 610-495-5443
Fax: 610-495-9925

FOR OFFICE USE ONLY:

Date Request Received: _____

Date Response Due: _____

Date Request Fulfilled: _____

By: _____

No. of Copies ___ @ \$ ___ per page = _____

Method of Delivery:

Mail ___ Postage \$ ___ Email ___ Fax ___

Records Picked up on: _____

Identification Submitted:

- ___ Drivers License
- ___ Social Security Card
- ___ Voter Registration Card
- ___ Passport
- ___ Other

APPENDIX "B"

**DENIAL OF REQUEST TO REVIEW
AND/OR DUPLICATE TOWNSHIP RECORDS**

Please print legibly

Date of Request: _____

Date of Denial: _____

Requester's Name: _____

Requester's Address: _____

Requester's Telephone: _____

Description of Records Requested: _____

Your request to review and/or duplicate Township records has been denied for the following reasons (includes citation of supporting legal authority):

You may appeal this denial of access by filing an appeal with the Pennsylvania Office of Open Records within fifteen (15) business days of the date of denial indicated above. Your appeal must state the grounds upon which you assert that the record is a public record and must address any grounds stated by the Township for delaying or denying the Request. Unless you agree otherwise, the Pennsylvania Office of Open Records shall make a final determination within thirty (30) days of receiving your appeal.

Signature
Open Records Officer
East Coventry Township
855 Ellis Woods Road
Pottstown, PA 19465
Phone: 610-495-5443