

1-2003

RESOLUTION

A RESOLUTION OF THE TOWNSHIP OF SCHUYLKILL SETTING FORTH A POLICY REGARDING REQUESTS FOR PUBLIC RECORDS PURSUANT TO THE RIGHT TO KNOW LAW

WHEREAS, Act 100-2002 was enacted on June 29, 2002 amending the Right to Know Law and requiring municipal subdivisions and authorities to adopt a policy implementing the provisions and requirements of the law; and

WHEREAS, The Township of Schuylkill is an "agency" as defined by the "Right to Know Law", as amended: and

WHEREAS, The purpose of the resolution is to set forth a policy regarding requests for public records made to The Township of Schuylkill pursuant to the Right to Know Law: and

NOW THEREFORE BE IT RESOLVED BY The Supervisors of the Township of Schuylkill and it is hereby resolved by the authority of same:

Statement of Intent

This policy is enacted to insure compliance with Act 100 of 2002, the Right-to-Know (Open Records) Law and is intended to enable access to all public records maintained by Schuylkill Township.

Statutory Basis

This policy is based on Act 100 of 2002, the Right-to-Know (Open Records) Law, which governs the rights of the public to inspect and obtain copies of public records. The effective date of Act 100 is December 26, 2002.

Definition of a Public Record (from Act 100)

"Public records" are any account, voucher, or contract dealing with the receipt or disbursement of funds by Schuylkill Township or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order, or decision by the Township fixing the personal or property rights, privileges, immunities, duties, or obligations of any person or group of persons.

"Public records" do not include:

(1) any report, communication, or other paper, the publication of which would disclose the institution, progress, or result of any investigation undertaken by Schuylkill Township in the

performance of its official duties, except those reports filed by Schuylkill Township pertaining to safety and health in industrial plants.

(2) any record, document, material, exhibit, pleading, report, memorandum, or other paper, access to or the publication of which is prohibited, restricted, or forbidden by statute, law, or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security or which would result in a loss by the Commonwealth or any of its political subdivisions or commissions or state or municipal authorities of federal funds, excepting therefrom, however the record of any conviction for any criminal act.

Access to Public Records

Schuylkill Township public records are open for inspection and duplication during normal office hours, 9:00 a.m. to 4:00 p.m. Monday through Friday, except for holidays, subject to the regulations set forth herein. Appointments may be made for access to public records at other times.

Request for Public Records

All attempts will be made to fulfill requests for public records in a timely manner.

If the requester seeks to pursue the rights, relief, or remedies under Act 100, the request for public records must be in writing and be addressed to Township Secretary or other person designated by the Township Supervisor, at Municipal Building, P.O. Box 405, Mary-D, Pennsylvania 17952.

Written Requests

Written requests for access to public records, meeting minutes, meeting agendas, and property tax information may be on a form provided by the Township or in a letter addressed to the Township Secretary, Municipal Building, P.O. Box 405, Mary-D 17952. Written requests may be delivered in person, carried by US Mail or services such as Federal Express, or sent by facsimile. The written request must identify or describe the records sought with sufficient specificity to enable Schuylkill Township to ascertain which records are being requested and shall include the name and address to which Schuylkill Township should address its response. The requester may include a telephone number or email address to facilitate clarification of requests, if necessary.

The requester's intended use of the record(s) is a private matter. No Township employee or representative shall request or require an explanation of the use of the record(s) requested.

Schuylkill Township's Response

Once a written request for public records has been received by the Secretary, Schuylkill Township shall respond to the request within five (5) business days in one of the following

manners:

1. The requested records will be provided; or
2. The request will be denied. If a request is denied in whole or in part, the denial will be in writing and will contain a description of the records requested, the reasons for the denial, including citation of supporting legal authority, and the procedure to appeal the denial of access under Act 100; or
3. If the Township determines that:
 - (i) the request requires redaction; or
 - (ii) the request requires retrieval from a remote location; or
 - (iii) the request requires legal review; or
 - (iv) the requester has not complied with Schuylkill Township's Policy; or
 - (v) a timely response cannot be made due to staffing limitations; or
 - (vi) the requester refuses to pay the applicable fees set forth by this policy

Then the Township will send written notice that the request is being reviewed, the reason for the review, and a reasonable date by which a response is expected to be provided.

Schuylkill Township is not required to create a public record to fulfill a request if no such document is currently in existence.

Redaction

Schuylkill Township will grant access to public records according to this Policy and will separate and exclude any records which are not public records or which are otherwise excluded or exempted from the definition of public records. If information which is not subject to access is an integral part of a public record and cannot be separated, Schuylkill Township shall redact from the public record the information which is not subject to access and the response shall grant access only to the information which is subject to access.

Note: The Township will provide identifiable and existing public records but is not required to synthesize, compile, maintain, format, or organize records in response to a request.

Exceptions:

If a request for access is denied, the requester may file exceptions (appeals) as follows:

Informal Appeals

Appeals relating to the decision of a Township employee other than the Township Secretary to deny access to an oral request shall be made to the Secretary. This informal appeal can be made orally or in writing. The Secretary shall respond within 5 working days.

Formal Filing of Exceptions

Appeals of a decision made by the Township Secretary to deny access for records pursuant to a written request shall be filed with the Township Secretary within fifteen (15) business days of the denial. The Appeal shall be heard by the Schuylkill Township Board of Supervisors at the next regular meeting of the Board that occurs not less than five (5) nor more than thirty (30) days from the date the appeal is received. The Board of Supervisors shall make a "final determination" on an appeal, and if the denial of access is affirmed, a written explanation will be provided to the requester.

Within thirty (30) days of a denial by the Township or of the mailing date of a final determination of the Township Supervisors affirming the denial of access, a requester may file a petition for review or other document as might be required by rule of court with the Court of Common Pleas of Schuylkill County or bring an action in the local magisterial district having jurisdiction.

The Township shall be served notice of any court action or other action commenced, and shall have an opportunity to respond in accordance with applicable court rules.

Forms:

The Township Secretary is authorized and directed to establish and provide necessary forms for written requests and filing for exceptions.

Fees:

No fees for the examination of public records on site will apply. Charges are for duplication and delivery of public records.

Paper Copies

Paper copies will be \$0.25 per page. If mailing is requested, the cost of postage will be charged.

Electronic Copies

If records exist in electronic form, requests for electronic records will be accommodated. Requests for electronic files must include a diskette and indicate the format required and include the cost of \$1.00 per diskette.

To avoid the transmission of computer viruses, each separate request for records on a diskette will require a new diskette at the cost of \$1.00.

Records that do not exist in electronic format will not be created to satisfy a request.

Faxes

Fax copies will be available at the cost of \$0.50 per page, plus any toll charges. This per page rate shall apply to all pages faxed, including one cover page. No document faxed shall be, in any part, free of charge.

Certification

If document certification is requested, an additional charge of \$2.00 per document will be added.

Prepayment

The Township will require prepayment of fees if the total fees are estimated to exceed \$100.00.

Effective Date

This resolution shall take effect 3/5, 2003.

RESOLVED THIS 5th day of March, 2003.

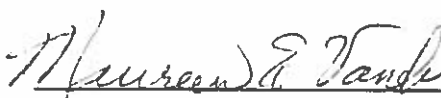
**BOARD OF SUPERVISORS
SCHUYLKILL TOWNSHIP**




JOSEPH BORAN, Chairman



FRANK THOMPSON, Supervisor



MAUREEN VANEK, Vice-Chairman



MARY BUBEL, Secretary

MICHAEL S. GREEK

Attorney at Law
129 West Ridge Street
Lansford, Pennsylvania 18232
570-645-2200 fax 570-645-2202

February 26, 2003

Schuylkill Township
Municipal Building
P.O. Box 405
Mary-D, PA 17952

RE: Schuylkill Township
Our File No. 8000-2

Dear Supervisors:

Enclosed please find a Resolution, setting forth a policy regarding requests for public records pursuant to the Right to Know Law, which I ask that you adopt at your next meeting. If you have any questions, please do not hesitate to contact me.

Very sincerely yours,



Michael S. Greek

MSG/mlf

Enclosure