

RESOLUTION NO. 09 - 02

RESOLUTION OF THE BOARD OF SUPERVISORS OF HAYCOCK TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA ESTABLISHING AN OPEN RECORDS POLICY CONSISTENT WITH THE PENNSYLVANIA RIGHT TO KNOW ACT, AS AMENDED BY ACT 3 OF 2008; DESIGNATING AN OPEN RECORDS OFFICER IN HAYCOCK TOWNSHIP AND DEFINING THE DUTIES AND OBLIGATIONS OF THAT OFFICER; ESTABLISHING REGULATIONS FOR INDIVIDUALS MAKING REQUEST FOR ACCESS TO THE RECORDS OF HAYCOCK TOWNSHIP; DEFINING PROCEDURES FOR PROCESSING REQUESTS AND REQUIRING A WRITTEN RESPONSE TO ALL REQUESTS; PROVIDING FOR FEES CHARGEABLE IN RELATION TO REQUESTS FOR ACCESS TO RECORDS; AND PROVIDING FOR APPEALS FROM THE DETERMINATION OF A REQUEST FOR RECORDS

WHEREAS, The Pennsylvania Right-to-Know Law, 65 P.S. §67.101 et seq., as amended (the "Right-to-Know Law"), originally enacted on June 21, 1957, sets forth minimum requirements upon Haycock Township in connection with making public records of Haycock Township available for inspection.

WHEREAS, Pursuant to Haycock Township Resolution No. 02-15 adopted by the Haycock Township Board of Supervisors (the "Board"), Haycock Township adopted an open records policy consistent with the then current version of the Right-to-Know Law.

WHEREAS, on February 14, 2008, the Right-to-Know Law was amended by Act 3 of 2008 ("Act 3"), which substantially revised the existing Right-to-Know Law. Act 3 preserved much of the existing Right-to-Know Law, but adds the following specific principles:

1. creates an assumption that all records are public records unless specifically exempted;
2. requires all Pennsylvania townships to name an official or employee as the "Open Records Officer;"

3. revises the appeals process to handle the denial of a Right-to-Know Law request;
4. sets limits on the fees and costs chargeable by a township; and
5. increases the civil penalties for violations.

WHEREAS, the Board wishes to repeal Resolution No 02-15, and enact a new Resolution to comply with the Right-to-Know Law as amended by Act 3.

WHEREAS, this resolution is enacted pursuant to the legislative authority set forth at 65 P.S. §67.101, et seq.

NOW THEREFORE BE IT RESOLVED AND ENACTED by the Haycock Township Board of Supervisors:

1. **Purpose**

The purpose of this Resolution is to comply with and advance the policies set forth in the Pennsylvania Right-to-Know Law, 65 P.S. §67.101, as amended. The policies are those set forth in the Pennsylvania Right-to-Know Law, and include, but are not limited to the following:

- A. Provide access to the public records of Haycock Township;
- B. Preserve the integrity of Haycock Township's records; and
- C. Minimize the financial impacts to the residents and businesses of Haycock

Township regarding the resourced utilized in the receipt and processing of request for public records and the retrieval and copying of public records.

II. **Designated Open Records Officer**

In accordance with Section 502 of the Pennsylvania Right-to-Know Law, Haycock Township is required to designate a Haycock Township employee as Open Records Officer of Haycock Township. The Township Secretary is hereby designated

as the Open Records Officer of Haycock Township, responsible for ensuring compliance with the provisions of this Resolution and the Pennsylvania Right-to-Know Law. The Township Board of Supervisors may designate other Haycock Township employees or agents to act as the Open Records Officer in the Township Secretary's absence or at the Township Board of Supervisors' direction.

III. Requests for Public Records: Administration by Open Records Officer

A. The Open Records Officer, or other Board of Supervisors' designee, shall be present when all public records are inspected and examined.

B. The Open Records Officer shall be responsible for charging reasonable fees consistent with this Resolution for the duplication of the public records of Haycock Township.

C. The Open Records Officer is authorized to and shall minimize where possible the financial impact to Haycock Township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

D. All requests for public records of Haycock Township pursuant to this Resolution shall be specific in identifying and describing with sufficient detail each public record requested. In no case shall Haycock 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 Haycock Township does not compile, maintain, format or organize the public record.

E. All requests for public records shall be submitted in writing, preferably on a form approved by the Pennsylvania Office of Open Records. All requests shall include the date of the request, the requester's name, address and telephone number;

certification of United States residency; signature of the requester; and if duplication is requested, the appropriate payment.

F. The Open Records Officer, or other Board of Supervisors' designee, shall make a good faith effort to determine whether each record requested is a public record.

G. Haycock Township shall facilitate a reasonable response to a request for Haycock Township's public records in accordance with the provisions of this Resolution. In no case or instance shall the Township be expected to provide extraordinary staff to a respond to a request, but will respond in a manner consistent with this Resolution, Haycock Township's administrative responsibilities and capabilities, and consistent with the requirements of the Pennsylvania Right-to-Know Law, as amended.

IV. Response to Request

A. The Open Records Officer, or other Board of Supervisors' designee, shall respond to the requester within five (5) business days from the receipt of a complete written request. If a response of any kind is not provided within five (5) business days of receipt of a complete written request, the request is deemed denied.

B. The response provided by Haycock Township shall consist of any combination of the following:

1. approval of access to the public record;
2. review of the request by the Open Records Officer or other Board of Supervisors' designee; or
3. denial of access to the record requested.

C. If access to the public record is approved, the public record shall be available for access during Haycock Township's regular business hours. The Open Records Officer, or other Board of Supervisors' designee, shall cooperate fully with the

requester, while also taking reasonable measures to protect Haycock Township public records from the possibility of theft and/or modification. The presence of a designated employee is required and mandatory when public records are examined and/or inspected.

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

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 Haycock Township's policy and procedure requirements for requesting a record;
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.

E. Upon a determination that one of the factors identified in subsection D(1) through (7) inclusive applies, Haycock Township shall send 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 thirty (30) days, following the five (5) 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 Haycock Township has not provided a response by that date.

V. Appeals

A. If the request is denied or deemed denied, the requester may file an appeal with the Pennsylvania Office of Open Records within fifteen (15) business days of the mailing date of Haycock Township's notice of denial, or within fifteen (15) business 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 Haycock Township for delaying or denying the request. The requester shall also mail a copy of the appeal to Haycock Township.

The requester shall file the appeal with Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building 400 North Street, Plaza Level, Harrisburg, PA 17120-0225 or with such other person or office as maybe designated under Section 503 of Act 3 of 2008 or any amendment thereto. Appeals of criminal

records shall be made to the District Attorney of Bucks County, Bucks County Courthouse, 55 East Court Street, Doylestown, PA 18901.

B. Within thirty (30) days of the mailing date of the final determination of the appeals officer assigned by the Pennsylvania Office of Open Records, the requester or Haycock Township may file a petition for review (or other document as required by rule of court) with the Bucks County Court of Common Pleas for a review of the final determination. A petition for review filed under this subsection B shall stay the release of documents until the Common Pleas court issues a final decision.

VI. Fees

A. Fees for duplication of public records as set forth in this Resolution shall be consistent with the rates established by the Pennsylvania Office of Open Records. Haycock Township may waive fees, at the discretion of the Open Records Officer. The fees set forth in subsection B are subject to any revisions issued by the Pennsylvania Office of Open Records, and are deemed to be revised as necessary to be consistent with any such revisions.

B. The following fees are established for the duplication of public records:

1. Photocopies (either a single-sided copy or one side of a double-sided black and white copy of a standard 8.5 inch by 11 inch page) — \$0.25 per page.
2. Certification of a Record — \$1.00 per record (not per page).
Certification fees do not include notarization fees.
3. Specialized documents (for example, but not limited to, blueprints, color copies, non-standard sized documents) — actual cost.
4. Facsimile/Microfiche/Other Media — actual cost.

5. Redaction Fee — no redaction fee shall be imposed.
6. Conversion to paper — if a record is only maintained in electronic or in other non-paper media, duplication fees are 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.
7. Postage Fees — actual cost of mailing.

C. Prepayment. In the event the estimate cost of fulfilling a request submitted under this Resolution is expected to exceed \$100.00, the Open Records Office, or other Board of Supervisors' designee, shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Haycock Township resources.

VII. Regulations and Policies

The Township hereby adopts as its regulations and policies the policy statements and regulations contained in Act 3 of 2008 including, but not limited to the definitions, requirements and prohibitions, access requirements, procedures, exceptions for public records production, response requirements and appeal provisions contained therein.

VIII. Posting

The Township shall prominently post the policies and procedures contained herein and in the Act at the Township office and shall make the same available by electronic means.

IX. Repealer

Haycock Township Resolution No. 02-15, adopted and effective November 25, 2002, by the Haycock Township Board of Supervisors, is specifically repealed in its

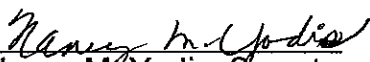
entirety. In addition, all inconsistent provisions of all other Ordinances and Resolutions of the Haycock Township, Bucks County, Pennsylvania are hereby repealed to the extent of the inconsistency. All other provisions of the Ordinances and Resolutions of the Haycock Township, Bucks County, Pennsylvania shall remain in full force and effect.

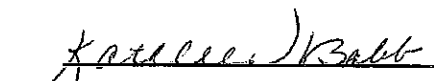
RESOLVED AND ADOPTED, as a Resolution by the Haycock Township Board of Supervisors, this 5 day of January 2009.

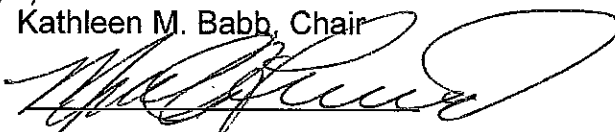
HAYCOCK TOWNSHIP

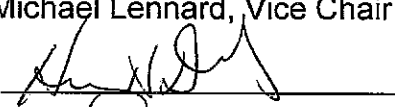
BOARD OF SUPERVISORS

ATTEST:


Nancy M. Yodis, Secretary


Kathleen M. Babb, Chair


Michael Lennard, Vice Chair


Henry Depue, Member



pennsylvania
OFFICE OF OPEN RECORDS

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL |

NAME OF REQUESTOR : _____

STREET ADDRESS

CITY/STATE/COUNTY (Required): _____

TELEPHONE (Optional): _____

RECORDS REQUESTED:

"Provide as much specific detail as possible so the agency can identify the information.

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE:

"Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)"