

RESOLUTION #2008-4

PUBLIC RECORDS POLICY Effective Date January 1, 2009

I. 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 the Milesburg Borough Water Authority; to preserve the integrity of the Authority's records; and to minimize the financial impact of the residents regarding the resources utilized in the receipt and processing of public record request and the retrieval and copying of public records.

II. Public Records

A "Public Record" is defined as any record, including financial records, of a Commonwealth or local agency that is not exempt under section 708 of Act 3 of 2008, that is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree, or that is not protected by a privilege. Exemptions are included as a part of this policy as Attachment A.

Records are information, regardless of physical form or characteristic, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the Authority. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

III. Inspection

Public records are open to inspection and for duplication by appointment, Monday through Friday, except for holidays, subject to the regulations set forth herein.

IV. Open Records Officer

The designated "Open Records Officer" shall be the Authority's Secretary, who may designate certain employee(s) to process public record requests. The Authority Secretary is responsible for minimizing, where possible, the financial impact to the Authority regarding the resources utilized in the receipt and processing of public record request and the retrieval and copy of public records.

Upon receipt of a written open records request, the Open Records Officer or his/her designee shall:

1. Note the date of receipt on the written request.
2. Compute the day on which the five-day period will expire and make a notation of that date on the written request.
3. Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

V. Open Records Request

A written request for access to records may be submitted in person, by mail, by e-mail, or by facsimile. A written request must identify or describe the records sought with sufficient specificity to enable the Authority to ascertain which records are being requested and shall include the name and address to which the Authority should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the records unless otherwise required by law.

All open records request shall be addressed to the Open Records Officer as follows:

Open Records Officer
Milesburg Borough Water Authority
P.O. Box 282
Milesburg, PA 16853

Telephone: 814-355-4262

VI. Redaction

While the Authority will disclose public records subject to access, the Authority is not required to synthesize, compile, maintain, format, or organize records in response to a request. When a public record exists, the Authority 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, the Authority 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.

VII. Response

Within 5 business days from the date the request is received, the Authority will (1) provide the records requested; (2) deny the request by notifying the requestor in writing; or (3) send a written notice that the records cannot be provided within the initial 5 business days. If it is determined that the request cannot be honored within the initial 5 days, a notice will be issued specifying a date when the records may be expected but, in no case, will the time be longer than 30 additional days. If no response is made within the five business days of receipt of written request, the request shall be deemed denied.

VIII. Fees

A request for copies of public records or information produced there from must be accompanied by payment of fees to cover the direct costs of duplication. Reasonable fees to cover direct costs, for copying services incurred by the Authority may be charged. Although not all-inclusive, the fees may be listed on a Schedule which may be adopted by the Resolution of the Authority, and may be amended from time to time as expenses change by Resolution.

IX. Denials

If the Authority denies a written request for information, whether in whole or in part, a written response will be sent by the Open Records Officer or his/her designee to the requestor with: (1) a description of the record requested; (2) the specific reasons for denial, including a citation of supporting legal authority; (3) contact information for the Open Records Officer; (4) date of response; and (5) procedure to appeal the denial.

X. Appeals

If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under section 503(d) within 15 business days of the mailing date of the agency's response or within 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, legislative record or financial record and shall address any grounds stated by the agency for delaying or denying the request.

XI. Repeal of Inconsistent Resolutions

Any and all other Resolutions, or parts of Resolutions, in conflict herewith, are hereby repealed. This Resolution was adopted at a meeting held December 22, 2008.

**MILESBURG BOROUGH
WATER AUTHORITY**

By: Paul J. Bartley
Paul J. Bartley, Chairman

Paula J. Hall
Paula J. Hall, Secretary-Treasurer

ATTACHMENT A

Open Records Law - Exemptions

1. A record the disclosure of which would result in the loss of Federal or State funds by an agency or the Commonwealth; or would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.
2. A record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity or a record that is designated classified by an appropriate Federal or State military authority.
3. A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system.
4. A record regarding computer hardware, software and networks, including administrative or technical records, which, if disclosed, would be reasonably likely to jeopardize computer security.
5. A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.
6. Personal identification information containing all or part of a person's Social Security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal email addresses; employee number or other confidential personal identification number; a spouse's name; marital status, beneficiary or dependent information; or the home address of a law enforcement officer or judge. Nothing in this paragraph shall preclude the release of the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement and length of service of a public official or an agency employee. The Borough may redact the name or other identifying information relating to an individual performing an undercover or covert law enforcement activity from a record.
7. The following employee information:
 1. letter of reference or recommendation on the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment of an individual to fill a vacancy in an elected office or an appointed office requiring Senate confirmation;
 2. performance rating or review,
 3. results of a civil service or similar test. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.
 4. employment application of an individual who is not hired by the agency.
 5. Workplace support services program information.
 6. Written criticisms of an employee.

7. Grievance material, including documents related to discrimination or sexual harassment.
8. Information regarding discipline, demotion or discharge contained in a personnel file. This subparagraph shall not apply to the final action of an agency that results in demotion or discharge.
9. An academic transcript.
8. A record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings, except for final or executed contract or agreement between the parties in a collective bargaining procedure.
9. The draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment thereto prepared by the Borough of Milesburg.
10. A record that reflects the internal, predecisional deliberations of the Borough, including predecisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations. Note: According to the Open Meetings regulations, 65 Pa.C.S Ch.7, the record is public once presented at an open meeting of Council or an ABC.
11. A record that constitutes or reveals a trade secret or confidential proprietary information.
12. Notes and working papers prepared by or for a public official or agency employee used solely for that official's or employee's own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.
13. Records that would disclose the identity of an individual who lawfully makes a donation to an agency unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the agency, including lists of potential donors compiled by an agency to pursue donations, donor profile information or personal identifying information relating to a donor.
14. Unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material and scholarly correspondence of a community college or an institution of the State System of Higher Education or a faculty member, staff employee, guest speaker or student thereof.
15. Academic transcripts, examinations, examination questions, scoring keys or answers to examinations. This subparagraph shall include licensing and other examinations relating to the qualifications of an individual and to examinations given in primary and secondary schools and institutions of higher education.
16. A record of an agency relating to or resulting in a criminal investigation, including:
 1. Complaints of potential criminal conduct other than a private criminal complaint.
 2. Investigative materials, notes, correspondence, videos and reports.
 3. A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.
 4. A record that includes information made confidential by law or court order.
 5. Victim information, including any information that would jeopardize the safety of the victim.
 6. A record that, if disclosed, would do any of the following:
 1. Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.

2. Deprive a person of the right to a fair trial or an impartial adjudication.
3. Impair the ability to locate a defendant or codefendant.
4. Hinder an agency's ability to secure an arrest, prosecution or conviction.
5. Endanger the life or physical safety of an individual.

This paragraph shall not apply to information contained in a police blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa.C.S. § 3754(b) (relating to accident prevention investigations).

17. A record of the Borough relating to a noncriminal investigation, including:
 1. Complaints submitted to the Borough.
 2. Investigative materials, notes, correspondence and reports.
 3. A record that includes the identity of a confidential source, including individuals subject to the act of December 12, 1986 (P.L. 1559, No. 169), known as the Whistleblower Law.
 4. A record that includes information made confidential by law.
 5. Work papers underlying an audit.
 6. A record that, if disclosed, would do any of the following:
 1. Reveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined to be confidential by a court.
 2. Deprive a person of the right to an impartial adjudication.
 3. Constitute an unwarranted invasion of privacy.
 4. Hinder an agency's ability to secure an administrative or civil sanction.
 5. Endanger the life or physical safety of an individual.
18. Records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings. This shall not apply to a 911 recording, or a transcript of a 911 recording, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.
19. DNA and RNA records.
20. An autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of a postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner. This exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.
21. Draft minutes of any meeting of an agency until the next regularly scheduled meeting of the agency. Minutes of an executive session and any record of discussions held in executive session.
22. The contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by an agency relative to the following:
 1. The leasing, acquiring or disposing of real property or an interest in real property.

2. The purchase of public supplies or equipment included in the real estate transaction.
3. Construction projects.

This section shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or the purchase of public supply or construction project.

23. Library and archive circulation and order records of an identifiable individual or groups of individuals.
24. Library archived and museum materials, or valuable or rare book collections or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution.
25. A record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.
26. A proposal pertaining to agency procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offeror requested in an invitation for bid or request for proposals to demonstrate the bidder's or offeror's economic capability; or the identity of members, notes and other records of agency proposal evaluation committees established under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).
27. A record or information relating to a communication between an agency and its insurance carrier, administrative service organization or risk management office. This paragraph shall not apply to a contract with an insurance carrier, administrative service organization or risk management office or to financial records relating to the provision of insurance.
28. A record or information identifying an individual who applies for or receives social services; or relating to the following:
 1. the type of social services received by an individual;
 2. an individual's application to receive social services, including a record or information related to an agency decision to grant, deny, reduce or restrict benefits, including a quasi-judicial decision of the agency and the identity of a caregiver or others who provide services to the individual; or
 3. eligibility to receive social services, including the individual's income, assets, physical or mental health, age, disability, family circumstances or record of abuse.
29. Correspondence between a person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests assistance or constituent services. This section shall not apply to correspondence between a member of the General Assembly and a principal or lobbyist under 65 Pa.C.S. Ch. 13A (relating to lobbyist disclosure).
30. A record identifying the name, home address or date of birth of a child 17 years of age or younger.