

The Municipal Authority

Of the

Borough of Portage

WATER DEPARTMENT

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RESOLUTION 1-2011

A resolution of the Municipal Authority of the Borough of Portage, Water Dept. implementing the compliance of Act 3 of 2008, the Pennsylvania Right-to-Know Law designating the Open Records Officer.

WHEREAS: 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 Portage Water Authority; to preserve the integrity of the Water Authority's records; and to minimize the financial impact to the customers of the Portage Water Authority regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

WHEREAS: It is the policy of the Authority 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 Water Authority. Portage Water Authority designates the Superintendent as the Open Records Officer, responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

- A. The Portage Water Authority Superintendent may designate certain employee(s) to process public record requests.
- B. The Portage Water Authority Superintendent is responsible for minimizing, where possible, the financial impact to the Customers regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.
- C. All requests for public records of the Municipal Authority of the Borough of Portage, Water Dept. under this policy shall be specific in identifying and describing each public record requested. In no case shall the Water Authority 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 Authority does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and include the date of the request; requestor's name, address, and telephone number; certification of United States residency; signature of requestor; and if duplication is requested, appropriate payment.
- D. The designated employee shall make a good faith effort to determine whether each record requested is a public record.
- E. The Water Authority shall facilitate a reasonable response to a request for Portage Water Authority's public records. In no case is the Water Authority expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the Water Authority's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-know Law.

- F. The designated employee shall respond to the requester within five (5) business days from the date of receipt of the written request. If the Water Authority does not respond within five (5) business days of receipt thereof, the request is deemed denied.
- G. The response provided by the Water Authority shall consist of (1) approval for access to the public record; (2) review of the request by the designated employee; or (3) denial of access to the record requested.
- H. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Portage Water Authority. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect Water Authority public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.
- I. Fees for duplication of public records shall be as established by the Commonwealth's Office of Open Records. The Portage Water Authority may at its discretion waive fees.
- J. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall obtain the expected cost in advance of fulfilling the request to avoid unwarranted expense of Authority resources.
- K. If the request is being reviewed; the notice provided by the Water Authority shall be in writing and include the reason for the review and the expected response date, which shall be within thirty (30) days of the notice of review. If the Water Authority does not respond within thirty (30) days thereof, the request is deemed denied. Review of the request is limited to situations where:
- (a) 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.
 - (b) The record requires retrieval from a remote location;
 - (c) A timely response cannot be accomplished due to staffing limitations;
 - (d) A legal review is necessary to determine whether the record requested is a public record;
 - (e) The requester has failed to comply with the Water Authority's policy and procedure requirements; or
 - (f) The requester refuses to pay the applicable fees.
 - (g) The extent or nature of the request precludes a response within the required time period.

Upon determination that one of the factors listed above applies, the Portage Water Authority shall send written notice to the requester within five 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 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 date.

- L. If access to the record requested is denied, the notice provided by the Municipal Authority shall be in writing as indicated on the form attached hereto entitled Denial of Request to Review and/or duplicate The Municipal Authority of the Borough of Portage, Water Dept's Records."
- M. 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 Water Authority'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.
- N. Within 30 days of the mailing date of the final determination of the appeals officer, the requester or Water Authority may file a petition for review or other document as required by rule of court with the Court of Common Pleas for Cambria County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale or the decision. A petition for review under this section shall stay the release of documents until a decision is issued.
- O. This policy shall be available for review at the Water Authority Office.

Duly adopted by the Municipal Authority of the Borough of Portage, Water Department,

MUNICIPAL AUTHORITY OF THE BOROUGH OF PORTAGE
WATER DEPARTMENT

By: Raymond Vandzura
Raymond Vandzura, Chairman

Attest: Thomas F. Hodgkinson
Secretary

January 10, 2011