

**RESOLUTION NO. 2008-06**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN WESTMORELAND MUNICIPAL AUTHORITY, COUNTY OF WESTMORELAND AND COMMONWEALTH OF PENNSYLVANIA, SETTING PROCEDURES FOR ACCESS TO PUBLIC RECORDS OF THE AUTHORITY AND FOR COMPLIANCE WITH THE PENNSYLVANIA RIGHT TO KNOW LAW, EFFECTIVE JANUARY 1, 2009.**

WHEREAS, on February 17, 2000, the Authority adopted Resolution No. 2000-1, setting forth procedures and regulations for the Open Records Act; and

WHEREAS, on December 19, 2002, the Authority adopted Resolution No. 2002-1, setting forth procedures and regulations for the Right to Know Law; and

WHEREAS, the Western Westmoreland Municipal Authority (“Authority”) is a body corporate and politic, duly organized, under the former Municipality Authorities Act of 1945, repealed by Act 2001, June 19, P.L. 287, No. 22, §3, now known as the “Municipality Authorities Act,” Act 2001, June 19, P.L. 287, No. 22, § 4, 53 Pa. C.S.A. § 5601 et seq. As such, the Authority is a local agency for purposes of the new Right-to-Know Law.

WHEREAS, (Act 3) the “Right-to-Know Law”, was signed into law on February 14, 2008, and most provisions become effective January 1, 2009; and

WHEREAS, pursuant to said Law “public records” shall be accessible for inspection and duplication during regular business hours in the medium requested, if said public records exist in the requested medium and if the public records are not exempt and/or privileged pursuant to the Right-to-Know Law, any other applicable law, regulation or court order; and

WHEREAS, the Board of Directors desires to establish policies and procedures for the processing and viewing and/or release of public records of the Western Westmoreland Municipal Authority (“Authority”), which shall be governed by this Resolution and the aforementioned Pennsylvania Right-to-Know Law.

NOW THEREFORE, be it resolved by the Board of Directors of the Western Westmoreland Municipal Authority and it is hereby Resolved by said Board that the following policies, rules and procedures regarding requests for public records of the Authority are hereby adopted:

SECTION 1. DEFINITIONS.

The words and phrases used in this policy shall have the meanings given to them by 65 P.S. § 67.102, unless the context clearly indicates otherwise.

SECTION 2. INFORMATION REQUEST FORM.

A requester of records shall complete an information request form provided by the Office of Open Records and/or the Authority and shall identify the requested records with sufficient specificity to enable the Open Records Officer to process said request.

SECTION 3. OPEN RECORDS OFFICER.

- A. The Authority hereby designates the Authority Assistant Secretary-Treasurer as the Open Records Officer of the Authority in accordance with the Pennsylvania Right-to-Know Law. Said Open Records Officer shall receive requests for public records of the Authority submitted to the Authority under the Right-To-Know Law, direct requests to other appropriate persons within the Authority or to appropriate persons in another agency, monitor the Authority's progress in responding to requests and issue interim and final responses.
- B. Upon receipt of a request for a public record or financial record, the Open Records Officer shall:
1. Note the date of the receipt of a written request on the written request.
  2. Compute the day on which the five (5) day period under Section 901 of the Right-To-Know-Law 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 or denied. If the request is denied, the written request shall be maintained for at least thirty (30) days or, if an appeal is filed, until a final determination is issued under Section 1101 (b) of the Right-To-Know-Law or the appeal is deemed denied.
4. Create a log of all requests which shall include the date of the request, the documents requested, the requestor's name, and the date the request was fulfilled, notice when an extension was issued or when the request was denied.

#### SECTION 4. ACCESS REQUESTS.

- A. Oral requests for public records may be refused by the Open Records Officer; and said Officer is authorized to require that a request for a public record be in writing. If a requested record contains both public record information as well as non-public record information, the Authority may redact the non-public record information from the record and take such other measures as are reasonable and necessary to comply with a proper and lawful request.
- B. The written request shall be on the form attached hereto as Exhibit "A" or on the form developed by the Office of Open Records of the Commonwealth of Pennsylvania.
- C. Written requests personally delivered to the Open Records Officer shall be delivered during the normal business hours of the Authority.
- D. Written requests received by mail shall be sent to the attention of the Open Records Officer and mailed to the Authority.

- E. A written request shall be deemed received by the Open Records Officer three (3) days after the same is postmarked or, if sent by registered or certified mail, on the date received by the Open Records Officer.
- F. Written requests sent by email or facsimile to an officially designated email address or an officially designated facsimile number shall be deemed received on the first business day following the emailing or faxing of the request.
- G. The right of access to a public record or financial record does not include the right to remove said record from the control or supervision of the Open Records Officer or any other officer, employee or agent of the Authority or any party with whom the Authority has a contract to perform a governmental function on its behalf, and which directly relates to the governmental function and is not otherwise exempt or privileged.
- H. When responding to a request, the Authority is not required to create a record when one does not exist, nor is the Authority required to compile, maintain, format or organize a record in a manner which the Authority does not currently use.
- I. The Authority shall post on its official website, if it has one or later creates one, and at the Authority offices, contact information for the Authority's Open Records Officer, contact information for the Pennsylvania Office of Open Records, the form to be used to file a request, and a copy of this policy.

#### SECTION 5. ACCESS; TIME FOR RESPONSE; EXCEPTIONS.

- A. Upon receipt of a written request for access to a public record, the Authority shall make a good faith effort to respond as promptly as possible under the circumstances existing at the time of the request. The response shall not exceed

five (5) business days from the date of the written request. The failure of the Authority to respond in the designated time frame shall be deemed a denial of the request unless one the following exceptions apply:

1. The request requires the redaction of information within a public record;
2. The request requires the retrieval of the document from a remote location;
3. A timely response cannot be accomplished due to legitimate staffing limitations;
4. A legal review is necessary;
5. The requester did not comply with the Authority's policies regarding public access;
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.

B. In the event of one or more of the above exceptions, the Authority shall send written notice to the requester within five (5) business days of the request stating that the request is being reviewed, the reason for review and the exception that applies, the expected response date and an estimate of applicable fees owed when the record becomes available. If a response is expected more than thirty (30) days after the above five-day period, the request is deemed denied unless otherwise agreed to by the requester in writing.

#### SECTION 6. DENIAL OF ACCESS.

- A. If the request is denied, the following shall be included with the denial:
1. Description of the record requested;

2. Specific reasons for the denial, including a citation of supporting legal authority;
3. Typed or printed name, title, business address, business telephone number and signature of the open records officer on whose authority the denial was issued;
4. Date of response; and
5. Appeal procedure.

#### SECTION 7. APPEAL PROCEDURE.

If the request is denied or deemed denied, the requester may file an appeal under the Pennsylvania Right-to-Know Law within fifteen (15) business days of the mailing date of the Authority's response or deemed denial. The Appeal shall proceed in accordance with the Pennsylvania Right-to-Know Act.

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 Authority for denying or delaying the request.

#### SECTION 8. FEE SCHEDULE.

The fee schedule for information and/or record requests shall be set forth in the fee schedule established by the Commonwealth's Open Records Office, and for those fees not set by said Office, then by the Authority's current Fee Resolution.

#### SECTION 9. SEVERABILITY.

In the event any provision, section, sentence, clause or part of this Resolution shall be held to be invalid, such invalidity, unconstitutionality or illegality shall not affect or impair any remaining provisions, section, sentence, clause or part of this Resolution, it being the intent of the Board of Directors that the remainder of the Resolution shall remain in full force and effect.

SECTION 10. REPEALER.

- A. All resolution or parts of resolutions which are inconsistent herewith are hereby repealed, specifically including Resolution Nos.2000-1 and 2002-1.
- B. However, nothing in this Resolution shall be construed to modify, rescind or supersede any record retention policy or disposition schedule of the Authority established pursuant to the Municipal Records Act (53 Pa.C.S.A. § 1381, *et seq.*) or the rules and regulations promulgated thereunder.

SECTION 11. EFFECTIVE DATE.

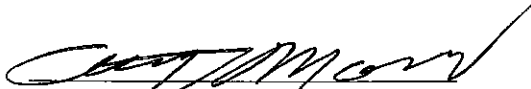
This Resolution shall take effect on January 1, 2009.

**RESOLVED** at a regularly scheduled meeting of the Western Westmoreland Municipal Authority on the 18th day of December, 2008, a quorum being present.

WESTERN WESTMORELAND  
MUNICIPAL AUTHORITY

By  \_\_\_\_\_  
Chairman

ATTEST: (SEAL)

  
Secretary


Date: December 18, 2008

**CERTIFICATION**

I, Anthony Marks, duly qualified Secretary of the Board of Directors of the Western Westmoreland Municipal Authority, Westmoreland County, Pennsylvania, do hereby certify that the foregoing Resolution No. 2008-06 is a true and correct copy of the original Resolution No. 2008-06 duly passed and adopted by a majority vote of the Board of Directors of the Western Westmoreland Municipal Authority at a duly advertised and convened regular meeting held on the 18th day of December, 2008, and that the minutes of said meeting showing how each member voted have been duly recorded in the official minutes of said Authority and remains in effect as of this date.

**IN WITNESS WHEREOF**, I affix my hand and attach the seal of the Western Westmoreland Municipal Authority, this 18th day of December, 2008.

Certified to by:

  
Secretary