

RESOLUTION NO. 3 OF 2007

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE GETTYSBURG MUNICIPAL AUTHORITY ("GMA"),  
ADAMS COUNTY, PENNSYLVANIA, SETTING FORTH A POLICY  
REGARDING REQUESTS FOR PUBLIC RECORDS PURSUANT TO  
THE "RIGHT TO KNOW LAW" (OPEN RECORDS LAW)**

**WHEREAS**, Act 100-2002 was enacted on June 29, 2002, to be effective on December 26, 2002, amending the Right To Know Law (the "Act"), and requiring municipal subdivisions and authorities to adopt a policy implementing the provisions and requirements of the Act; and

**WHEREAS**, GMA is an "Agency", as defined by the Act; and

**WHEREAS**, the purpose of this Resolution is to set forth a policy regarding requests for public records made to GMA pursuant to the Act.

**NOW, THEREFORE, BE IT RESOLVED**, by the Gettysburg Municipal Authority ("GMA"), Adams County, Pennsylvania, by its duly appointed and incumbent Board of Directors (the "Board"), and it is hereby **RESOLVED**, by the authority of the same, as follows:

**SECTION 1. DEFINITIONS**

The following words and phrases when used in this Ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"GMA"                      The Gettysburg Municipal Authority, Adams County, Pennsylvania.

"Board"                    The Board of Directors of the Gettysburg Municipal Authority.

"Public Record"           Any account, voucher or contract dealing with the receipt or disbursement of funds by GMA or its acquisition, use or disposal of services or of supplies, materials, equipment or other property, and any minute, order or decision by the GMA Board fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons; provided, that the term "public records" shall not mean any report, communication or other paper, the publication of which would disclose the institution, progress or result of an investigation undertaken by the

GMA Board in the performance of its official duties; it shall not include 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 the loss by GMA of federal funds, excepting therefrom, however, the record of any conviction for any criminal act.

|              |  |
|--------------|--|
| "Record"     | Any document maintained by GMA, in any form, whether public or not.  |
| "Requester"  | A person who is a resident of the Commonwealth of Pennsylvania and requests a record pursuant to the Act.  |
| "Response"   | Access to a record or GMA's written notice granting, denying or partially granting and partially denying access to a Record.   |
| "GMA Office" | GMA's Office, located at 601 East Middle Street, Gettysburg, Adams County, Pennsylvania, and GMA's staff therein under the direction and supervision of GMA's Utilities Director and the GMA Board |

## **SECTION 2. PROCEDURE FOR ACCESS TO PUBLIC RECORDS OF GMA**

### **A. General Rule:**

Unless otherwise provided by law, a public record of GMA shall be accessible for inspection and duplication by a requester in accordance with this Resolution. A public record shall be provided to a requester in the medium requested if the public record exists in that medium; otherwise, it shall be provided in the medium in which it exists. Public records shall be available for access during the regular business hours of the GMA Office. Nothing in this Resolution shall provide for access to a record which is not a public record.

### **B. Requests:**

GMA will not fulfill verbal requests for access to records and anonymous requests for access to records. In the event that the requester wishes to pursue the relief and remedies provided for in the Act, the requester must initiate such relief with a written request. All requests for records must be in writing, on the form set forth hereinbelow.

C. Written Requests:

A written request for access to records on the hereinbelow-prescribed form, and/or a request for such prescribed form, may be received in person at the GMA Office, by mail, by facsimile or by electronic means. A written request by mail shall be addressed to the GMA Utilities Director, P. O. Box 3307, Gettysburg, PA 17325. Written requests shall identify or describe the records sought with sufficient specificity to enable the GMA Office to ascertain which records are being requested and shall include the name and address to which the GMA Office 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.

D. Creation of a Public Record:

When responding to a request for access, GMA shall not be required to create, and will not create, a public record which does not currently exist, nor will GMA be required to, nor will GMA, compile, maintain, format or organize a public record in a manner in which GMA does not then compile, maintain, format or organize the public record.

E. Conversion of an Electronic Record to Paper:

If a GMA public record is only maintained electronically or in other nonpaper media, GMA shall, upon request, duplicate the public record on paper when responding to a request for access in accordance with this Resolution.

F. Prescribed Form for Written Request of Records:

**REQUEST FOR ACCESS TO GMA PUBLIC RECORDS FORM**

(Pursuant to Pennsylvania's Right to Know Act and GMA Resolution No. \_\_\_\_ of 2007)

Name of person requesting access to GMA public records: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

GMA Public Records requested (written requests shall identify or describe the records sought with sufficient specificity to enable the GMA Office to ascertain which records are being requested and shall include the name and address to which the GMA Office should address its response): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FOR OFFICIAL USE ONLY**

Date written request received: \_\_\_\_\_

Public record(s) availability: \_\_\_\_ Yes \_\_\_\_ No

Date of availability: \_\_\_\_\_

Reason(s) for public record's(s') unavailability (with citation of legal authority):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Costs for production of records:

Deposit Fee (if the fees required to fulfill the request are expected to exceed one hundred dollars (\$100.00)): \$ \_\_\_\_\_

Postage: \_\_\_\_\_

Duplication: \$0.25 per/page x \_\_\_\_\_ pages = \$ \_\_\_\_\_

Documents Retrieval Fee: \$3.75 per/qtr. hr. x \_\_\_\_\_ qtr. hr.(s) = \$ \_\_\_\_\_

Certification of Copies Fee (\$10.00, if requested by requester): \$ \_\_\_\_\_

Conversion to Paper Fee: \$0.25 per/page x \_\_\_\_\_ pages = \$ \_\_\_\_\_

**TOTAL:** = \$ \_\_\_\_\_

Fee received:

\_\_\_\_\_  
GMA Office Date

**SECTION 3. ACCESS TO PUBLIC RECORDS**

GMA may not deny a requester access to a public record due to the intended use of the public record by the requester.

A. Redaction

If the GMA Office, after consultation with GMA's Solicitor, determines that a public record contains information which is subject to access, as well as information which is not subject to access, GMA's response shall grant access to the information which is subject to access, and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record and cannot be separated, the GMA Office shall, after consultation with GMA's Solicitor, redact from the public record the information which is not subject to access and the response shall grant access to the information which is subject to access. GMA may not deny access to the

public record if the information which is not subject to access is able to be redacted. Information which GMA redacts in accordance with this subsection shall be deemed a denial under Section 3.B. hereinbelow.

B. GMA's Response to Written Requests to Access

(1.) General Rule:

Upon receipt of a written request for access to a record, GMA shall make a good faith effort to determine if the record requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request, but shall not exceed five (5) business days from the date the written request is received by the GMA Office. If the GMA Office fails to send the response within five (5) business days of receipt of the written request for access, the written request for access shall be deemed denied.

(2.) Exception: Upon receipt of a written request for access, if GMA determines that one (1) of the following applies:

- (a.) Information must be redacted (See: Section 3.A. hereinabove), or
- (b.) The material is stored off-site and must be retrieved, or
- (c.) A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations, or
- (d.) A legal review is necessary to determine whether the record is a public record subject to access under the Act, or
- (e.) The requester has not complied with GMA's policies regarding access to public records in accordance with the present Resolution, or
- (f.) The requester fails or refuses to pay applicable fees,

The GMA Office shall send written notice to the requester within five (5) business days of its receipt of the request notifying the requester that the request for access is being reviewed, the reason for the review and a reasonable date that a response is expected to be provided. 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 in Section 3.B.(1), the request for access shall be deemed denied.

(3.) Denial:

If GMA's response is a denial of a written request for access, whether in whole or in part, a written response shall be issued and include:

- (a.) A description of the record requested.
- (b.) The specific reason(s) for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, the specific reasons for GMA's determination that the record is not a

- public record shall be included.
- (c.) The typed or printed name, title, business address, business telephone number and signature of the public official or public employee on whose authority the denial is issued.
- (d.) Date of the response.
- (e.) The procedure to appeal the denial of access under the Act.

(4.) Certified Copies:

If GMA's response grants a request for access, it shall, upon the requester's written request, provide the requester with a certified copy of the public record if the requester pays the applicable fees pursuant to Section 5. hereinbelow.

C. Final Determination

(1.) Filing of Exceptions:

If a written request for access is denied or deemed denied, the requester may file exceptions with the GMA Board within fifteen (15) business days of the mailing date of the response or within fifteen (15) days of a deemed denial. The exceptions shall state grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by GMA for delaying or denying the request.

(2.) Determination:

Unless the requester agrees otherwise in writing, the GMA Board, or its designee, shall make a final determination regarding the exceptions within thirty (30) days of the mailing date of the exceptions. Prior to issuing the final determination regarding the exceptions, the GMA Board, or its designee, may conduct a hearing. The determination shall be the final order of GMA. If the GMA Board, or its designee, determines that the request for access was correctly denied, then the GMA Board, or its designee, shall provide a written explanation to the requester of the reason for the denial.

**SECTION 4. JUDICIAL APPEAL**

A. Time Period for Appeal:

Within thirty (30) days of a denial by GMA under Section 3.B.(3), or of the mailing date of a final determination of GMA affirming the denial of access, a requester may file a petition for review or other document as might be required by the Court of Common Pleas of Adams County or bring an action in the local magisterial district having jurisdiction.

B. Notice:

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

## **SECTION 5. FEES**

- A. **Postage:**  
GMA may impose a fee for postage, which may not exceed the actual prevailing cost of mailing.
- B. **Duplication:**  
GMA may impose fees for duplication of public records by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means and other means of duplication, which shall be reasonable and based on prevailing fees for comparable duplication services provided by local business entities.
- C. **Retrieval Fee:**  
The GMA Office shall charge a document search and/or retrieval fee of fifteen dollars (\$15.00) per hour; provided, however, that no document search and/or retrieval fee shall be charged for any documents search/retrieval requiring fifteen (15) minutes or less of GMA Office staff time; and, provided further, that documents search/retrieval requiring more than fifteen (15) minutes of GMA staff time shall thereafter be charged and collected in one-quarter (1/4) hour increments at the rate of three dollars and seventy-five cents (\$3.75) per quarter (1/4) hour of GMA staff time expended for documents search/retrieval.
- D. **Certification:**  
GMA may impose a fee of ten dollars (\$10.00) for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record.
- E. **Conversion to Paper:**  
If a public record is only maintained electronically or in other non-paper media, GMA may impose fees, which shall be limited to twenty-five cents (\$0.25) per paper page.
- F. **Waiver of Fees:**  
GMA may waive the fees for duplication of a public record, including, but not limited to, when:  
    (1.) The requester duplicates the public record; or  
    (2.) It deems it is in the public interest to do so.
- G. **Other Fees/Limitations:**  
Except as otherwise provided by statute, no other fees may be imposed. A reasonable fee equal to the actual cost shall be imposed if GMA, out of necessity, incurs costs not otherwise described in this Resolution for complying with the request; however, GMA recognizes that it may not impose a fee for its review of a record to determine whether the record is a public record subject to access in

accordance with the Act.

H. Prepayment:

Prior to granting a request for access in accordance with the Act, a requester shall prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed one hundred dollars (\$100.00). In no event will any public records or reports be released until requester first pays unto GMA all fees due and payable.

**SECTION 6. MISCELLANEOUS**

A. GMA may adopt amendments to this Resolution which are necessary to implement the provisions and purposes of the Act, as amended, or Court decisions pertaining thereto.

B. Posting:

A copy of this Resolution shall be conspicuously posted at the GMA Office.

**SECTION 7. EFFECTIVE DATE**

This Resolution shall take effect July 16, 2007.

IN WITNESS WHEREOF, the present Resolution has been duly adopted by unanimous vote of a lawful quorum of the duly appointed and incumbent members of the Board of Directors of the Gettysburg Municipal Authority, in public session duly convened, this 16<sup>th</sup> day of July, 2007.

ATTEST:

GETTYSBURG MUNICIPAL AUTHORITY

Timothy N. Good  
~~Theodore H. Streeter, Secretary~~  
Timothy N. Good Vice  
Chairman

By: Melvin D. Crouse  
Melvin D. Crouse, Chairman

(SEAL)

