



# pennsylvania

## OFFICE OF OPEN RECORDS

### FINAL DETERMINATION

IN THE MATTER OF

TAMMI IAMS,  
Requester

v.

DONEGAL TOWNSHIP,  
Respondent

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Docket No: AP 2024-0478

### FACTUAL BACKGROUND

On January 5, 2024, Tammi Iams (“Requester”) submitted a request (“Request”) to Donegal Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[R]ecordings and/or the notes taken by the secretary, Jamie M. Schaller, at the following advertised public meeting: December 28, 2023. This recording was taken during the public meeting of the Donegal Township Board of Supervisor where they discussed, deliberated, and voted during this meeting of December 28, 2023. ... I have provide[d] an unopened flash drive large enough to hold the recording.

On January 12, 2024, the Township granted the Request and provided the December 28, 2023, meeting minutes with redactions of personal identification information. *See* 65 P.S. §§ 67.706, 67.708(b)(6).<sup>1</sup>

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<sup>1</sup> The Requester did not contest the redactions on appeal. It is noted that there are no redactions on the minutes submitted to the record.

On February 20, 2024, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.<sup>2</sup> The OOR invited both parties to supplement the record and directed the Township to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On February 29, 2024, the Township submitted a position statement and supporting exhibits reiterating its grounds for denial. The Township claims that the RTKL does not create a duty on agencies to create a record that does not currently exist. *See* 65 P.S. §§ 67.507, 67.705. On April 11, 2024, the OOR requested the Township submit sufficient evidence in support of its position.<sup>3</sup> The Township did not make any additional submissions to the record.

### LEGAL ANALYSIS

The Township is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the Township is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

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<sup>2</sup> The Requester also granted the OOR a 30-day extension to issue a final determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

<sup>3</sup> The OOR is obligated to require that all factual statements be supported by sufficient evidence. Statements contained in a submission, position statement, or brief that are not supported by an attestation or affidavit, are not competent evidence under the RTKL. *See Office of the Gov. v. Davis*, 122 A.3d 1185, 1193-94 (Pa. Commw. Ct. 2015).



The Township is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the Township is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

**1. The Township failed to demonstrate that records are draft minutes and exempt from public disclosure under the RTKL**

The Request seeks both recordings and the Township’s secretary’s notes from public meetings. The Township claims that both recordings and notes are destroyed upon adoption of the draft minutes. Further, the Township claims that both the recordings and the secretary’s notes are draft minutes and are exempt from disclosure under the RTKL. *See* 65 P.S. § 67.708(b)(21)(i). The OOR has consistently held that recordings of public meetings by a local agency are public records. *See Yakim v. Pitcairn Borough*, OOR Dkt. AP 2020-2049, 2020 PA O.O.R.D. LEXIS \_\_\_\_ (holding that recordings of public meetings, if retained in the possession of an agency, are records under the RTKL); *McGovern v. Moosic Borough*, OOR Dkt. AP 2020-0732, 2020 PA O.O.R.D. LEXIS 1750; *see also Bradbury v. Methacton Sch. Dist.*, OOR Dkt. AP 2023-0841, 2023 PA O.O.R.D. LEXIS 1646 (recordings of a public meeting retained by a local agency is a public record subject to disclosure under the RTKL). Exemptions from disclosure must be narrowly construed. *See Pa. State Police v. Grove*, 161 A.3d 877, 992 (Pa. 2017) (“Consistent with the RTKL’s goal of promoting government transparency and its remedial nature, the exceptions to disclosure of

public records must be narrowly construed”) (citing *Office of Governor v. Davis*, 122 A.3d 1185, 1191 (Pa. Commw. Ct. 2015)). Minutes are a distinct type of record, as set forth in 65 Pa.C.S. 706, and recordings do not fall under the commonly understood definition of that term. The Township’s proposition that recordings of public meetings are draft minutes is contrary to previous OOR determinations and, the Township has not provided any support that the recordings are draft minutes as contemplated by the exemption. *See* 65 P.S. § 67.708(b)(21)(i). Accordingly, the Township failed to show that the responsive recordings are exempt from disclosure as “draft minutes” under the RTKL. *Id.* The responsive recording of the December 28, 2023, meeting is a public record which is subject to public disclosure and shall be provided to the Requester. Further, notes are also a distinct record as compared to meeting minutes, and there is an exemption under the RTKL that covers notes – 65 P.S. § 67.708(b)(12) – which was not raised by the Township.

Moreover, both parties emphasized the issue that the Requester provided a storage device for the requested records. Section 1307 of the RTKL provides that the OOR has the authority to establish fees for duplication of records for Commonwealth and local agencies. *See* 65 P.S. § 67.1307(b)(1)(i). An agency may charge the “actual cost” of duplication of an electronic record, including a video recording. *See McElroy v. Pa. Dep’t of Pub. Welfare*, OOR Dkt. 2014-0194, 2014 PA O.O.R.D. LEXIS 318. Section 1307(b)(2) of the RTKL requires only that the fee for duplication be “reasonable and based on prevailing fees for comparable duplication services[.]” 65 P.S. § 67.1307(b)(2).

Here, the Requester provided a storage device for the requested records; however, the Township has not provided any evidence establishing the actual cost of duplicating the requested records. When providing the records, the Township’s duplication fee is limited to the “actual cost” of duplicating the records. However, there is nothing in the RTKL requiring an agency to provide



records using a requester's own hardware; thus, to the extent that a physical medium is required to provide the records, such as a CD-ROM, flash drive, etc., the Township may charge fees for that medium as set forth in the RTKL.

**2. The Township failed to provide sufficient evidence that the responsive records do not exist in the Township's possession, custody, or control**

The Request seeks both recordings and the secretary's notes of the public meetings. The Township claims that both recordings and notes are destroyed upon adoption of the draft minutes. The Township claims that "nothing in this act shall be construed to modify, rescind or supersede any record retention policy or disposition schedule of an agency established pursuant to law, regulation, policy or other directive" and responsive recordings and notes of the meetings do not exist in its possession, custody, or control. 65 P.S. § 67.507. However, an agency must show, through detailed evidence, submitted in good faith from individuals with knowledge of the agency's records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Burr v. Pa. Dep't of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011). Additionally, "[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request." *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011); *see also Pa. Dep't of Health v. Mahon*, 283 A.3d 929, 936 (holding that, when there is evidence that a record does not exist, "[i]t is questionable to what degree additional detail and explanation are necessary...."); *Campbell v. Pa. Interscholastic Athletic Ass'n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, and is tantamount to a "more likely than not" inquiry).

There is nothing in the record supporting a claim that the requested records do not currently exist. Here, the Township failed to provide sufficient evidence in support of its claim that responsive records do not exist in its possession, custody or control. The OOR makes no determinations as to whether responsive records should exist, as our inquiry is limited to only whether or not records are “in existence and in possession of the ... agency at the time of the right-to-know request.” *Moore*, 992 A.2d at 909; *see also* 65 P.S. § 67.705. It is presumed that agencies will act in good faith in discharging their statutory duties under the RTKL. *Smith Butz, LLC v. Pa. Dep’t of Env’tl. Prot.*, 142 A.3d 941, 945-946; *see also Commonwealth v. Donahue*, 626 Pa. 437, 98 A.3d 1223, 1239 (Pa. 2014). Accordingly, because the Township did not meet its burden that it does not possess, have custody or control of the records, and the Township has not set forth sufficient grounds for withholding them, the records must be provided to the Requester.

### CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the Township is required to provide all responsive records or, as described above, or an affidavit or statement under penalty of perjury that the records do not exist within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Washington County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per 65 P.S. § 67.1303, but as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>4</sup> All documents or communications following the issuance of this Final Determination shall be sent to

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<sup>4</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).



[oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the OOR website at:  
<http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED: April 19, 2024**

*/s/ Damian J. DeStefano*

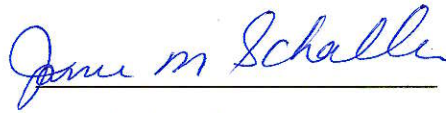
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DAMIAN J. DESTEFANO  
APPEALS OFFICER

Sent to: Tammi Iams (via portal only); Eric A. Thomas, Esq. (via portal only)

I, Jamie M. Schaller, hereby declare under penalty of perjury pursuant to 18 Pa. C.S. 4904, that the following statements are true and correct based on my personal knowledge, information, and belief:

- I currently serve as a Township Secretary and Agency Open Records Officer for Donegal Township.
- I and others based on OOR guidance undertook a review of the position statement and attest to its accuracy and information contained therein as a true and accurate representation of the facts underlying this appeal.



Jamie M. Schaller



April 11, 2024

**Via E-File Portal Only:**

The Lynch Law Group, LLC  
Agency Open Records Officer  
Donegal Township (Washington)  
PO Box 310  
34 N. Liberty Street  
West Alexander, PA 15376  
RTKL@donegaltownshippa.com  
jmcgraw@lynchlaw-group.com

**RE: Iams v. Donegal Township (Washington) OOR Dkt. AP 2024-0478**

Dear Donegal Township:

I am writing to seek additional information related to Donegal Township's ("Township") position statement. The position statement contains statements of fact. The OOR is obligated to require that all factual statements be supported by sufficient evidence. Both unsworn attestations made pursuant to 18 Pa.C.S. § 4904(b) and sworn affidavits may serve as sufficient evidentiary support of factual statements before the OOR. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) (citing *Moore v. OOR*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010)). On the other hand, statements contained in a submission, position statement, or brief that are not supported by an attestation or affidavit, are not competent evidence under the RTKL. *See Office of the Gov. v. Davis*, 122 A.3d 1185, 1193-94 (Pa. Commw. Ct. 2015). Examples can be found at the OOR website: [OOR - RTKL Forms \(pa.gov\)](https://openrecords.pa.gov).

In order to further develop the record in this appeal, the OOR requests that the Township supplement the record, at its earliest convenience, to include an attestation or affidavit verifying the facts contained in the Township's position statement. Thank you for your cooperation in this process.

Sincerely,

/s/ Damian DeStefano

Damian DeStefano

# The Lynch Law Group

James P. McGraw, Esq.  
jmcgraw@lynchlaw-group.com

Eric A. Thomas Esq.  
ethomas@lynchlaw-group.com

February 29, 2024

Damien DeStefano, Esq.  
Pennsylvania Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101

Tammi Iams  
38 Old National Pike  
West Alexander, PA 15376  
dntiams@gmail.com


Via E-File Portal Upload Only:

RE: Agency Appeal Response for  
Appeal Docketed at 2024-0478

Dear Mr. DeStefano,

Attached is the Agency's response to the appeal docketed at 2024-0478.

Respectfully,



The Lynch Law Group, LLC  
Donegal Township AORO

LLG

[www.lynchlaw-group.com](http://www.lynchlaw-group.com)

501 Smith Drive, Suite 3 • Cranberry Township, PA 16066  
375 Southpointe Boulevard, Suite 100 • Canonsburg, PA 15317  
P: 724-776-8000 • F: 724-776-8001



## **LEGAL ARGUMENT**

### **I. Background**

This appeal has arrived at the Office of Open Records ("OOR") on account of the apparent dissatisfaction of Requester Tammi Iams ("Requestor") with Donegal Township's alleged lack of response to a right-to-know request sent by the Requestor to the Township. In her appeal to OOR, the Requestor summarizes her right-to-know request ("RTKR"), fails to recognize the impossibility of production by the Township, attempts to alter the request on appeal, and submits an appeal with a hollow claim. In the following Legal Argument, the Township will outline its process in responding to the Requestor and refute her claims of non-responsiveness.

The Requestor's original right-to-know request to the Township reads as follows:

I am requesting the recordings and/or the notes taken by the secretary, Jamie M. Schaller, at the following advertised public meeting: December 28, 2023. This recording was taken during the public meeting of the Donegal Township Board of Supervisor where they discussed, deliberated and voted during this meeting of December 28, 2023. This recording documents a record under the RTK Law Section 102 entitled Definitions. The law defines the term "Record." as "Information, regardless of physical form or characteristics, 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 agency. 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." (The term "record," according to the definition, specifically identifies a "sound recording." Further, the recording of a public meeting documents an activity of the agency and is created in connection with that activity. I have provide an unopened flash drive large enough to hold the recording.

*See* AP-2024-0478.

On January 12, 2024, after consultation with the Township for responsive documents, Donegal's Agency Open Records Officer ("AORO") promptly sent Requestor an expedient response to the email address listed on the RTKR as dntiams@gmail.com invoking the statutory extension. *See Exhibit A.* In the response the AORO made clear the AORO would respond on or

before February 12, 2024. In the intermediate timeframe, the AORO sent electronic mail correspondence to the Requestor explaining that the Agency declined to provide access to its computers and would only provide the recordings and notes used to transcribe the meeting minutes if the meeting minutes were unavailable at the next public meeting. See Exhibit B. Finally, on February 12, 2024, the AORO sent written correspondence to the requestor granting the request and providing the meeting minutes for the December 28, 2023, public meeting. See Exhibit C.

## **II. The Request and Response**

As set forth by the Pennsylvania Supreme Court, “there is a presumption that agencies will act in good faith...” *Office of Governor v. Donahue*, 98 A.3d 1223 (Pa. 2014). Additionally, per Section 705 of the RTKL, when responding to a request for access, “an agency shall not be required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.” 65 P.S. §67.705. In short, just as Section 705 of the RTKL, 65 P.S. §67.705, does not require an agency to create a record that does not exist, Section 507, 65 P.S. §67.507, does not create a duty on the part of agencies to maintain records if they are destroyed as part of a records-retention policy. Simply, the RTKL governs whether records currently in existence must be disclosed. *PG Publ. Co. v. Governor's Office of Admin.*, 120 A.3d 456, 463 (Pa. Cmwlth. 2015) (Affirmed at 635 Pa. 263). Moreover, the Right-to-Know Statute (“RTKS”) is clear and does not provide requestors access to agency computers. 65 P.S. §67.701(b). Also, Section 708 of the RTKL states that recordings or notes used to transcribe public meeting minutes are exempt, and the exemption is preserved until the next public meeting of the agency. If official minutes are not adopted, the draft minute materials become public records and must be disclosed upon receipt of a valid RTKR. 65 P.S. §67.708(b)(21). In fact, Under the RTKL, a requester submits a request that



“tells the agency what records he wants, and the agency responds by either giving the records or denying the request by providing specific reasons why the request has been denied.” *Pa. State Police v. Office of Open Records*, 995 A.2d 515, 516 (Pa. Cmwlth. 2010).

Here, the Township quickly conducted a good faith review to determine if the requested records were subject to public access and determined that the meeting minutes for the December 28, 2023, meeting were finalized and approved being made available to the public for inspection or review. The Township acted quickly to both determine and communicate the procedure to the requestor because as a normal practice, the Township does not retain the notes and recordings after approval of the minutes. On February 12, 2024, the AORO sent written communication to the Requestor outlining the same and providing the December 28, 2023, meeting minutes, within the statutory extension having been completed before the next meeting. *See Generally Exhibit C*. Furthermore, the Township previously communicated its procedure by reminding the requestor that notes and or recordings for meeting minutes would only be provided if the meeting minutes were not available at or before the next public meeting, citing the exemption of the RTKS in the correspondence. *See Generally Exhibits B and C*.

Here, the Township sent an expedient response to the Requestor providing the meeting minutes after determining that the aforementioned exemption applied to the recordings and notes used to transcribe the meeting minutes and communicated the same to the Requestor within the timelines provided in the RTKL. Accordingly, the Requestor was properly granted access to the meeting minutes and cannot be provided the recordings or notes as the Township no longer has the recordings or notes in its possession, custody, or control.

### III. Requestor's Appeal

In her appeal the Requestor: (1) outlines the definition of a "record" under the RTKL; (2) misunderstands various final determinations of the Office of Open Records ("OOR") while incorrectly asserting no communication by the Township; (3) elaborates on the use of a portable Flash Drive ignoring the data transfer implications; (4) alters her request by raising moot arguments, preservation issues that are both outside the scope of the RTKR and the associated appeal; and (5) provides audit information and procedural information for the Agency when it was managed by a different set of supervisors in an attempt to prove the old procedures should be implemented by the new Board of Supervisors.

A written right-to-know request response requires an agency to make a *good faith effort* to determine if the record requested is a public record, legislative record or financial record and whether the agency has possession, custody or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request. Moore v. Office of Open Records, 992 A.2d 907 (Pa. Cmwlth. Ct. 2010) citing 65 P.S. §67.901 (emphasis added). The RTKL also requires the agency to determine if the request is indeed a record and is in the possession, custody, and control of the agency at the time of the request. Id. at 909. See Also Paxtang Borough v. Hoyer, 2017 Pa. Commw. Unpub. LEXIS 145 (Pa. Commw. Ct. 2017)(an affidavit describing the search for responsive records and attesting to the nonexistence of additional responsive records is sufficient to satisfy an agency's burden of proof. In the absence of evidence to the contrary, public officials are assumed to act in good faith, and unsubstantiated allegations of unlawful actions or bad faith are insufficient to overcome this presumption). Id. at 909.



The courts in Pennsylvania are clear on the use of the word "currently" as used in Section 705 of the RTKL, stating that "an agency shall not be required to create a record which does not *currently exist*." 65 P.S. § 67.705. (emphasis added). *Id.* at 909. The standard is whether such a record exists and is in the possession of the agency **at the time of the right-to-know request**. Not at some moment in time during the appeal process months later. The court further opined, "in the absence of evidence to the contrary, public officials are assumed to act in good faith" and the Township cannot grant access to notes or recordings that do not exist. *Id.* at 909.

**Defining a "Record" under the RTKL and Ignoring Agency Correspondence During the Statutory Extension Does Not Help Determine the Agency's Compliance With the RTKL Because the Agency Communicated an Exemption to the Requestor.**

In her appeal, the Requestor states:

On January 12, 2024, at 3:07 PM an email from Anna O'Friel, Legal Assistant of The Lynch Law Group sent a 30-day extension (Attachment #2). Upon receiving the email, a reply was sent via email at 3:58 PM asking to clarify the date of February 12, 2024, as the 30th day would be February 11th, 2024, please note that as of the date of this appeal that email has not been viewed or opened.

*See* AP-2024-0478.

The Requestor has not provided any helpful or meaningful information in her appeal as she ignores the agency's correspondence on February 1, 2024, whereby the agency claimed an exemption for computer access and draft notes/recordings. In fact, the Requestor erroneously assumes that because one of her emails was not "opened," the Township did not respond. In contrast, the Township sent electronic mail to the Requestor in the middle of the statutory extension to notify the Requestor of its intended handling of the request.<sup>1</sup> Moreover, the Requestor proves the Township's position was communicated to her by including the Township's February 1, 2024, response in her appeal.

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<sup>1</sup> See Exhibit B



**Citing Portions of Final Determinations Without Complete Analysis Does not Prove the Requestors Appeal and Ignores the Impossibility of Providing the Record.**

The Requestor fails to acknowledge the basic premise of the Final Determination she cited at 2020-0732. The appeal officer documented that the “Borough has not argued that any exemption under the RTKL or privilege applies to the records...” This opinion is distinguishable from the current fact pattern at issue because the Township clearly communicated the exemptions associated with the request and adhered to its normal record keeping procedures.

In her appeal the Requestor states:

There are several RTK Appeal’s that have been granted that discuss the recordings of a secretary. See Docket No.: AP 2020-0732 Edward McGovern v. Moosic Borough where it was stated within the Final Determination that the RTKL defines “record” as “Information regardless of physical form or characteristics, 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 agency.” This is the same as what has been requested from Donegal, the audio recordings of a meeting used to transcribe the written minutes.

See AP-2024-0478.

Here, the true fallacy of the Requestor’s appeal comes to light when she proffers the definition of a “record” when no argument exists relating to said definition. Furthermore, Requestor provides a snippet of “AL-46” without any context and misinterprets the same. See AP-2024-0479. Even if the snippet had some contextual meaning to the appeal, it suggests that the right-to-know requests and responses be kept and mentions nothing about agency records or non-produced documents. Additionally, the appeal completely ignores the impossibility of producing the record as the Township no longer has the record. These assertive unfounded statements do not support the Requestor’s appeal or provide evidence of the Township’s failure to adhere to the RTKL. More importantly the statements do not provide any evidence that change the impossibility of production into production.

In her appeal the Requestor further states:

See Docket No.: AP 2020-0011 John Lombardo v. Pittston Area School District where within the Final Determination it states that the recordings document a record of the district and was created in connection with that activity. This is the same as my appeal. The recording is a record of the Township and was created in connection with the activity of a public meeting.

See AP 2024-0478.

This Final determination involved school district issues that differ from municipal procedures issues and are thus distinguishable from the facts at issue. When the RTKL changed in 2009 the OOR issued an advisory opinion that seemed to clarify the written note exemption but did nothing to clear the air relevant to electronic information.

**Elaborating on the Tenuous Notion of Providing a Portable Flash Drive Versus Asking for Access to Township Computers Ignores the Obvious.**

Here the Requestor goes to great lengths to explain the supplication of a Flash Drive while ignoring the obvious implication of its use. The Requestor's assertion, "not once did I ask for access to the township computers, I simply supplied a New Unopened 4TB Portable Flash Drive, which connects via USB" does nothing to obviate the need to insert said Flash Drive into a Township computer to transfer data. Nor does it serve to prove that the Township violated the RTKL in declining to allow access to its computers. Moreover, Requestors statement, "I believe that Mr. Thomas's reference to section 65 PS §67.701(b) is moot" is not even a valid legal argument because it completely ignores the statutory provision. The decision is not the requestors, but the Township's, and the Township rightfully declined access to its computers.

**The Requestor Violates the RTKL by Altering Her Request.**

The Requestor may not alter the request on appeal. Right-to-Know case law makes clear one cannot alter the request on appeal, even where **the new requested records are substantially**



**similar to those in the request.** *Michak v. Pa. Department of Public Welfare*, 56 A.3d 925 (Pa. Commw. Ct. 2012)(emphasis added).

Here, the Requestor attempts to alter her request by stretching the scope of the request and discussing fee imposition, Township equipment purchases, old procedural Board issues, behaviors and movements of the Supervisors at public meetings, and previous RTKR information in an attempt to elaborate on specific information she believes should be placed on the Flash Drive and to assert that the current Supervisors do not follow the previous Supervisors procedures. All of this evidence provided by the Requestor is outside the scope of the original request.

**The Requestor Provides Stale Information to Support Her Appeal Assuming That the Old Board Procedures Will Exist Indefinitely.**

In her appeal the requestor states:

The township now owns two recorders, the original Olympus Digital Voice Recorder and the township purchased a new Philips recorder in December 2023. The Olympus has been used by township since I left, at the end of my elected supervisor term December 31, 2022, and then started using the new recorder in January 2024. The only records that were provided in response to this RTK were minutes of the December 28, 2023, meeting. I did not receive any notes from the secretary or recordings...other resident's Flash Drives attached to township computers...why is there no indication about this USB...Mrs. Croft's RTK request asked for the same...I would have been searching for the drive from the RTK request to find the Township RTK records.

See AP-2024-0478.

The Requestor has now deviated to making procedural arguments relating to the previously elected Board of Supervisors. Requestor goes to great lengths to establish that previous RTKRs involved Flash Drives and seems to believe that because of the previous procedural activity, the current Board of Supervisors must adhere to the same process. Furthermore, the evidence provided by the Requestor is an audit conducted on a previous employee for violating internal procedures



relating to computer access. This evidence does nothing to prove the Township violated the RTKL in claiming the exemption and denying access to its computers.

#### **IV. Conclusion**

The Requestor has submitted a hollow appeal and has not provided evidence to prove her appeal or meet her burden and as such the appeal must be dismissed because the Township provided a timely response including, the exemptions claimed, the minutes as required under the RTKL, and cannot comply with any other responsive document production because it no longer has the records in question. Therefore, her appeal at number 2024-0478 must be dismissed by the OOR for all the reasons stated above.



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Eric A. Thomas, Esq.  
PA I.D. #328898  
The Lynch Law Group, LLC  
501 Smith Drive, Suite 3  
Cranberry Twp., PA 16066  
(724) 776-8000 (Phone)  
(724) 776-8001 (Fax)  
ethomas@lynchlaw-group.com

# The Lynch Law Group

James P. McGraw III Esq.  
jmcgraw@lynchlaw-group.com

Eric A. Thomas Esq.  
ethomas@lynchlaw-group.com

## RIGHT-TO-KNOW-LAW RESPONSE

January 12, 2024

Tammi Iams  
38 Old National Pike  
West Alexander, PA 15376

Via email: dntiams@gmail.com

Dear Ms. Iams,

Thank you for writing to Donegal Township to request records pursuant to Pennsylvania's Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq.*

On January 5, 2024, you requested sound recordings and/or notes from the public meeting on December 28, 2023, as more fully described in the attached request.

Pursuant to 65 P.S. § 67.902, the agency is extending the statutory 5-day response period by 30 days for the below-listed (bolded) reason(s):

- \_\_\_ The request requires redaction in accordance with Section 706 of the RTKL.
- \_\_\_ The request requires the retrieval of a record stored in a remote location.
- X** **A timely response cannot be accomplished due to bona fide staffing limitations.**
- \_\_\_ A legal review is needed to determine whether the record is subject to access.
- \_\_\_ The requester has not complied with the Agency's policies regarding access to records.
- \_\_\_ The requester refuses to pay the applicable fees authorized by the RTKL.
- \_\_\_ The extent or nature of the request precludes a response within the required time period.

The Agency Open Records Officer expects to respond to your request on or before February 12, 2024.

Respectfully,

The Lynch Law Group, LLC  
Open Records Officer, Donegal Township

www.lynchlaw-group.com

501 Smith Dr  
375 Southpointe  
P



p, PA 16066  
ing, PA 15317





**pennsylvania**  
OFFICE OF OPEN RECORDS

## Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied.

**SUBMITTED TO AGENCY NAME:** Donegal Township Washington County Attn: AORO-The Lynch Law Group

Date of Request: Friday, January 5, 2024 Submitted via: ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

**PERSON MAKING REQUEST:**

Name: Tammi Iams Company (if applicable): \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Email: dntiams@gmail.com

Telephone: Cell: 724-288-7182 Fax: \_\_\_\_\_

How do you prefer to be contacted if the agency has questions? ☐ Telephone ☒ Email ☐ U.S. Mail

**RECORDS REQUESTED:** *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law. Use additional pages if necessary.*

I am requesting the recordings and/or the notes taken by the secretary, Jamie M. Schaller, at the following advertised public meeting: December 28, 2023. This recording was taken during the public meeting of the Donegal Township Board of Supervisor where they discussed, deliberated and voted during this meeting of December 28, 2023. This recording documents a record under the RTK Law, Section 102 entitled Definitions. The law defines the term "Record," as "Information, regardless of physical form or characteristics, 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 agency. 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." (The term "record," according to the definition, specifically identifies a "sound recording." Further, the recording of a public meeting documents an activity of the agency and is created in connection with that activity. I have provide an unopened flash drive large enough to hold the recording.

**DO YOU WANT COPIES?** ☐ Yes, printed copies (default if none are checked)  
☒ Yes, electronic copies preferred if available  
☐ No, in-person inspection of records preferred (may request copies later)

Do you want certified copies? ☐ Yes (may be subject to additional costs) ☐ No

RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.

Please notify me if fees associated with this request will be more than ☐ \$100 (or) ☐ \$\_\_\_\_\_.

**ITEMS BELOW THIS LINE FOR AGENCY USE ONLY**

Tracking: \_\_\_\_\_ Date Received: \_\_\_\_\_ Response Due (5 bus. days): \_\_\_\_\_

30-Day Ext.? ☐ Yes ☐ No (If Yes, Final Due Date: \_\_\_\_\_) Actual Response Date: \_\_\_\_\_

Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied Cost to Requester: \$\_\_\_\_\_

☐ Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: In most cases, a completed RTKL request form is a public record.  
More information about the RTKL is available at <https://www.openrecords.pa.gov>

Form updated Feb. 3, 2020



## Eric Thomas

---

**From:** Eric Thomas  
**Sent:** Thursday, February 1, 2024 4:53 PM  
**To:** Darrin-Tammi Iams  
**Cc:** Anna O'Friel; James McGraw  
**Subject:** Right-To-Know Requests

Dear Ms. Iams:

You have provided a portable thumb drive ("PTD") to the Township expecting the Township will load responsive right-to-know documents onto the PTD. The Right-to-Know Statute is clear and does not provide requestors access to agency computers. 65 P.S. § 67.701(b). Please be advised that your requests associated with the PTD would require the Township to install the PTD into Township computers and the Township declines to provide you access to its computers. Also, concerning the recent right-to-know requests for notes and/or recordings used to transcribe meeting minutes, it is important to note that the Section 708 exemption for draft minutes is only preserved until the next public meeting of the agency. If official minutes are not adopted, draft minutes become public records and must be disclosed upon receipt of a valid right-to-know request. Accordingly, the township will only provide said notes and/or recordings if the meeting minutes are not available at or before the next public meeting. 65 P.S. § 67.708(b) (21).

*Eric*

**Eric A. Thomas**

The Lynch Law Group

**Cranberry Office:** 501 Smith Drive, Suite 3, Cranberry Township, PA 16066  
**Southpointe Office:** 375 Southpointe Boulevard, Suite 100, Canonsburg, PA 15317  
t. 724.776.8000 | f. 724.776.8001  
[www.LynchLaw-Group.com](http://www.LynchLaw-Group.com)

### PRIVILEGED AND CONFIDENTIAL

This message and any attachments are solely for the use of the intended recipients. They may contain privileged and/or confidential information, attorney work product, or other information protected from disclosure. If you are not the intended recipient, you are hereby notified that you received this email in error and that any review, dissemination, distribution, or copying of this email and any attachments is strictly prohibited. If you receive this email in error, please contact the sender and delete the message and any attachments associated therewith from your computer. Your cooperation in this matter is appreciated.



# The Lynch Law Group

James P. McGraw, Esq.  
jmcgraw@lynchlaw-group.com

Eric A. Thomas Esq.  
ethomas@lynchlaw-group.com

## RIGHT-TO-KNOW-LAW RESPONSE

February 12, 2024  
Ms. Tammi Iams  
38 Old National Pike  
West Alexander, PA 15376

Via email: [dtiams@gmail.com](mailto:dtiams@gmail.com)

Dear Ms. Iams,

Thank you for writing to Donegal Township to request records pursuant to Pennsylvania's Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq.*

On January 5, 2024, you submitted a right-to-know request for sound recordings and/or notes from a December 28, 2023 meeting, as more accurately described in the enclosure attached to this correspondence. Soon thereafter, the Township invoked its right, pursuant to 65 P.S. § 67.902, to extend the statutory 5-day response period by 30 days.

Additionally, you have provided a portable thumb drive ("PTD") to the Township expecting the Township will load responsive right-to-know documents on the PTD. The Right-to-Know Statute is clear and does not provide requestors access to agency computers, 65 P.S. §67.701(b). Please be advised that your requests associated with the PTD would require the Township to install the PTD into Township computers and the Township declines to provide you access to its computers. Also, concerning the recent right-to-know request for recording and/or notes used to transcribe public meeting minutes, the draft meeting minutes are exempt under Section 708 of the RTKL. The exemption for draft minutes is only preserved until the next public meeting of the agency. If official minutes are not adopted, draft minutes become public records and must be disclosed upon receipt of a valid right-to-know request. Accordingly, the Township will only provide said notes and/or recordings if the meeting minutes are not available at or before the next public meeting. 65 P.S. §67.708(b)(21).

In the intervening time, relevant records custodians at the Township have reviewed your request and the Township's records. Upon review and analysis, responsive documents were located, and said documents contain or comprise records subject to access upon redaction

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501 Smith Drive, Suite 3 • Cranberry Township, PA 16006  
375 Southpointe • West Alexander, PA 15317






under 65 P.S. § 67.708(6) and pursuant to your request under the RTKL. Therefore, your request is *granted*.

You have a right to appeal any denial in writing to: Office of Open Records, 333 Market St., 16th Floor, Harrisburg, PA 17101-2234. Appeals can also be filed online at the Office of Open Records website, <https://www.openrecords.pa.gov>.

If you choose to file an appeal, you must do so within 15 business days of the mailing date of the agency's response. See 65 P.S. § 67.1101. Please note that a copy of your original RTKL request, the agency's extension notice (if applicable), and this denial letter should be included when filing an appeal. More information about how to file an appeal under the RTKL is available at the Office of Open Records website, <https://www.openrecords.pa.gov>.

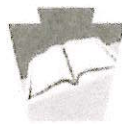
Respectfully,  
The Lynch Law Group, LLC  
Donegal Township Open Records Officer

Enclosures:

  
[www.lynchlaw-group.com](http://www.lynchlaw-group.com)

501 Smith Drive, Suite 3 • Cranberry Township, PA 16006  
375 Southpointe Boulevard, Suite 100 • Canonsburg, PA 15317  
P: 724-776-8000 • F: 724-776-8001





**pennsylvania**  
OFFICE OF OPEN RECORDS

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**SUBMITTED TO AGENCY NAME:** Donegal Township Washington County Attn: AORO-The Lynch Law Group

Date of Request: Friday, January 5, 2024 Submitted via: ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

**PERSON MAKING REQUEST:**

Name: Tammi Iams Company (if applicable): \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Email: dntiams@gmail.com

Telephone: Cell: 724-288-7182 Fax: \_\_\_\_\_

How do you prefer to be contacted if the agency has questions? ☐ Telephone ☒ Email ☐ U.S. Mail

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**Please notify me if fees associated with this request will be more than** ☐ \$100 (or) ☐ \$\_\_\_\_\_.

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Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied Cost to Requester: \$\_\_\_\_\_

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*NOTE: In most cases, a completed RTKL request form is a public record.  
More information about the RTKL is available at <https://www.openrecords.pa.gov>*

Form updated Feb. 3, 2020

Donegal Township Board of Supervisors  
Business Meeting Minutes  
December 28, 2023

23480

Donegal Municipal Building  
34 N. Liberty Street  
West Alexander, PA 15376

Call Meeting to Order: Jim Bauer called the meeting to order at 7:17 pm

Prayer: Given by Randy Polan

Pledge of Allegiance: Recited

Announcement of Recording: Jim Bauer announced.

Announcement of Executive Sessions: Jim Bauer read.

An Executive Session was held on December 13, 2023 from 3:00 pm to 4:00 pm for Personnel Matters

An Executive Session was held on December 18, 2023 from 11:00 am to 1:48 pm for Personnel Matters and Contracts.

Supervisors Present Roll Call:

Jim Bauer - Present

Randy Polan - Present

Edward Shingle - Present

Also attending the meeting:

Chief John Yancosek

Fire Chief Eric Graham

Jamie M. Schaller Secretary-Treasurer

Motion to adopt the agenda giving the chairman the privilege to adjust.

Ed Shingle made the motion to adopt the agenda giving the chairman the privilege to adjust. Randy Polan second. Motion Carried 3/0

Public Comment: COMMENTS ON AGENDA ITEMS ONLY

None



**At this time, they started with Item #4 New Business (Brownlee Subdivision)****APPROVAL OF MINUTES:**

Motion to approve the Minutes from the Business Meeting November 30, 2023

Ed Shingle made the motion to approve the minutes of November 30, 2023. Randy Polan second.  
Motion Carried 3/0.

**FINANCIAL BUSINESS:**

1. Motion to approve the Township General Fund Bills as presented.
2. Motion to approve the Township Water & Sewer Fund Bills as presented.
3. Motion to approve the Township Liquid Fuels Bills as presented.
4. Motion to approve the Township Act 13 Fund Bills as presented

Ed Shingle made the motion to approve the bill lists #1- #4 as listed. Randy Polan second. Motion Carried 3/0.

**DEPARTMENT REPORTS: (Supervisors have a copy in their packets)**

Police Report  
Fire Report  
Code Enforcement Report

**SOLICITORS REPORT:**

Jim McGraw – No report for the public session, the Right to Know update under new business, we can do then.

**OLD BUSINESS:**

1. McAdoo Pump Station Fuel (Natural Gas, Propane or Diesel)

Jim Bauer and Ed Shingle stated that we have looked into the options and the only thing we can do is propane.

2. Water Rates – Effective Date

Jim Bauer – Can we just do an FYI here as to what we are going to do?

23480

Jim McGraw – yes, I would say so.

Jim Bauer – back in our November Meeting (actually the October Meeting) we made a motion to increase the water rates effective December 1<sup>st</sup>, then what happen was the December billing came out and it was for the October 26<sup>th</sup> through November 26<sup>th</sup> but it didn't hit until December, so there is an issue where we will have to talk to Wheeling Water about doing a credit because we approved the rates as of December 1<sup>st</sup> and they actually issued the bill starting October 26<sup>th</sup>.

We are going to talk to Wheeling Water about giving a credit adjustment on the bills.

Ed Shingle – Can we take a vote tonight to just change the effective date?

Jim Bauer – No we can't do that.

Jim McGraw -- doing that retroactively and increasing charges that we hadn't previously approved could create an issue.

#### NEW BUSINESS:

1. RTK Request Policy (in person review policy)
2. Donegal Twp. Video Policy

Jim Bauer stated that items #1 and #2 will be done by Resolution, do we need to read it?

Jim McGraw – Yes.

Jim McGraw read Resolution 2023-5 (A Resolution of the Council of Donegal Township, Washington County, Pennsylvania, Adopting the Right-To-Know Know Records Review Policy in Compliance with the Right-to-Know Law).

Ed Shingle asked if Section 2 (a) is anytime during the times listed or by appointment? Can we alter this before we vote?

Jim McGraw – yes, I can change the language to include by appointment.

Jim McGraw – continued to read the resolution.

Jim McGraw – This is the Resolution, subject to being passed this evening, we included by appointment, Jamie, I will get you an updated copy.

Ed Shingle made the motion to approve as read. Jim Bauer second. Motion Carried 3/0.



Jim McGraw – for clarity of the record the two items listed under New Business separately 1) RTK Request Policy (in person review policy) and 2) Donegal Twp. Video Policy has been created under one policy.

Jim Bauer – okay #1 and #2 under new business has been addressed.

3. Adopt the 2024 budget – includes a 2 mill increase for a total of 3.05 mills.

Jim Bauer made the motion to adopt the 2024 Budget which includes a 2 mill increase for a total 3.05. Ed Shingle second. Motion Carried 3/0.

4. Brownlee Subdivision (Lot Consolidation)

The Board is reviewing the plans for the subdivision.

Jim Bauer asked the Brownlee's if they will end of with three deeds now?

Brownlee's – Yes that is correct.

Ed Shingle looking at the plan and the dates of the signatures.

Ed Shingle made the motion to approve the Brownlee subdivision, lot consolidation plan, Jim Bauer second. Motion Carried 3/0.

5. Real Estate Tax Collectors Audit

Jim Bauer made the motion to accept the Real Estate Tax Collector Audit from the Township Elected Auditors. Randy Polan second. Motion Carried 3/0.

6. Noah Dorsey – Retain on a regular part time basis

Ed Shingle made the motion to retain Noah Dorsey on a regular part time basis going forward from the completion of his probationary period. Randy Polan second. Motion Carried 3/0.

7. Officer Rodney Bush – Promotion to Sergeant

Jim Bauer asked if there was a motion to promote Officer Rodney Bush and thank him for his service.

Ed Shingle made the motion to promote Officer Rodney Bush to Sergeant status. Randy Polan second. Motion Carried 3/0.

8. Accept the resignation of Kathy Leech.

Jim Bauer made the motion to accept the resignation of Kathy Leech with regrets. Randy Polan second. Motion Carried 3/0.

9. Approve advertising for the position of Meter Reader

Randy Polan made the motion to advertise for the position of Meter Reader. Ed Shingle second. Motion Carried 3/0.

10. IT Professional Services:	GM Computer Services	\$70.00 per hour
	Norman Allan Company	\$531.00 Month
	Network Corp X	\$1,027.00 Month

Ed Shingle made the motion to appoint Norman Allan Company at \$531.00 a month. Jim Bauer second. Motion Carried 3/0.

11. Appoint members to the Planning Commission Board

Ed Shingle made the motion to appoint Mike Curtis, Ethan Ward and Jeri Zwicker. Jim Bauer second. Motion Carried 3/0.

Jim McGraw – Did the Planning Commission Ordinance have term limits?

Discussion on the Ordinance and if it had limits.

12. Holiday Schedule for 2024

Jim Bauer asked Jamie Schaller to read the Schedule:

Jamie Schaller – New Years Day 1-1-2024; Good Friday 3-29-24; Memorial Day 5-27-24; Independence Day 7-4-2024; Labor Day 9-2-24; Thanksgiving Day 11-28-24; Day after Thanksgiving 11-29-24; Christmas Eve 12-24-24 and Christmas Day 12-25-2024.

Ed Shingle made the motion to approve the holiday schedule. Jim Bauer second. Motion Carried 3/0.

13. Smith Subdivision (added to agenda)

Jim McGraw – Mr. Smith we are talking about your subdivision that has come up in the last couple of meetings, what we were contemplating is to have a brief executive session, I assume that your position remains largely the same, your Attorney and I have communicated again, your legal position by way of Mr. Turturice is that there is no land locking of the proposed new parcel from the subdivision as a result of the lot having access back out to the other via street



and that part was subject of some confusion into the Zwicker property is 1) still a public right of way even if somehow it has been deeded or otherwise acquired by the Zwicker's and that there is a public easement that goes in that direction up to your subdivision, your parcels to be subdivided still maintain separate access from the another direction, is that a fair assessment?

Mr. Smith – Yes.

Jim McGraw – it would make sense to have a brief conversation about the correspondence, adjourn to executive session for this item now and then come back.

Jim Bauer made the motion to adjourn to executive session at 7:28 pm to discuss the Smith Subdivision. Ed Shingle you may need to state legal matter in the motion, a subdivision is not executive session items. Jim McGraw that is right. What we are going to talk through is what we have gathered in the past month and any potential ramifications.

Jim Bauer made the motion to adjourn to executive session at 7:28 pm to discuss the Smith Subdivision and any possible legal issues regarding the alley. Ed Shingle second. Motion Carried 3/0.

The Board reconvened the Meeting at 8:00 pm. Jim Bauer turned the meeting over to Jim McGraw to go over what was discussed in executive session.

Jim McGraw – Mr. Smith I think it is fair to say that we have sufficiently dealt with all these issues related to the satisfaction of the board related to rights of way and access and that there will not be land locking and those kinds of things in our judgement based upon a similar reading of the law pertaining to these kinds of public easements for adjoining property owners, that your legal counsel and I have had some discussions about.

The one remaining point is that we need to raise to you is that there has been a lapse of time since the original approval of the original document that we have here and the board typically gets the signed documents back that the Washington County Planning Commission with their approval. This is the case with the original document that we have here that is now over two years old, signed as of October 17, 2021 by the County Planning Commission.

There is a note under it that makes clear that the approval lapses after ninety (90) days. In order not to make you wait another month the board will take a vote to attentively approve the planned subdivision contingently, subject to you resubmitting this plan to Washington County Planning Commission and get an updated executed signature there, that brings it back to the ninety days of approval.

Mr. Smith – I may be misspeaking but when I took it up there, they said all I needed was the signatures, initials of the Board.

Jim Bauer – based on this clause right here I am not comfortable putting my signature on it without them at least having them say okay.

Randy Polan – them saying is one thing and having it written down is....

23480

Mr. Smith – What is my next step?

Jim McGraw – you can take the plan back to the Washington County Planning Commission and request that they just, note that 90- day clause, and we didn't want to do anything that wasn't definitively have an active Planning Commission approval as oppose to the ninety- day lapse that has occurred a long time ago. You don't have wait until the next meeting, if you can get it sooner and we give conditional approval then when you bring it back the Township can sign it and give you a copy.

Mr. Smith – I need to take a copy of this back up to the Washington County Planning Commission Office?

Jim McGraw – Yes, have them sign it and bring back to the Board.

Jim Bauer made the motion to amend the agenda to add the approval of the Smith Subdivision. Ed Shingle second. Motion Carried 3/0.

Ed Shingle – Based on the Solicitor's advice I make a motion to conditionally approve the Smith Subdivision subject to receipt of an updated Washington County Planning Commission approval. Randy Polan second. Motion Carried 3/0.

#### DISCUSSION/ACTION ITEMS:

At this time Ethan Ward asked if he could interrupt, do you have any questions for us?

Ethan Ward – We will probably have the meetings during the day, so that if we would need to call the county or anyone for a question, we would be able to get them and not make the resident come back in a month for an answer.

Jim Bauer – let Jamie know after the three of you talk.

1. Confirm the action of advertising the reorganization meeting for January 3, 2024 for the Elected Auditors. (Advertisement ran 12-15-2023 along with the Board of Supervisors advertisement for reorganization).

Jim Bauer made the motion to acknowledge the advertising of the Elected Auditors. Ed Shingle second. Motion Carried 3/0.

2. Washington County Sewage Council will hold a full council meeting on January 9, 2024, then have a presentation on planning modules. (Do we want to send a representative)

Ed Shingle made the motion to send up to two representatives to the Sewage Council Meeting. Jim Bauer second. Motion Carried 3/0.



3. There will be a PA State Grant seminar on January 18, 2024 given by State Representatives O'Neil, Orititay, Cook and Kuzma. (Do we want to send a representative)

Jim Bauer made the motion to send two people to the PA State Grant Seminar. Randy Polan second. Motion Carried 3/0.

4. (FYI) SWN Production Company – has submitted an application to DEP for Drilling or Altering the John McMurray Well WAS 1H and 3H.

Jim Bauer read.

**EXECUTIVE SESSION:**

Held at: 7:28 pm see above (Smith Subdivision)

Held after adjournment of meeting.

**PUBLIC COMMENTS:**

Eric Graham – is there any new information on the Wheeling Water Contract?

Ed Shingle – it is now in the hands of Charleston.

Jim McGraw – I check the docket periodically and I stay in touch with the Attorney for the City, who is handling the legal matter before the Utility Commission.

**ADJOURNMENT OF MEETING:**

Jim Bauer asked if there was a motion to adjourn the meeting at 8:42 pm and go to executive session. Randy Polan made this motion. Ed Shingle second. Motion Carried 3/0.

The question was asked if the board would be returning? No, we will not be.

Meeting Adjourned.

  
Jamie M. Schaller Secretary/Treasurer

  
James R. Bauer Jr. Chairman