

RESOLUTION NO. 2013-07

A RESOLUTION OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, ADOPTING AN OPEN SPACE EVALUATION, ACQUISITION AND DOCUMENTATION POLICY FOR OPEN SPACE AND PARKLAND IN RADNOR TOWNSHIP.

WHEREAS, the Radnor Township 2003 Comprehensive Land Use Plan establishes significant recommendations for open space and parkland uses and activities in Radnor Township; and

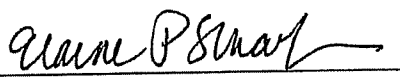
WHEREAS, the 1991 Radnor Township Park, Recreation and Open Space Plan establishes a set of objectives and acquisition criteria for future public parks and open spaces; and

WHEREAS, the Board of Commissioners has determined that the Township's open space and parkland evaluation, acquisition and documentation policy is in need of updating to reflect changes within Radnor Township.

NOW, THEREFORE, be it hereby *RESOLVED* that the Radnor Township Board of Commissioners does hereby adopt the following open space evaluation, acquisition and documentation policy consisting of Phase 1: Site Selection Criteria and Evaluation Process; and Phase 2: Land Acquisition Due Diligence Procedures, all as set forth in more detail on *Exhibit "A"* attached hereto and incorporated herein.

SO RESOLVED this 28 day of January, 2013.

RADNOR TOWNSHIP

By: 

Name: Elaine P. Schaefer

Title: President

ATTEST:


Robert A. Zienkowski, Secretary

OPEN SPACE ACQUISITION EVALUATION AND DOCUMENTATION POLICY

GENERAL OPEN SPACE EVALUATION PROCESS

1. To ensure consistent, objective and thorough review of potential acquisition by the Township of any interest in property for use as parkland or open space, each such potential acquisition must be evaluated using a standard evaluation process. In Radnor Township, the initial evaluation of a parcel takes place when a potential acquisition is brought to the attention of the Open Space Committee of the Board of Commissioners. The Open Space Committee, working with Township staff, is responsible for the evaluation procedure, which shall consist of two phases.

Phase 1:

- A. The evaluation of the **Site Selection Criteria** based on:

- 1) Character of the parcel.
- 2) Circumstances surrounding the purchase.

- B. The completion of the **Park and Open Space Land Evaluation Worksheet (Attachment "A")**:

- 1) Section One: Description of Parcel.
- 2) Section Two: Description of Potential Acquisition Transaction.
- 3) Section Three: Application of Site Selection Criteria.

2. Upon completion of Phase 1, the Open Space Committee will make a recommendation to the Board of Commissioners as to whether to pursue the acquisition. If the Board of Commissioners decides to pursue the acquisition, **Phase 2** is triggered.

Phase 2:

The completion of the **Land Acquisition Due Diligence Procedures Checklist (Attachment "B")**.

PHASE 1: SITE SELECTION CRITERIA AND EVALUATION PROCESS

In evaluating a potential acquisition, both the Open Space Committee and the Board of Commissioners shall consider the following criteria based on the character of the parcel and circumstances surrounding the purchase.

I. Site Selection Criteria Based on Character of the Parcel

A potential acquisition shall be considered favorably if any of the following apply:

- Parcel would create linkages to already existing on-road and off-road trail and greenway systems for pedestrians and bicyclists within Radnor Township (such as the Radnor Multi-Use Trail and the Skunk Hollow and Willows Trail systems) or in adjoining townships.
- Parcel contains important environmental areas, including stream corridors, steep slopes, wetlands and floodplains.
- Parcel will assist in the on-site absorption of stormwater runoff, or conversely, the development of the parcel would exacerbate problematic run-off issues.
- Preservation of the parcel will enhance or conserve groundwater quality based on attributes, including, but not limited to, whether the parcel is proximate to a body of water; is proximate to or contains wetlands; drains to a body of water.
- Parcel is adjacent or contiguous to a park, school or public land.
- Parcel is adjacent or contiguous to privately held land that is protected by a conservation easement or deed restriction.
- Parcel is heavily wooded, with particular consideration given to whether the parcel contains large specimen or old-growth native trees species.
- Parcel contains farmland, pastures and/or meadows.
- Parcel has agricultural heritage.
- Parcel has cultural or historic heritage.
- Parcel has significant visual character visible from areas accessible to the public.
- Parcel is located in the view shed of the Township's Scenic Roadways, as designated in either the 1988 and the 2003 Comprehensive Plans.
- Parcel provides buffer between residential and heavily commercial or institutional uses.
- Parcel would create an opportunity for restoring degraded habitat or re-establishing green space amenities in developed areas.
- Parcel has the potential to satisfy an identified or anticipated recreation or programmatic need for a facility.

- Parcel would provide high level of benefit and/or access to a large number of residents.

II. Site Selection Criteria Based on Circumstances Surrounding the Purchase

- High possibility of immediate development of parcel and likelihood that such development will have negative impact on the community.
- Reasonable purchase price of the parcel.
- Management of future maintenance burden on the Township resources (both staff time and finances).
- Comparison of revenue that the Township would have received if parcel were developed with the additional expense to the Township if parcel were developed (e.g., expense of accommodating additional school-age children and providing additional police and fire services).
- Likelihood that purchase will merit outside grant funding or attract other donations.
- Absence of conditions that may pose risk of liability to Township (e.g., hazardous materials, erosion, landslide threat).
- Parcel's contribution to equity of open space preservation in all areas of the Township.

III. Evaluation Process

In conducting the initial evaluation of a potential acquisition, the Open Space Committee of the Board of Commissioners shall complete a Radnor Township Park and Open Space Land Evaluation Worksheet (**Attachment "A"**).

After evaluating the acquisition in light of the Site Selection Criteria and completing the Park and Open Space Land Evaluation Worksheet, the Open Space Committee shall submit a written recommendation to the Board of Commissioners as to whether to pursue the acquisition opportunity. If, after review of the Worksheet and consideration of the recommendation, the Board of Commissioners chooses to move forward, the Open Space Committee, working with Township staff, should proceed to Phase 2.

PHASE 2: LAND ACQUISITION DUE DILIGENCE PROCEDURES

Township staff, working with the Open Space Committee and the Board of Commissioners, shall complete all steps of the Land Acquisition Due Diligence Checklist (**Attachment "B"**), the contents of which are more fully described below.

1. For all acquisitions requiring cash/cash equivalent consideration, the Township shall:

- A. Order, pay for and be the recipient of a Complete Appraisal, Self-Contained Report prepared by an MAI designated member of the Appraisal Institute who also is a State-licensed appraiser (See included Attachment "C" for explanation and definitions of the different types and formats of appraisals). This step, if approved by the Board of Commissioners, may occur during the Phase 1 evaluation process.
 - B. Document all other previous methods explored (and results thereof) to obtain the real estate or rights to use the real estate (such as private fundraising, gifts/donations, conservation easements, zoning, deed restrictions), or document why such methods were not explored.
2. For all acquisitions (requiring, and not requiring, cash/cash equivalent consideration), the Township shall:
 - A. Establish and document all costs (use of funds) and funding (source of funds).
 - 1) Include a written budget of all estimated costs and expenditures to acquire the real estate, including the price (if any), the appraisal report (if any), all estimated legal costs to acquire the real estate, and the respective estimated costs of all items in 2.B. below. Include a written budget of the amounts(s) and sources(s) of all funding to pay for the total acquisition cost.
 - 2) Include a written budget of all estimated costs and expenditures of carrying/maintaining the real estate, including a least the following: clearing/cleaning, proper types and levels of insurance, maintenance, demolition and/or repair (if any structures), replacements of any structures (if immediately planned), debt service payments if any debt was used for any portion of the acquisition costs, and costs of further CapEx improvements. Include a written budget of the amount(s) and source(s) of all funding to pay for this total ongoing cost.
 - 3) Include a written analysis of lost tax revenue from its existing use and an analysis of the impact on the budget by year for the life of any incurred planned debt.
 - 4) Consider consequences to Township if parcel is not developed (e.g., lost tax revenues and permitting fees or potential increase in costs incurred such as school children and Township services).
 - 5) Include a calculation showing potential financial impact of purchase on taxpayers taking into consideration debt costs and operating expenses.
 - 6) Include a review of all financial calculations and projections by CARFAC.
 - B. Conduct all proper acquisition due diligence procedures, including at least the following:
 - 1) Enter into a written purchase and sale agreement.

- 2) Obtain/document utility capacity letters relevant to the intended use of the parcel.
 - 3) Obtain a current Environmental Phase I ESA Report and proceed on the basis of any recommendations in the Report.
 - 4) Obtain a current title commitment search report and all its underlying exception documents.
 - 5) Obtain a current ALTA/ACSM Survey using the included recommended ALTA/ACSM Survey Assignment Scope (**Attachment "D"**).
 - 6) Obtain a current physical property condition assessment of any structures on the parcel.
 - 7) Obtain the title insurance policy.
 - 8) Obtain the recorded deed.
 - 9) Obtain the proper insurance coverages and levels for owning/carrying the real estate.
- C. Fulfill the following additional requirements if the intent is to build on the real estate:
- 1) Perform and document a site test-fit layout.
 - 2) Obtain a soils/geotech report relevant to the intended use of the parcel.
 - 3) Document a complete list of all demolition and construction permits which will be needed.
 - 4) Document a complete budget for all additional hard and soft costs to build.
 - 5) Document a complete timeline and schedule to achieve/finish all items of improvements to render the real estate completed for its intended public benefit/beneficiaries.
3. Immediately following any acquisition (or any real estate control obtained via lease, preservation, deed-restriction, conservation, etc.), update all Township data and reports to include the acquired real estate such as, but not limited to, the following:
- A. The Township's annual audited financial statements and footnotes.
 - B. All other pertinent Township official documents (e.g., bond issue "Official Statements").
 - C. The Township website.

D. All Township maps.

Legal Considerations Regarding the Future Disposition of Open Space and Parkland:

The Township has acquired over the past 40 years various park or open space parcels. The legal constraints on disposing of such parcels will depend upon the manner in which the properties were acquired, and in some cases, the source of funding for specific parcels. The actual deed of transfer or other recorded restrictions may also impact on whether the Township can sell, lease for a different use, or otherwise utilize the property in a manner different from its originally contemplated use. The two primary State law provisions which restrict the Township's ability to sell currently owned park/open space properties are the Eminent Domain Code and the Donated or Dedicated Property Act (DDPA).

1. Eminent Domain Code. For those tracts acquired by eminent domain under the Eminent Domain Code, a condemnor may abandon the purpose for which the property has been condemned, and dispose of it by sale, lease, gift, devise or other transfer subject to certain restrictions:
 - A. If the property is undeveloped or has not been substantially improved, it can only be disposed of within 10 years after the date of condemnation if it is first offered back to the condemnee at the price paid to the condemnee by the condemnor.
 - B. If the property is undeveloped or has not been substantially improved and the offer under the foregoing paragraph has not been accepted, then the property cannot be disposed of for a "non-public use or purpose" until 21 years after the date of the condemnation. Under this provision, the Township can petition the court to permit disposal of the property in fewer than 21 years upon proof by a preponderance of the evidence that a change in circumstances has abrogated the original public purpose for which the property was taken. 26 Pa.C.S.A. §310.
2. Donated or Dedicated Property Act (DDPA). Any properties not acquired by eminent domain would fall under the jurisdiction of the DDPA as summarized below.
 - A. The DDPA, 53 P.S. §1381, *et seq.*, incorporates the Commonwealth Public Trust Doctrine by imposing a duty on political subdivisions to insure that deeded or dedicated property held in trust is used for its originally intended purpose, but at the same time, the Act provides for a procedure whereby a political subdivision may be relieved of that duty where the originally intended use of the property is no longer practical or possible and has ceased to serve the public interest.
 - B. Under the DDPA, a municipality may apply to the Orphan's Court to dispose of public property, and the Court may grant the following relief to a municipality:
 - 1) To substitute other lands or property of at least equal size and value in exchange for the trust property in order to carry out the trust purposes.

- 2) If other property is not available, sell the property and apply the proceeds to carry out the trust purposes.
- 3) In the event the original trust purpose is no longer practical or possible or in the public interest, apply the proceeds in the case of a sale to a different public purpose.

C. The properties which would fall under the DDPA would include any properties acquired by the Township, whether purchased with General Fund revenues or open space funds, or donated at no cost to the Township. The Pennsylvania Supreme Court decision in *City of Erie* provided a roadmap for municipalities wishing to dispose of park or open space land which had been acquired by the township. The key issue under the DDPA is whether the Township owned property has ceased to serve the public purpose interest such that the court would approve its sale or disposition for a non-public use.

3. Project 70 Funding. Under an act of the legislature, the Project 70 Land Acquisition and Borrowing Act of June 22, 1964, the Township acquired parcels pursuant to bonds which were issued by the Commonwealth. The Project 70 Act requires that land acquired by a political subdivision with this funding must restrict its use to "recreation, conservation and historical purposes". Skunk Hollow is an example of land that was Acquired through Act 70 in Radnor. Although municipalities which acquire land under Project 70 may issue permits or leases for utilities, the land cannot be changed in use or sold without an act of the legislature.

ATTACHMENT "A"
Park and Open Space Land Evaluation Worksheet

SECTION ONE: DESCRIPTION OF PARCEL

1. **Street Address of Parcel:** _____

 3. **Complete Name of Parcel Owner:** _____

 4. **Contact Person for Owner:** _____

 5. **Contact Information for Owner's Representative:** _____

 6. **Broker (if any):** _____

 7. **Size of Parcel:** _____

 8. **Significant Physical or Environmental Features of Parcel:** _____

 9. **Zoning Classification of Parcel:** _____

 10. **Current Buildings or Structures on Parcel:** _____

 11. **Potential Development Capacity of Parcel:** _____

 12. **Title Encumbrances Affecting Parcel, Including Mortgages and Other Liens:** _____

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**SECTION TWO:
DESCRIPTION OF POTENTIAL ACQUISITION
TRANSACTION**

13. Interest to be Acquired:

Fee Simple _____ Leasehold _____ Easement _____
License _____ Deed Restriction _____ Other _____

14. Consideration:

Cash \$ _____ Gift _____ Other _____

15. Total Estimated Acquisition Cost: \$ _____

16. Total Estimated Cost of Any Intended Building: \$ _____

17. Estimated Annual Operating and Maintenance Costs: \$ _____

18. Estimated Annual Revenue (i.e. rent, usage fees): \$ _____

19. Potential Funding Sources: _____

20. Potential Limitations on Resale: _____

**SECTION THREE:
APPLICATION OF SITE SELECTION CRITERIA**

21. Potential Public

Uses/Benefits: _____

22. Does Parcel Abut Existing Open Space: _____

**23. List All Relevant Site Selection Criteria Supporting Acquisition, Based on Either
Character of the Land or Circumstances Surrounding Purchase:** _____

ATTACHMENT "B"
Land Acquisition Due Diligence Checklist

<i>Summary Description</i>	<i>N/A</i>	<i>Complete</i>	<i>Comments</i>
1A) Complete Appraisal Type, Self-contained report Format	_____	_____	_____
1B) Document all other previous methods to obtain or use of the real estate, or why such methods were not explored	_____	_____	_____
2A) i) Written budget for all cost to acquire the property	_____	_____	_____
ii) Written budget for costs to carry/maintain the property	_____	_____	_____
iii) Written analysis of foregone tax revenue from existing use	_____	_____	_____
iv) Consequences to Township if parcel is not developed	_____	_____	_____
v) Fiscal impact of purchase on taxpayers	_____	_____	_____
vi) Review of calculations by CARFAC	_____	_____	_____
2B) i) Written Purchase & Sales Agreement	_____	_____	_____
ii) Utility capacity letters	_____	_____	_____
iii) Environmental Phase 1 ESA Report	_____	_____	_____
iv) Title commitment report & its underlying exception documents	_____	_____	_____
v) ALTA/ACSM Survey with Tables : A - 1,2,3,4,5,6(a&b), 8, 11(a&b), 13 to 19, 20(a&b)	_____	_____	_____
vi) Physical Property Condition Assessment Report	_____	_____	_____
vii) Title Insurance policy	_____	_____	_____
viii) Recorded Deed	_____	_____	_____
ix) Insurance policies	_____	_____	_____
2C) i) Perform & document a site test fit layout	_____	_____	_____
ii) Obtain soils/geotech report	_____	_____	_____
iii) List of all demolition & construction permits required	_____	_____	_____
iv) Written budget of all additional hard & soft costs to build	_____	_____	_____
v) Written timeline & schedule for improvements	_____	_____	_____
3) Post Acquisition – update all Township data & reports including:			
a) Township’s annual audited financial statement and footnotes	_____	_____	_____
b) All other pertinent Township official documents (e.g. Bond issue, Official statements)	_____	_____	_____
c) Township website and Township map(s)	_____	_____	_____

ATTACHMENT "C"
Appraisal Information of Types and Formats

The following information was redacted from www.appraisalinstitute.org

THE APPRAISAL INSTITUTE:

The term/acronym "MAI" stands for "Member Appraisal Institute" and is a registered trademark of the Appraisal Institute. The Appraisal Institute is a trade organization. *There is no such thing as an "MAI appraisal". Persons requesting an "MAI appraisal" mean that the Report should be prepared by an MAI designated member of the Appraisal Institute.* Appraisal Institute members are held to higher standards than licensed-only appraisers, but so too are designated members of other appraisal trade organizations. Each appraiser needs to be judged by his/her merits rather than the association to which he/she belongs.

TWO TYPES OF APPRAISALS: "COMPLETE" OR "LIMITED-USE":

A **Complete** appraisal is one that does not invoke the "Departure Provision" of USPAP (Uniform Standards of Professional Appraisal Practice). (Departure is the tool that allows the appraiser to complete an assignment that is something less than or different from work that would otherwise be performed for a Complete appraisal.) From the perspective of the user, a Complete appraisal has all the information necessary to prepare a credible analysis, and no approaches to value that an appraiser typically would use have been excluded. Complete reports are needed for most loan transactions and court cases.

Limited-use appraisals invoke one or more USPAP Departure Provisions. Limited-use appraisals generally are used internally by owners or for quick purchase decisions. The level of reliability of a Limited-use appraisal can vary, but most users of Limited-use appraisals believe them to be less reliable than a Complete appraisal. However, a Limited-use appraisal can be appropriate when special circumstances prevent performing a Complete appraisal, such as for example when the appraiser is not allowed to inspect a property.

**THREE TYPES OF REPORT FORMATS: "SELF-CONTAINED",
"SUMMARY", OR "RESTRICTED":**

A **Self-contained** report includes all the detail and information which were relevant to deriving market value or the other conclusions within the report. A Self-contained report stands by itself – the appraiser provides all of his/her data and rationale that was used in the development of the appraisal, and all conclusions and data sources are fully disclosed and discussed. This is the type of report most often needed for commercial property lending. Two practical tests can be used to determine if a report is a Self-contained document: (1) The content of the report fully describes the data, reasoning and each conclusion to such a degree that there is no need to consult other data sources or to inquire how the appraiser reached a conclusion. (2) Information sources cited within the report are included in the document, within reason. (Citing a book does not require the inclusion of the book in the addenda, but market studies or other material articles cited in a report

should be included, especially if the appraiser relied upon them for supporting important conclusions.)

In a **Summary** report, the appraiser summarizes his/her findings rather than fully describing them. Most residential appraisals and non-complex commercial assignments are done on forms that are Summary reports. The amount of explanation may be limited, and there may be references to materials contained in the company files (that otherwise would be included in a Self-contained report). Demographics or other "global" discussions are rarely included in a Summary report.

A **Restricted** report provides a minimal discussion of the appraisal with large numbers of references to internal file documentation. This is the shortest type of report. A restricted report only states the conclusions of the appraiser with no explanation of how they were derived. Restricted reports are generally used internally or when a value must be reported quickly, and later frequently are upgraded to Summary or Self-contained. An important caveat is that USPAP does not allow a Restricted report to be used by anyone other than the client or someone intimately familiar with the property – so if the appraisal will be viewed by other third parties, then a Summary or Self-contained report must be prepared. Appraisers cannot "recertify" a Restricted report to any other lender.

ATTACHMENT "D"
ALTA/ACSM Survey Assignment Scope

In accordance with the ALTA/ACSM Land Title Survey 2011 Minimum Standard Detail Requirements, the Survey shall be completed in accordance with the following:

- A. A narrative legal description which exactly matches the title commitment; &
- B. Significant observations not otherwise disclosed; &
- C. Names of all streets abutting the surveyed property; &
- D. Street address of the surveyed property; &
- E. Clear indication of any encroachments or protrusions and the exact measurements of the distance to lot lines, buildings, easement lines, right-of-ways, etc.
- F. Extend the topo to the centerline of street.
- G. Extend the topo to at least 15 feet beyond all property lines.
- H. Locate the public water line and indicate size.
- I. Locate the gas line and indicate size and pressure.
- J. Items 1, 2, 3, 4, 5, 6(a&b), 8, 11(a&b), 13, 14, 16, 17, 18, 19, and 20(a&b) of the ALTA/ACSM Table A effective 2/23/2011:

- 1. *Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the property, unless already marked or referenced by existing monuments or witnesses.*
 - 2. *Address(es) if disclosed in Record Documents, or observed while conducting the survey.*
 - 3. *Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by scaled map location and graphic plotting only.*
 - 4. *Gross land area (and other areas if specified by the client).*
 - 5. *Vertical relief with the source of information (e.g. ground survey or aerial map), contour interval, datum, and originating benchmark identified.*
 - 6.(a) *Current zoning classification, as provided by the insurer.*
 - 6.(b) *Current zoning classification and building setback requirements, height and floor space area restrictions as set forth in that classification, as provided by the insurer. If none, then state none.*
 - 8. *Substantial features observed in the process of conducting the survey (in addition to the improvements and features required under Section 5 above) such as parking lots, billboards, signs, swimming pools, landscaped areas, etc.*
 - 11. *Location of utilities (representative examples of which are listed below) existing on or serving the surveyed property as determined by:*
 - (a) *Observed evidence.*
 - (b) *Observed evidence together with evidence from plans obtained from utility companies or provided by client, and markings by utility companies and other appropriate sources (with reference as to the source of information).*
 - *Railroad tracks, spurs and sidings;*
 - *Manholes, catch basins, valve vaults and other surface indications of subterranean uses;*
 - *Wires and cables (including their function, if readily identifiable) crossing the surveyed property, and all poles on or within ten feet of the surveyed property. Without expressing a legal opinion as to the ownership or nature of the potential encroachment, the dimensions of all encroaching utility pole crossmembers or overhangs; and*
 - *utility company installations on the surveyed property.*
- Note - With regard to Table A, item 11(b), source information from plans and markings will be combined with observed evidence of utilities to develop a view of those underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely and reliably depicted. Where additional or more detailed information is required, the client is advised that excavation may be necessary.*
- 13. *Names of adjoining owners of platted lands according to current public records.*
 - 14. *Distance to the nearest intersecting street as specified by the client.*
 - 16. *Observed evidence of current earth moving work, building construction or building additions.*
 - 17. *Proposed changes in street right of way lines, if information is available from the controlling jurisdiction.*
 - Observed evidence of recent street or sidewalk construction or repairs.*
 - 18. *Observed evidence of site use as a solid waste dump, sump or sanitary landfill.*
 - 19. *Location of wetland areas as delineated by appropriate authorities.*
 - 20.(a) *Locate improvements within any offsite easements or servitudes benefitting the surveyed property that are disclosed in the Record Documents provided to the surveyor and that are observed in the process of conducting the survey (client to obtain necessary permissions).*
 - 20.(b) *Monuments placed (or a reference monument or witness to the corner) at all major corners of any offsite easements or servitudes benefitting the surveyed property and disclosed in Record Documents provided to the surveyor (client to obtain necessary permissions).*