

Appendix III. SAMPLE RESOLUTION ESTABLISHING AN EAC

RESOLUTION NO. 882

A RESOLUTION OF THE TOWNSHIP OF LOWER MAKEFIELD, BUCKS COUNTY, PENNSYLVANIA
ESTABLISHING A PROCEDURE FOR THE IDENTIFICATION AND PRESERVATION OF OPEN SPACE
TO BE KNOWN AS THE LOWER MAKEFIELD OPEN SPACE INITIATIVE.

WHEREAS, the Board of Supervisors of Lower Makefield Township recognizes that open space adds to the aesthetic beauty and value of the community, and maintains its rural character;

WHEREAS, the Board of Supervisors of Lower Makefield Township recognizes that open space can increase property values and, consequently, tax revenues;

WHEREAS, the Board of Supervisors of Lower Makefield Township recognizes that open space can provide Township residents with a variety of active and passive recreational opportunities;

WHEREAS, the Board of Supervisors of Lower Makefield Township recognizes that open space serves a variety of necessary functions including stormwater management and flood control, agricultural use, composition of natural debris, and limits the impact of development;

WHEREAS, the Board of Supervisors of Lower Makefield Township recognizes that preservation of open space is in the Township's interest and is necessary to preserve the quality of life for Township residents; and

WHEREAS, Article XIX of the Second Class Township Code specifically authorizes the Board of Supervisors to preserve and acquire open space for the public benefit.

NOW, THEREFORE, be it RESOLVED that Lower Makefield Township shall undertake the Open Space Initiative as set forth herein:

SECTION ONE: OBJECTIVE

To identify available open space and important natural resources, advise the Township of opportunities to acquire or otherwise preserve open space and the resources therein, and set forth guidelines for the acquisition or preservation of open space within the Township's means.

SECTION TWO: DEFINITIONS

The definitions in this section shall be limited in their application to this Resolution and shall not be construed to restrict or expand the definitions of the same or similar terms found in other Township ordinances, resolutions, codes or the Comprehensive Master Plan:

"Open Space"- Those lands located in Lower Makefield Township which remain in a natural state, or are used for agricultural or recreational purposes, and are not owned, possessed or controlled by a real estate developer or subject to a real estate development agreement. Open Space does not include land occupied by structures, roads, rights-of-way, parking lots or stormwater detention basins.

"Environmental Advisory Council"- Five (5) member Township committee which shall explore preservation options and make recommendations to the Board of Supervisors.

"Open Space Fund"- Moneys set aside by the Township for the purpose of acquiring or preserving open space.

"Open Space Preservation Plan"- Any preliminary or final plan for the acquisition or preservation of a parcel of open space in the Township.

"Real Estate Developer"- Any person or entity engaged in the business of residential, commercial or industrial development of real estate for profit.

“Real Estate Development Agreement”- Any binding legal contract or agreement to option or sell real estate between a landowner and a real estate developer.

“Supervisors”- The Board of Supervisors of Lower Makefield Township.

“Township”- The Township of Lower Makefield.

SECTION THREE: CREATION OF AN ENVIRONMENTAL ADVISORY COUNCIL

- (1) The Board of Supervisors shall appoint a five (5) member Environmental Advisory Council (EAC) to explore all options for the acquisition and /or preservation of open space and make recommendations to the Board on feasible alternatives for acquisition or preservation.
- (2) The Board of Supervisors will utilize its best efforts to appoint to the EAC, as members, one (1) member of the Board of Supervisors, one (1) member of the Planning Commission, and one (1) member of the Park and Recreation Board. The terms of office for any member of the EAC, who also serves as a member of another board or commission of the Township, shall be for one (1) calendar year commencing with their appointment by the Board of Supervisors. Any person appointed to the EAC who is not a member of a Board or Commission affiliated with the Township shall be appointed for a three (3) year term which said terms shall be staggered for all members at large appointed to the EAC so that the first person shall be appointed for an initial three (3) year term, the next for an initial two (2) year term and the last for an initial one (1) year term. Prior to the expiration of the term of appointment, the Board of Supervisors, the Planning Commission, and Park and Recreation Board shall provide the Board of Supervisors, in writing, with a recommendation for one of their members to be appointed to the EAC but the Board of Supervisors shall make the final determination as to the membership of the EAC. In addition, the Board of Supervisors may also appoint a representative of a recognized conservancy or land trust to act as a consultant to the committee, including but not limited to, the agencies noted in Appendix “A” to this Resolution.
- (3) The EAC shall endeavor to meet monthly as the need arises.

SECTION FOUR: ESTABLISHING AN OPEN SPACE FUND

The Township may establish a fund as permitted by law for the purpose of acquiring or preserving open space and the important natural resources located therein.

SECTION FIVE: IDENTIFICATION

- (1) The EAC shall identify and map all areas of open space and important natural resources in the Township.
- (2) The EAC shall attach priority to each area of open space. A priority of one (1) shall indicate the lowest level of desirability for preservation. A priority of ten (10) shall indicate the highest level of desirability for preservation. When setting priorities, the EAC shall consider the following factors:
 - a. presence of protected natural resources and other natural features of the open space including but not limited to the presence of wetlands, the location of open space within a watershed area or flood plain, and the presence of species of flora and fauna of special concern;
 - b. suitability for use for agricultural purposes;
 - c. suitability for use for recreational purposes;
 - d. suitability for other uses consistent with the character of the land as open space;
 - e. aesthetic value to the community;
 - f. negative features such as the known presence of environmental hazards or contaminants, nuisances or other dangers;
 - g. the danger or likelihood of imminent development;
 - h. presence of historical structures;
 - i. presence of archaeological sites or other features of importance to the preservation of the heritage of Lower Makefield;
 - j. linkage of adjoining areas of protected open space that may be protected in the future; and
 - k. importance to the free movement of wildlife through the area.

- (3) The EAC shall present its findings to the Board of Supervisors. The EAC, with approval of the Board of Supervisors, may alter the priorities as circumstances warrant.
- (4) The identification, mapping and prioritizing should be completed within eight (8) to twelve (12) months of the formation of the EAC. The identification, mapping and prioritizing shall be the first phase of a comprehensive Environmental Resource Inventory of the Township that shall be revised and expanded as necessary to reflect changing conditions in the Township.
- (5) The Board of Supervisors hereby authorizes expenditure of funds not to exceed \$1,000.00 to match available grants for supplies and professional assistance in the identification, mapping and prioritizing process.

SECTION SIX: NOTICE

- (1) The Board of Supervisors shall send a letter via first class mail to all owners of open space designated as a priority of five (5) or higher by the EAC advising them of the Township's interest in acquiring and/or preserving open space. The letter shall request the landowner's voluntary cooperation in notifying the Township should they consider the sale or transfer of all or any portion of their open space.
- (2) From time to time, but no more than twice in any calendar year, the Board of Supervisors may send a follow-up letter to all owners of open space designated as a priority of five (5) or higher by the EAC advising them of the Township's continued interest in acquiring and/or preserving open space and requesting their continued voluntary cooperation.
- (3) The Board of Supervisors may also send a letter to local realtors and real estate agencies advising them of the Township's interest in acquiring and/or preserving open space, and requesting their voluntary cooperation in notifying the Township of opportunities for acquisition and/or preservation of open space once they arise.
- (4) The Board of Supervisors or the EAC may also initiate personal contact with landowners when deemed appropriate.

SECTION SEVEN: ADOPTING AN OPEN SPACE PRESERVATION PLAN

- (1) Upon notification of the availability of open space for acquisition or preservation, the EAC shall appoint one or more of its members to meet with the landowner or his/her agent. The EAC may request the participation of representatives of a land trust or conservancy in the discussions with the landowner or his/her agent.
- (2) Within sixty (60) days after appointment, the EAC representative(s) shall meet with the landowner or his/her agent, and shall report back to the EAC regarding possible methods of acquiring or preserving the parcel. The EAC shall then make a recommendation to the Board at its next regularly scheduled public meeting.
- (3) The EAC and Board of Supervisors may consider all methods for acquiring or preserving the open space that are permitted.
- (4) If the Board of supervisors deems that acquisition or preservation of the parcel is feasible, it shall authorize the EAC to draft a preliminary open space preservation plan. The plan shall specify:
 - a. identity of all parties to be involved in the transaction
 - b. the intentions of the parties with regard to the parcel
 - c. the size and location of the parcel
 - d. natural and historic features of the parcel
 - e. the intended use of the parcel
 - f. possible methods of acquisition or preservation
 - g. possible sources of funding

- (5) Not later than sixty (60) days after receiving authorization from the Board of Supervisors, the EAC shall present a preliminary open space preservation plan to the Board of Supervisors. The Board of Supervisors shall approve, conditionally approve, or reject the plan.
 - a. If the plan is approved as presented, or with changes or conditions, the Board of Supervisors shall direct the EAC to finalize the plans with the landowner or his/her agent, and incorporate the changes or conditions, if any.
 - b. If the plan is rejected, the Board of Supervisors may direct the EAC to meet with the landowner or his/her agent in an effort to develop an alternative preliminary open space preservation plan. If the landowner and the EAC develop a new preliminary open space plan, the procedures set forth in this paragraph shall be followed.
- (6) Upon approval of the preliminary open space preservation plan, the Board of Supervisors shall retain an environmental consultant to evaluate the open space for potential environmental hazards and contamination.
- (7) Upon approval of the preliminary open space preservation plan, the Board of Supervisors shall also authorize a title search for the parcel.
- (8) Not later than sixty (60) days after approval or conditional approval of the preliminary open space preservation plan, the EAC shall present to the Board of Supervisors at a regularly scheduled public meeting a final open space preservation plan. The plan shall meet the requirements of paragraph four (4) (a)-(e) above, but shall identify the final source(s) of funding and the chosen method(s) of acquisition and/or preservation. At the meeting, the Board of Supervisors shall review the environmental consultant's evaluation of the parcel and the title search. After a hearing, the Board of Supervisors shall vote to approve or reject the final open space preservation plan.
- (9) Upon approval of the final open space preservation plan, the Board of Supervisors shall take the actions required by the plan within a reasonable time.

SECTION EIGHT: REFUND OF REALTY TRANSFER TAX

In lieu of acquiring or preserving open space through its own funds, the Township may facilitate the transfer of open space from the landowner to a third party desiring to keep the land in its natural state by refunding the Township percentage of the realty transfer tax. In return, the deed shall bear a restriction to run with the land prohibiting future development except for agricultural or recreational uses.

SECTION NINE: SERVERABILITY

If any section, paragraph, sub-section, clause or provision of this Resolution shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Resolution as a whole or any part thereof other than that portion specifically declared invalid.

SECTION TEN: EFFECTIVE DATE

This Resolution shall become effective in accordance with the provisions of the Second Class Township Code of the Commonwealth of Pennsylvania.

RESOLVED, this 15th day of August, 1994

BOARD OF SUPERVISORS OF LOWER MAKEFIELD TOWNSHIP