

December 7, 2011  
Curtis Hall

A regular meeting of the **PUBLIC AFFAIRS COMMITTEE** was held tonight, Charles D. McKeown, Chairman, presiding. Members present were Commissioners Hampton, Haywood, Sharkey, Simon, and Swavola. Also present was Ex-Officio Member Portner. Staff present were Bryan T. Havar, Assistant Township Manager; Kenneth Hellendall, EMS Director; John O. Hoover, Jr., Director of Parks and Recreation; David M. Lynch, Director of Engineering, Zoning & Inspections; John J. Norris, Chief of Police; Kevin O'Brien, Deputy Chief of Police; Joseph O'Neill, Fire Marshal; and David G. Kraynik, Township Manager. A Public Attendance List is attached.

Mr. McKeown called the meeting to order.

1. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Report of the Property Supervisor for the month of November, 2011 was received.
2. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Report of the Public Information and Complaint Officer for the month of November, 2011 was received.
3. Upon motion of Mr. Portner, and unanimously approved by the Committee, the the Staff Meeting Minutes dated October 25 and November 21, 2011 were received.
4. Upon motion of Mr. Portner, and unanimously approved by the Committee, the the Twinning Committee Meeting Minutes dated November 2, 2011, were received.
5. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Historical Commission Meeting Minutes dated November 10, 2011 were received.
6. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Economic Development Task Force Meeting Minutes dated November 15, 2011 were received.

7. Upon motion of Mr. Portner, and unanimously approved by the Committee, the Substance Abuse and Mental Health Committee Meeting Minutes dated November 17, 2011 were received.

[Messrs. Haywood and Sharkey joined the meeting at this time].

8. Mr. Ilan Rosenberg, 1123 Coventry Avenue, addressed the Committee regarding an incident involving his daughter at Conklin Pool this past summer. Also present was George Hirschorn, 609 Stratford Avenue, grandfather of the child. Mr. Rosenberg stated that his young daughter was pushed into the pool by a 3-year old child and hit the edge of the pool. According to Mr. Rosenberg, his daughter suffered extensive injuries, was taken to the hospital after she got home, and later to the pediatrician. Mr. Rosenberg claimed that he was told by pool staff that the other child's family had a history of pool violations. He reviewed the Township's pool regulations and claimed that said regulations are not enforced. Pool staff should be directed to start enforcement of the regulations at the door. He saw very little consequences to the injury suffered by his child. The child's parent walked in the other direction and allowed other kids to run around the pool. Mr. Rosenberg wanted enforcement of preventive care procedures and records kept of families with a history of unsuitable behavior.

Mr. McKeown responded that he reviewed the records that indicate that only once was said family on report and that is when their child needed a life saving measure in the pool. Mr. Rosenberg felt this was an indication of inadequate record-keeping. Mr. Simon stated that according to the report, the extent of the child's injuries were not apparent until the child went home. The initial report does not indicate substantial injuries. Mr. Sharkey stated that he worked at the pools when he was younger and is aware of the difficulty that Mr. Hoover and his staff have and how well they do their job. It was his opinion that if the injuries were known to be serious at the time of the incident, the parents would have been notified. Mr. Simon asked

if Mr. Rosenberg wanted anything beyond the loss of pool privileges as a consequence. Mr. Rosenberg wanted detailed and clear reports of families and households with incidents, the revocation and refusal of membership for any family with a history, proper instruction of pool staff on the rules, a minimum ratio of adult to child for every child entering the pool, a clear criteria for enforcement, policies that set the measures to be taken on record-keeping, and what it takes for the pool rules to be enforced.

It was Mr. Sharkey's opinion that these types of policies should be set forth on a case-by-case basis. Mr. Simon felt that drafting such rules that involved supervision and attentiveness is difficult. Mr. Swavola felt that Staff might consider reviewing the rules and instituting consequences, i.e. the number of times a family has to be addressed and to use their discretion about enforcement. Mr. McKeown stated that as the father of six (6) children, he knows the difficulty in constantly watching children. Also, sometimes a parent or neighbor will take several children to the pool.

Mr. Hoover stated that in his 30-years of experience at the Township's pools, there has only been a small number of complaints. The pool staff and lifeguards have been very vigilant working in a difficult environment. Accident reports are generated once or twice a week. It is the nature of the activity. Mr. Hoover was comfortable with the current rules and consider behavior on a case by case basis. This was an accident. He felt that the pools were a safe place.

Mr. Rosenberg felt that the rule whereby a child has to be accompanied by an adult was violated and there should be stricter oversight. The other child intentionally pushed his child, and it was not just a shove.

Mr. Hirschorn felt that the Township's response to this incident was inadequate. He asked that this matter be placed on a future agenda of the Board of Commissioners for further

review and comment. He was told that it would be placed on the agenda for the January 4, 2012 meeting of the Public Affairs Committee.

9. The Committee reviewed a draft anti-discrimination ordinance (see attached). Mr. Bagley explained his research of other municipalities' ordinances, and as a result, said draft ordinance is a compendium of similar ordinances from Springfield Township and Lower Merion Township. Springfield's ordinance engages in mediation. Lower Merion Township's version engages in mediation and allows for investigation, a hearing, and possible remedies. Also considered were portions of the Pennsylvania Human Relations Act (PHRA).

The Committee discussed each section of the draft ordinance that included the versions of Springfield Township, Lower Merion Township, and the PHRA as they relate to that section. There was extensive review.

Mr. Bagley reviewed the Preamble; Purpose and Declaration of Policy.

For Definitions - the state versions of Employer and Public Accommodation were used. Mr. Bagley recommended that the terms Commercial Property, Housing, Employer, Employment and Public Accommodation be declared a civil right. This ordinance extends the protections of the PHRA to include action, perceived sexual orientation, gender identity or gender expression. It was agreed that the state's version of certain definitions was the most extensive and all-inclusive.

Mr. Simon felt that the ordinance should be an amendment to the PHRA and include those items in the state act. He suggested that there be included a De Novo right to appeal to the Court of Common Pleas; a clearer description of the commission and how it makes decisions; seven (7) members instead of five (5) members; a required quorum of five (5) members; decisions made by a vote of three (3); provision of release and hold harmless that this is being done in the good

graces of the Township and the voluntary efforts and goodwill of the commission, and the people who decide to make use of these procedures release the Township and the volunteer commission from any liability.

For Exceptions - religious, denominational, private, or fraternal organizations. The Committee supported the PHRA version. Mr. Simon's suggestion that these types of organizations that receive a material governmental appropriation not be an exception was considered. Mr. Haywood did not feel this was necessary. He did not see the Township giving any material appropriation given the economic situation. The Committee agreed.

For Establishment of a Human Relations Commission ('commission') – There were suggestions to change the number of members. Each Commissioner indicated why they wanted the number of members changed. Mr. Simon wanted it clarified that the duties of the commission are limited to cases under said ordinance and that whatever other committees may exist in the Township now or in the future, which do or may relate in general to civil rights are not affected by the limited jurisdiction of this commission.

The Commissioners were polled on the number of commission members there should be as follows: Ms. Hampton – 9; Mr. Sharkey – 7; Mr. Simon – 9; Messrs. Haywood and Swavola – 7 or 9; Mr. Portner – 7. It was agreed that the commission would consist of nine (9) members.

Mr. Simon suggested that there be additional references to what happens about filling vacancies; what are the rights of the commission/president to remove commission members. Mr. Bagley noted that there is a provision that the commission's rules are subject to approval by the Board of Commissioners. Many of said details can be worked out subject to Board approval.

Mr. Haywood felt that there should be a provision for an appeal to a local District Judge. Appealing to Court of Common Pleas is expensive. It was Mr. Bagley's opinion that a complainant would want a court order in the form of an injunction, which cannot be issued by a

District Justice. Messrs. Haywood, Swavola, Portner supported Lower Merion's version. Mr. Sharkey asked for Staff's opinion. Mr. Kraynik said that the Lower Merion version would get the Township Solicitor involved in the process and that would incur cost above and beyond the retainer. It would also put the Township in a position for future litigation regarding decisions by the commission. Mr. Sharkey supported the Lower Merion version provided that hold harmless language could be added. Mr. Portner supported either the Springfield or Lower Merion versions provided hold harmless language could be added. Mr. Bagley stated that he would have to discuss any language insulating the Board of Commissioners in an Executive Session.

For Complaints and Procedures for Filing Complaints – Mr. Simon questioned the process of having a Staff person affiliated with the Commission. Mr. Bagley discussed the Lower Merion version that allows for a commission member to serve as an investigator to do advance work and assist the complainant. Mr. Simon wanted to ensure that any commission volunteer who was appointed the investigator would be trained by the state HRC and not be involved in any vote. The Committee agreed that a Township Staff member would not be involved but that a member of the volunteer Commission would be the investigator and mediator and that any involvement by the Township Solicitor deleted. Mr. Kraynik was concerned about the lack of guidance by the Solicitor for the commission's public hearing creating Township vulnerability. Mr. Simon felt it should be clear that the Township is creating this low cost commission consisting of volunteers who will be trained by the state HRC which is a condition of their right to serve. He felt that it should be up to the commission to do its work so long as there was a hold harmless provision. Mr. Sharkey felt that no decision should be made before Mr. Bagley advises regarding a hold harmless provision. Mr. Kraynik envisioned the possibility of defendants engaging attorneys and wanted the Township's commission to be in a good

position to conduct its business, including having the assistance of the Township Solicitor if need be.

Mr. Portner asked about the schooling of commission members. Mr. Bagley responded that he was not sure about the schooling but that the HRC did give training. Mr. Portner supported eliminating the involvement of the Township Solicitor. Mr. Simon felt that legal support for the commission could be provided on an ad hoc basis.

Mr. McKeown motioned and the Committee agreed that further discussion of this draft ordinance be tabled to a future meeting.

There were public comments:

David Flaks, 7517 Vernon Road, and a member of CARE (Cheltenham Area Residents for Equality), thanked Township Staff and the Board for their efforts in putting forth this ordinance, which would provide lesbian, gay, bisexual and transgender (“LGBT”) residents of Cheltenham the same rights as other protected residents in the state. He felt in the Lower Merion version the only people who would be going through the second level of adjudication are LGBT citizens, and all other protected classes, after mediation, are referred directly to the PA HRC because they have protection there. This ordinance does not cover a broad scope of people, and this could be considered in discussions involving the liability of the Township and Solicitor.

Adrian Shanker, President, Equality Pennsylvania, applauded the Township for considering this ordinance. This would make Cheltenham the 26<sup>th</sup> municipality in the state to enact a local non-discrimination ordinance, inclusive of its LGBT community. Overall, this legislation is being supported by a strong coalition of organizations on the local and state levels. The ordinance will create an opportunity of recourse for such instance of discrimination in the Township. He asked that the ordinance add the “use of mechanical aid” under disability and the definition of genetic information.

Mr. Bagley was asked to prepare a revised draft Ordinance to be discussed at the January 4, 2012 meeting of the Public Affairs Committee.

10. The Committee held discussion regarding the 2012 Operating Budget, focusing on reducing the deficit. Mr. Haywood suggested increasing sewer fees in a range between \$650,000 and \$800,000. Mr. Sharkey suggested decreasing staff in the Public Works and Police Departments. The Committee agreed to start first with discussion about the expense side of the budget.

The Committee considered automated recycling and refuse ("R/R"). Mr. Sharkey suggested savings in the form of conversion to single-stream recycling and eliminating two (2) vacant Public Works positions at a savings of \$115,000. In response to a question from Mr. McKeown, Mr. Kraynik stated that the elimination of these positions would have little impact on the service. Mr. Haywood asked that Mr. Kraynik keep a record of the financial impact of the Committee's recommendations this evening.

Mr. Sharkey supported full implementation of automated R/R. The Township would not benefit from full savings in 2012 but 2013 would start out with significant savings.

Ms. Hampton was concerned about an affect on the level of service with a fully automated system. She suggested more information be obtained from other communities.

Mr. Simon did not oppose the elimination of the two (2) Public Works employees but was not prepared for the capital expense for the automated R/R. He had concerns about service as some residents have raised the issue. He has never seen any of the trucks used by other communities. He wanted further information about the savings. He was not certain there would be considerable future savings. He wanted further consideration and review of the conversion process before a decision is made about a change. He supported the conversion to automated recycling, it would have a green benefit but wanted to hold on converting the refuse to the future, possibly in January, 2013. Mr. Simon supported eliminating one (1) vacant police position.

In response to a question from Mr. Sharkey, Mr. Kraynik advised that the cost of workers' compensation was factored into the savings.

Mr. Portner suggested using a portion of the fund balance to reduce the deficit. The amount of the portion was discussed. Mr. Portner supported using \$600,000 of the fund balance. He did not feel this would negatively affect the Township's bond rating.



Mr. Kraynik said that if automated R/R is implemented, seven (7) months are needed to order trucks and containers. This would result in the program going into effect around September, resulting in the savings. Mr. Haywood supported R/R automation. He stated that his mother is 83-years old and has this type of collection. She walks the trash cans to the curb, the truck lifts the cans, empties them into the truck, and drops the cans down. His observation is a very positive one and works for the elderly. The savings of \$153,000 is significant for this year. In Mr. Haywood's opinion, this results in a significant tax decrease. In 2013, the savings would be over \$400,000.

The Committee considered elimination of the two vacant Public Works positions, elimination of a spare crew, the redistribution of Public Works jobs and the impact on certain services especially during the winter months.

Upon motion of Mr. McKeown, the Committee, with Mr. Swavola opposing, agreed to table this issue until the Finance Committee meeting on December 14, 2012. Mr. Kraynik asked for a definitive decision on the Public Works issue this evening so he can determine the deficit gap, and he has a meeting with the union this week and wants to advise them of any changes.

The Committee members voted as follows: Ms. Hampton – eliminate two vacant Public Works positions and spare crew and implement automated R/R; Messrs. Portner and Simon – eliminate two vacant Public Works positions and spare crew, and consideration of automation for R/R in the early part of next year; Messrs. Sharkey and Swavola – eliminate two vacant Public Works positions and spare crew, and full automation of R/R; Mr. Haywood – eliminate the two Public Works vacant positions, retain the spare crew, and full automation of R/R; Mr. McKeown – eliminate the two vacant Public Works positions, and consider automation of recycling only for this year.

A majority of the Committee agreed to eliminate the two vacant Public Works positions, eliminate the spare crew and fully automate refuse and recycling that would start in September, 2012. In light of the decision, Mr. Simon withdrew his suggestion to eliminate any vacant police positions at this time.

In light of the recommendations this evening, Mr. Kraynik calculated the new deficit amount. Said amount includes eliminating the two current vacant Public Works positions, elimination of the spare crew, and implementation of automated refuse and recycling, and reduces the budget deficit to \$1,392,548.

Use of the fund balance was discussed. A majority of the Committee agreed to use \$600,000 of the fund balance except for Mr. Haywood who voted for using \$500,000.

Mr. Kraynik reported that using \$600,000 of the fund balance narrows the deficit to \$792,548.

Mr. Kraynik stated that Mr. Lynch needs direction to calculate the sewer rate increase and prepare an ordinance. Mr. Haywood recommended a sewer increase of \$793,000; Mr. Swavola, 1½ % increase in real estate taxes and the balance in sewer increase; Mr. Sharkey, \$500,000 to \$600,000; Mr. McKeown, \$500,000; Mr. Portner, \$400,000; Ms. Hampton, \$750,000; Mr. Simon, \$750,000 for water/sewer with 50% toward base fee and 50% toward excess fee or 40% for base and 60% for excess fee.

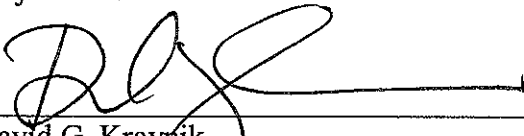
There was no consensus, and the Committee directed Mr. Kraynik to furnish a deficit figure for the December 14, 2011 Finance Committee meeting. Said figure to include decreased refuse disposal costs as a result of co-mingled recycling and increased revenue as a result thereof; elimination of two (2) vacant Public Works positions; elimination of the spare Public Works crew; implementation of automated refuse/recycling; the use of an unappropriated fund

balance of \$600,000, and restoration of opening the Waverly Road leaf site and Public Works facility on Saturdays.

11. Under New Business: Upon motion of Mr. Sharkey, the Committee unanimously approved a Community Service Award recognizing the students from Arcadia University for their efforts in painting murals on the Roberts Block building.

12. Under Citizens' Forum: Albert Meinster, 7830 Spring Avenue, stated that he is a former AFL-CIO member and asked that the cost savings be carefully considered. In his opinion, layoffs should be done through attrition.

There being no further business, upon motion of Mr. Portner, and unanimously approved by the Committee, the meeting was adjourned.



---

David G. Kraynik  
Township Manager

as per Anna Marie Felix



**PUBLIC ATTENDANCE LIST**  
**Public Affairs Committee, 7:30 p.m.**  
**Public Safety Committee, 7:45 p.m.**  
**Building and Zoning Committee, 8:00 p.m.**  
**Wednesday, December 7, 2011**  
**Curtis Hall**

NAME (Please Print Clearly)	ADDRESS	E-MAIL and/or TELEPHONE
Weinster, A	7830 Spring	
Dan Norris	236 Barclay Cir. Chick.	
Debra Marberger	131 Tookany Creek Pkwy	
Jean Brillman	7501 Woodlawn Ave Elk. Park	
Judy Heath	313 Oak Road Glenside	
MYRA TAKSA	109 DEWEY RD	
Adrian Shanker President, Equality Pennsylvania	1020 W. Chew St Allentown PA 17102	Aeshanker@gnail.com
David Flaks	7517 Vernon Rd Melrose Park, PA 19027	Davidflaks@aol.com



**PUBLIC ATTENDANCE LIST**  
**Public Affairs Committee, 7:30 p.m.**  
**Public Safety Committee, 7:45 p.m.**  
**Building and Zoning Committee, 8:00 p.m.**  
**Wednesday, December 7, 2011**  
**Curtis Hall**

NAME (Please Print Clearly)	ADDRESS	E-MAIL and/or TELEPHONE
Mary Russell	7624 Front St Cheltenham Pa	ettaleo@ycho.com
Jim Muldoon	106 Parkview Rd Cheltenham PA	NewPrinces@MSU.com
Baron EBERENZ	312 PAXSON AVE. GLENSIDE, PA.	downwithb@yahoo.com
Heidi Morein	618 Boyer Rd Cheltenham PA 19012	waterofleith@aol.com
Julie Haynes	443 River Mall Rd Wynoke PA 19085	Jehayward05@aol.com
THOM CROSS	7918 HEATHER RD ELKINS PARK, PA	T.CROSS@REGONIKLINECROSS LLC.COM
Daniel Schultz	15 Wauversh Road, Wynok	

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CHELTENHAM, ADDING CHAPTER 47, TO PROVIDE FOR THE CREATION OF THE CHELTENHAM TOWNSHIP HUMAN RELATIONS COMMISSION, AND TO PROHIBIT DISCRIMINATION IN HOUSING, COMMERCIAL PROPERTY, EMPLOYMENT AND PUBLIC ACCOMMODATIONS ON THE BASIS OF ACTUAL OR PERCEIVED RACE, COLOR, RELIGIOUS CREED, ANCESTRY, SEX, NATIONAL ORIGIN, HANDICAP OR DISABILITY, USE OF GUIDE OR SUPPORT ANIMALS BECAUSE OF THE BLINDNESS, DEAFNESS OR PHYSICAL HANDICAP OF THE USER OR BECAUSE THE USER IS A HANDLER OR TRAINER OF SUPPORT OR GUIDE ANIMALS, OR BECAUSE OF AN INDIVIDUAL'S SEXUAL ORIENTATION, GENDER IDENTITY OR GENDER EXPRESSION; PROVIDING DEFINITIONS; AND PROVIDING PENALTIES**

**WHEREAS**, the public policy of the United States of America, and the Commonwealth of Pennsylvania is grounded in the concept that all individuals are entitled to equality and equal protection under law, United States Constitution, Amendment 14; Constitution of the Commonwealth of Pennsylvania, Article I, §§ 26, 28; and

**WHEREAS**, the Board of Commissioners of Cheltenham Township finds that the population of the Township is reflective of the general population of the United States, in that it consists of a diverse array of persons representing different characteristics based upon actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap, disability or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression.

**WHEREAS**, the Township prides itself on the diversity of its citizens and residents, and the harmonious relations which have been fostered in the Township by a widely practiced and recognized attitude of respect among all citizens of Cheltenham Township; and

**WHEREAS**, the Board of Commissioners finds that the direct and secondary negative effects of discrimination and discriminatory practices involving the personal characteristics described above in matters of employment, housing, commercial property and public accommodation are well known and have been extensively studied, documented and demonstrated; and

**WHEREAS**, the practice or policy of engaging in discrimination or discriminatory practices against any individual or group, because of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap, disability or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression is a matter of highest public concern, and constitutes a paramount

threat to the rights, privileges, peace and good order of the citizens of Cheltenham Township and to visitors of Cheltenham Township, that undermines the basic tenants of our freedom as citizens of the United States, and is utterly without place in this Township, which has a storied tradition of fiercely defending the individual rights of its citizens; and

**WHEREAS**, the Board of Commissioners desires to establish and adopt an official policy of non-discrimination in Cheltenham Township, in all matters involving employment, housing and commercial property, and public accommodation;

**NOW THEREFORE, BE IT ORDAINED AND ENACTED**, by the Board of Commissioners of the Township of Cheltenham as follows:

**SECTION I            Short Title.**

This Ordinance shall be known as the "Cheltenham Township Human Relations Ordinance. "

**SECTION II           Purpose and Declaration of Policy.**

A. Cheltenham Township finds that it is vital to adopt appropriate legislation to insure that all persons, regardless of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap, disability, or use of guide or support animals because of blindness, deafness or physical handicap of the user or the user is a handler or trainer of support or guide animals, or sexual orientation, gender identity or gender expression enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and public accommodation and in publicly offered commercial property transactions.

B. The Board of Commissioners of Cheltenham Township hereby declares it to be the public policy of the Township to foster equality and equal opportunity for all citizens, regardless of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap, or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression in all matters affecting employment, housing and commercial property and public accommodation, and to safeguard the right of all persons to remain free of discrimination or discriminatory practices in any of the foregoing aspects of their lives.

C. Nothing in this Ordinance shall be construed as supporting, endorsing or advocating any particular doctrine, point of view; or religious belief. On the contrary, it is the express purpose and intent of this Ordinance that all persons be treated fairly and equally, and that all persons in Cheltenham Township shall be guaranteed fair and equal treatment under law.

D. This Ordinance shall be deemed an exercise of the police power of the Township of Cheltenham, as provided for under the Pennsylvania First Class Township Code and the Cheltenham Township Home Rule Charter and the Pennsylvania Human Relations Act, for the protection of the public welfare, prosperity, health and peace of the community of Cheltenham Township.

### **SECTION III            Definitions.**

The following words and phrases, when appearing in this Chapter, shall have the meanings given to them under this Section.

1.     **BOARD OF COMMISSIONERS:** The Board of Commissioners of Cheltenham Township, Montgomery County.

2.     **COMMERCIAL PROPERTY OR HOUSING:** The opportunity for an individual to obtain any commercial property or housing accommodation for which he or she is qualified.

3.     **DISCRIMINATION:** Any discriminatory act(s) taken by any person, employer, entity, employment agency, or labor organization, with respect to or involving a transaction related to employment, public accommodations, on the basis of a person's actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap, disability or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression.

4.     **DISCRIMINATORY ACT(S):** All acts or actions defined in the Pennsylvania Human Relations Act as unlawful discriminatory practices as related to employment, public accommodations, publicly offered commercial property or housing accommodations actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap, disability or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's actual or perceived sexual orientation, gender identity or gender expression.

5.     **EMPLOYEE:** Does not include any individuals who, as a part of their employment, reside in the personal residence of the employer.

6.     **EMPLOYMENT:** The opportunity for an individual to obtain employment for which he is qualified.

7.     **GENDER IDENTITY OR EXPRESSION:** Self-perception, or perception by others, as male or female, including an individual's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or assigned sex at birth, and shall include, but is not limited to, persons who are undergoing or who have completed sex reassignment, are transgender or gender variant.

8.     **ORDINANCE:** This Ordinance, which shall be referred to as the "Cheltenham Township Human Relations Ordinance" or "this Chapter".

9.     **PERSON:** One or more natural persons, fraternal, civic or other membership organizations, corporations, general or limited partnerships, proprietorships, limited liability entities, or similar business organizations, including the Township, its departments, boards and commissions, and any other for-profit and nonprofit organization.



10. **PUBLIC ACCOMMODATION:** The opportunity for an individual to access food, beverages or lodging, resort or amusement which is open to, accepts or solicits the patronage of the general public, but shall not include any accommodations which are in their nature distinctly private.

The above rights are hereby recognized as and declared to be a civil right which shall be enforceable as set forth in Section 4 of the Pennsylvania Human Relations Act.

11. **SEXUAL ORIENTATION:** Actual or perceived homosexuality, heterosexuality and/or bisexuality.

12. **TOWNSHIP:** The Township of Cheltenham, Montgomery County, Pennsylvania.

13. Any terms of this Chapter not expressly defined herein shall be construed in a manner consistent with the Pennsylvania Human Relations Act.

#### **SECTION IV Unlawful Practices.**

1. Discrimination in employment, housing accommodations, publicly-offered commercial property transactions or any public accommodation is prohibited under this Chapter.

2. Retaliation against any individual because such person has opposed any practice prohibited by this Chapter, or because such person has made a charge, testified, or assisted in any manner in any investigation or proceeding under this Chapter is prohibited under this Chapter.

3. Aiding, abetting, inciting, compelling or coercing the doing of any act declared by this Chapter to be an unlawful practice, or obstructing or preventing any person from complying with the provisions of this Chapter is prohibited under this Chapter.

#### **SECTION V Exceptions.**

##### **[Springfield Township Version]**

1. Notwithstanding any other provision of this Chapter, it shall not be an unlawful practice for a religious corporation or association to commit any of the acts as defined in Section IV of this Chapter.

##### **[Pa. Human Relations Act Version]**

Nothing in this Chapter shall bar any religious or denominational institution or organization or any charitable or educational organization which is operated, supervised or controlled by or in connection with a religious organization or any bona fide private or fraternal organization from giving preference to persons of the same religion or denomination or to members of such private or fraternal organization or from making such selection as is calculated by such organization to promote the religious principles or the aims, purposes or fraternal principles for which it is established or maintained.

**[Lower Merion Twp. Version]**

Notwithstanding any other provision of this Chapter, it shall not be an unlawful practice for a **religious corporation, organization or association**, not supported in whole or in part by governmental appropriations, to refuse to hire, employ, house or otherwise accommodate an individual on the basis of actual or perceived sexual orientation, gender identity or gender expression, nor shall an employer be prevented from enforcing a dress code which is reasonably related to the business or profession being conducted.

**ALTERNATIVE VERSION**

**[Any of the above versions with the addition of..."nor shall an employer be prevented from enforcing a dress code which is reasonably related to the business or profession being conducted"]**

**SECTION VI      Establishment of Human Relations Commission**

1. Pursuant to the authority set forth under §12.1 of the Pennsylvania Human Relations Act, 43 P.S. § 962.1, there is hereby established a Human Relations Commission in and for the Township of Cheltenham, which shall be known as the "Cheltenham Township Human Relations Commission."

2. The Cheltenham Township Human Relations Commission shall consist of five (5) members, who shall be appointed to terms of three (3) years by the Board of Commissioners. The terms of the members of the Commission shall be staggered, such that the term of at least one member of the Commission shall expire each year. All members of the Commission shall be residents and registered voters of the Township of Cheltenham and shall serve without compensation.

3. The Commission shall have jurisdiction over Discriminatory Acts and Discrimination committed within the Township.

4. The Commission shall, annually, designate one member to serve as Chairperson of the Commission. The Chairperson shall be responsible for coordinating the activities, meetings, and operations of the Commission, as set forth under this Chapter. The Chairperson shall also report, from time to time, to a standing committee of the Board of Commissioners regarding the activities of the Commission.

5. The Chairperson of the Commission will designate one member as needed to receive the complaint and conduct an intake meeting with the complainants. The member charged with this duty shall not participate in any mediations involving parties to the complaint for which they handled the intake nor shall this member vote on complaints brought before the Commission.

6. Members of the Commission shall, as soon after their appointment as practical, attend such training and education seminars or sessions as deemed necessary to acquaint themselves with the functioning of the Cheltenham Township Human Relations Commission under this Ordinance, as well as the terms, conditions and provisions of the Pennsylvania Human Relations Act, and the operation of the Pennsylvania Human Relations Commission. Such

training and education shall be as directed by the Chairperson, and shall be performed in conjunction with the Pennsylvania Human Relations Commission.

7. The Cheltenham Township Human Relations Commission shall have all of those powers necessary to execute the duties set forth under this Chapter, provided that such powers shall not exceed those exercised by the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.

8. The Cheltenham Township Human Relations Commission shall operate within the scope of funds which may be allocated, on an annual basis, by the Board of Commissioners and shall not exceed the annual allocation in any year, except upon prior approval by the Board of Commissioners. In adopting this Ordinance, the Board of Commissioners hereby expresses its intention that the operation of the Cheltenham Township Human Relations Commission under this Ordinance shall be supported by volunteers, unpaid staff, and volunteer efforts and shall be as close to "zero cost" to the Township as reasonably feasible.

9. The Board of Commissioners hereby grants to the Commission, with respect to Discriminatory Acts and Discrimination as defined herein, all of the powers necessary for the execution of its duties as set forth herein.

10. The Commission shall be empowered to promulgate such additional procedures to those set forth herein as it determines to be necessary or desirable to implement the intent of this chapter subject to the review and approval of the Board of Commissioners.

## **SECTION VII Complaint and Procedures for filing Complaints.**

### **I. Complaints**

A. Any person claiming to be aggrieved by a practice which is made unlawful under this Chapter may make, sign and file a verified complaint, as provided under paragraph B of this Section, alleging violations of this Ordinance. Such complaint shall, at a minimum, contain the following information:

- i. The name, telephone number, mailing address and email (if applicable) of the aggrieved person(s);
- ii. The name, telephone number, mailing address and email (if applicable) of the person(s) alleged to have committed the prohibited practice;
- iii. A concise statement of the facts, including pertinent dates, time, locations, people, and acts involved constituting the alleged discriminatory practice;
- iv. If applicable, the address and a description of any housing accommodation or commercial property which is involved; and
- v. Such other information as may be required by the Commission.

B. Complaints may be filed in person at the office of the Township Manager, or by mailing such complaints to the Township offices, to the attention of the Township Manager or to

the Chairperson of the Commission. All such complaints must be received by the Township within one hundred eighty (180) days of the occurrence of the last act giving rise to the complaint or such complaint shall be dismissed as untimely.

C. The Township Manager shall transmit all complaints received to the Chairperson of the Commission not later than ten (10) days after receipt of the complaint. The Township Manager shall conspicuously mark the face of the complaint with the date the document was first received in the Township offices.

D. The Commission may promulgate forms for use by persons wishing to file a complaint, however, complaints which are prepared without the use of an approved form shall be deemed acceptable under this Ordinance so long as the facts set forth under Paragraph A of this Section can be clearly determined from the document submitted as a complaint.

E. The Commission may provide for a process by which persons seeking to file a complaint may consult with a volunteer or other staff person affiliated with the Commission who is trained to assist the prospective complainant in discerning the facts relevant to the prospective complaint. Such process shall also include referral of additional information to the prospective complainant concerning the content of this Ordinance, the content of the Pennsylvania Human Relations Act, and the availability of the Pennsylvania Human Relations Commission as an additional venue within which the prospective complainant may seek redress when possible.

2. Notifications and Answer

A. Within thirty (30) days of receipt of a complaint, the Commission shall:

- i. Send a copy of the complaint to the person(s) charged with a discriminatory act or practice under this Ordinance (the "respondent"), together with a copy of this Ordinance.
- ii. Send a notice to the complainant, informing them that the complaint has been accepted and processed by the Commission. If the complaint alleges discrimination on a basis proscribed under Federal or state law, the Notice shall also inform the complainant of their right to file a complaint with the Pennsylvania Human Relations Commission or the Federal Equal Employment Opportunity Commission as well as the U.S. Department of Housing and Urban Development, where applicable.
- iii. The Commission shall notify the Pennsylvania Human Relations Commission of the filing of any complaint that may be deemed to be within the jurisdiction of that Commission, as required under the Human Relations Act.
- iv. The Commission shall also include a notice to both the complainant and the respondent(s) of their option to elect to proceed to voluntary mediation in order to resolve the matters giving rise to the complaint.

B. The respondent(s) shall file a written verified answer to the complaint within thirty (30) days of service of the complaint. An answer shall be filed in the same manner as a complaint. The answer shall be conveyed by the Township Manager to the Chairperson of the

Commission within ten (10) days of its receipt by the Township Manager. The Commission shall promptly send a copy of the answer to the complainant.

3. Mediation

**[Springfield Version]**

A. Within thirty (30) days of receipt of an answer to a complaint, or, where no answer is filed, within sixty (60) days of service of the complaint upon the respondent(s), the Commission shall proceed in accordance with the following options:

- i. In the event that both parties have consented to mediation, under paragraph 2(A)(iv) of this Section, then the Commission shall refer the matter to a recognized alternative dispute resolution service, which same service may be provided through Montgomery County, the Montgomery County Bar Association, or any other professional mediation service provider, or may refer the matter to a licensed member of the Pennsylvania bar, who may be willing to perform service to the Commission as a volunteer mediator. Any costs or expenses which may be associated with the mediation shall be the responsibility of the parties. The parties shall jointly select the mediator, however, the Commission shall retain the authority to act as the mediator in the event the parties have agreed to mediation but cannot jointly agree on a mediator. Mediation sessions conducted by the Commission may proceed with a minimum of two eligible Commission Members. Mediation sessions shall remain private and not otherwise subject to public attendance.

B. When mediation has resulted in an amicable resolution of the complaint and the complaint is resolved, the Commission shall notify the parties that the complaint has been dismissed, and shall record the result of the mediation in the Notice of dismissal.

C. In the event the complaint has not been resolved through mediation the parties are entitled to proceed to the Court of Common Pleas in Montgomery County.

**[End of Springfield Version]**

**[Lower Merion ]**

A. Mediation

- i. After the answer has been received, the Commission shall, within 15 days, invite the parties to voluntarily participate in the mediation of their dispute. The parties shall respond to the invitation to mediate within 15 days of being invited to mediate. Mediation shall be conducted in accordance with procedures promulgated by the Commission and approved by the Board of Commissioners.
- ii. If mediation is elected by the parties, the parties may jointly select a mediator, in which case they shall be jointly responsible for all financial costs and expenses associated with mediation and may allocate the costs of mediation as they agree. If the parties do not jointly select a mediator, or agree to allocation of costs

pursuant to approved procedures of the Commission, the Chairperson of the Commission shall select a mediator, who may be either a member of the Commission or a volunteer from the community.

- iii. The parties shall notify the Commission as to whether the mediation successfully resolved the complaint. Mediation proceedings shall otherwise be confidential. Neither the results thereof nor any record made in connection therewith shall be made public unless agreed to in writing by both parties to the dispute.
- iv. **Dismissal of the Complaint Following Mediation.**
  - (a) If the mediation has successfully resolved the complaint, the Commission shall promptly notify the parties that it has dismissed the complaint.
  - (b) If the mediation has not successfully resolved the complaint, and if the complaint alleges a violation of this Ordinance which is also proscribed under the Pennsylvania Human Relations Act, the Commission shall notify the parties that the complaint has been dismissed, and refer the complaint to the Pennsylvania Human Relations Commission for further proceedings.

B. If the mediation has not successfully resolved the complaint, and only if the complaint alleges a violation of this Chapter which is not otherwise proscribed under the Pennsylvania Human Relations Act and over which the Pennsylvania Human Relations Commission does not have jurisdiction, the Commission shall proceed as follows:

- i. **Investigation.** The Commission shall, in a timely fashion, investigate the allegations of an Unlawful Practice set forth in the complaint by designating an investigator, who may be a member of the Commission. The Commission may, in the conduct of such investigation and upon review, issue subpoenas to any person charged with an Unlawful Practice, commanding such person to furnish information, records or other documents, as necessary to assist in the Commission's investigation.
- ii. **Finding of No Cause.** If it shall be determined after the Commission's investigation that there is no probable cause for the allegations of the complaint, the Commission shall cause to be issued and served upon the parties written notice of such determination and dismissal of the complaint. This notice shall inform the person aggrieved that he/she has the right to pursue the matter in court.
- iii. **Conciliation.** If the Commission, after investigation, determines that probable cause exists for the allegations of the complaint, the Commission shall immediately endeavor to eliminate the Unlawful Practice complained of by persuasion, conference and conciliation. If it determines that conciliation may be a useful approach, the Commission shall designate one of its members as a conciliator, who shall undertake conciliation following approved procedures of the Commission.

iv. **Public Hearing.**

- (a) If the Commission finds it is not possible to eliminate the Unlawful Practice by persuasion, conference and conciliation, the Commission, shall cause to be issued and served a written notice scheduling a public hearing before the Commission at a time and place to be specified in such notice.
- (b) The Commission may designate one or more of its members to preside at such a public hearing or it may, at its election, conduct such hearing *en banc*. Any Commission member who acted as a mediator, investigator or conciliator shall not participate in such public hearing except as a witness to present the results of the investigation.
- (c) At the public hearing, both the complainant and the respondent shall be given the opportunity to appear, with or without counsel, to provide testimony and submit evidence. Formal rules of evidence shall not apply, but irrelevant or unduly repetitious evidence may be excluded by the Commission in its discretion. In addition, both the complainant and the respondent may introduce the testimony of additional witnesses and may submit documentary evidence.
- (d) [Commission representation by Township Solicitor deleted; included in Lower Merion Twp. Version. ] A court reporter shall make a formal record of the proceedings.

- v. **Findings and Award.** If upon all the evidence at the hearing the Commission shall find that a respondent has engaged in or is engaging in any Unlawful Practice as defined in this Chapter, the Commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such Unlawful Practice and to take such affirmative action, including, but not limited to: hiring, reinstatement or upgrading of employees, admission or restoration to membership in any respondent labor organization, the making of reasonable accommodations, and/or selling or leasing specified Housing Accommodations or publicly offered commercial property upon such equal terms and conditions as was available to other persons at the time of the Unlawful Practice.

[Recovery of back pay, compensation for loss of work,  
out-of-pocket expenses and back pay deleted; included in  
Lower Merion Twp. Version .]

[Recovery of civil penalties and attorneys' fees deleted; included in  
Lower Merion Twp. Version .]

- vi. **Finding of No Discrimination.** If upon all the evidence the Commission shall find that a respondent has not engaged in any unlawful Discriminatory Act, the Commission shall state its findings of fact and shall issue and cause to be served on the parties an order dismissing the complaint as to such respondent.

- vii. Appeal. Any order of the Commission may be appealed to the Court of Common Pleas of Montgomery County within 60 days of its date as provided by law.
- viii. Enforcement. When the Commission has heard and decided any complaint brought before it, enforcement of its order shall be initiated by the filing of a petition in court, together with a transcript of the record of the hearing before the Commission, and issuance and service of a copy of said petition as in proceedings in equity.

[Private Right of Action deleted; included in Lower Merion Twp.  
Version .]

**[End of Lower Merion Version]**

**SECTION VIII** Nothing in this Ordinance shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the Township's Code of Ordinances prior to the adoption of this amendment.

**SECTION IX** The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Commissioners that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

**SECTION X** This Ordinance shall take effect and be in force from and after its approval date as required by law.

**SECTION XI Non-limitation of Remedies.**

Nothing contained in this Ordinance shall be deemed to limit the right of an aggrieved person to recover under any other applicable law or legal theory.

**SECTION XII Multiple Filings.**

This Ordinance shall have no jurisdiction over matters which are the subject of pending or prior filings made by an aggrieved person before any state or federal court or agency of competent jurisdiction.

**SECTION XIII Penalties; Miscellaneous.**

**[Springfield Version]**

1. Any person who shall violate any provision of Section IV of this Ordinance may be subject by the Montgomery County Court of Common Pleas or any court of competent jurisdiction to the penalties enumerated in Section 9(f)(1&2), Sections 9.2, 9.3, and Sections 10 & 11 of the Pennsylvania Human Relations Act. The penalties contained in this ordinance shall



automatically incorporate any and all future changes and amendments to the Pennsylvania Human Relations Act as adopted by the General Assembly and approved by the Governor.

2. This ordinance extends the protections of the Pennsylvania Human Relations Act to include actual or perceived sexual orientation, gender identity or gender expression.

3. All penalties included in the Pennsylvania Human Relations Act shall be extended to include all protected classes enumerated in the Cheltenham Township Human Relations Ordinance.

**[End of Springfield Version]**

**SECTION XIV Repealer.**

Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

**SECTION XV Effective Date.**

This Ordinance shall be effective immediately.

**ORDAINED and ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**BY BOARD OF COMMISSIONERS OF  
CHELTENHAM TOWNSHIP**

\_\_\_\_\_  
, President

**ATTEST:**

\_\_\_\_\_  
, Secretary