

**TOWNSHIP OF CHATHAM
COMMITTEE MEETING MINUTES
DECEMBER 2, 2004**

Mayor Hoag called the workshop meeting of the Township Committee of the Township of Chatham to order at 7:34 p.m.

Adequate Notice of this meeting of the Township Committee was given as required by the Open Public Meetings Act as follows: Notice was given to both The Chatham Courier and the Morris County Daily Record on January 9, 2004; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 9, 2004; and notice was filed with the Township Clerk on January 9, 2004.

Mayor Hoag led the flag salute.

Answering present to the roll call were Committeeman Brower, Committeewoman Fair, Committeeman DeMeo, Deputy Mayor O'Connor and Mayor Hoag.

Approval of Agenda

Since Chief Elizabeth Goeckel was unable to attend this meeting, Mayor Hoag suggested carrying Discussion item number three, Project Community Pride, to the December 16, 2004 regular meeting. Administrator Ciccarone recommended that Resolution 2004-234, Emergency Appropriation, be pulled as it is no longer needed. Mayor Hoag suggested that Discussion item number four, Boy Scout Project at Motto Property, be moved to item number one. Committeewoman Fair moved to approve the agenda as amended. Deputy Mayor O'Connor seconded the motion and it carried unanimously.

Reports

Michael Bennett, Township Engineer, reported on the following:

- **Oak Knoll School Project:** Relative to the issue of ponded water off-site, Engineer Bennett reported that he has been in touch with various professionals representing the school to discuss the analyses, which were due by October 15, 2004. The school's engineer has been out ill and there has been no resolution to this issue. Engineer Bennett has inspected the site and documented data during rainy weather, and he will provide this documentation to their professionals to evaluate the circumstances. Some changes may need to be determined through further evaluation, but such a determination may be delayed due to the winter months ahead. One concern includes the conservatively designed stormwater facilities that may need some change in plumbing and direction of discharge. Engineer Bennett will bring this concern to the attention of the school's professionals and establish a new deadline. Committeewoman Fair expressed concern relative to the volume of discharge. Engineer Bennett replied that an evaluation of the infiltration facility that is overflowing prematurely is needed and a determination needs to be made as to how much water is being discharged. Committeeman Brower stated that he and a property owner believe that there is something under Green Village Road that is blocking the flow or changing the levels of outflow, which is causing the back-up relative to the ponding issue. Committeeman Brower commented on the area near the house, stating that the pond is at least six inches to one foot higher than it used to be, evidenced by the surrounding trees' root systems. Committeeman Brower added that this was not an issue prior to the Oak Knoll School being built. Committeewoman Fair advised that the area referenced by Committeeman Brower was an area separate from the ponding area, which is below the discharge point and flows into a big concrete basin across from the Heyl property. Engineer Bennett stated that there is documentation indicating that this ponded area has existed since 1963 and there is reason to believe that temporary pipes were once put in for drainage purposes, but have since been removed. Engineer Bennett added that the best option, in light of the amount of history and technical data, is to try to manage it in some way to balance the tractable amount of water. Mayor Hoag concluded that this project will continue to need additional work.
- **Johnson Drive/River Road Sewer Project:** Engineer Bennett advised that this project's design is moving forward and the aerial topographic mapping has been completed. The Board of Health has provided documentation relative to existing septic systems so that the cleanouts can be located. In January Engineer Bennett will move forward with the detailed design to be completed by February, which will move the project into the permitting phase scheduled for this summer. Pre-award approval from the State's Revolving Fund Loan will be sought.

- Sunset Lake: Engineer Bennett reported that he has been in regular communication with the Assistant County Engineer and his staff, who has recommended that the Township communicate with the liaison for the Freeholder Board. A letter to Freeholder Druetzler explaining the Township's perspective has been prepared to request that the County take the lead in remediation. Committeeman Brower asked about Madison's responsibility and Mayor Hoag advised that they are willing to work with Chatham Township to some extent.
- Southern Boulevard Sidewalk: Engineer Bennett has made repeated calls to the State Office responsible for adjudicatory hearings to determine what impact the request for adjudication of the permit would have on our ability to advertise for bids. Since Engineer Bennett has not heard from them, he will seek alternative ways to get through to them. Engineer Bennett added that the sidewalk should not be built until after the winter so it is not a time-critical issue, and the timeline has been extended to May 5, 2005.

Attorney Woodward reported on the following:

- Council On Affordable Housing (COAH): Attorney Woodward stated that our Second Round Substantive Certification was granted in March 1997 and expired in March 2003; however, in November 2002, we adopted a Resolution for an extension until COAH had the Third Round Substantive certification in order, which was granted by COAH in December 2002. In a challenge to this procedure, the Appellate Division ruled on August 31, 2004 that the procedure was invalid due to certain deficiencies. COAH adopted an emergency rule in September 2004 that requires the Township to submit a second request for the Second Round Substantive Certification Extension by December 13, 2004. Resolution 2004-227- Requesting an Extension of COAH Second Round Substantive Certification, has been prepared and is listed on the Consent Agenda for consideration. This document outlines an agreement to submit a new housing element and fair share plan within one year of the adopted regulations, as well as follow the timelines attached to the Resolution. Committeewoman Fair asked if there would be any repercussions if this was not done. Attorney Woodward replied that if the Township does not move forward on this Resolution, it is subject to Builder Remedy Lawsuits. Developers could demand that the Township issue permits on the grounds that they would provide affordable housing. Committeeman Brower asked if the Township compromised itself in using land for the skate park in lieu of this purpose. Attorney Woodward advised that the Township is not only in compliance, but has a credit of six units over the requirements of the second round.

Mayor Hoag reported on the following:

- Mayor Hoag acknowledged receipt of correspondence from the Environmental Commission informing the Township Committee of concerns relative to demolition, redevelopment and work hours. The Mayor suggested consideration of a work plan for 2005.

Committeewoman Fair reported on the following:

- Committeewoman Fair announced that the Department of Public Works had a luncheon this day and Joseph Smith received his 30th anniversary award. Committeewoman Fair acknowledged how fortunate the Township is to have a wonderful Department of Public Works with a very competent leader.

Committeeman DeMeo reported on the following:

- Committeeman DeMeo reported that the recreation consultant met with Thomas Denning, Township Recreation Director, Carol Nauta, Borough Recreation Director, Robert Falzano, Borough Administrator and Administrator Ciccarone to discuss shared services. The consultant will refine the scope of work and provide a proposal prior to the next meeting, and will then give a short presentation at the December 16, 2004 meeting. The next step would be to pass the contract award. Committeeman Brower asked if the proposed little league team being put together by a group separate from the Recreation Departments was considered during this meeting. Committeeman DeMeo stated that this would be addressed upon receipt of the proposal. Committeeman DeMeo, as liaison for Township Recreation, and Jayme LaJuenesse, Chatham Borough Council Member and liaison for Borough Recreation, will be meeting with the little league representatives early this month. Administrator Ciccarone advised that a commitment has not been made to this group, but there has been communication relative to field needs and registration numbers. Administrator Ciccarone further advised that the main focus of the study on shared services between the Township and Borough is to provide structure to the existing joint program. The study will analyze the present operations to see how they can be improved, but it will not be completed until after the next baseball season. Committeeman Brower commented that the school board's intent to vote on turf fields next spring may impact

the utilization of fields and Woodland Park, and suggested that these two things be considered as well.

Deputy Mayor O'Connor reported on the following:

- Deputy Mayor O'Connor reported that he attended a meeting, along with Chief Goeckel and Patrolman Curtis, at one of the Pine Street resident's home to discuss the conditions on Pine Street. While much information was shared, the situation is still being addressed and Deputy Mayor O'Connor will report back to the committee at a later date.

Committeeman Brower reported on the following:

- Committeeman Brower advised that the deer hunt at the Great Swamp was better than anticipated with approximately 187 deer taken. Committeeman Brower did not have an update on the number of deer taken via automobile accidents or from bow hunting. Mayor Hoag asked Lt. Peterson to advise Chief Goeckel that these numbers are requested for the meeting of December 16, 2004. Committeeman Brower added that he has not had a return call relative to the infrared study.

Hearing of Citizens

Mayor Hoag opened the Hearing of Citizens.

1. Bill Spraitzar, Joanna Way resident, asked if the preliminary assessment totals were completed. Administrator Ciccarone advised that these totals and notices should be forthcoming by mid-December. Committeeman Brower stated that the time period should be extended to meet with the Tax Assessor past January. Attorney Woodward advised that the certification of the book for the County must be done in January and the residents can still contact the Tax Assessor even after certifying the book. Attorney Woodward added that they also have until April 1, 2005 to file a tax appeal and adjustments can be made after January.
2. Peter Hofmann, May Drive resident, asked for an update on the Woodland Park project. Mayor Hoag advised that the newspaper indicated that a letter was received that clarified some of the points in the permit application. Engineer Bennett stated that more detail is needed in the environmental report that goes along with the wetlands application, which is almost completed and that the previous request for a stream encroachment application is no longer required. Mr. Hoffman commented that at a previous meeting in 2002, the Township Attorney stated there were no wetlands. Administrator Ciccarone stated that wetlands at Woodland Park have been a topic of public discussion and part of the public record for almost one year. Committeeman Brower commented that prior to his term on the Township Committee, the previous Township Committee's agreement to purchase this piece of property was not what was represented at the time and gives rise to Mr. Hoffman's views. Mayor Hoag represented that the maps provided by the State at that time indicated no wetlands, which was a determining factor in the decision to purchase the property. Attorney Woodward responded that his statement made in 2002 was based on an earlier report provided by another environmental expert.
3. Michael Dean, resident of Chatham Borough, asked if the Township Committee received a copy of DEP's rejection letter regarding Woodland Park to the Township Engineer. The members indicated that they had not and Mr. Dean suggested that they be copied. Mr. Dean then referred to the reassessment and advised that the Borough has ten days from receipt of their letter to schedule an appointment with their assessor.

Mayor Hoag closed the Hearing of Citizens.

Public Hearing/Final Adoption of Ordinances:

ORDINANCE 2004-020

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, APPROVING AND AMENDING THE DRUG FREE ZONE MAP OF SCHOOLS AND PUBLIC FACILITIES

WHEREAS, the State of New Jersey has adopted legislation which permits the establishment of drug free school and public facility zones within each municipality of the State, provided that the governing body of such municipality has adopted an ordinance approving a map prepared by a municipal engineer as the official finding and record of the location and boundaries of the area or areas on or within 1,000 feet of school property and 500 feet of public housing facilities, parks and buildings, respectively; and

WHEREAS, the map previously approved by the Township Committee is to be amended to include new properties and properties not previously listed, including Loantaka Brook Park, Oak Knoll School Athletic Fields and Woodland Park;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that it hereby amends Section 3-5, Drug-Free School and Public Facility Zones, as follows:

1. Section 3-5.1 Adoption by Reference of Drug-Free School and Public Facility Zone Map.

In accordance with authority granted pursuant to N.J.S.A. 2C:35-7 and N.J.S.A. 2C:35-7.1, the map prepared by Michael Bennett, P.E., Municipal Engineer, of Hatch, Mott, MacDonald, I & E, LLC, captioned "Drug-Free School and Public Facility Zone Map", dated November 10, 2004, is hereby approved as the official finding and record of the location and boundaries within the Township of Chatham of the area on or within one thousand (1,000) feet of school property and of the area on or within five hundred (500) feet of public housing facilities, parks and buildings, as designated thereon.

2. Section 3-5.2 Filing of Map by Township Clerk; Copies to Be Provided.

The original of the aforesaid map shall be filed with and maintained by the municipal clerk of the Township. Upon request, the municipal clerk shall provide, at a reasonable cost, a certified copy thereof together with a copy of this ordinance to any person, agency or court; provided that, if such copies are requested by the Morris County Clerk or the Morris County Prosecutor, same shall be provided without cost.

3. Section 3-5.3 Statement of Additional Requirements. The following additional matters are hereby determined, declared, recited and stated:

- a. It is understood that the map approved and adopted pursuant to subsection 3-5.1 was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of the State, and that pursuant to State law such map shall constitute prima facie evidence of the following:
 1. The location of elementary and secondary schools and public parks and buildings within the Township;
 2. The boundaries of the real property which is owned by or leased to such schools or School Board, or owned or controlled by a State, county or local government unit, as the case may be;
 3. That such school or public property is and continues to be used for school or public purposes; and
 4. The location and boundaries of areas which are on or within one thousand (1,000) feet of such school property and within five hundred (500) feet of public parks or buildings.
 - b. As of the date of this map, November 10, 2004, approved and adopted hereby, all of the property depicted thereon as school property was owned by or leased to a school or School Board and was being used for school purposes and all of the property depicted thereon as public parks and buildings was owned or controlled by a State, county or local government unit and was being used for such purposes.
 - c. Pursuant to the provision of N.J.S.A. 2C:35-7 and N.J.S.A. 2:35-7.1, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in said statutes, including use of a map or diagram other than the one approved and adopted pursuant to subsection 3-5.1. The failure of the map approved hereby to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or School Board, or used as a public park or building and which is owned or controlled by a State, county or local government unit, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised map, shall not be deemed to be an official finding and record that such property is not owned by or leased to a school, School Board, or not owned or controlled by a State, County or local government unit, or that such property is not used for school purposes or as a public park or building, as the case may be.
 - d. All of the requirements set forth in N.J.S.A. 2C:35-7 and N.J.S.A. 2C:35-7.1 concerning the preparation, approval and adoption of a Drug-Free School and Public Facility Zone Map have been complied with.
4. This ordinance shall take effect as provided by law.

Attorney Woodward advised that the purpose of this map is to provide a means of improving the location of areas surrounding public facilities, parks and schools for purposes of establishing enhanced sentences for drug possession convictions within the Township. This map has been brought up to date to include such properties as Oak Knoll School, Woodland Park and Loantaka Brook Park.

Mayor Hoag opened the hearing on Ordinance 2004-020 to the public. Since there were no comments, Mayor Hoag closed the public hearing.

Committeewoman Fair moved to adopt Ordinance 2004-020. Deputy Mayor O'Connor seconded the motion.

Roll Call: Committeeman Brower, Aye; Committeewoman Fair, Aye; Committeeman DeMeo, Aye; Deputy Mayor O'Connor, Aye; Mayor Hoag, Aye.

Introduction of Ordinances:

After a brief discussion, the Committee agreed to discuss Ordinance 2004-021 - Establishing Parking Regulations at Certain Municipal Lots, either later in the meeting or to hold it for discussion in 2005.

Consent Agenda

Prior to voting on the Consent Agenda, Committeeman Brower asked for discussion on Resolution 2004-220 - Payment of Bills and Resolution 2004-231 - Appointing Donald Malehorn, Esq. to Represent the Township in the Case of Hagner/Novick v. Chatham Township Planning Board. Committeeman Brower also asked why Resolution 2004-234 - Emergency Appropriation was pulled from the Consent Agenda.

Relative to Resolution 2004-234 – Emergency Appropriation, Administrator Ciccarone advised that the purchase price for the Kirby property for \$7,500,000 had funding sources of \$2,000,000 from the County Park Commission, \$1,800,000 million grant money awarded from the County Open Space Committee, \$500,000 committed by the Great Swamp Watershed Association, and the balance of the funding was from the Township's Open Space Trust Account and our Green Acres grant.

Administrator Ciccarone advised that he was recently made aware that the Great Swamp Watershed Association did not have the funds available and made this commitment based on receiving a Green Acres grant in 2005 to make their contribution. The Great Swamp Watershed Association has been working on bridging this gap and has applied for bridge loans; however, they may not receive the funds in time for the closing. Administrator Ciccarone continued that one option available to the Township was to prepare an emergency note. This would have allowed the Township to proceed with the closing and the Great Swamp Watershed Association would have provided the \$500,000 upon receipt to the Township to cover the emergency note. Subsequent to that, further discussions with Green Acres relative to the Township's use of their grant funds determined that \$2,000,000 can be drawn from the Township's grant money. Therefore, the Resolution was pulled from the Consent Agenda, as an emergency note is no longer needed. The Great Swamp Watershed Association will still be responsible for \$500,000 of the purchase price.

Committeeman Brower stated that he has been completely in favor of acquiring the Kirby property, but does not support keeping it in a land bank for passive recreation in light of the community's continuous requests for more playing fields. Committeeman Brower added the Township should not spend \$7,500,000 for lands which are designated wetlands that could never be used for anything. Committeeman Brower further stated it has been misleading relative to the funding and the Kirby's could have considered gifting the property to the Township of Chatham and Morris County. Committeeman Brower stated that this purchase has not been presented or approached correctly, and it should never have been acquired in this fashion, as he believes it is a big mistake financially since the parcel will be put into a land bank similar to that of the Great Swamp.

Administrator Ciccarone advised that there had been no representations from the beginning of this project that this property was not developable and that it was wetlands. Administrator Ciccarone reminded the committee members that they had been provided with an analysis from Engineer Bennett that showed the potential for development of up to seven homes sites on the upland portion of this property. Administrator Ciccarone recapped past discussions that included the Kirbys options to either sell the property to the Township and County and, if this did not go through, their option to put the property on the open market, which already had developer's interested. Administrator Ciccarone advised that with the potential to sell the property on the open market, the Kirbys were not going to gift the parcel to the Township and County.

Relative to Resolution 2004-220 – Payment of Bills, Committeeman Brower referenced expenses relative to the Kirby property and Mayor Hoag advised that those monies would be reimbursed through the Green Acres account. Committeeman Brower requested that payment of \$47,239 to Hatch Mott MacDonald for work on the Kirby property be recorded into the minutes. Committeeman Brower questioned payments of \$35,000 and \$7,000 to the County. Administrator Ciccarone advised that these numbers reflect the County’s share of taxes levied and explained that the taxes collected are “added and omitted entries” for the latter part of the year, which represent alterations or additions on properties that may have been overlooked in past years.

Committeeman Brower requested an explanation for the purpose of Resolution 2004-231 – Appointing Donald Malehorn, Esq. to Represent the Township in the Case of Hagner/Novick v. Chatham Township Planning Board. Attorney Woodward advised that this lawsuit was filed several months ago and is the result of a denial of a Planning Board application. Since Nicole Hagner is a named plaintiff in the case and she also won the November 3, 2004 election for one of the seats on the Township Committee, there lies a potential conflict of interest. The obligation of counsel to represent the Township is, however, minimal and consists thus far in only filing an answer. Committeeman Brower requested that an ordinance be placed on the next agenda offering reimbursement for all legal fees to residents who win cases against the Township.

RESOLUTION 2004-220

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CHATHAM AUTHORIZING PAYMENT OF BILLS, PAYROLLS,
SCHOOL TAXES, AND COUNTY TAXES**

BE IT RESOLVED that bills in the total amount of \$295,574.83 and the prior month’s payroll of \$355,358.42 Current Fund, \$36,229.75 Sewer No. 1, \$6,666.32 Sewer No. 2, and \$1,749.99 Police Private Employment be paid.

BE IT FURTHER RESOLVED that added and omitted taxes due to the County of Morris in the amount of \$42,878.77 be paid.

RESOLUTION 2004-221

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CHATHAM, ACKNOWLEDGING RECEIPT OF REPORTS**

BE IT RESOLVED by the Township Committee of the Township of Chatham that reports of departments for the month of October 2004, be acknowledged as received.

RESOLUTION 2004-222

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CHATHAM APPROVING MINUTES OF MEETINGS**

BE IT RESOLVED that the Township Committee of the Township of Chatham acknowledges receipt of and approves minutes of the Township Committee meetings held on October 14, 2004, October 28, 2004 and November 10, 2004.

RESOLUTION 2004-223

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CHATHAM APPROVING EXECUTIVE SESSION MINUTES OF MEETINGS**

BE IT RESOLVED that the Township Committee of the Township of Chatham acknowledges receipt of and approves the Executive Session minutes of the Township Committee meetings held on October 28, 2004 and November 10, 2004.

RESOLUTION 2004-224

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF CHATHAM APPROVING RAFFLES FOR
ROSARY SHINE GUILD**

BE IT RESOLVED by the Township Committee of the Township of Chatham that on-premise and off-premise raffles to be conducted by the Rosary Shine Guild at Corpus Christi Church on March 9, 2005 are hereby approved.

RESOLUTION 2004-225

RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY TO REQUEST AN EXTENSION OF TIME FOR COMPLETION OF THE FAIRMOUNT AVENUE IMPROVEMENTS PROJECT

WHEREAS, on February 10, 2004, the Township of Chatham was awarded a grant from the New Jersey Department of Transportation 's Fiscal Year 2004 Municipal Aid Program in the amount of \$130,000.00 for the roadway improvements of Fairmount Avenue; and

WHEREAS, since the receipt of the award of this project, the Township of Chatham has embarked upon a sewer extension project that includes the installation of sewers in a significant portion of the Fairmount Avenue Improvements project area; and

WHEREAS, the sewer extension project is scheduled for completion by the end of 2005 with paving of Fairmount Avenue to follow in 2006;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that, for the foregoing reasons, the Township hereby requests the New Jersey Department of Transportation to grant an extension of the award for the Fairmount Avenue Improvements project until December 31, 2006.

RESOLUTION 2004-226

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM REFUNDING APPLICATION FEE

WHEREAS, the Township requires an application fee of \$5.00 for the issuance of a Raffles License; and

WHEREAS, the applicant will be holding the raffles in Whippany rather than Chatham Township;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham that the following amount be refunded to the depositor of record:

<u>NAME</u>	<u>AMOUNT</u>
St. Hubert's Giralda 575 Woodland Ave. P.O. Box 159 Madison, NJ 07940	\$5.00

RESOLUTION 2004-227

RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY REQUESTING EXTENDED SECOND ROUND SUBSTANTIVE CERTIFICATION

WHEREAS, the Township of Chatham ("the Township") received substantive certification from the New Jersey Council on Affordable Housing (COAH) on March 5, 1997 for a period of six years, and this substantive certification has expired on March 5, 2003; and

WHEREAS, COAH adopted rules that permitted municipalities to request an extension of substantive certification upon filing a resolution committing to continue the implementation of second round plans and committing to petition for certification of a third-round plan within one year of the effective date of COAH's third-round rules; and

WHEREAS, the Township adopted said resolution on November 21, 2002 and COAH granted an extension to the Township's substantive certification on December 4, 2002 pursuant to rules that were previously adopted by COAH; and

WHEREAS, the Appellate Division of the New Jersey Superior Court ruled on August 31, 2004 that while COAH has the authority to extend substantive certification, the process used to do so must be revised to include public notice and a principled review of municipal compliance; and

WHEREAS, pursuant to the Appellate Division order of August 31, 2004, COAH has adopted an emergency rule at N.J.A.C. 5:91-14.3 permitting the extension of a municipality's second round substantive certification for up to one year after the effective date of the adoption of COAH's third round methodology and rules; and

WHEREAS, N.J.A.C. 5:91-14.3 requires the Township to request an extension by motion pursuant to N.J.A.C. 5:91-12 and to provide public notice thereof; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Township to provide a copy of its adopted current Housing Element and Fair Share Plan; and

WHEREAS, to be eligible for an extended grant of substantive certification, N.J.A.C. 5:91-14.3 requires the Township to commit to continue to implement the certified second round plan; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Township to commit to either file a newly adopted housing element and fair share plan addressing the third round obligation with COAH within one year of the effective date of COAH's third round rules and methodology, currently proposed as N.J.A.C. 194-1 et seq. and N.J.A.C. 5:95-1 et seq., or petition for a third round substantive certification prior to the expiration of the extended second round substantive certification; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Township to provide a proposed schedule for the submission of the filing or petition for third round substantive certification; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Township to provide a statement describing the progress of the municipality's compliance with the terms of its 1987-1999 substantive certification; and

WHEREAS, to be eligible for a grant of extended substantive certification, N.J.A.C. 5:91-14.3 requires the Township to provide, and update as necessary, its current monitoring report and development fee monitoring report;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the Township requests COAH, under its procedure at N.J.A.C. 5:91-14.3, to extend substantive certification for up to one year after the effective date of the adoption of COAH's third round methodology and rules; and

BE IT FURTHER RESOLVED that the Township hereby commits to continue to implement its certified second round plan and has attached hereto a statement describing the progress of its compliance with the terms of its second round certification; and

BE IT FURTHER RESOLVED that the Township shall leave all ordinances implementing its original substantive certification, true copies of which are attached hereto, in effect for the extended substantive certification, unless it can be demonstrated that there is good cause why the ordinances should not remain in effect; and

BE IT FURTHER RESOLVED that the Township hereby commits to address its third round fair share obligation by petitioning COAH for review and certification of a newly adopted housing element and fair share plan within one year after the effective date of COAH's third round methodology and rules; and

BE IT FURTHER RESOLVED that the Township commits to submitting a newly adopted housing element and fair share plan to address its third round obligation within one year after the effective date of COAH's third round methodology and rules according to the schedule attached hereto; and

BE IT FURTHER RESOLVED that the Township's current monitoring report and development fee monitoring reports, true copies of which are attached hereto, have been forwarded to COAH for review; and

BE IT FURTHER RESOLVED that the Township's adopted current Housing Element and Fair Share Plan, true copies of which are attached hereto, have been forwarded to COAH for review; and

BE IT FURTHER RESOLVED that the Township shall either file the newly adopted housing element and fair share plan addressing the third round obligation with COAH or petition for a third round substantive certification prior to the expiration of the extended second round substantive certification that has been requested.

**TOWNSHIP OF CHATHAM
SCHEDULE FOR SUBMISSION OF FILING FOR THIRD ROUND SUBSTANTIVE
CERTIFICATION**

January 2005 – Appoint Planner to commence work with Planning Board to create revised Housing Element and Fair Share Plan.

February 2005 – Planning Board commences review and revision of Housing Element and Fair Share Plan.

September 2005 – Planning Board completes review and report on revisions to Housing Element and Fair Share Plan.

November 2005 – Fair Share Plan ordinance adopted by Township Committee and submitted to COAH for approval.

RESOLUTION 2004-228

**TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, RELEASING
DEVELOPER ESCROW ACCOUNT AND/OR
PERFORMANCE BOND BALANCES**

WHEREAS, developers are required to deposit monies with the Township for the purposes of offsetting Township professional costs to review plans or to inspect approved development and for the purpose of ensuring the satisfactory completion of public or private improvements; and

WHEREAS, these deposited monies, following all necessary withdrawals to cover Township expenses or costs, may be released upon satisfactory completion of work, receipt of review board decisions, or completion of guaranteed work, upon passage of a Township resolution authorizing such release.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham that the following guarantee amount or account balances, with interest adjustments as prescribed by state and local laws, may be released to the depositor of record:

<u>NAME</u>	<u>A/C NUMBER 72000</u>	<u>AMOUNT</u>
K. Craig Rieck 7 Meyersville Road Chatham, NJ 07928	13008	\$600.00
Donald DeGolyer 293 Fairmount Avenue Chatham, NJ 07928	12996	\$361.75

RESOLUTION 2004-229

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE 2004 BUDGET.

WHEREAS, N.J.S. 40A: 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have become available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Township of Chatham will receive \$7,000.00 from the Department of Community Affairs SHARE Grant Program and wishes to amend its 2004 Budget to include these funds as a revenue,

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Chatham, County of Morris, State of New Jersey hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2004 in the sum of \$7,000.00 which is will be available as a revenue from:

Miscellaneous Revenues – Section F: Special Items of General revenue – Public and Private Revenues Offset with Appropriations:

SHARE Grant Program, and

BE IT FURTHER RESOLVED, that a like sum of \$7,000.00 be and the same is hereby appropriated under the caption of:

Public and Private Programs Offset by Revenues:

SHARE Grant.

BE IT FURTHER RESOLVED, that the Township Clerk forward two copies of this resolution to the Director of Local Government Services.

RESOLUTION 2004-230

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM RELEASING PERFORMANCE GUARANTEE

WHEREAS, a Performance Guarantee in the amount of \$ 8,000.00 is on deposit with the Township of Chatham by Mr. and Mrs. Beighley for Block 33, Lot 26, 83 Lisa Drive; and

WHEREAS, the Township Engineer has inspected the site and recommended that the Performance Guarantee be released.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Chatham that the Performance Guarantee of \$8,000.00 provided by Mr. and Mrs. Beighley for Block 33, Lot 26, 83 Lisa Drive is hereby authorized to be released.

RESOLUTION 2004-231

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE

TOWNSHIP OF CHATHAM APPOINTING DONALD MALEHORN, ESQ. TO REPRESENT THE TOWNSHIP IN THE CASE OF JAMES HAGNER, ET AL. V. PLANNING BOARD OF CHATHAM TOWNSHIP, ET AL., DOCKET NO. MRS-2511-04

WHEREAS, the pending case of James Hagner, et al. v. Planning Board of the Township of Chatham, et al., Docket No. MRS-002511-04, has also named the Township as a defendant; and

WHEREAS, because Nicole Hagner, a plaintiff in that litigation, has recently been elected to the Township Committee and will commence serving her term of office in January 2005, which thereby requires the appointment of separate counsel for the Township; and

WHEREAS, Donald Malehorn, the Planning Board attorney, has appeared on its behalf and can and has agreed to serve as counsel for the Township in this matter;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, as follows:

1. Donald Malehorn, Esq. is hereby appointed to represent the interests of the Township of Chatham in the case of James Hagner, et al. v. Planning Board of the Township of Chatham, et al. Docket No. MRS-002511-04.
2. The hourly rate for Mr. Malehorn's services shall not exceed \$135.00 per hour, plus expenses.

RESOLUTION 2004-232

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY TO ADOPT AND IMPLEMENT A DEFERRED COMPENSATION PLAN FOR TOWNSHIP EMPLOYEES

WHEREAS, in 1984 the governing body of the Township of Chatham adopted a deferred compensation plan provided by National Plan Coordinators, Inc. and assigned the plan identifier 05-PD(A-NPC-031795) by the Division of Local Government Services; and

WHEREAS, in order to attract and retain qualified employees there exists a need to adopt and implement a DEFERRED COMPENSATION PLAN for employees of Township of Chatham (hereinafter referred to as "Employer"), which will provide said employees the ability to enhance their financial security at retirement through the accrual of tax benefits as provided by Section 457 of the Federal Internal Revenue Code; and

WHEREAS, there is no direct financial cost to the Employer to adopt and implement a DEFERRED COMPENSATION PLAN; AND

WHEREAS, the Employer prepared and made available to the providers of deferred compensation services requests for proposals as described herein; and

WHEREAS, the Employer solicited written proposals for a DEFERRED COMPENSATION PLAN and SERVICE AGREEMENT from three contractors providing prototypical plans and service agreements: including Citistreet, ING and AXA Equitable and providers ING and AXA Equitable responded to these requests for proposals. The Assistant Treasurer reviewed the proposals and recommended AXA Equitable because of AXA Equitable's ability to (a) provide continuing consultation to participants; (b) provide advice concerning various categories of investment; and (c) representatives track record of integrity and comprehensive advice, including financial planning, asset allocation and risk measurement for all participants; and

WHEREAS, the Mayor and Township Clerk are authorized to execute a Service Agreement with Equitable (02-SA-EQUITABLE-A030402) for the provision of administrative and investment services, and to submit all necessary documents to the Director of the Division of Local Government Services within the State Department of Community Affairs for approval; and

WHEREAS, there has been no collusion, or evidence or appearance of collusion, between any local official and a representative of AXA Equitable in the selection of AXA Equitable as Contractor for the administration of a Service Agreement pursuant to N.J.A.C. 5:37 – 5.7.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Committee of Chatham Township, based on the findings and conclusions set forth above, that a DEFERRED COMPENSATION PLAN provided by AXA Equitable (02-PD-Equitable-A030402) is hereby adopted.

BE IT FURTHER RESOLVED, that the Assistant Treasurer is hereby designated as the Local Plan Administrator for the administration of the PLAN; and

BE IT FURTHER RESOLVED, the Township of Chatham is adopting this deferred compensation plan substantially similar to one on which a favorable Private Letter Ruling has been previously obtained from the federal Internal Revenue Service except for provisions added by reason of The Small Business Job Protection Act of 1996 (United States Public Law No. 104-188), and all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the Internal Revenue Code Section 457. The use of the Ruling is for guidance only and acknowledges that for Internal Revenue Services purposes, the Ruling of another employer is not to be considered precedent; and

BE IT FURTHER RESOLVED, a certified copy of this resolution shall be forwarded to the Director of the Division of Local Government Services with State Department of Community Affairs.

RESOLUTION 2004-233

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CHATHAM APPOINTING MICHAEL HAJJAR TO
THE PUBLIC WORKS DEPARTMENT**

BE IT RESOLVED by the Township Committee of the Township of Chatham that Michael Hajjar be, hereby, appointed to the Department of Public Works at an annual salary of \$33,987.00 effective January 1, 2005, in accordance with the current collective bargaining agreement.

RESOLUTION 2004-235

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM
AUTHORIZING BUDGET TRANSFERS**

WHEREAS, the Township Committee of the Township of Chatham, County of Morris has determined that certain appropriations, in the 2004 municipal budget, are not sufficient to meet anticipated expenses; and

WHEREAS, N.J.S. 40A: 4-58 authorizes the transfer from appropriations where excess exists to other appropriations that are anticipated to be insufficient.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris that the following transfers are hereby affected:

Appropriation	To	From
Engineering OE	\$ 30,000.00	
Solid Waste Collection OE	\$ 5,000.00	
Group Insurance	\$ 5,000.00	
Recreation OE	\$ 7,500.00	
Gen. Administration S&W		\$ 15,000.00
Municipal Clerk S&W		\$ 5,000.00
Police Dispatch S&W		\$ 17,500.00
Code Enforcement S&W		\$ 10,000.00
	\$ 47,500.00	\$ 47,500.00
 WPC I		
	To	From
OE	\$ 35,000.00	
S&W		\$ 35,000.00
	\$ 35,000.00	\$ 35,000.00
 WPC II		
	To	From
OE	\$ 10,000.00	
S&W		\$ 10,000.00
	\$ 10,000.00	\$ 10,000.00

Committeewoman Fair moved to pass the Consent Agenda, Resolution 2004-220 through Resolution 2004-233 and Resolution 2004-235. Committeeman Brower seconded the motion.

Roll Call: Committeeman Brower, Aye; Committeewoman Fair, Aye; Committeeman DeMeo, Aye; Deputy Mayor O'Connor, Aye; Mayor Hoag, Aye.

Discussion Items

1. Boy Scout Project at Motto Property: Mayor Hoag introduced Cynthia Merwin, a member of the Open Space Committee, and Justin Sandy, a boy scout from a local troop. Ms. Merwin provided

a brief history of the Township's purchase of the one and one-half acre Motto property on Southern Boulevard and the Open Space Committee's interest to work on a project in coordination with Justin Sandy, who will work on this for his Eagle Scout project. Justin Sandy provided a very detailed presentation utilizing a display to show plans for the creation of a low maintenance arboretum, which would also benefit King James Center residents. Justin proposed to organize the boy scouts in digging out a pathway, the ground cover would be provided at no cost to the Township, and the Department of Public Works would need to truck in mulch. The only tree removal required would consist of dead trees. A future project may require the driveway to be widened from 11 feet to 18 feet. Committeewoman Fair stated that she had visited the site and acknowledged that this would be a fine first step for this low maintenance project. Committeewoman Fair advised that she and Committeeman Brower have spoken with Joseph Smith from the Department of Public Works and she is concerned with the burden on Public Works and suggested that it would be in the best interest of the town if some of the work could be phased over a period of time. Committeewoman Fair added that this arboretum could serve residents for the time being, however, if another use for this property was determined in the future, this project is not so intrusive as to prevent another undertaking. Deputy Mayor O'Connor asked if this would require seasonal maintenance. Committeewoman Fair advised that fiber plastic would be applied to allow drainage and to prevent weed growth, and wood chips would need to be replenished from time to time. Committeeman Brower complimented Justin Sandy for the concept of the project, however, wanted to advise the Committee of his concerns. Committeeman Brower stated that he had spoken with scoutmasters who had informed him that Eagle Scout projects are typically capped at \$1,000 and if additional funds are required, the scout should approach the business community or private parties to seek donations or raise the funds needed. Committeeman Brower identified the following issues:

- A County Road Opening Permit would be required, although there is no cost associated with this aspect. Signs during construction would need to be posted as Southern Boulevard is a busy road.
- Agreeing that the dead trees have to be removed, the cost to the town is a minimum of \$1,000 to \$2,000 and would also require stump grinding and refilling.
- Dirt would need to be trucked or spread out.
- Concerns were raised about Mr. Fornaro's property and potential trespassing, which would require the existing fence to be replaced.
- Maintenance responsibilities would need to be clear.
- Additional parking may be needed, which also cause financial concerns.

Mayor Hoag replied that this project is very limited and is based on putting in a walkway and cleaning up the driveway area. Mayor Hoag thanked Committeeman Brower for his concerns, yet asked the committee members to realize that Justin Sandy's project would not be created in one spring. Relative to widening the driveway, Mayor Hoag recapped that should the need arise in the future, this could be a separate project. Committeeman Brower requested a cost analysis be prepared by Joseph Smith of Public Works. Committeewoman Fair addressed the potential sidewalk project anticipated on Southern Boulevard, acknowledging that this will make the arboretum much more accessible, and stated that she views this project as an expanded streetscape more than a park. Mrs. Merwin added that the Tree Committee has trees to be planted in that area. Mayor Hoag asked the members for their comments in order to come to a resolution for Justin Sandy to continue planning this project. Committeeman Brower stated that he could not support the project without prior knowledge of cost or how it will be maintained. Committeewoman Fair stated that if the Township decides not to pursue the project, what has been done will go back to nature; clean-up would be done by volunteers and minimally by the Department of Public Works. Deputy Mayor O'Connor stated that part of the project consists of developing the costs associated and how user friendly the area would be in the middle of the summer as it is near the swamp. Committeeman DeMeo commented that he is not opposed to the idea, but feels the plans need to be developed further so that the Township Committee can review this proposal again at the beginning of the year. The Township Committee thanked Justin Sandy and invited him to another meeting when the costs for the project are established and to continue with the planning phase.

2. On Street Parking for Oak Knoll School Athletic Field Events: Barry Osmun, Attorney for Oak Knoll School, advised that the school is requesting the Township Committee's support before going to the County to ask for parking on one side of the street during special events at the school and for necessary signage. Attorney Osmun stated that this would only be necessary on a limited basis and he would work the details out for the dates needed with the police department upon receipt of County approval. Committeeman Brower suggested permitting bus and

commercial parking on the street and allowing vehicles to use the parking lot. Attorney Woodward stated that the specifics have to be provided before the Township should put anything in writing to the County. Administrator Ciccarone advised that the Police Department routinely receives such requests and has always handled such requests internally. Administrator Ciccarone recommended that the Township allow the Police Department to process requests for street parking for special events through the traffic safety officer and allow whatever conditions the police impose to be a conditional requirement for the school to meet. Deputy Mayor O'Connor stated that another item the school should be working on are the water issues. Attorney Osmun stated that this item is on Attorney Bennett's punch-list and will be worked out. Committeeman Brower motioned to approve this agreement to coordinate on-street parking requests with the Chatham Township Police Department, which will be documented through correspondence written by Administrator Ciccarone. Committeewoman Fair seconded the motion and it passed unanimously.

3. Developer's Agreement for Valle Estates: Barry Osmun, Attorney for the Valle Estates, provided the Township with the Developer's Agreement for their consideration. Attorney Woodward advised that he has reviewed the document and it is in keeping with the Township's form. Attorney Woodward recommended consideration of a resolution approving the agreement. Committeeman Brower moved to authorize the preparation of Resolution 2004-236 - Approving the Developer's Agreement for Valle Estates. Committeewoman Fair seconded the motion.

RESOLUTION 2004-236

RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING DEVELOPER'S AGREEMENT WITH VALLE ESTATES

WHEREAS, the Planning Board has granted preliminary and final site plan approval for Valle Estates, designated as Block 135, Lots 19 and 19.01, Shunpike Road, on the current tax map of Chatham Township, and Block 4315, Lot 13, Madison Borough; and

WHEREAS, said approvals require the execution of a Developer's Agreement with the Township as a condition of said approvals, which agreement has been submitted and been found acceptable;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that said Developer's Agreement, copy attached hereto, with Valle Estates be hereby accepted and that the Mayor and Clerk are hereby authorized to execute the same.

Roll Call: Committeeman Brower, Aye; Committeewoman Fair, Aye; Committeeman DeMeo, Aye; Deputy Mayor O'Connor, Aye; Mayor Hoag, Aye

4. Honoring Girl's High School State Championship Soccer Team: Mayor Hoag announced that the Girl's High School Soccer Team won the Group II State Championship and suggested that the Township Committee approve putting up signs acknowledging the team. An invitation would be extended to the team to come to the December 16, 2004 meeting to be congratulated. After a brief discussion, the members agreed to have signs created and placed around town. Committeeman Brower will ask the press to put an article or photographs in the local newspaper.
5. Administrator Ciccarone advised that the Consent Agenda included Resolution 2004-233 – Appointing DPW Employee. Administrator Ciccarone advised that the starting salary listed in this Resolution is incorrect and the correct salary will be on file in the Clerk's Office.
6. Committeeman Brower requested that the lighting issue on River Road be addressed in order to move forward. Administrator Ciccarone advised that letters would be sent to the residents requesting their input with a timeline to reply.

Hearing of Citizens

Mayor Hoag opened the hearing of citizens.

1. Peter Hoffman, May Drive residents, stated that the Girls Soccer Team was referred to as “Chatham Township Girl’s Soccer Team,” and reminded the members that the education system is called “School District of the Chathams” and the wording on the sign should be reflective accordingly. Relative to the proposed ordinance on parking in municipal lots, Mr. Hoffman requested that parking near the power lines at Colony Pool should also have restrictions. The Township Committee thanked Mr. Hoffman for the input on the parking ordinance and it will be included upon introduction of the ordinance in 2005.

Mayor Hoag closed the hearing of citizens.

Executive Session

RESOLUTION 2004-P-20

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CHATHAM IN THE COUNTY OF MORRIS, NEW JERSEY, AUTHORIZING CONFERENCE
OF THE TOWNSHIP COMMITTEE WITH THE PUBLIC EXCLUDED**

BE IT RESOLVED by the Township Committee of the Township of Chatham that it adjourn to an executive session to discuss the following subject matters without the presence of the public in accordance with the provisions of N.J.S.A. 10:4-2b

Potential Litigation
Contract Negotiations
Personnel

The matters discussed will be made known to the public at such time as appropriate action is taken on said matters, and when disclosure will not result in unwarranted invasion of individual privacy or prejudice to the best interests of the Township of Chatham; provided such disclosure will not violate Federal, State or Local Statutes and does not fall within the attorney/client privilege.

Mayor Hoag moved to pass Resolution 2004-P-20 at 9:30 p.m. Deputy Mayor O’Connor seconded the motion.

Roll Call: Committeeman Brower, Aye; Committeewoman Fair, Aye; Committeeman DeMeo, Aye; Deputy Mayor O’Connor, Aye; Mayor Hoag, Aye.

The Committee returned from Executive Session at 9:46 p.m. Committeewoman Fair motioned to adjourn. Committeeman Brower seconded the motion and it carried unanimously.

Joy M. Wiley
Municipal Clerk