

TOWNSHIP OF CHATHAM
TOWNSHIP COMMITTEE MEETING MINUTES
JULY 27, 2006

Mayor O'Connor called the regular 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, 2006; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 9, 2006; and notice was filed with the Township Clerk on January 9, 2006.

Mayor O'Connor led the flag salute.

Roll Call

Answering present to the roll call were Committeewoman Hagner, Committeeman Hartford, Committeeman Tubbs and Mayor O'Connor. Deputy Mayor Brower was absent.

Approval of Agenda

Mayor O'Connor informed the public that redevelopment and zoning would not be addressed at this meeting, and that it would instead be discussed at the workshop meeting on August 10, 2006. Committeewoman Hagner moved to approve the agenda. Committeeman Tubbs seconded the motion and it carried unanimously.

Reports

Administrator Ciccarone reported to the Township Committee with regard to the sale of bond anticipation notes, which closed on the morning of July 27, 2006. J.P. Morgan Chase was the low bidder at 3.94%. The note is for the amount of \$1,330,000 as authorized by the bond ordinance that was adopted in June 2006.

Hearing of Citizens / Petitions

Mayor O'Connor opened the Hearing of Citizens.

1. Margy Capecelatro, Britten Road resident, read a portion of a letter she sent to the Township Committee regarding the Rolling Knolls Landfill. While she welcomes the thought of an EPA cleanup of the site, Ms. Capecelatro feels as though any development of the site would be environmentally disrupting, and the area should therefore be protected from development. Ms. Capecelatro also read from the National Priorities List of the EPA, citing that the Great Swamp National Wildlife Refuge borders the Rolling Knolls Landfill on the east, south and west. Because of the environmental concerns, Ms. Capecelatro thinks that development of the Rolling Knolls Landfill would be an inappropriate use of the land.
2. Dan Miller, Green Village Road resident, addressed the possible development of the Rolling Knolls Landfill. He feels that the area should not be rezoned, and should not be developed at all without additional access roads. Mr. Miller stated that the development of the property would have a serious impact on the quality of life of Green Village residents. In addition, Mr. Miller suggested that even the cleanup of the Rolling Knolls Landfill would require additional access routes.
3. Andrea De Conturbia, Britten Road resident, agreed with the previous two speakers, and said that the Great Swamp is very special, and should be protected.
4. Peter Hofmann, May Drive resident, informed the Township Committee that the Borough Council did not approve the proposed interlocal agreement between the Township, the Borough and the School Board. Mr. Hofmann recommended that the Committee adopt a

resolution stating that the Township is also not interested in the interlocal agreement proposed by the school board. Additionally, Mr. Hofmann suggested that both the Township and Borough put artificial turf on existing fields, which would cost less than building a brand new field at Woodland Park.

5. Barbara Cox, Britten Road resident, is concerned about the possible development of the Rolling Knolls Landfill. As some of the houses are situated relatively close to the street, Ms. Cox is concerned about the idea of widening the street to accommodate the trucks that would be used in any development. She is in favor of a proper cleanup with EPA oversight, but is still concerned about the impact it will have on the neighborhood, since it is a dead end street. Ms. Cox further hopes that the Township Committee will also consider the potential negative impacts if this project goes forward.

Committeeman Tubbs responded to Ms. Cox's concerns. He explained that there is a lengthy approval process before anything can happen at the site, during which there will be many opportunities for input from the public, as well as input from the Township Committee. Committeeman Tubbs also stated that the Township Committee is also concerned about how to conduct the cleanup, and there will be continued dialogue with the EPA. Additionally, Committeeman Tubbs stated that no applications have been filed. Administrator Ciccarone added the only requests made have been for the Planning Board to conduct a concept review, and for the Township Committee to consider rezoning the parcel. Committeewoman Hagner asked if the presentation of the concept review would be open to the public. Administrator Ciccarone indicated that the review would be open to the public, but that it has not as of yet been scheduled. Additionally, Administrator Ciccarone advised that he feels that the Township Committee is obligated to allow the Planning Board to conduct the concept review, and that it is premature to consider rezoning before the review is conducted.

6. David Budd, Morris Township resident, is the Vice-Chairman of the Great Swamp Watershed Association (GSWA), which is a non-profit organization that is dedicated to land use policy regarding the Great Swamp. He is also the Chairman of the Land Use Committee for the GSWA. Mr. Budd read a statement into the record. On September 29, 2003 the federal EPA designated the Rolling Knolls Landfill as a Superfund Cleanup site. The EPA's HRS score for Rolling Knolls is 35, whereas the minimum HRS score for Superfund status is 28.5. Contaminants at the site include mercury, PCB's, pharmaceutical compounds, and possibly other chemicals that are toxic and carcinogenic. These chemicals are starting to leech into local streams that lead to the Passaic River. The conceptual plans for development would include either removing the fill, or compacting the area and having it mitigated and capped. All the contamination would remain on the site under the conceptual plans, and the contaminants would be in close proximity to housing units and playing fields. Furthermore, Mr. Budd feels that the EPA should do any remediation. He also raised a concern about how the Township's sewage capacity would be adversely affected by any development at this site.

Administrator Ciccarone responded by saying that Mr. Budd's concerns have already been discussed. During an informal meeting with developers last fall, the developers were told that they would need to find an access route other than Britten Road, and that the Township does not have the sewer capacity for this project.

7. Abbie Fair, Green Village Road resident, mentioned that the Township came up with a new Master Plan in 1999, and that Green Village is regarded as the "frontier" to the watershed. Mrs. Fair then provided some background on the relationship between the Great Swamp and the Rolling Knolls site. During the early 1990's, when the sewer extension project was in the planning phase, the DEP was reluctant to give approval. The Great Swamp Watershed Advisory Committee was set up, and made recommendations to the DEP in reference to the project. In 1993 the DEP gave approval and a permit was issued, under the provision that there be no net increase in stormwater runoff, and that there be a septic management plan, water conservation plan and monitoring requirements. In 1997, an adequate ordinance was adopted to control impact from new development allowed by the sewage plant extension. Mrs. Fair also pointed out that Rolling Knolls was originally part of the Great Swamp, and that it became a landfill at a time before wetlands preservation became a priority. The wilderness area is adjacent to the landfill,

and Mrs. Fair feels that it is important for the Township to work closely with the U.S. Fish & Wildlife Service to protect the area. Mrs. Fair further stated that she does not think that development of townhouses is appropriate for the site.

Seeing no further comment, Mayor O'Connor closed the Hearing of Citizens.

Committeeman Hartford asked the audience how many people were at the meeting to address the issue of Rolling Knolls development. He indicated that he was glad to see that many people were at the meeting to express their views on the issue. Committeeman Hartford also stated that New Jersey Monthly ranked Chatham Township as the 9th best municipality in New Jersey in which to live, and the Great Swamp played a significant role as to why the rating was so high. Committeeman Tubbs asked Administrator Ciccarone to look into putting contact information for the EPA on the Chatham Township website to make it easier for residents to voice their opinions on this matter.

Public Hearing / Final Adoption of Ordinances

ORDINANCE 2006-15

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, TO CREATE THE POSITION OF MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF ADMINISTERING THE TOWNSHIP OF CHATHAM'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT.

BE IT ORDAINED by the Township Committee of the Township of Chatham, County Morris, State of New Jersey that the Code of the Township of Chatham be amended to add the following chapter captioned "**Affordable Housing Administration**":

Section 1. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of Township of Chatham's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

Section 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MUNICIPAL HOUSING LIAISON – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Township of Chatham.

ADMINISTRATIVE AGENT – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Township of Chatham to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

Section 3. Establishment of Municipal Housing Liaison position and compensation; powers and duties.

- A. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Township of Chatham.
- B. Subject to the approval of the Council on Affordable Housing (COAH), the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Chatham, including the following responsibilities which may not be contracted out:
 - (1) Serving as the Township of Chatham's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 - (2) Monitoring the status of all restricted units in the Township of Chatham's Fair Share Plan;

- (3) Compiling, verifying, and submitting annual reports as required by COAH;
 - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 - (6) If applicable, serving as the Administrative Agent for some or all of the restricted units in Township of Chatham as described in F. below.
- D. Subject to approval by COAH, the Township of Chatham may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of the Township of Chatham. If the Township of Chatham contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- E. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.
- F. Administrative powers and duties assigned to the Municipal Housing Liaison.
- (1) Affirmative Marketing
 - (a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Chatham and the provisions of N.J.A.C. 5:80-26.15; and
 - (b) Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
 - (2) Household Certification
 - (a) Soliciting, scheduling, conducting and following up on interviews with interested households;
 - (b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et. seq.;
 - (e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
 - (f) Employing the random selection process as provided in the Affirmative Marketing Plan of the Township of Chatham when referring households for certification to affordable units.
 - (3) Affordability Controls
 - (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
 - (d) Communicating with lenders regarding foreclosures; and
 - (e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

- (4) Resale and rental
 - (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
 - (b) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.
- (5) Processing request from unit owners
 - (a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
 - (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and
 - (c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.

(6) Enforcement

- (a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;

Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

Mayor O'Connor opened the Public Hearing on Ordinance 2006-15. Seeing none, the Public Hearing was closed.

Committeeman Tubbs made a motion to adopt Ordinance 2006-15. Committeewoman Hagner seconded the motion.

Roll call: Committeewoman Hagner, Aye; Committeeman Hartford, Aye; Committeeman Tubbs, Aye; Deputy Mayor Brower, Absent; Mayor O'Connor, Aye.

ORDINANCE 2006-16

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, PROHIBITING CONSTRUCTION AND CONTRACTOR ACTIVITIES ON SUNDAY AND FEDERAL HOLIDAYS

BE IT ORDAINED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the Revised General Ordinances of the Township of Chatham, 1995 are amended as follows:

1. Chapter III, Police Regulations, is amended to add a new section captioned **Construction and Contractor Activity on Sundays and Holidays** as follows:

3-9 CONSTRUCTION AND CONTRACTOR ACTIVITY ON SUNDAYS AND HOLIDAYS

3-9.1 Definitions. As used in this section:

Construction or Contractor Activity shall mean work performed by contractors for hire on any property within the Township of Chatham.

Holidays shall mean nationally designated holidays, for example, Christmas, 4th of July, Labor Day, Thanksgiving.

Person as defined as any individual, corporation, partnership, sole proprietorship, or other business entity, and any property owner, tenant or occupant of property within the Township of Chatham.

3-9.2 Construction and Contractor Activity on Sundays and Holidays Prohibited.

No Construction or Contractor Activity shall take place on property within the Township of Chatham on Sundays or Holidays, provided that in the event of an emergency unique to the property or to the community at large this regulation shall not apply.

3-9.3 Enforcement.

This ordinance shall be enforced by the Police Department, the Township Engineer, the Construction Official, the Zoning Officer and such other persons as may be designated by the Township Administrator.

3-9.4 Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to the penalties set forth at Section 1-5, General Penalty, of the Code of the Township of Chatham.

2. This ordinance shall take effect as provided by law.

Mayor O'Connor opened the Public Hearing on Ordinance 2006-16.

1. Peter Hofmann, May Drive resident, pointed out that the ordinance as written does not specify those holidays on which construction would be prohibited. Mr. Hofmann suggested that they should be specified.

Seeing no further comment, Mayor O'Connor closed the Public Hearing.

Committeeman Tubbs suggested that a change be made in the ordinance to indicate that it only applies to work being done outdoors, figuring that workers who are working indoors and not disturbing the neighborhood, such as a painter or electrician for example, should be allowed to perform work on holidays and Sundays. He also agreed with Mr. Hofmann's suggestion that the applicable holidays be specified to remove any doubt about the meaning of the term. Attorney Woodward indicated that Federal holidays would be listed in the ordinance. Committeeman Hartford cautioned that if a new house were being constructed, there could still be a lot of noise created within the confines of the new home, potentially enough to disturb neighbors. Attorney Woodward pointed out that there is a difference between a house that is still just a frame and a house that has been enclosed, and reasoned that if construction workers were performing indoor work, it is unlikely that the police would be called. He also speculated that a genuine disturbance would have to occur before most people would be likely to call the police regarding a violation of this ordinance. Mayor O'Connor asked how the language of the ordinance would be amended. Attorney Woodward said that section 3-9.2 would be amended to indicate work "out-of-doors," and that holidays would be specified. Committeeman Hartford also wanted to make sure that contractors are informed of the new ordinance so that they are not caught by surprise. Attorney Woodward stated that contractors would be informed of the new rules when they apply for their permits. Administrator Ciccarone added that warnings would be issued before citations.

Committeewoman Hagner made a motion to reintroduce Ordinance 2006-16 as amended. Committeeman Tubbs seconded the motion.

Roll call: Committeewoman Hagner, Aye; Committeeman Hartford, Aye; Committeeman Tubbs, Aye; Deputy Mayor Brower, Absent; Mayor O'Connor, Aye.

Ordinance 2006-16 will be scheduled for public hearing and final adoption on August 10, 2006.

Consent Agenda

RESOLUTION 2006-152

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 the following monthly reports of departments be acknowledged as received:

- Municipal Court – June
- Public Works – June
- Fire Prevention Bureau – June

Tax Collector's Report – June
 Construction Official – May
 Animal Control – June
 Dog Licensing – Second Quarter
 Vital Statistics Payments – Second Quarter

RESOLUTION 2006-153

**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</u>	<u>AMOUNT</u>
Steven Penny 725 River Road Chatham, NJ 07928	7200038939	\$20.00

RESOLUTION 2006-154

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
 OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING
 ONE-DAY SPECIAL PERMIT FOR LIQUOR LICENSE**

BE IT RESOLVED by the Township Committee of the Township of Chatham that the following permit for a One-Day Liquor License is hereby approved:

<u>Name of Organization</u>	<u>Dates of Social Affair</u>	<u>Place where Affair will be held</u>
Chatham Township Republican Committee	September 16, 2006	744 Fairmount Avenue Chatham, NJ 07928

RESOLUTION 2006-155

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE
 TOWNSHIP OF CHATHAM APPROVING RAFFLES FOR
 KIWANIS CLUB OF THE CHATHAMS**

BE IT RESOLVED by the Township Committee of the Township of Chatham that off-premise raffles to be conducted by Kiwanis Club of the Chathams on September 28, 2006, at Fairmount Country Club, Chatham Township, are hereby approved.

RESOLUTION 2006-156

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
 CHATHAM TO AWARD CONTRACT FOR A NEW 2006 GMC SIERRA 2500 HD
 PICK-UP WITH PLOW OR EQUIVALENT AND A 2006 GMC SAVANA CARGO VAN.**

WHEREAS, the Township Committee of the Township of Chatham has received bids for a NEW 2006 GMC SIERRA 2500 HD PICK-UP WITH PLOW OR EQUIVALENT and a 2006 GMC SAVANA CARGO VAN and,

WHEREAS, "Certification of Availability of Funds" is annexed hereto:

NOW, THEREFORE, BE IT RESOLVED by the Township Committee on this day, July 27, 2006 that:

- 1) Contract for a NEW 2006 GMC SIERRA 2500 HD PICK-UP WITH PLOW OR EQUIVALENT and a 2006 GMC SAVANA CARGO VAN be and is hereby awarded to:

**Beyer Bros. Corp.
109 Broad Ave.
Fairview, NJ 07022**

On their bid of \$51,668.00.

- 2) The exact title of the appropriation to be charged is: Ordinance 2006-13.

This Resolution shall take effect immediately.

RESOLUTION 2006-157

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM TO AWARD CONTRACT FOR A 2007 INTERNATIONAL MODEL 7400 FOUR WHEEL DRIVE CHASSIS AND CAB OR EQUIVALENT.

WHEREAS, the Township Committee of the Township of Chatham has received bids for a 2007 INTERNATIONAL MODEL 7400 FOUR WHEEL DRIVE CHASSIS AND CAB OR EQUIVALENT and,

WHEREAS, "Certification of Availability of Funds" is annexed hereto:

NOW, THEREFORE, BE IT RESOLVED by the Township Committee on this day, July 27, 2006 that:

- 3) Contract for a 2007 INTERNATIONAL MODEL 7400 FOUR WHEEL DRIVE CHASSIS AND CAB OR EQUIVALENT be and is hereby awarded to:

**Deluxe International Trucks, Inc.
600 South River St.
Hackensack, NJ 07601**

On their bid of \$99,365.00.

- 4) The exact title of the appropriation to be charged is: Ordinance 2006-13.

This Resolution shall take effect immediately.

RESOLUTION 2006-158

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE 2006 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 has received \$37,579.25 from various donations and fund raising activities to support the Celebration of the Township's Bicentennial and wishes to amend its 2006 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 2006 in the sum of \$37,579.25 which is now available as a revenue from:

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

Bicentennial Donations, and

BE IT FURTHER RESOLVED, that a like sum of \$37,579.25 be and the same is hereby appropriated under the caption of:

Public and Private Programs Offset by Revenues:

Bicentennial Celebration

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

RESOLUTION 2006-159

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING RAFFLES FOR P.G. CHAMBERS SCHOOL, INC.

BE IT RESOLVED by the Township Committee of the Township of Chatham that off-premise raffles to be conducted by P.G. Chambers School, Inc. on November 2, 2006, at Fairmount Country Club, 400 Southern Boulevard, Chatham Township, are hereby approved.

Committeeman Tubbs moved to adopt the Consent Agenda. Committeewoman Hagner seconded the motion.

Roll call: Committeewoman Hagner, Aye; Committeeman Hartford, Aye; Committeeman Tubbs, Aye; Deputy Mayor Brower, Absent; Mayor O'Connor, Aye.

Discussion: possible ordinance or resolution

Mayor O'Connor amended the order of discussion items, so as to have the cellular towers discussed first, beginning with comments from the public.

Cellular Towers

Attorney Woodward indicated that there is an application before the Board of Adjustment to approve the construction of a cellular array on top of a high-tension tower with accompanying equipment at the base of the tower. Engineer Ruschke added that there has been an active, ongoing hearing by the Board of Adjustment on the issue. Mayor O'Connor reported that the committee received a petition about the PSE&G right of way, as well as a letter from Frank Culleny about the proposal for a cellular antenna on top of a high-tension tower.

Mayor O'Connor opened the floor for public comment.

1. Frank Culleny, Sunset Drive resident, pointed out that there were about 60 residents who signed the petition mentioned by Mayor O'Connor. Mr. Culleny reported that the signers of the petition believe that, if constructed, the equipment shed and cellular antenna would be an eyesore and detract from neighborhood property values and quality of life. He would also like to see an immediate moratorium on construction of cellular towers and antennae until such time that the Township can try to find a more suitable site that is not in a residential area, and create laws that would govern the appearance of such structures.
2. Janis Wilson, Robin Hood Lane resident, reported that the Board of Adjustment had approved the application last year, and professionals hired by Cingular provided the only expert advice presented to the Board of Adjustment, and no independent experts were consulted. Ms. Wilson feels that the experts from Cingular only reported on the possible benefits of the construction of a cellular tower, without giving proper attention to any possible negative impacts on the neighborhood. Additionally, Mrs. Wilson feels that the

Township Committee should address this topic because she sees it as being more than just a zoning issue, but rather a topic that affects the whole town.

3. Kathi Culleny, Sunset Drive resident, cited that within the Chathams there are approximately 14 cellular installations. Mrs. Culleny questioned whether a new tower is really necessary, and wondered if the area is truly not getting the coverage that it should be getting from the existing infrastructure. She also advised the Township Committee that Harding Township was able to address the issue by improving their zoning laws. Additionally, other towns have gotten cellular providers to construct “trees,” and have also managed to limit the presence of cellular towers to only one or two towers. Also, Chatham Borough recently denied an application for a new tower. Mrs. Culleny also cited a law journal article that discusses ways in which a municipality can deny applications for cellular towers and avoid being sued.
4. Mike Kmiecik, Sunset Drive resident, suggested that the Township Committee review an ordinance passed by the City of Summit that regulates cellular towers.
5. Charles Philipp, Sunset Drive resident, feels that it is time for the Township to take a step back and perform the necessary research to understand how best to preserve the community’s quality of life. Mr. Philipp also thinks that an unfair burden is placed on the Board of Adjustment and residents to understand the technical and mechanical requirements on some of the applications. He further feels that both the residents and the local boards should try to take a common position in such matters as the proposed cellular antenna.
6. Pat Philipp, Sunset Drive resident, grew up in Chatham, and feels that the community is changing dramatically. Mrs. Philipp would like to see the Township come up with a plan for cellular towers. As it was the quality of life in Chatham Township that prompted Mrs. Phillip to move back to town, she is worried about how cellular towers will affect the quality of life.
7. Frank Culleny presented the Township Committee with a coverage map of Cingular Wireless service for the Chathams, as obtained from the Cingular Wireless website. As the map indicates that service coverage for Chatham is rated at “Best” and “Good,” Mr. Culleny is curious as to why Cingular feels the need to add additional towers, as they may be unnecessary.
8. Kathi Culleny clarified that the correspondence directed to the Board of Adjustment concerning the clearing of power lines was mentioned to point out the proposed site is becoming more and more visible. Mrs. Culleny added that they have been able to work together with PSE&G to resolve the issues of a broken fence and debris left behind.

Seeing no further comments, Mayor O’Connor closed the floor for public comment.

Mayor O’Connor summed up the two major issues and a possible solution, as follows: 1) Needing a systematic approach to where cellular towers are placed in the Township; 2) A proposal for a moratorium on applications for the construction of cellular towers; and 3) The City of Summit may have an ordinance in effect that could serve as a model for a similar ordinance in Chatham Township. Mayor O’Connor then asked Attorney Woodward to discuss any latitude the Township Committee might have in responding to these issues. Attorney Woodward explained that these are very sensitive issues for several reasons. First of all, the courts that have evaluated these matters are controlled by the FCC and federal statutes. Secondly, a municipality can zone for the location of cellular facilities, which Chatham Township has done. For example, there is currently a cellular tower by the Public Works garage that presently serves three providers and will soon serve a fourth provider. There are a number of facilities on buildings in the Hickory Tree area and on the Green Village Firehouse. The Long Hill ridge creates a geographical problem that affects cellular reception not only in Chatham Township but also in several neighboring towns. Court cases in recent years have decided that cellular service providers have a right to place towers in municipalities, subject to reasonable regulation, to provide service to any spot where there is a gap in coverage. Attorney Woodward mentioned that there is a movement to place cellular antenna on already existing high tension

lines, as it might be less offensive than putting up a new tower. He also further stated that there are other means to either hide cellular towers, or at least make them more discreet, but the applicant must still prove that they do not have adequate coverage in a particular area. With regard to placing antennae on top of high-tension towers, Attorney Woodward cited a court case in which the court concluded that when a high-tension tower is already in place, the impact of adding cellular antenna would be minimal, but he also added that each case of this nature is very fact sensitive. Additionally, Attorney Woodward suggested that perhaps the Township could perform a further review of zoning laws, but would have to design any new zoning laws with specific standards. The Board of Adjustment would still need to review applications for variances, and people within 200 feet would need to come and have their voices heard. With regard to a moratorium, Attorney Woodward stated that New Jersey does not generally allow them. However, he did support the idea of reviewing the Summit ordinance to see if it provides a workable model for a Chatham ordinance.

Mayor O'Connor suggested that perhaps there is more latitude on the side of the applicants, as there may be alternatives available to the cellular service providers that are not being considered by the applicant because they are more expensive. Attorney Woodward said that the Board of Adjustment could deny any application if there are too many negative impacts, which would serve as a control on how much latitude that the applicants would have. Committeeman Tubbs asked if it would make sense to have a technical expert represent Chatham Township in the review process of any such proposal regarding cellular towers. Attorney Woodward agreed that this could be an appropriate step for the Board of Adjustment to take, and added that under Municipal Land Use Law, the Township could require that the developer pay for the hiring of an expert to review the proposals on behalf of the Township. Committeeman Tubbs then asked how the Township could ensure that landscaping screening plans be maintained. Attorney Woodward explained that if the Board of Adjustment resolution requires the maintenance of screening, the Township could enforce the regulations by issuing fines to violators. Committeeman Tubbs responded to Attorney Woodward's comments by stressing that it is important to find someone with technical expertise in cellular towers to represent the interests of the township in the review process, to be paid by the developer. He also further stressed that it is highly important not only to require that a landscaping and screening plan be well documented, but also well enforced. Kathi Culleney offered the opinion that the Township needs to look at zoning and take a more proactive stand and that an expert should review what is available and where cellular towers should be placed.

Committeeman Hartford thanked the members of the public for coming to the meeting to offer their opinions. He then went on to point out that the Planning Board is in the process of reexamining the Township's Master Plan, and agreed that the key issue is to be more proactive and think about the long-term plans. Additionally, Committeeman Hartford stated that he agrees that more thought should be given to where cellular towers and other such installations are placed, and perhaps some day new technology will allow for cellular towers to be more efficient and less intrusive. Administrator Ciccarone drew a distinction between the application currently before the Planning Board, which is a site plan review for a parcel that is already zoned for a cellular tower, and the application before the Board of Adjustment, which seeks to place a cellular antenna on top of an already existing high tension tower. If the Board of Adjustment grants a use variance, any interested party would be able to appeal the decision, and the Township Committee would be the appellate body.

Committeewoman Hagner agreed with the need to have an expert review cellular tower applications on behalf of the Township, but that the Committee should begin by looking at what other towns have done. She added that the Township Committee should also continue to review zoning. Mayor O'Connor stated that there is one short-term issue with Cingular and one long-term issue in regard to what the zoning policy should be, and asked Attorney Woodward if there was anything that the Committee could do with regard to the short-term issue. Attorney Woodward replied that the municipality could have someone appear before the Board of Adjustment, but usually the Township Committee would not be involved with an application that has been submitted to the Board of Adjustment, unless there is an appeal to the Township Committee of the decision. With regard to the long-term issue, Administrator Ciccarone added that there is nothing that the Township Committee could do to outright ban use variance applications that would allow for cellular antennas. An audience member commented that the applicable zoning regulations for the piece of land in question are for cellular towers, not cellular antennas. Administrator Ciccarone explained that the audience member was correct, and further explained that it is because of the current zoning regulations that there is a need for a use variance. Committeeman Tubbs commented that these situations would still need to be reviewed on a case-by-case basis, and that the Zoning Board should be made aware that the Township

Committee supports them in retaining a professional with the expertise they need to handle cellular tower/antenna applications. Attorney Woodward stated that at the moment, the focus should be on the application that is currently pending. The Board of Adjustment needs to be aware that they can bring in their own experts to review an application, and require that the developer pay the professional fees. The Township Committee cannot be the ones to hire the expert, since they may be called upon to hear an appeal. The Planning Board can also retain an expert to help address some of the long-term issues. Furthermore, Attorney Woodward explained that citizens have the option of presenting their case in opposition of any such applications. Committeeman Hartford stressed that it is important to have the proper zoning regulations in place.

Mayor O'Connor called for a five-minute recess at 9:55 pm.
The meeting was called back to order at 10:02 pm.

Request for Street Vacation

Mayor O'Connor indicated that a letter was received from Mr. Polverino requesting a street vacation of a piece of land in front of his property. In this particular case, the original tax maps indicate that there is a cul-de-sac at the site, although it was never actually constructed. Attorney Woodward explained that upon review of the Township's tax map of Mr. Polverino's property, he and Administrator Ciccarone determined that there is no cul-de-sac shown on the tax map, and that Mr. Polverino owns the property up to the standard 50-foot right of way. However, the subdivision that has been filed with Morris County shows the cul-de-sac on the tax map as if it had been built. Furthermore, this affects not only Mr. Polverino's property, but the adjoining property as well. Committeeman Tubbs asked whether taxes were being collected on the segment of land in question. Administrator Ciccarone said that it is unlikely that the excess land is being taxed. Attorney Woodward explained that for the Township to vacate the street, it would have to be done by ordinance, and such an ordinance could be introduced at the workshop meeting on August 10, 2006. Committeeman Hartford asked if there would be any impact on the amount of property taxes that would then be charged on the lot. Attorney Woodward stated that there would be some impact, but not a significant change. The extent of the impact would depend on the acreage figures used by Assessor Del Guercio in making the assessment of the property, and that the difference is 1/10 of an acre. Committeeman Tubbs asked Attorney Woodward if this situation presented any danger of setting a precedent of the Township simply handing the land over to any property owner making such a request. Attorney Woodward stated that requests for street vacations would still be taken on a case-by-case basis, and that this action would be the recognition of a condition that has existed for a long time. Additionally, Attorney Woodward said that an accurate description of Dennis Gannon's property will be needed, and Mr. Gannon will need to be informed of the proposed changes. Mr. Polverino asked if he would be able to begin a construction project on his house before the changes on the tax maps become official. Mayor O'Connor suggested that he hold off until the ordinance is adopted, and further suggested that perhaps the meeting scheduled for September 14, 2006 should be changed to September 7, 2006 in order to speed up the process for Mr. Polverino. Attorney Woodward thought that Mr. Polverino could begin the construction on the back of his house first, and start construction on the front of his house when once the necessary ordinance has been adopted.

Work Zone Ordinance

Chief Goeckel informed the Township Committee that her proposal for a traffic work zone ordinance would provide the Chatham Township Police with enforcement powers to shut down construction sites when necessary, so as to ensure that the sites are in compliance with traffic safety regulations. Attorney Woodward indicated that he has a model ordinance that he could modify for the purposes of Chatham Township, and Chief Goeckel stated that the model ordinance is an excellent guide. Mayor O'Connor added that once such an ordinance is in effect, he wants to be sure that it will be enforced. Engineer Ruschke commented that this is a common ordinance, and is surprised that the Township does not have such an ordinance in effect already. Attorney Woodward said that he would have a draft of the ordinance ready for the August 10, 2006 workshop meeting.

Hearing of Citizens

Mayor O'Connor opened the Hearing of Citizens.

1. Peter Hofmann, May Drive resident, discussed the argument against development of Rolling Knolls. Mr. Hofmann recalled a time when there were some houses on Britten Road where the property owners owned the land up to the centerline of the street, and asked if that is still the case.

Attorney Woodward explained that in the past, it was common for property owners to own the land up to the centerline of the road, with the municipality having a right-of-way. The current process is that when property is subdivided, the right-of-way is established as a part of the subdivision. However, the issue with Rolling Knolls development is not the ownership of the property, but rather the proximity of the houses to the street.

Seeing no further comment, Mayor O'Connor closed the Hearing of Citizens.

Committeewoman Hagner moved to adjourn at 10:35 p.m. Committeeman Hartford seconded the motion and it carried unanimously.

Joy M. Wiley
Municipal Clerk