

**TOWNSHIP OF CHATHAM**  
**TOWNSHIP COMMITTEE MEETING MINUTES**  
**APRIL 5, 2007**

Mayor Tubbs called the workshop meeting of the Township Committee of the Township of Chatham to order at 7:37 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 5, 2007; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 5, 2007; and notice was filed with the Township Clerk on January 5, 2007.

Mayor Tubbs led the flag salute.

**Roll Call**

Answering present to the roll call were Committeewoman Hagner, Committeeman O'Connor, Deputy Mayor Brower and Mayor Tubbs. Committeeman Hartford arrived a few minutes late.

**Approval of Agenda**

Committeeman O'Connor moved to approve the agenda. Committeewoman Hagner seconded the motion and it carried unanimously.

**Special Recognition / Awards**

The Chatham High School Boy's Basketball Team was recognized for their accomplishments this year, in particular winning the Group II State Championship. Following a slide show, certificates of achievement were presented to the members of the basketball team. A certificate of recognition was also presented to Coach Todd Irvin. Coach Irvin thanked the Township Committee.

**Reports**

Committeewoman Hagner reported that she and Mayor Tubbs met with the mayor of Chatham Borough about joint recreation. The Tree Protection Committee has met, and a revised draft of the tree ordinance has been forwarded to the Environmental Commission for review. The proposed changes will be discussed at the Township Committee meeting on April 26, 2007. Committeeman Hartford asked why the Tree Protection Committee meetings were not listed on the monthly calendar of events. Administrator Ciccarone said that while the meetings of the Tree Protection Committee are public meetings, the committee is of an advisory nature and therefore its meetings are not subject to the standards of the Open Public Meetings Act. However, the Tree Committee meeting schedule could be added to the calendar.

Deputy Mayor Brower reported that there was no Public Assistance Meeting this month. With regard to the Planning Board, Deputy Mayor Brower said that the board is thinking more in terms of offering opinions than coming up with solutions. Committeeman Hartford said that there is a question as to the Planning Board's role regarding the Tree Ordinance, and will probably discuss landscaping. Committeeman O'Connor asked when the Planning Board would discuss landscaping. Administrator Ciccarone said that it must first be determined what the Planning Board is legally able to do regarding landscaping.

Committeeman O'Connor reported that the Environmental Commission met, and spent time on the Tree Ordinance.

Mayor Tubbs asked that the May workshop agenda include discussions on two topics: conservation easement language and digital submissions to the Planning Board.

Committeeman Hartford reported that he received a call from the press regarding any possible impact that the sale of Patriot Media to Comcast might have. Administrator Ciccarone said that

Comcast would be subject to the same obligations as Patriot Media and Comcast would be obligated to provide a public access channel. The company that installed the television recording system in Chatham Borough will be making a proposal to the Township Committee as to what equipment is needed. With reference to the possible televising of Township Committee meetings, Deputy Mayor Brower asked how it would be handled if people want to make copies of portions of the recordings. Administrator Ciccarone said that the Township would probably charge people according to the actual cost of the production of the copy. Deputy Mayor Brower asked about the legal consequences if recordings of meetings are reproduced. Attorney Woodward said that the only legally required record of Township Committee meetings are the minutes kept by the Municipal Clerk. However, if the meeting were recorded, it would be a public record that is not subject to copyright laws and carries no restriction on its use. The concept of creating a written policy regarding protocol and retention was discussed. Attorney Woodward pointed out that audio recordings of Township Committee meetings have been made for quite some time.

Mayor Tubbs said that there was a Colony Pool meeting, and Community Pass is being used for registration this season. It is expected that the Colony Tennis Courts will be completed by May 1, 2007. The official opening day ceremony will be on the Saturday of Memorial Day Weekend. The school's junior varsity team has been told that they may not use the courts until the Township Engineer gives them permission. Furthermore, Mayor Tubbs mentioned that the chairperson of the Colony Pool Committee is Terry Santora. Mayor Tubbs also reported that he and Administrator Ciccarone met with the Chatham Township Fire Department regarding various issues, and details are forthcoming. On Tuesday, April 10, 2007 at 7:30 PM in the Chatham High School auditorium, a founder of the Community of Concern will speak regarding underage drinking. On April 11, 2007 there will be a Safety Simulation at the High School. Regarding Shunpike Field, Mayor Tubbs said that he and Engineer Ruschke would be meeting with the DEP. On April 30, 2007 Mayor Tubbs will be attending a meeting of the Morris County Freeholders Shared Services Committee. Electronics recycling will be held on April 7, 2007 and April 14, 2007 at the Public Works Garage.

Administrator Ciccarone reported that April 14, 2007 is opening day for the Chatham baseball program. He also reported that there would soon be updates regarding work to be done at the sewer plants.

With regard to Shunpike Fields, Mayor Tubbs said that the meeting with the DEP is to discuss what sort of construction is feasible at the field within the current footprint. Administrator Ciccarone added that Shunpike has been identified as a possible joint project for the Township, Borough and Chatham Athletic Foundation. As there are wetlands adjacent to the site, it must be determined what can be done within the current footprint. If it is not feasible to move forward at Shunpike, then another site such as Esternay will need to be chosen for a joint project.

Committeeman O'Connor said that it is unacceptable that Morris County has not yet provided any information on the paving of Shunpike Road. Deputy Mayor Brower asked about the Central Avenue Bridge. Engineer Ruschke said that there are still some easement issues, and he does not have an updated schedule.

Mayor Tubbs reported that Public Works Director Joe Smith has indicated his intention to retire at the end of this calendar year.

#### Department of Public Works

Public Works Director Joe Smith distributed to the Township Committee an information packet of highlights of what was done by the Department of Public Works in 2006, and drew particular attention to the number of hours spent maintaining recreation facilities and Colony Pool. Mr. Smith also highlighted the major activities conducted over the past year. Additionally, Mr. Smith said that DPW employees must attend Right-to-Know training, CPR training, confined space training, preliminary first aid training, and stormwater management training. DPW is a member of both the Morris County Co-Op and Somerset County Co-Op for purchasing of bulk supplies, and also shares services with Madison, Harding, and Chatham Borough.

Deputy Mayor Brower asked about equipment replacement. Committeewoman Hagner asked about stormwater management regulations. Mr. Smith said that he has had two preliminary DEP

inspections, and the Township is in good stead. Catch basins were also discussed. Committeeman Hartford asked about the compost area. Mr. Smith said that the site was a lot easier to maintain, and that DPW saved both time and money at the site this year. Committeeman Hartford also raised a concern about the consistency of crosswalks within the town. Mr. Smith pointed out that the DPW is bound by a budget cap, and does not have enough money to install the type of crosswalk Committeeman Hartford mentioned. Administrator Ciccarone added that discretionary spending is very limited and that Mr. Smith does a phenomenal job with limited resources. Deputy Mayor Brower asked about the skate park. Mr. Smith explained that the half-pipe is cracked and broken for the third time. The manufacturer has been contacted to see if there might be a structural problem that might be causing it to break.

### **Introduction of Ordinances**

#### **ORDINANCE 2007-08**

#### **ORDINANCE DETERMINING THAT \$1,000,000 OF THE APPROPRIATION REMAINING IN ORDINANCE #2003-004 OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, NEW JERSEY IS NO LONGER NEEDED FOR THE ORIGINAL PURPOSES SET FORTH THEREIN, CANCELLING THE APPROPRIATION OF SUCH AMOUNT FOR THESE PURPOSES AND REAPPROPRIATING \$1,000,000 TO VARIOUS CAPITAL PROJECTS OF THE TOWNSHIP.**

**BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:**

Section 1. Pursuant to N.J.S.A. 40A:2-39, it is hereby determined that \$1,000,000 appropriated in ordinance #2003-004 of the Township, finally adopted April 24, 2003, for the Woodland Park project specified in Section 3(3) of said ordinance is no longer necessary for the purpose provided therein.

Section 2. The appropriation of the amount referred to in Section 1 hereof to the above referenced purposes set forth in such ordinance are hereby cancelled.

Section 3. Of the total amount of \$1,000,000 referred to in Section 1 of this ordinance, \$1,000,000 is hereby appropriated in accordance with the provisions of N.J.S.A. 40A:2-39 to be used for the following purposes:

- (a) Purchase of DPW equipment including but not limited to an aerial lift truck; two (2) 4x4 pick-up trucks with plow; two (2) salt spreaders;
- (b) Various building improvements to the Red Brick Schoolhouse Museum and Police Headquarters including roof replacements and kitchen renovations;
- (c) Improvements to the Senior Center;
- (d) Various Police Equipment including video surveillance;
- (e) Various Fire Safety Equipment;
- (f) One (1) 1500 GPM Pumper Fire Truck;
- (g) Various Road Repairs,

all as more particularly described in the plans and specifications on file with the Township, which plans and specifications are hereby approved, including all work, materials and all else necessary therefore and incidental thereto.

Section 4. The capital budget of the Township of Chatham is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith.

Section 5. This ordinance shall take effect 20 days after the first publication thereof after final adoption as provided by the Local Bond Law.

Administrator Ciccarone explained that this ordinance would reappropriate \$1 million in funds that was previously provided in Ordinance 2003-004 to a variety of projects. There is no new debt authorized by the ordinance, and the money was originally intended to be spent on Woodland Park. Committeewoman Hagner commented that she hopes that new funds be appropriated toward recreation in the future. Committeeman Hartford asked about restrictions on borrowed money. Administrator Ciccarone explained that when money is borrowed, eighty percent must be spent within a certain time constraint. Therefore, he feels it is necessary to reappropriate this money since there are no immediate plans for Woodland Park. Committeeman Hartford pointed out that it might be necessary to appropriate funds to Woodland Park again at a

later time. Administrator Ciccarone said that other fields have become a priority, and the topic of Woodland Park can be revisited at a later date once other field construction has been completed. Deputy Mayor Brower stated that he would not ever vote for money to be spent on Woodland Park.

Committeeman O'Connor made a motion to introduce Ordinance 2007-08. Deputy Mayor Brower seconded the motion.

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

Public Hearing for Ordinance 2007-08 will be scheduled for April 26, 2007.

**Consent Agenda**

**RESOLUTION 2007-093**

**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 \$521,012.88 and the prior month's payroll of \$427,782.01 Current Fund, \$44,506.86 Sewer No. 1, \$6,951.91 Sewer No. 2, and \$8,200.43 Police Private Employment be paid.

**BE IT FURTHER RESOLVED** that taxes due to the School District of the Chathams, for the month of April 2007, in the amount of \$1,922,254.00 be paid.

**RESOLUTION 2007-094**

**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 the minutes of the Township Committee meetings held on March 8, 2007 and March 22, 2007.

**RESOLUTION 2007-095**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, REFUNDING OVERPAYMENT OF TAXES**

**WHEREAS**, due to inadvertence, error, tax appeal settlement or judgment, an overpayment of property taxes has been made for the following property; and

**WHEREAS**, the Tax Collector has recommended the refund of such overpayment,

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following refunds be made:

<u>BLOCK</u>	<u>LOT</u>	<u>OWNER NAME &amp; ADDRESS</u>	<u>AMOUNT</u>
48.07	1	Niland, Daniel M. & Christine 69 Westminster Road Chatham, NJ 07928	\$165.00

RE: Sewer Utility #1

**RESOLUTION 2007-096**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM REFUNDING PERMIT FEE**

**WHEREAS**, the Township Committee has considered the request submitted by the Construction Official with regard to the plan review fee that was paid for a construction permit;  
**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>
5 Mt. View Lane Associates 11 Clinton Street Morristown, NJ 07960	\$2,350.00

**RESOLUTION 2007-097**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY INCREASING LOSAP FUNDING**

**WHEREAS**, the Length of Service Awards Program (LOSAP) permits periodic increases in the amount of contributions provided for each qualified participant; and

**WHEREAS**, the Township Committee desires to increase the contribution amounts for the Green Village Volunteer Fire Department, the Chatham Township Volunteer Fire Department, and the Chatham Emergency Squad;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, in accordance with the provisions of the LOSAP statute and Local Finance Notice LFN 2007-1, dated January 8, 2007, that the contribution amounts under the LOSAP program for the Township are hereby increased to the amounts as follows:

<u>Agency</u>	<u>Amount</u>
Chatham Township Volunteer Fire Department	\$1,100.00
Green Village Volunteer Fire Department	\$1,100.00
Chatham Emergency Squad	\$525.00*

\*\$525.00 will also be provided by the Borough of Chatham

**RESOLUTION 2007-098**

**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>
Chris Bukata 9 Hall Road Chatham, NJ 07928	7760011147	\$323.75

Committeeman O'Connor moved to pass the Consent Agenda, Resolution 2007-093 through Resolution 2007-098. Deputy Mayor Brower seconded the motion.

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

## **Discussion**

### **Deer Management Plan**

With regard to deer management, Deputy Mayor Brower suggested that the ordinance regarding the discharge of firearms within the Township would need to be amended. Secondly, the Township Committee would need to engage the services of White Buffalo. Attorney Woodward said that the Township couldn't hire White Buffalo until the DEP approves the deer management plan. Administrator Ciccarone said that there are model plans that can be tailored to the specifics of Chatham Township. Administrator Ciccarone thought the first step would be for the Township Committee to consider Deputy Mayor Brower's recommendations to open up other parts of town to traditional hunt and to modify the ordinance to permit the discharge of firearms in parts of the Township according to the state rules. The Township would not need the community deer management plan for this part. However, beyond the expansion of the traditional hunting, a community deer management plan would be needed for locating areas within residential neighborhoods where a group like White Buffalo could bait and cull deer herds. Those specific areas would need to be included in the deer management plan. Administrator Ciccarone offered to provide the Committee with another town's plan to review at the May workshop meeting. Committeeman O'Connor said that he would like the order changed and have the deer management plan approved first, then hire White Buffalo before opening up residential areas to hunting. The Administrator thought the Township would probably not be able to get approval on the deer management plan this year. Mayor Tubbs thought it would be possible to open some areas to shot gun and bow hunting while the deer management plan was being developed. Mayor Tubbs asked if 100 percent of the residents within the affected neighborhood must agree before White Buffalo can operate. Deputy Mayor Brower said that it is the owners of those properties within 450 feet of the specific position, as opposed to the extremities of the property. Committeeman Hartford said that deer management is a widespread problem with a diversity of views. He indicated that some of the techniques used as part of deer management plans can be very controversial, and he would like to have the community involved. Deputy Mayor Brower indicated that this issue has been studied and discussed for long enough, and that it is time for the Township Committee to finally take action. Attorney Woodward suggested that if the firearms ordinance is changed, it should set criteria under which firearms could be discharged. Administrator Ciccarone suggested that the Police Department could be consulted to help determine those areas of the Township where firearms discharge could be allowed. Committeewoman Hagner said that it would be good to inform residents about the safety measures that would be taken. Committeeman O'Connor said that he has no problem with hiring White Buffalo to conduct sharp shooting, but does not want for the public at large to be shotgun hunting within the Township. The topic will be addressed again at the Township Committee meeting on April 26, 2007.

### **Appeal of Use Variance granted by Board of Adjustment**

Attorney Woodward explained that there is an appeal of a variance granted by the Board of Adjustment to permit cellular antenna on a high-tension tower. Municipal Land Use Law allows for interested parties to appeal to the governing body the grant of a variance by the Board of Adjustment. A public hearing would be held, and interested parties would present argument. The Township Committee can choose to agree, disagree, or partially agree with the Board of Adjustment, and there is also the option of modifying the conditions or send it back to the Board of Adjustment. The appeal must be decided within 95 days of the date of publication the Board of Adjustment decision. Notice by certified mail must be sent to the developer, the appellants, and property owners within 200 feet. An appeal will also stay all actions and proceedings. Attorney Woodward did not think that the Township Committee could shorten the 95-day period by choosing not to act and making an announcement as such. Committeeman O'Connor asked if the Township Committee would need to do anything at all if the consensus of the Committee was that what the Board of Adjustment did was legal and proper. Committeeman Hartford felt that it was the responsibility of the Township Committee to read through the materials before any decision was made. Administrator Ciccarone suggested that the appeal not be heard during a regular Township Committee meeting, and that the session could start at a time other than 7:30. Attorney Woodward added that the Township Committee could limit the amount of time allotted

for argument during the hearing. A tentative date of Wednesday, May 23, 2007 was selected for the hearing. Deputy Mayor Brower asked if the Board of Adjustment chairperson and attorney should be part of the proceedings. Attorney Woodward thought that they would not, since Board of Adjustment has already made its determination and the Township Committee will be working based on the record produced by the Board.

#### Non-Conforming Structure Regulations

Administrator Ciccarone explained that the matter to be addressed is regarding the language pertaining to permissible additions to pre-existing non-conforming structures. He and Attorney Woodward would like for the language in the zoning regulations to be clarified requiring that applicants for second floor additions or extensions to second floors must meet the setback requirements or they would need to go before the Board of Adjustment for a variance. However, encroachments on the first floor would be permitted as long as the horizontal addition did not encroach any further into the setback requirement. The Administrator said this would apply to any side, front or rear yard set back requirements. A draft ordinance will be presented to the Township Committee and will be placed on the agenda for the April 26, 2007 meeting for discussion and review.

#### Farmakis Release

Administrator Ciccarone said that the Township Committee had previously authorized the settlement with Mr. Farmakis and that Attorney Woodward had prepared a release. Mr. Farmakis has read the release and requested some revisions to it. Attorney Woodward's position is to not grant his request. Administrator Ciccarone asked the Township Committee for authorization to settle the matter subject to Mr. Farmakis agreeing to the release as drafted by Attorney Woodward. The agreement would be for \$20,000 for a release of all claims related to any flooding of the Farmakis's property as a result of Township owned drainage systems. Mr. Farmakis is proposing to construct a 3-foot wall to help protect his property from flooding.

### **RESOLUTION 2007-099**

#### **RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING A SETTLEMENT OF THE CLAIM BY JOHN L. FARMAKIS AND JUDITH P. FARMAKIS**

**WHEREAS**, John L. Farmakis, Jr., and Judith P. Farmakis have asserted a claim against the Township for alleged water damage related to flooding in their rear yard of their home at 37 Glenmere Drive, Tax Block 48.01, Lot 5; and

**WHEREAS**, in order to resolve said claim the Mr. and Mrs. Farmakis have agreed that all claims that they have or may have will be settled for the amount of \$20,000.00 to be paid to them by the Township and that they will execute a general release in favor of the Township;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey that the above-referenced claim of Mr. and Mrs. Farmakis be settled for the amount of \$20,000.00 and Mr. and Mrs. Farmakis shall execute a general release to the Township releasing any and all claims they have or may have had against the Township in a release in the form attached hereto.

Deputy Mayor Brower moved to pass Resolution 2007-099. Committeeman O'Connor seconded the motion.

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

#### Hearing of Citizens

Mayor Tubbs opened the Hearing of Citizens.

1. William Spraitzar, Joanna Way resident, said that portions of the Library of the Chathams agreement were determined to be illegal. Judge Stanton allowed bonding for an addition to the building, and the court urged that the agreement be revisited and be brought into

accordance with statute. Mr. Spraitzar said that he feels as though the 2002 decision provides the Township with a basis to more aggressively deal with the Borough to reduce the Township's annual fees to use the library. Mr. Spraitzar also asked why the Township Committee has not acted upon the advice of Judge Stanton, and he urged the Committee to pursue a better arrangement. Administrator Ciccarone said that dividing up the share by population rather than by ratables is a better deal for the Township. Mr. Spraitzar said that the contract should still be brought into compliance with the statutes. Mayor Tubbs said that the two methods for dividing up funding would be either by ratables or by population, and currently the population method is more favorable for the Township. Attorney Woodward explained that under the agreement, if the joint library system were dissolved, the Borough would own the building.

Seeing no further comment, Mayor Tubbs closed the Hearing of Citizens.

Committeeman O'Connor moved to adjourn at 11:15 P.M. Deputy Mayor Brower seconded the motion and it carried unanimously.

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Joy Wiley  
Municipal Clerk