

**TOWNSHIP OF CHATHAM  
TOWNSHIP COMMITTEE MEETING MINUTES  
SEPTEMBER 24, 2009**

Mayor Tubbs called the Regular meeting of the Township Committee of the Township of Chatham to order at 7:33 PM.

**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 8, 2009; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 8, 2009; and notice was filed with the Township Clerk on January 8, 2009.

Mayor Tubbs led the flag salute.

**Roll Call**

Answering present to the roll call were Committeeman O'Connor, Committeeman Brower, Deputy Mayor Hagner and Mayor Tubbs. Committeeman Gallop arrived late.

**Approval of Agenda**

Deputy Mayor Hagner moved to approve the Agenda. Committeeman O'Connor seconded the motion, and it carried unanimously.

**Reports**

Committeeman Brower reported that the deer management program has been showing success. Hunters are encouraged to participate in a program called "Helping the Needy," whereby most of the deer meat is donated to people in need. Crossbows can now be used for deer hunting, and crossbows are safer and more accurate than compound bows. Regarding Public Assistance, Committeeman Brower reported that there are not many cases. Committeeman Brower also reported that the seniors are happy with the improvements to the Senior Center, and their programs are back in full swing. Deputy Mayor Hagner reported that the Planning Board has two applications being reviewed by Engineer Ruschke, and they will be evaluating a draft revision to the Land Use Element of the Master Plan. The Planning Board also had an advisory review of the Shunpike Field Project, and they will prepare recommendations. The electronic community bulletin board is now being broadcast on FIOS channel 26. Live broadcasts are not yet available through Comcast, however they should be installing a patch in the next few weeks. A meeting will be held with the Borough and the School District to discuss coordination of programming, and volunteers are still needed for operating the TV equipment. Committeeman O'Connor reported that an event was held at Lafayette Avenue School in which some crabapple trees were planted. He also provided the Township Committee with some information for the Township website, particularly for the FAQ and Township Information sections. Mayor Tubbs reported that the Chatham Summer Series ended with the movie night and fireworks on September 20, 2009. The Library Board of Trustees met, and Mayor Tubbs reported that they have been operating on budget and have begun preparing a budget for next year. The Library is also examining why attendance dropped for the Summer Reading Program. Mayor Tubbs said that Morris County has approved the installation of a computer terminal at the Municipal Building for the picking up and dropping off of library materials. Regarding Shunpike Road paving, Mayor Tubbs reported that the County has gone out to bid and expects the paving to be completed no later than November 1, 2009. A pre-construction meeting will be held before work begins. Mayor Tubbs further reported that the Colony Pool Committee would be discussing the lack of revenue this past season and how to move forward for next year. Administrator Ciccarone reported that a sidewalk is being installed on Shunpike Road from Falmouth to Lafayette, and parking lot improvements will begin at the Municipal Building next week. Lighting work by the entrance to the Senior Center is also being added. Engineer Ruschke reported that the electrical permit issues at the Southern Boulevard Firehouse have been resolved, and work is proceeding. He has requested a construction schedule from the architect. Regarding Shunpike Field, Engineer Ruschke said that the plans have been submitted to the Planning Board for review, and some concerns were raised. Some residents from the Sunset

Lake neighborhood were concerned about buffers, fencing and landscaping, and Engineer Ruschke and Administrator Ciccarone will meet with them at the site. Some minor comments were received from the Morris County Soil Conservation District, and Engineer Ruschke will supply them with revised plans as soon as possible.

### Hearing of Citizens/Petitions

Mayor Tubbs opened the Hearing of Citizens.

Seeing none, Mayor Tubbs closed the Hearing of Citizens.

### Introduction of Ordinances

#### **ORDINANCE 2009-16**

#### **AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE CODE OF THE TOWNSHIP OF CHATHAM AS RESPECTS CHAPTER II, ARTICLE III, SECTION 2-11, ET SEQ., POLICE DEPARTMENT**

**BE IT ORDAINED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that certain sections of Chapter II, Article III, Section 2-11, et seq., entitled Police Department, of the Code of the Township of Chatham are hereby amended as follows:

1. Section 2-11.3. **Supervision of the Police Department.** The Chief of Police shall be the head of the Police Department and shall be directly responsible to the appropriate authority for the efficiency and routine day-to-day operations thereof, pursuant to policies established by the appropriate authority in accordance with N.J.S. 40A14-118. For purposes of this section, the appropriate authority shall be the Township Administrator.
2. Section 2-11-4. **Duties of the Chief.** Subject to policies established by the appropriate authority and the Township Committee, the Chief of Police shall:
  - a. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel;
  - b. Have, exercise and discharge the functions, powers and duties of the force;
  - c. Prescribe the duties and assignments of all subordinates and personnel;
  - d. Delegate such of his authority as he may deem necessary for the efficient operation of the force to be exercised under his direction and supervision;
  - e. Report at least monthly to the Township Committee, through the Township Administrator, on the operation of the force during the preceding month and make such other reports as may be requested by the Township Committee from time to time.
3. Section 2-11.7 **Police Department Personnel.** The Police Department shall consist of a Chief of Police, two (2) Lieutenants, four (4) Sergeants, and sixteen (16) Patrolmen. In addition, there may be civilian dispatchers and clerical staff as shall be deemed necessary from time to time by the Township Committee.
4. Section 2-11.12 **Rules and Regulations.** The appropriate authority shall, in consultation with the Chief of Police, adopt rules and regulations for the governance and discipline of the Police Department and its members. The rules and regulations shall fix and provide for the enforcement of penalties for the violation of such rules and regulations, and the members of the Police Department shall be subject to such rules and regulations.
5. All other provisions of Article III, Chapter II, Section 11-2, et seq., shall remain unchanged.
6. This ordinance shall take effect as provided by law.

Administrator Ciccarone said that this ordinance makes two minor changes to the section of the Township Code that establishes the Police Department. Case law has determined that the number of officers at each rank must be delineated, and this ordinance would bring the Township into compliance. State statute also requires that the Chief of Police answer to a designated civilian authority, and this ordinance would designate the Township Administrator rather than the Township Committee. The Township Committee would still appoint and promote police personnel, but the Township Administrator would handle the supervising duties. Committeeman O'Connor raised several concerns about some of the language in the ordinance, and wanted the Township Committee to retain the policy-making authority. Attorney Woodward provided the list of the individuals and groups that could be designated as the proper authority. Committeeman O'Connor stressed that he wants the Township Committee to be responsible for setting policy. Administrator Ciccarone suggested that this ordinance be tabled until such a time that certain issues can be addressed.

**ORDINANCE 2009-17**  
**AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, REGULATING PARKING ON MAPLE STREET IN THE TOWNSHIP**

**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 to provide for modifications to Chapter VII, Section 7-14, Parking Prohibited During Certain Hours on Certain Streets, as respects Maple Street as follows:

1. Section 7-14 is hereby modified to modify the parking restrictions on the following street:

<u>Name of Street</u>	<u>Side</u>	<u>Hours</u>	<u>Location</u>
Maple Street	Both	8:00 a.m. to 4:00 p.m. (school days)	Entire length

2. All other provisions of Section 7-14 shall remain unchanged.
3. This ordinance shall take effect as provided by law.

Mayor Tubbs explained that this ordinance was developed by the Police Department to address the concerns of residents who live on Maple Street. There would be no parking along either side of Maple Street from 8:00 AM to 4:00 PM on school days. Committeeman Brower asked if this ordinance addresses the parking situation in a way that is amenable to the residents. Mayor Tubbs said that Chief Paton reported that most of the residents support this ordinance. Committeeman Brower also asked about parking during evening hours during special events at the High School. Administrator Ciccarone said that the Police Department has the authority to post “Emergency – No Parking” signs whenever they deem appropriate. The concerns of the residents were centered around daytime activities such as mail delivery.

Committeeman O’Connor moved to introduce Ordinance 2009-17. Deputy Mayor Hagner seconded the motion.

**Roll call:** Committeeman Gallop, Absent; Committeeman O’Connor, Aye; Committeeman Brower, Aye; Deputy Mayor Hagner, Aye; Mayor Tubbs, Aye.

Public Hearing on Ordinance 2009-17 will be scheduled for October 8, 2009.

**Consent Agenda**

**RESOLUTION 2009-185**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, ACKNOWLEDGING RECEIPT OF REPORTS AND MINUTES FROM VARIOUS BOARDS AND COMMITTEES**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following monthly reports of departments be acknowledged as received:

- Animal Control – August
- Chatham Emergency Squad – August
- Municipal Court – August
- Construction Official – August
- Public Works – August
- Tax Collector- July

**RESOLUTION 2009-186**  
**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 meeting held on September 10, 2009.

**RESOLUTION 2009-187**  
**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 Executive Session minutes of the Township Committee meeting held on September 10, 2009.

**RESOLUTION 2009-188**

**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>
Allocco Brothers Paving Co., Inc. P.O. Box 367 Madison, NJ 07940 Re: 316 Lafayette Ave.	7200013013	\$66.00

**RESOLUTION 2009-189**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AUTHORIZING PLANNING BOARD TO MAKE INVESTIGATION AND HOLD PUBLIC HEARING TO DETERMINE WHETHER THE ROLLING KNOLLS LANDFILL, ALSO KNOWN AS BLOCK 48.20, LOTS 184 AND 189 IS AN AREA IN NEED OF REDEVELOPMENT AS DEFINED IN CHAPTER 79 OF THE LAWS OF 1992 OF NEW JERSEY, N.J.S.A. 40A:12-1 ET SEQ., AS AMENDED.**

**WHEREAS**, the Township Committee of the Township of Chatham has determined that the Rolling Knolls Landfill, also known as Block 48.20, Lots 184 and 189, be investigated by the Planning Board to determine whether this area is or is not an area in need of redevelopment as defined in N.J.S.A. 40A:12-1 et seq.; and

**WHEREAS**, it is necessary for the Township Committee to provide for a preliminary investigation of the Rolling Knolls Landfill, also known as Block 48.20, Lots 184 and 189, to make said determination.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY**, as follows:

1. The Planning Board of the Township of Chatham be and is hereby authorized to make an investigation and, in connection therewith, to hold a public hearing to determine whether the area described below is or is not an area in need of redevelopment as required by Chapter 79 of the Laws of 1992 of New Jersey, N.J.S.A. 40A:12-1 et seq., as amended:

The area consisting of the Rolling Knolls Landfill, also known as Block 48.20, Lots 184 and 189;

2. This resolution shall take effect immediately.

**STATEMENT**

Passage of this resolution will allow the Planning Board to conduct a public hearing for the Rolling Knolls Landfill, also known as Block 48.20, Lots 184 and 189, to investigate whether such property is or is not an area in need of redevelopment.

Mayor Tubbs clarified that Resolution 2009-189 would ask the Planning Board to prepare a report as to whether or not Rolling Knolls should be defined as an area in need of redevelopment. Committeeman Brower asked if the Superfund Site status would affect the Township's ability to have Rolling Knolls redeveloped. Attorney Woodward advised there is nothing in the Superfund process that would prohibit the Township from moving forward to determine if this site is an area in need of redevelopment.

Committeeman O'Connor moved to approve the Consent Agenda. Committeeman Brower seconded the motion.

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

### **Discussion**

#### **Sewer Fees Refund Request**

Mayor Tubbs explained that the owners of condominiums who were displaced by fire for a significant amount of time made a request for a sewer fee refund, since for that period they were not making use of the sewer plant. Attorney Woodward said that the Township Committee could provide relief if they so chose, but he advised against giving relief in full. He explained that a lack of sewer usage by a few homes does not reduce the daily operating cost of the sewer system. Also, the Township does not at this time have the ability to charge sewer fees based on flow. Administrator Ciccarone said that the ensuing deficit from providing relief would draw upon the utility's surplus, and to draw upon that surplus would negatively affect the Township's bond rating since the utility is supposed to be self-liquidating. Engineer Ruschke added that there are fixed costs in the operation of a sewer plant, and a portion of the fees goes toward keeping the system intact. He also reiterated that the operating costs of the sewer plant were not reduced during the time that the units were unoccupied. Deputy Mayor Hagner said that although she would like to see some partial relief, she is unsure if it would be possible to determine an appropriate amount.

Mayor Tubbs opened the floor for residents to address this subject.

1. William Clinton, one of the residents affected by the fire, said that he believes it would be the fair thing to do for the residents to get a refund. The residents of the ten units were displaced for a period of about fourteen months.

Mayor Tubbs said that the total refund for all units would cost the Township about \$5300, and that cost would have to be borne by either the other condominiums owners or the Township as a whole, and he raised a concern about setting a precedent. Committeeman O'Connor said that he is leaning toward providing a refund. Committeeman Brower said that in the future, if another building of condominiums were to burn down, this sort of request would likely be made again whether there is a precedent or not. Deputy Mayor Hagner said that any refund should not be a full refund because of the fixed operating costs at the sewer plant, but she does feel that a partial refund would be appropriate. Committeeman Brower suggested that a 50% credit be given to the residents towards next year's fees. Mayor Tubbs seconded the motion. Administrator Ciccarone recommended a cash refund would be better since some of the residents may no longer reside there.

Committeeman Brower amended his motion and moved to pass Resolution 2009-190. Mayor Tubbs seconded the motion.

### **RESOLUTION 2009-190 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING SEWER CHARGE REFUNDS**

**WHEREAS**, the Township Committee has received a request to refund the sewer charges for the ten residents displaced by the fire at the Briarwood Condominiums in March 2008;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that it hereby approves a 50 percent cash refund of the sewer charges paid for the period of time the condominium owners were unable to occupy their units due to the fire

at the condominiums in March 2008 as long as the resident submits the request in writing to the Administrator within the next 60 days.

**BE IT FURTHER RESOLVED** by the Township Committee of the Township of Chatham that the Township Clerk forward a certified copy of this resolution to the Township Chief Financial Officer.

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

#### Residential Area Sidewalks

Engineer Ruschke said that he prepared a list of proposed new sidewalks and sidewalk extensions, as well as repairs to existing sidewalks. He said that some of the repairs could probably be done by the Department of Public Works, while others might be more practical to have done by a contractor. Mayor Tubbs asked what action the Township Committee would need to take at this meeting. Engineer Ruschke said that the prioritization would need to be finalized before applying for future grants. Mayor Tubbs said that road maintenance would also need to be taken into consideration. He suggested that Committeeman Brower and Committeeman Gallop meet with Administrator Ciccarone and Public Works Director Joe Barilla to discuss the sidewalk repairs. Committeeman Brower suggested that the Township's infrastructure be examined to figure out how it can be maintained and improved. Mayor Tubbs said that a determination needs to be made if property owners should be responsible for paying for their sidewalks to be repaired. Administrator Ciccarone said that a 6-year capital budget would be developed for upgrades to sidewalks. He also said that Engineer Ruschke is in the process of preparing a report on road conditions. Furthermore, in most municipalities in New Jersey, the property owner is responsible for property maintenance up to the curb. Committeeman Brower warned that requiring residents to maintain sidewalks could create some issues. Mayor Tubbs asked if it would be possible to require that sidewalks be installed in the prioritized areas anytime a house is torn down for new construction. Administrator Ciccarone said that an ordinance could be adopted to make such requirements.

#### Community Garden

Committeeman Gallop reported that the community garden project is on hold at the moment to see if the Township receives a grant. The Spring Street area seems to have been identified as the preferred location.

#### Colony Pool Refund Request

Mayor Tubbs said that a letter was received from a resident requesting a refund on their Colony Pool membership. The family in question had to go abroad for a while over the summer, and upon their return in August used their condominium association's pool rather than Colony Pool. Committeeman Gallop said that the request is not for an extraordinary circumstance, and he does not see a reason for a refund since they could have used Colony Pool but chose not to do so. Committeeman Brower agreed, and said that perhaps the Township Committee should provide guidance as to what circumstances would warrant a refund. He also suggested that a 50% credit be offered toward next year's membership. Committeeman Gallop did not think that any sort of credit or refund would be fair to all the other pool members.

### **RESOLUTION 2009-191 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING A COLONY POOL MEMBERSHIP FEE CREDIT TOWARDS NEXT YEAR'S MEMBERSHIP FEES**

**WHEREAS**, the Township Committee has reviewed the request submitted by Colony Pool member Vivien Watson, 167 Riveredge Drive, Chatham, NJ asking for a refund of the 2009 Colony Pool membership fee.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that it hereby approves a 50 percent credit of the amount paid for the 2009 Colony Pool membership fee or \$250 be applied towards the 2010 Colony Pool membership fee for Vivien Watson.

**BE IT FURTHER RESOLVED** by the Township Committee of the Township of Chatham that the Township Clerk forward a certified copy of this resolution to the Township Chief Financial Officer and to the Recreation Director.

Committeeman Brower moved to pass Resolution 2009-191. Committeeman O'Connor seconded the motion.

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

**Hearing of Citizens/Petitions**

Mayor Tubbs opened the Hearing of Citizens.

1. Margy Capecelatro, Britten Road resident, asked if there is a map available of the proposed sidewalk extensions. She also asked about the location of the new stretch of sidewalk on Shunpike Road. Mayor Tubbs explained why that section was installed. Mrs. Capecelatro suggested that the Township avoid taking down trees when installing sidewalks, and replace any trees that need to be removed. She also asked if adequate public notice would be given before sidewalks would be installed on private property at a cost to the property owner. Mayor Tubbs said that an ordinance would be necessary before sidewalks could be installed in such a manner, which would include adequate notice and opportunity for the people to make public comment. Administrator Ciccarone added that notice would be sent to the affected homeowners to obtain their opinions before such a project would even begin.

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

**Other Business**

Committeeman Brower said that the Borough of Madison is making application to build a 500-car parking garage near the Dodge Building, and he asked if the Township could formally express its support. Administrator Ciccarone said that a letter of support for the project has already been sent.

**Executive Session**

**RESOLUTION 2009-P-12  
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

Possible Acquisition of Property

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.

Committeeman O'Connor moved to pass Resolution 2009-P-12 to go into Executive Session at 9:48 P.M. Committeeman Brower seconded the motion.

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

The Committee returned from Executive Session at 10:03 P.M. Committeeman Brower moved to adjourn. Deputy Mayor Hagner seconded the motion and it carried unanimously.

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Joy M. Wiley  
Municipal Clerk