

**TOWNSHIP OF CHATHAM
TOWNSHIP COMMITTEE MEETING MINUTES
OCTOBER 9, 2008**

Mayor Tubbs called the workshop meeting of the Township Committee of the Township of Chatham to order at 7:32 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 4, 2008; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 4, 2008; and notice was filed with the Township Clerk on January 4, 2008.

Mayor Tubbs led the flag salute.

Roll Call

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

Approval of Agenda

Deputy Mayor Brower moved to approve the agenda. Committeeman Gallop seconded the motion, and it carried unanimously.

Reports

Deputy Mayor Brower reported that cars have struck only 25 deer thus far in 2008, as compared to over 240 in 2002. Regarding the Environmental Commission, Committeeman O'Connor reported that the Green Fair and the electronics-recycling events both went well. Mayor Tubbs commented on how smoothly the electronics-recycling event was run. Deputy Mayor Brower addressed the senior transportation service. A meeting will be held on October 21, 2008 in the Community Room at the Municipal Building for community leaders to address the transportation program. Committeeman Gallop reported that the Open Space Committee walked a couple properties, and the Motto property was deemed amenable for a community garden project. The next step in a community garden project will be to ascertain if there is adequate public interest in such a program. Engineer Ruschke reported that work on the bike path project is scheduled to begin on October 20, 2008 and all the surrounding residents have been notified accordingly. The Rose Terrace/Chatham Street link will be done first. Deputy Mayor Brower suggested that as bicycle ridership increases, the Township should assess and evaluate the amount of amenities offered to riders.

Public Hearing/Final Adoption of Ordinances

ORDINANCE 2008-17

**AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS,
STATE OF NEW JERSEY, WAIVING DOG LICENSE FEES FOR GUIDE DOGS AND
SERVICE DOGS**

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 V, Section 5-1.3, License and Registration Fees, by adding Subsection 5-1.3c, as follows:

1. Section 5-1.3c. The fees set forth in subsections 5-1.3a and 5-1.3b are waived for dogs that have been trained and are used as guide dogs and service dogs, and for dogs that are being trained for such purposes.
2. All other provisions of Section 5-1.3 shall remain unchanged.
3. This ordinance shall take effect as provided by law.

Mayor Tubbs opened the Public Hearing on Ordinance 2008-17.

1. Morgan Earle, Rose Terrace resident, and her service dog thanked the Township Committee for adopting this ordinance.

Seeing no further comment, Mayor Tubbs closed the Public Hearing.

Deputy Mayor Brower moved to adopt Ordinance 2008-17. Committeeman Gallop seconded the motion.

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

ORDINANCE 2008-09

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, REVISING THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF CHATHAM, CHAPTER 30 OF THE TOWNSHIP CODE.

BE IT ORDAINED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey that Chapter XXX, Land Development Regulations, of the Code of the Township of Chatham, is hereby amended as follows:

1. Section 30-6, Definitions, is amended to provide the definition of *garage* as follows:

Garage shall mean a detached accessory structure or a portion of a main structure for the parking or temporary storage of automobiles of occupants of the main building.

2. Section 30-78.11, Maximum Coverage in Residence Districts. The last sentence of this subsection is amended to read as follows:

As used in this subsection, the maximum coverage of the principle structure shall include only the foundation under the roofed portion of such structure and all area contiguous to the structure below an eave, bay window, oriel, balcony, or overhang which project more than three (3) feet beyond the face of the structure shall be included in the calculation of building coverage.

3. Section 30-96.13, Accessory Structure, is amended to modify the following subsections:

a.5. Accessory structures located in side yards shall meet the sideyard setback requirements for principal structures. Except for structures, such as fences, which are regulated elsewhere in this chapter, accessory structures other than buildings shall not be located closer to a side property line than the height of the accessory structure. No patio shall be located closer to the side property line than the sideyard setback for the principle structure.

a.6. Accessory structures located in rear yards shall not be located closer to a property line than the minimum sideyard requirement for a principal structure. Except for structures, such as fences, which are regulated elsewhere in this chapter, accessory structures other than buildings shall not be located closer to a property line than the height of the structure, provided that no patio shall be located closer to the rear property line than the sideyard setback for the principle structure.

4. Section 30-96.14.e, *Projections into Required Yards*, is amended to read as follows:

Notwithstanding any other provision of this section, the following may project into any front, side or rear yard required in the various zones: uncovered landing including steps leading to the first floor of a building; chimney; and portions of a building including but not limited to eaves, bay windows, oriels, balconies, overhangs and coverings over steps, provided that no such portion of a building shall project more than three (3) feet into any required front, side or rear yard.

5. Section 30-96.20, Lot Grading Plans, is amended to add a new subsection 96.20c.4(m) to read as follows:

(m) The lot grading plan shall show sufficient information to determine whether wetlands are present on the lot.

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

Attorney Woodward reviewed the provisions of this ordinance. Mayor Tubbs added that this ordinance is also based on recommendations made by Engineer Ruschke.

Mayor Tubbs opened the Public Hearing on Ordinance 2008-09.

1. Jack Hartford, Fairmount Avenue resident, asked if this ordinance would allow for more or less maximum coverage. Engineer Ruschke said that this ordinance addresses the definition of maximum coverage, and relates it to the roof rather than to the foundation. Mr. Hartford also asked for an explanation of the changes regarding patios. Engineer Ruschke said that the prior ordinance had no reference to patios, and a patio could theoretically have run all the way to the property line, since accessory structure setbacks were tied to the height of the structure. This ordinance sets a minimum setback for patios.

Seeing no further comment, Mayor Tubbs closed the Public Hearing.

Committeeman O'Connor moved to adopt Ordinance 2008-09. Committeeman Gallop seconded the motion.

Committeewoman Hagner said that she is opposed to the restrictions on projections into front yards. Deputy Mayor Brower agreed, and he asked about retractable awnings. Attorney Woodward said that this ordinance does not address awnings. Deputy Mayor Brower also asked about the provision requiring that lot grading plans show sufficient information to determine whether wetlands are present on the lot. Attorney Woodward explained that the provision is purposefully vague so as to allow the Township Engineer to have discretion.

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

Consent Agenda

RESOLUTION 2008-187

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 \$627,612.34 and the prior month's payroll of \$465,900.83 Current Fund, \$44,647.36 Sewer No. 1, \$8,247.63 Sewer No. 2, and \$15,082.76 Police Private Employment be paid.

BE IT FURTHER RESOLVED that taxes due to the School District of the Chathams, for the month of October 2008, in the amount of \$2,271,625.00 be paid.

RESOLUTION 2008-188

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 September 25, 2008.

RESOLUTION 2008-189

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 meetings held on September 25, 2008.

RESOLUTION 2008-190

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

WHEREAS, the Township Committee has considered the request submitted by the Construction Office Manager with regard to the fee that was paid for a plumbing 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>
Morris County Irrigation, Inc. 257 Newark Pompton Turnpike Wayne, NJ 07470	\$65.00

RESOLUTION 2008-191

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>
Ridgewood Development Group 62 Dale Drive Chatham, NJ 07928 Re: Block 102.06, Lot 29	7760011193	\$1,133.00
David Uricoli 249 Loantaka Way Madison, NJ 07940 Re: Block 141, Lot 9.02	7760011240	\$600.00
Michael Saunders 592 Spring Valley Road Morristown, NJ 07960 Re: Block 140, Lot 1	7760011130	\$371.07

RESOLUTION 2008-192

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

WHEREAS, the Township Committee has considered the request submitted by the Construction Office Manager with regard to the fee that was paid for an application for a variance;

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>
David Uricoli 249 Loantaka Way Madison, NJ 07940	\$200.00

RESOLUTION 2008-193

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM AUTHORIZING ENDORSEMENT OF TREATMENT WORKS PPROVAL FOR BLOCK 142, LOT 4.01, ST. HUBERT'S ANIMAL WELFARE CENTER

WHEREAS, St. Hubert's Animal Welfare Center has, through its engineer John G. Stroka, P.E., applied for municipal endorsement of a Treatment Works Approval to construct an on-site wastewater treatment system to serve Block 142, Lot 4.01, St. Hubert's Animal Welfare Center; and

WHEREAS, said application has been reviewed and approved by the Township Engineer;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham that endorsement of the Treatment Works Approval for Block 142, Lot 4.01, is hereby approved and the Township Administrator is hereby authorized to execute said endorsement.

RESOLUTION 2008-194

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPOINTING TOWNSHIP FORESTER.

WHEREAS, the Township of Chatham, County of Morris is in need of a Township Forester to provide urban forestry consulting services;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham as follows:

1. John D. Linson of The Shade Tree Department LLC is hereby appointed to serve as Township Forester for the Township of Chatham for the year 2008.
2. Compensation for services rendered shall be billed at \$90 per hour in accordance with a letter proposal on file with the Municipal Clerk.
3. This Resolution shall take effect immediately.

Deputy Mayor Brower asked for an explanation of Resolution 2008-193. Engineer Ruschke explained that St Hubert's applied for a site plan approval, part of which proposed an on-site wastewater treatment system. Resolution 2008-193 would endorse the application that is to be submitted to the NJDEP for the treatment equipment to be installed.

Deputy Mayor Brower moved to approve the Consent Agenda. Committeewoman Hagner seconded the motion.

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

Discussion

Development Fee Ordinance

ORDINANCE 2008-19

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY ADOPTING A DEVELOPMENT FEE ORDINANCE FOR THE TOWNSHIP

BE IT ORDAINED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the following development fee ordinance is hereby adopted:

1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a

COAH-approved spending plan may retain fees collected from non-residential development.

- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic requirements

- a) This ordinance shall not be effective until approved by COAH pursuant to *N.J.A.C. 5:96-5.1*.
- b) The Township of Chatham shall not spend development fees until COAH has approved a plan for spending such fees in conformance with *N.J.A.C. 5:97-8.10* and *N.J.A.C. 5:96-5.3*.

3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. **"Affordable housing development"** means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
 - ii. **"COAH"** or the **"Council"** means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
 - iii. **"Development fee"** means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*.
 - iv. **"Developer"** means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
 - v. **"Equalized assessed value"** means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).
 - vi. **"Green building strategies"** means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development fees

- a) Imposed fees
 - i. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.
 - ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each

additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

- b) Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
 - iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
 - iv. Developers of residential structures demolished and replaced as a result of a fire, flood or other natural disaster shall be exempt from paying a development fee.
 - v. Within the AH Affordable Housing District, residential developers shall be exempt from paying a development fee.

5. Non-residential Development fees

- a) Imposed fees
 - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
 - ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this

section results in a negative number, the non-residential development fee shall be zero.

- b) Eligible exactions, ineligible exactions and exemptions for non-residential development
 - i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 - ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
 - iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Chatham as a lien against the real property of the owner.

6. Collection procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should the Township of Chatham fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i) Appeal of development fees
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Chatham. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Chatham. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing trust fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer of the Township for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - 1. payments in lieu of on-site construction of affordable units;
 - 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - 3. rental income from municipally operated units;
 - 4. repayments from affordable housing program loans;
 - 5. recapture funds;
 - 6. proceeds from the sale of affordable units; and
 - 7. any other funds collected in connection with the Township of Chatham's affordable housing program.
- c) Within seven days from the opening of the trust fund account, the Township of Chatham shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8 Use of funds

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Township of Chatham's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimbursement of the Township for past housing activities.
- c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall entitle the Township of Chatham to bonus credits pursuant to N.J.A.C. 5:97-3.7.
 - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) The Township of Chatham may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- a) The Township of Chatham shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing collection of fees

- a) The ability for the Township of Chatham to impose, collect and expend development fees shall expire with its substantive certification unless the Township has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Township of Chatham fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Township of Chatham shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Township retroactively impose a development fee on such a development. The Township of Chatham shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

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

Attorney Woodward said that as a result of recent legislation, there is an opportunity to adopt a development fee ordinance. The developer fees would help offset any expenses incurred by the Township in meeting its third round COAH obligations. Attorney Woodward described the types of fees that could be collected, and said that the money collected would be put into the affordable housing trust fund. He also described some potential uses for the money.

Committeewoman Hagner asked about the requirement of an approved plan prior to spending any of the funds collected. Administrator Ciccarone explained that this ordinance would authorize the Township to collect fees, but the fees cannot be spent until COAH approves the Township's third round plan. Deputy Mayor Brower raised a concern about rental properties. Administrator Ciccarone explained that in the case of rental units designated as affordable housing, the COAH plan would make up the difference in cost between the base rent and the designated affordability rate. Deputy Mayor Brower questioned whether or not the Township should remain part of the COAH process. Attorney Woodward asked if the Township Committee would like the fee to be collected in full at the time of the issuance of the certificate of occupancy, or if they wanted half of the fee to be collected at the time of the issuance of the building permit. Committeewoman Hagner asked if the fee could be assessed differently according to whether it is a developer or a resident who has taken demolished an existing structure to build a new home.

Deputy Mayor Brower moved to introduce Ordinance 2008-19. Committeeman O'Connor seconded the motion.

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

Public Hearing on Ordinance 2008-19 will be scheduled for October 23, 2008.

Hearing of Citizens/Petitions

Mayor Tubbs opened the Hearing of Citizens.

1. Jack Hartford, Fairmount Avenue resident, asked for clarification on a portion of Ordinance 2008-09. Attorney Woodward clarified that under this new ordinance, patios can be up to 15 feet from the rear property line. Mr. Hartford also said that there used to be a development fee ordinance, and the Township Committee had rescinded it. Mayor Tubbs explained that the old ordinance was rescinded due to a lack of a COAH obligation at that time. Now that there will be an obligation again due to the change in the law, there will also be a development fee. Mr. Hartford also asked if Chatham Glen was part of a builder's remedy lawsuit. Attorney Woodward explained that there had been builder's remedy lawsuits against the Township in the 1980's, which were settled, and the Township then proceeded to get certification for the first and second rounds. Mr. Hartford asked if the affordable housing status of the current stock would expire, and when that would happen. Administrator Ciccarone explained that it would expire in 2016, but the Township would have the option to extend the affordable housing status. Furthermore, if the units were sold at market rate, the bulk of the price difference would come back to the Township and would be put into the affordable housing trust fund.
2. Steve Carrol, Fairmount Avenue resident and Environmental Commission member, said that the Board of Public Utilities has approved a rebate program for the cost of energy audits. Mr. Carrol said that this would be a 75% rebate, and the other 25% can also be rebated if the cost of the proposed improvements exceeds 25% of the cost of the audit. Administrator Ciccarone said that the State has pre-certified firms that can perform the energy audits. Furthermore, the Township has made an application for the Municipal Building lighting project, and paperwork has been filed with the Clean Energy Program for a rebate on the lighting fixtures.

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

Executive Session

RESOLUTION 2008-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

Potential Litigation concerning Rolling Knolls Landfill

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.

Deputy Mayor Brower moved to pass Resolution 2008-P-12 to go into Executive Session at 9:05 P.M. Committeeman O'Connor seconded the motion.

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

The Committee returned from Executive Session at 10:10 P.M. Committeeman Gallop moved to adjourn. Committeeman O'Connor seconded the motion and it carried unanimously.

Joy M. Wiley
Municipal Clerk