

**TOWNSHIP OF CHATHAM
TOWNSHIP COMMITTEE MEETING MINUTES
NOVEMBER 12, 2009**

Mayor Tubbs called the Regular meeting of the Township Committee of the Township of Chatham to order at 7:35 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 requested a moment of silence in honor of the passing of Rev. Ed Hinds.

Mayor Tubbs led the flag salute.

Roll Call

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

Approval of Agenda

Deputy Mayor Hagner moved to approve the Agenda. Committeeman O'Connor seconded the motion.

Proclamation

Mayor Tubbs read the attached proclamation proclaiming November 2009 as Pancreatic Cancer Awareness Month. Dennis Falco from the Pancreatic Cancer Action Network was present to receive the proclamation. He thanked the Township Committee, and said that proclamations like this will lead to more funding and research for a cure.

Reports

Committeeman Gallop reported that the Recreation Committee have been discussing the balances in the sport trust funds, and they are discussing if a portion of those funds should be set aside for capital improvements to recreation facilities. The soccer program was successful this year, and basketball tryouts have been held. Committeeman O'Connor reported that the Environmental Commission has been discussing an application from Chatham Day School. Additionally, he reported that the Township has achieved 2009 Sustainable Jersey Certification. He thanked the Environmental Commission for all their work. Mayor Tubbs added that the Township Environmental Commission won a Collaboration Award from Sustainable Jersey for the work done with Chatham Borough's Green Team. Deputy Mayor Hagner reported that Tom Salvas provided an update report regarding the Township's cable access channel, and she distributed copies. Comcast performed some work at the Municipal Building recently, but some work still needs to be performed. Attempts are also being made to see if the electronic bulletin board can be streamed through the Township website. There is about \$13,000 in funding left for equipment, and volunteers are still being sought to help operate the equipment. Deputy Mayor Hagner further reported that Mrs. Taz Brower contacted her regarding a seminar for coaches about knee injury prevention in adolescent females. The seminar will be held in the Municipal Building on November 18, 2009 at 7:00 PM. Committeeman Brower said that reports have not yet been received regarding the deer hunt at the Great Swamp. Deer culling in the Township is down, which may be a result of effective deer management. Committeeman Brower also addressed the possibility of allowing crossbow hunting in certain areas of the Township. Furthermore, Committeeman Brower recognized the paving job in the Municipal Building parking lot. Administrator Ciccarone said that the remainder of the parking lot would be repaved in 2010. Regarding the Senior Center, Committeeman Brower said that they are happy with the improvements to their facility. The Senior Center's attendance is up, and funding seems to be steady. In regards to Public Assistance, Committeeman Brower suggested that if such services

were turned over to Morris County, transportation might have to be provided to those who would need those services. He does not think that turning over those services to the County would be the best option. Committeeman Brower also reported that he visited the artificially turfed sprig field at Wellesley, and he said that it is a brand new product about which he has some misgivings. The surface was very hard, and he also raised a concern about variance in the surface color. Committeeman Brower also stressed the importance of properly maintaining the infill. Mayor Tubbs thanked all those who voted in the recent election, and wished good luck to all the newly elected and reelected officials representing the Township. He also reported that there is an article in the November issue of the New Jersey Municipalities magazine about defibrillators at recreational facilities in Chatham Township and Chatham Borough. It was asked that the article be posted on the Township website and that copies be made available at the Municipal Building. In regards to the Board of Health, Mayor Tubbs reported that the Rabies Clinic was very successful. The flu clinics that were held in the schools were also successful. It is not known at this time when additional vaccinations will be available for Township residents. The Madison Health Department is working together with the School District to ensure that vaccinations become available for students. Mayor Tubbs reported that the Library Board of Trustees met, and Deputy Mayor Hagner asked if the final arrangements had been made for a book drop-off terminal to be installed in the Municipal Building. Administrator Ciccarone said that the goal is to have the terminal installed before the end of November. Some protocols need to be worked out having books delivered to the Municipal Building. Mayor Tubbs reported that a Public Safety Committee was held, and the accreditation process is going very well, and it is almost half done. He expects the process to be complete by the end of the summer. Mayor Tubbs also addressed the fact that for board appointments, there is going to be a new oath of office required, as well as an official form to be filled out by those wishing to be appointed to the boards. Administrator Ciccarone said that one of the new requirements is the keeping of a directory of board members and term expiration dates, which is something that is already maintained by the Clerk's Office. Committeeman Brower addressed concerns raised by Mendham regarding not wanting to have tax assessments performed at the county level. He thinks it would be preferable for neighboring communities to have tax assessing be a shared service. Administrator Ciccarone cited a pilot program that the State is running in Gloucester County to see if a centralized tax assessor would be effective. If the program is successful, Administrator Ciccarone thinks that the State would begin imposing this program elsewhere. Committeeman Brower suggested that the municipal court is another area in which services could be shared. Engineer Ruschke reported that Shunpike Field is ready for bidding. There is a base bid which involves the majority of the work, and three alternative bids for the infill material. There will also be some supplemental items, including lighting and the importation of a sand based topsoil in the vicinity. Engineer Ruschke further reported that Pine Street paving has been completed, and there are a few punch list items that need to be addressed. The contractor is also supposed to come back to the Municipal Building next week to put down lines in the newly repaved section of the parking lot. Mayor Tubbs asked about the paving to be done by Morris County. Administrator Ciccarone said that the paving should be completed next week. Engineer Ruschke also reported that the electrical improvements at the Wastewater Treatment Plant and the pump stations are proceeding, and they are primarily in the shop drawing review phase.

Hearing of Citizens/Petitions

Mayor Tubbs opened the Hearing of Citizens.

1. Sue Hoag, Long Hill Lane resident and former Mayor, addressed the upcoming retirement of Township Clerk Joy Wiley, and thanked her for her dedicated service.

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

Consent Agenda

**RESOLUTION 2009-214
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 \$1,595,345.91 and the prior month's payroll of \$447,487.76 Current Fund, \$40,995.54 Sewer No. 1, \$7,135.14 Sewer No. 2, and

\$5,369.74 Police Private Employment be paid.

BE IT FURTHER RESOLVED that taxes due to the School District of the Chathams, for the month of November 2009, in the amount of \$2,330,138.84 be paid.

BE IT FURTHER RESOLVED that taxes due to the County of Morris, for the Fourth Quarter of 2009, in the amount of \$1,882,029.71 be paid.

**RESOLUTION 2009-215
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:

- Tax Collector – October
- Police Department – September

BE IT RESOLVED by the Township Committee of the Township of Chatham that the following minutes from various boards and committees be acknowledged as received:

- Board of Health – October

**RESOLUTION 2009-216
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 October 22, 2009.

**RESOLUTION 2009-217
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 October 22, 2009.

**RESOLUTION 2009-218
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 judgement, 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 for 2008 be made:

<u>BLOCK</u>	<u>LOT</u>	<u>OWNER NAME & ADDRESS</u>	<u>AMOUNT</u>
16	6	Cooney, Joseph E & Patricia A 31 Pembroke Road Chatham, NJ 07928	\$142.78
16	12	Eversfield, Andrew 5 Pembroke Road Chatham, NJ 07928	\$11.51
20	11	Styple, William & Nancy 97 Ormont Road Chatham, NJ 07928	\$35.38
34	23	DePassquale, Michael & Gomez, A 99 Lisa Drive Chatham, NJ 07928	\$32.78
34	30	Jacobson, Gary S & Sharon T 99 Susan Drive Chatham, NJ 07928	\$72.75

35	8.04	Ireland, Joseph & Peppard, Denise 7 Tree Top Lane Chatham, NJ 07928	\$85.24
38	25	Wirt, George J & Martha T 51 Candace Lane Chatham, NJ 07928	\$3,341.25
39	43	Knight, Pamela 134 Candace Lane Chatham, NJ 07928	\$3,415.32
48.02	29	Budenbender, Bret & Kathleen 8 Runnymede Road Chatham, NJ 07928	\$17.40
48.04	3	Reddington, Daniel & Catherine 20 Glenmere Drive Chatham, NJ 07928	\$680.08
48.09	14	Tedesco, Michael I & Polly W 107 Westminster Road Chatham, NJ 07928	\$187.51
48.10	14	Gilbert, Leonard & Lang, Tam 88 Westminster Road Chatham, NJ 07928	\$191.92
48.21	170	DePiro, Nicholas & Jessica Lakin 485 Green Village Road Green Village, NJ 07935	\$53.50
53	6	Mahoney, Kevin T & Elizabeth Kerr 7 Long Hill Lane Chatham, NJ 07928	\$1,756.50
57	9	Sunderland, Mary C 11 Maple Road Chatham, NJ 07928	\$75.37
57	10	Sunderland, Mary C 11 Maple Road Chatham, NJ 07928	\$3,518.62
60	30	Pingali, Subba & Padmini 27 Stonewyck Drive Chatham, NJ 07928	\$12.52
62	47	Doty, Ezra & Elysia 90 Sunset Drive Chatham, NJ 07928	\$18.92
62.02	10	Sridhar, Mavanoor S & Ranjini 20 Ramapo Trail Chatham, NJ 07928	\$152.93
62.03	22	Miller, Arnold & Kathleen 110 Van Houton Avenue Chatham, NJ 07928	\$628.63
62.03	25	Feeley, Stanton & Mary 122 Van Houton Avenue Chatham, NJ 07928	\$30.81
62.03	32	Ryan, Virginia 581 Fairmount Avenue Chatham, NJ 07928	\$11.24

62.08	19.01	Kim, Dae Un & Ock-Nam 781 Fairmount Avenue Chatham, NJ 07928	\$18.83
62.09	14	Triano, Edward J & Susan 89 Sunset Drive Chatham, NJ 07928	\$51.55
63	1.03	Passaic River Coalition 94 Mt Bethel Road Warren, NJ 07059	\$2.14
64.01	7.05	Geitz, Charlotte E 6H Heritage Drive Chatham, NJ 07928	\$1,075.88
64.03	2.12	George, Ian 9 Perry Street Morristown, NJ 07960 7G Vernon Lane	\$298.50
64.04	21.11	Hausin, Peter 179 Riveredge Drive Chatham, NJ 07928	\$1,868.27
64.04	26.04	Martin, Edward J 265 Riveredge Drive Chatham, NJ 07928	\$250.00
65	1.10	Pantozzi, Stephen 2G Avon Court Chatham, NJ 07928	\$125.00
65	4.10	Duyckinck, Lois R 5A Avon Court Chatham, NJ 07928	\$42.45
65.01	8.03	Bosco, Marie 22J Canterbury Road Chatham, NJ 07928	\$128.67
72	11	Kinney, Charles 84 Highland Avenue Chatham, NJ 07928	\$25.67
77	2.05	Dunn, Daniel F & Patricia A 57 Dellwood Avenue Chatham, NJ 07928	\$13.56
79	3	Marxhausen, James & Katie 189 Lafayette Avenue Chatham, NJ 07928	\$2,413.13
85	9	Serrapica, Enrico & Bonnie 7 Robin Hood Lane Chatham, NJ 07928	\$32.00
85	10	Gironda, Marc A & Lori B 37 Lenape Trail Chatham, NJ 07928	\$250.00
90	21	Seigle, Ronald & Jeanne 230 Shunpike Road Chatham, NJ 07928	\$2,027.63
93	2	Korzun, Ellyn V 53 Meadowbrook Road Chatham, NJ 07928	\$77.63

102.04	36	Delre, John & Staciann 94 May Drive Chatham, NJ 07928	\$164.54
106	15	Schmeltz, James R. & Maureen E 308 Lafayette Avenue Chatham, NJ 07928	\$3,088.55
117	16	Berger, John R & Nathalie 4 Aberdeen Road Chatham, NJ 07928	\$991.34
139	18 Qfarm	Platt, Helen M Etals PO Box 4 Madison, NJ 07940 Re: Loantaka Lane, South	\$31.88
144	27	Anselmi, Thomas J 677 Shunpike Road Green Village, NJ 07935	\$1,423.15

RESOLUTION 2009-219

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 judgement, 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 & ADDRESS</u>	<u>AMOUNT</u>
123	6	First American Attn: Erich R. Dehm Procurement Team 95 Methodist Hill Dr. Suite 100 Rochester, NY 14623 Re: 135 Noe Avenue	\$3,760.50
143	1.01	Warren Vandever 73 Treadwell Avenue Madison, NJ 07940	\$5,735.76

RESOLUTION 2009-220

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>
Daniel Winschuh 18 Fairfax Terrace Chatham, NJ 07928	7200038929	\$120.00

James Novick 400 River Rd. Chatham, NJ 07928	7200039003	\$333.22
Christopher Switzer 9 Old Farm Road Chatham, NJ 07928	7760011251	\$72.40
Nicholas Gentile Golden River Homes 2 Cramer Lane Mendham, NJ 07945	7760011244	\$255.00
Donato Russo MD 1896 Morris Ave Union, NJ 07083	7200038998	\$330.00
Darcy School AKA Chatham Day School 700 Shunpike Road Chatham, NJ 07928	7760011160	\$75.50

RESOLUTION 2009-221
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM WITH RESPECT TO ADOPTING A NEW JERSEY GOVERNMENTAL §457 DEFERRED COMPENSATION PLAN DOCUMENT

WHEREAS, the Township of Chatham, County of Morris, State of New Jersey, (hereinafter referred to as the “Employer”) by resolution adopted a Deferred Compensation Plan (hereinafter referred to as the “Plan”) effective July 25, 1984, for the purpose of making available to eligible employees the accrual of tax benefits under a Section 457 Deferred Compensation Plan; and

WHEREAS, the Employer desires to adopt a restated Plan Document; and

WHEREAS, such revised Plan Document shall supersede the previously adopted Plan Document; and

WHEREAS, the Township of Chatham (hereinafter referred to as the “Employer) the Employer desires to attract and retain qualified employees; and

WHEREAS, the implementation of a Deferred Compensation Plan will serve the interests of the local governmental unit by enabling it to provide enhanced retirement security to its eligible employees; and

NOW, THEREFORE BE IT RESOLVED that the governing body of the Township of Chatham hereby adopts a deferred compensation plan provided by Great-West Life & Insurance Company that has been assigned the plan identifier 74-PD-GWL-120208 by the Division of Local Government Services; and

BE IT FURTHER RESOLVED that the Employer is adopting a deferred compensation plan substantially similar to one on which a favorable Private Letter Ruling has been previously obtained from the federal Internal Revenue Service except for provisions added by reason of The Small Business Job Protection Act of 1996 (United States Public Law No. 104-188), the Taxpayer Relief Act of 2001 (United States Public Law No. 105-34), the Economic Growth and Tax Relief Reconciliation Act of 2001 (United States Public Law No. 107-16), the Pension Protection Act of 2006 (PPA), the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act), and final Treasury Regulation § 1.457-4, and all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the Internal Revenue Code Section 457. The use of the Ruling is for guidance only and acknowledges that for Internal Revenue Service purposes, the Ruling of another employer is not to be considered precedent, and;

BE IT FURTHER RESOLVED, the Township Administrator is hereby designated as the Local Plan Administrator of the Plan; and

BE IT FURTHER RESOLVED, the Township Administrator is authorized to execute a Service Agreement with Great-West Life & Annuity Insurance Company 56-SA-GWL-0 10506 and to submit all necessary documents to the Director of the Division of Local Government Services within the State Department of Community Affairs for approval; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution shall be forwarded to the Director of the Division of Local Government Services at P.O. Box 803, Trenton, NJ 08625-0803.

RESOLUTION 2009-222
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, REFUNDING OVERPAYMENT OF SEWER FEES

WHEREAS, due to inadvertence or error an overpayment of sewer usage fees 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 & ADDRESS</u>	<u>AMOUNT</u>
48	65.01	Terry A. & Deborah A. Bucksar 186 River Edge Drive Chatham, NJ 07928 Re: 34 Maple Road	\$165.00

RESOLUTION 2009-223

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

WHEREAS, the Township Committee of the Township of Chatham, County of Morris has determined that certain appropriations, in the 2009 municipal budget, are not sufficient to meet anticipated expenses; and

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

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

Current Fund

Appropriation	To	From
Tax Collector OE	\$1,000	
Zoning Bd OE	\$1,000	
Affordable Housing OE	\$1,000	
Road Repairs OE	\$20,000	
Recreation S&W	\$20,000	
Buildings & Grounds OE	\$5,800	
Vehicle Maintenance	\$7,500	
Tax Assessor S&W	\$500	
Municipal Clerk S&W	\$8,000	
Code Enforcement S&W	\$3,100	
Municipal Prosecutor S&W	\$500	
Police OE	\$20,000	
Tax Collector S&W	\$2,600	
General Admin OE		\$7,500
Tax Assessor OE		\$1,500
Engineering		\$15,000
Planning Bd OE		\$5,000
Code Enforcement OE		\$12,000
Dispatch OE		\$1,500
Emergency Management OE		\$1,500
Animal Control		\$17,000
Colony Pool S&W		\$30,000
Total	\$91,000	\$91,000

Water Pollution Control	From	To
WPC I Capital Outlay	\$45,000	
WPC I OE		\$45,000
Total	\$45,000	\$45,000

RESOLUTION 2009-224
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN
THE COUNTY OF MORRIS, STATE OF NEW JERSEY,
REFUNDING TAX LIEN

WHEREAS, due to payment by property owner of the lien amount, an overpayment of property taxes now exists; and

WHEREAS, the Tax Collector has recommended the refund of such tax lien

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham that the following refund be made as indicated:

<u>BLOCK</u>	<u>LOT</u>	<u>LIEN HOLDER</u>	<u>AMOUNT</u>
128	13	Riker, William W. & Anna M. 13 Overlook Road Chatham, NJ 07928	\$2021.30 Tax Sale
		Re: 501 Shunpike Road Certificate # 00707	\$2,200.00 Premium

Deputy Mayor Hagner asked about the change to the Great West Retirement Services. Attorney Woodward explained that Great West Retirement Services took over from the prior retirement service administrator for the Township, and Resolution 2009-221 acknowledges that change. Administrator Ciccarone said that this change would not affect the Township’s budget. Committeeman Brower asked about the refunding of overpayments of taxes. Administrator Ciccarone explained how taxes are sometimes paid twice when homeowners refinance their homes. Committeeman Brower also asked about an \$850 bill for travel time for a contractual service for the Wastewater Treatment Plant. Administrator Ciccarone said that the charge is for a service call, and he believes that the travel time charge is a small portion of the overall bill. Committeeman Brower also asked about the Municipal Alliance Trust. Administrator Ciccarone explained how the Municipal Alliance is funded. Committeeman Brower questioned if the Township should continue funding the Municipal Alliance. Administrator Ciccarone pointed out that the Municipal Alliance is a joint effort with Chatham Borough, and he described the mission and purpose of the Alliance.

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

Roll call: Committeeman Gallop, Aye; Committeeman O’Connor, Aye; Committeeman Brower, Aye; Deputy Mayor Hagner, Aye (Abstain on Resolution 2009-220); Mayor Tubbs, Aye.

Discussion

Development Fee Ordinance Amendments & Other COAH matters

ORDINANCE 2009-18
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:
 - 1) “**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.
 - 2) “**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.
 - 3) “**Development fee**” means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*.
 - 4) “**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.
 - 5) “**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).
 - 6) “**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
 - 1. 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.
 - 2. 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 will equal one and one-half (1.5%) percent of the equalized assessed value on the first two units; and six (6%) 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
 - 1. 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.

2. 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.
3. 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.
4. 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.
5. Within the AH Affordable Housing District, residential developers shall be exempt from paying a development fee.

5. Non-residential Development fees

A. Imposed fees

1. 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.
2. 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.
3. 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

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
 - 1. 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.
 - 2. 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.
 - 3. 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 explained that the Township already has enacted a development fee ordinance, which was submitted to COAH. COAH has asked for two minor changes to the ordinance, and Attorney Woodward reviewed the suggested changes, one of which addressed a typographical error. Once the new ordinance is adopted and submitted to COAH, the Township can begin collecting development fees. Deputy Mayor Hagner asked about the typographical error, and Attorney Woodward said that it was insubstantial. Committeeman Brower asked if COAH would be able to take the development fee money away from the Township should the Township fail to spend it within a certain amount of time. Attorney Woodward said that the Township would have to have a spending plan in place, which Administrator Ciccarone indicated already is in place. Administrator Ciccarone also indicated that the State would have the authority to take the money to implement an affordable housing plan should the Township fail to do so. Attorney Woodward explained that the Township plans to extend affordability controls on existing units, and he reviewed the deed restrictions currently in place. The development fee ordinance would create the fund that would allow the Township to extend those controls. Committeeman Gallop asked how it is determined that the units would be presented at market rate. Attorney Woodward explained that deed restrictions and the rules and regulations have a method for calculating the resale price of the units.

Committeeman O'Connor moved to introduce Ordinance 2009-18. Mayor Tubbs seconded the motion.

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

Public Hearing on Ordinance 2009-18 will be scheduled for December 3, 2009.

Contract with Madison Health Department

RESOLUTION 2009-226
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM IN THE COUNTY OF MORRIS, NEW JERSEY, AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE TOWNSHIP OF CHATHAM AND THE BOROUGH OF MADISON FOR HEALTH SERVICES FOR YEARS 2010, 2011 AND 2012.

WHEREAS, the Township Committee of the Township of Chatham is desirous of continuing a contract with the Board of Health of the Borough of Madison for furnishing health services of a technical and professional nature;

WHEREAS, the Program Proposal for Health Services January 1, 2010 - December 31, 2012 meets the Township's approval,

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Chatham hereby authorizes the Mayor to enter into an agreement with the Board of Health of Madison for the rendition of services to the Township of Chatham during the years 2010, 2011 and 2012.

Administrator Ciccarone said that the Township has for a long time contracted with the Madison Health Department for health services. In the past, the Board of Health approved the contract. When the last contract was awarded, both Administrator Ciccarone and Board of Health President Dr. Jim Brown began looking into alternatives, as there was a substantial increase in that contract, but found that there were no real alternatives. Administrator Ciccarone also explained that even with the increase, the cost of this contract per capita is still cheaper for Chatham Township residents than it is for Madison residents, which is why the Madison Borough Council decided that the contract values should be increased. As a procedural process, Madison has also requested that the contract be approved by the Township Committee and signed by the Mayor, rather than have it approved and signed by the Board of Health. Mayor Tubbs said that because the power to levy taxes lies with the Township Committee, the Borough

Council believes that the Township Committee should approve the contract. Attorney Woodward indicated that the Deputy Attorney General has rendered a legal opinion that because the Board of Health does not have the right to raise funds, the Township Committee should be the body to approve the contract. Furthermore, certain enabling legislation is silent on the authority of boards of health to enter into contracts. Committeeman O'Connor raised a concern over the proposed 7% increase in the contract price. Administrator Ciccarone said that the cost of creating a health department for the Township would cost far in excess of the contract price. Committeeman Brower suggested that perhaps some of the services could be removed to control the price of the contract. Attorney Woodward said that the services of other health departments are not as convenient. Committeeman Gallop asked if the Board of Health is satisfied with the services provided by Madison. Mayor Tubbs and Township Clerk Wiley indicated that the Board of Health is very satisfied. Administrator Ciccarone added then when this topic came up three years ago, the only health department that would be able to take the Township on as a client would cost more than the contract with Madison. Committeeman Brower reiterated that perhaps cuts could be made to control the costs.

Deputy Mayor Hagner moved to pass Resolution 2009-226. Committeeman O'Connor seconded the motion.

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

Other Business

Mayor Tubbs announced that a letter was received indicating that the Township was awarded \$160,000 from the Transportation Trust Fund for improvements to Lafayette Avenue. However, the Township did not receive the grant for a proposed sidewalk project on Shunpike Road.

Special Recognition

RESOLUTION 2009-225 RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM HONORING JOY M. WILEY FOR HER YEARS OF FAITHFUL AND DEDICATED SERVICE TO THE RESIDENTS OF CHATHAM TOWNSHIP

WHEREAS, Joy M. Wiley was appointed to the position of Municipal Clerk on May 19, 1999, and has served continuously in that office since that time, and

WHEREAS, Joy also serves the Township of Chatham as Registrar of Vital Statistics and Secretary to the Board of Health, and

WHEREAS, Joy is a Registered Municipal Clerk, Certified Municipal Registrar and is recognized as a Certified Municipal Clerk by the International Association of Municipal Clerks, and

WHEREAS, Joy has distinguished herself as an outstanding employee of the Township of Chatham, consistently demonstrating the highest levels of professionalism and attention to detail.

WHEREAS, Joy has decided to retire to the land of lobsters, blueberries and Moose in order to be closer to her grandchildren and her children.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham that we hereby, recognize, and extend our deep appreciation to **Joy M. Wiley** upon the occasion of her retirement and extend to her and her family, husband Scott, sons Peter and Glenn our best wishes for success and happiness in the future.

Mayor Tubbs read aloud Resolution 2009-225. Township Clerk Joy Wiley was presented with a framed copy of the resolution and a bouquet of flowers. The members of the Township Committee and Administrator Ciccarone thanked and praised Mrs. Wiley for her hard work and professionalism.

Committeeman Brower moved to pass Resolution 2009-225. Committeeman O'Connor seconded the motion.

Roll call: Committeeman Gallop, Aye; 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.
Seeing none, Mayor Tubbs closed the Hearing of Citizens.

Executive Session

**RESOLUTION 2009-P-15
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

Personnel Issues

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

Mayor Tubbs announced that the Township Committee would be taking formal action following the Executive Session.

Committeeman Brower moved to pass Resolution 2009-P-15 to go into Executive Session at 9:36 PM. Committeeman O'Connor 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 10:39 PM.

Administrator Ciccarone indicated that a motion is necessary to authorize Chief Paton to make a conditional offer of employment to a police candidate, subject to a background check, psychological examination, drug test and physical. The employment would begin in January, provided that the above criteria are successfully met.

Committeeman O'Connor moved to authorize Chief Paton to make the conditional offer of employment. Committeeman Brower seconded the motion, and it carried unanimously.

Mayor Tubbs moved to adjourn at 10:40 PM. Deputy Mayor Hagner seconded the motion, and it carried unanimously.

Joy M. Wiley
Municipal Clerk