

**TOWNSHIP OF CHATHAM  
TOWNSHIP COMMITTEE MEETING MINUTES  
NOVEMBER 13, 2008**

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 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.

Webelos Scouts Pack 24 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 O'Connor seconded the motion, and it carried unanimously.

**Proclamations**

Deputy Mayor Brower read the attached proclamation proclaiming November 2008 as National Family Caregivers Month in the Township of Chatham.

Deputy Mayor Brower read the attached proclamation proclaiming November 2008 as Pancreatic Cancer Awareness Month in the Township of Chatham. Donald Travasiano was present to receive the proclamation, and thanked the Township Committee and Township Clerk Wiley for their help and support. Committeeman O'Connor said that pancreatic cancer has not received the amount of attention that has been paid to other diseases, and there are very few medications available for pancreatic cancer.

**Reports**

Committeewoman Hagner reported that fall recreation programs are wrapping up, and feedback from parents is being sought. In regard to the recreation program's code-of-conduct, Committeewoman Hagner said that a statement will be put on the website indicating that action may be taken if people violate the rules. Furthermore, concussion baseline tests were implemented in the football program this year. The ski program is also up and running. Committeewoman Hagner also reported that she met with Tom Salvas, and most of the television equipment has been installed. The installation should be complete before Thanksgiving. Committeewoman Hagner also said that the Ten Towns Committee held a Mayor's Breakfast, and funding issues were discussed. Mayor Tubbs addressed issues of Ten Towns fees, as they relate to budget cuts. Deputy Mayor Brower said that once Township Committee meetings are recorded, a policy should be developed regarding distribution of copies of the recordings. Administrator Ciccarone said that the Township would not be legally required to provide copies of the recordings, and the official minutes would still be the written document prepared by the Township Clerk. Committeewoman Hagner said that one possible option would be to post the video for viewing on the Township website. Deputy Mayor Brower updated the Township Committee on efforts made by Officer Curtis to contact a resident who had requested information about deer hunting near Tanglewood. Furthermore, the State Legislature is considering extending bow hunting to Sundays. The Great Swamp will also be holding their annual deer hunt. Committeeman O'Connor reported that the Public Safety Committee met, and they discussed Reverse 9-1-1, the accreditation program, and a recap of the lost hiker who was found in the Great Swamp recently. He also reported that the Environmental Commission has a proposed 2009 itemized budget. Additionally, there was an ANJEC presentation at the

Environmental Commission about Sustainable Summit, and the Environmental Commission is looking to run a similar program in the Township. The Environmental Commission has also voted to support the Community Garden project. Administrator Ciccarone said that a grant application has been made for a rebate program to retrofit the Municipal Building's lighting fixtures, and for an energy audit. Regarding Open Space, Committeeman Gallop reported that he shared several e-mails expressing interest in the Community Garden. Public Works Director Joe Barilla is going to review the Motto Property to see if it is suitable. Furthermore, if the garden is to be up and running for 2009, the plans would have to be finalized by February. Committeeman Gallop also suggested that there be a formal priority system that would define when the garden would be opened to community groups and residents of other towns. Deputy Mayor Brower expressed reservations regarding this project. Mayor Tubbs suggested that the Township collect deposits for plots to ensure that there is adequate interest in the project. Committeeman Gallop asked Engineer Ruschke to comment on the Safe-Routes-to-School grant application proposal and implementation process. Engineer Ruschke said that a travel plan is required for the grant application, and he needs a draft plan before he can estimate the engineering costs. In regard to Board of Health, Committeeman Gallop reported that exemption requests for sewer hookups have been taken on a case-by-case basis, and a three-year deferral can be granted. Township Clerk Wiley added that it is a one-time deferral, and the applicant must prove that the current septic system is in working order. Mayor Tubbs congratulated Deputy Mayor Brower and Committeeman O'Connor on their reelection, and he also thanked Jack Hartford for running for office. Engineer Ruschke reported that the bike path project is substantially complete, and is anticipated to come in under budget. Regarding Shunpike Field, Engineer Ruschke reported that preliminary layouts have been developed, and preliminary engineering drawings need to be developed for the permit application process. Administrator Ciccarone said that a motion would be necessary to authorize Engineer Ruschke to move forward with the application process, at a cost not to exceed \$40,000 from Open Space funds. Committeewoman Hagner asked if it was the number of different permits that the Township is seeking for this project that is driving up the costs. Engineer Ruschke confirmed that the Township is applying for every hardship permit, and Administrator Ciccarone said that every environmental regulation that could apply to a project such as this is in fact applicable to Shunpike Field.

Committeeman Gallop moved to authorize a contract with Hatch Mott MacDonald, in an amount not to exceed \$40,000, to prepare and submit Shunpike Field renovation permit applications to the NJDEP. 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.

Deputy Mayor Brower commented on the history of the site, and suggested that the Township keep track of how much of the development costs are due to State regulations. Committeeman Gallop asked if the Bike Path would be finished by the end of November. Engineer Ruschke said that it hopefully would.

### **Hearing of Citizens/Petitions**

Mayor Tubbs opened the Hearing of Citizens.

1. Suzanne Potter, Madison resident, lives near Shunpike Field, and said that she and her neighbors have some concerns about the project. Mrs. Potter raised a concern about lighting at the field, as well as loudspeakers. She also addressed parking issues. Administrator Ciccarone said that any lights that would be installed would be in the furthest corner from the properties in Madison. Furthermore, no additional parking has been proposed, nor is the use of loudspeakers. Mrs. Potter also asked if property owners within 200 feet would be kept informed. Administrator Ciccarone said that they would be made aware of the Planning Board meeting at which the topic would be discussed.
2. Ruth MacPherson, Lake Road resident, lives on the closest property to the area of Shunpike Field that will be turfed. Mrs. MacPherson said that she was at a turfed field in Summit, and her shoes and socks were covered in tire shreds from the field. She is therefore concerned about the environmental affect this project could have on Sunset Lake. She also asked about the sprinklers at the site. Administrator Ciccarone said that the sprinklers were on due to some repairs being done, and they have since been adjusted.

Engineer Ruschke reported that the DEP has investigated crumb rubber, and there is not any conclusive evidence at this time that crumb rubber poses any negative environmental impact. Committeeman O'Connor added that alternatives to crumb rubber are going to be investigated.

3. Sharon Gill, Chatham Borough resident, said that she has experienced the same problem with crumb rubber mentioned by Mrs. MacPherson. Deputy Mayor Brower said that there is no trace of illness connected to the crumb rubber, and the risk of accidents on these fields is tremendously lessened.
4. Kathy Abbott, Wynwood Road resident, said that the environmental impact of the crumb rubber would be discussed at the December 4, 2008 meeting. She also asked if Engineer Ruschke would be investigating multiple vendors of the turf material. Engineer Ruschke said that they have done some preliminary work on manufacturer selection, but no final decision has been made. Mayor Tubbs added that Engineer Ruschke has been asked to look at some of the vendors that have been suggested by the Environmental Commission. Mrs. Abbott added that there are some vendors that do not use crumb rubber. Mayor Tubbs said that because this project would be a large expense, he would prefer to use a material that is proven to work and has a known useful life. Engineer Ruschke also said that during the DEP approval process, he would not be specifying a specific vendor so as to keep some options open. Deputy Mayor Brower suggested that Engineer Ruschke contact people with experience playing on the various types of turf surfaces to ensure compatibility.
5. Lynda Sisk, Lake Road resident, asked about tree removal for the Shunpike Field project. Administrator Ciccarone said that there might be some need to remove some trees, but they would be replaced. Steps would also be taken to maintain a buffer area between the neighborhood and the field. Engineer Ruschke explained that some trees would need to be removed for the placement of bleachers. However, it would be a minor encroachment into the buffer area. Mrs. Sisk also asked if lights would definitely be installed. Mayor Tubbs said that no decision has been made regarding lights, but it is being considered. Costs will still need to be examined, and discussions would need to be held with Chatham Borough and the Chatham Athletic Foundation.

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

### **Public Hearing/Final Adoption of Ordinances**

#### **ORDINANCE 2008-18**

#### **AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE LAND DEVELOPMENT ORDINANCE AS RESPECTS BASKETBALL BACKBOARDS**

**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 XXX, Section 30-6, *Definitions*, by amending the definition of *Accessory structure*, as follows:

1. Section 30-6. **Definitions.** *Accessory structure* shall mean a subordinate building or structure on the same lot with a main building, or a portion of the main building, occupied or devoted exclusively to an accessory use. Where an accessory building is attached to a main building in a substantial manner by a wall or roof, such accessory building shall be considered part of the main building. A basketball backboard permanently installed on a pole or post shall not be considered an accessory structure provided that the basketball backboard is located not closer than eight (8') feet from a side or rear property line nor less than one-half the distance of the required front yard setback.
2. All other provisions of Section 30-6 shall remain unchanged.
3. This ordinance shall take effect as provided by law.

Attorney Woodward explained the purpose of this ordinance, and how it would affect the placement of basketball backboards.

Mayor Tubbs opened the public hearing on Ordinance 2008-18.  
Seeing none, Mayor Tubbs closed the public hearing.

Deputy Mayor Brower moved to adopt Ordinance 2008-18. 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.

## **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.

Mayor Tubbs advised this ordinance had been tabled from the last meeting in order to get clarification about whether the Committee could change or eliminate the section that requires collecting a fee for an addition on a house. Mayor Tubbs explained why he was not in favor of eliminating this section from the ordinance. If the Township does not raise enough money for the COAH obligation, the Township would need to raise taxes. Mayor Tubbs said the homeowners who are putting additions on their homes would be in a better position to absorb some of the costs than the senior citizens in town. The Mayor stated he would like to pass the ordinance as it is, and if necessary it could be changed later. Attorney Woodward said the ordinance was based on the COAH model and that section 4 b.3 could be deleted or modified. He also discussed the growth share obligation, but stated he agrees with the Mayor in trying to collect as much money as possible.

Mayor Tubbs opened the public hearing on Ordinance 2008-19. Seeing none, Mayor Tubbs closed the public hearing.

Administrator Ciccarone said four \$1 million homes would only generate about \$60,000 and that 1 ½ percent generated on new construction may not be enough to cover the costs of brand new units. The Administrator also noted that the result of many of the additions on homes are close to being a demolition and rebuild, and that builders will try to get around the requirement. Committeeman O'Connor stated his support of the Mayor's approach and expressed the need to move forward on this. Committeewoman Hagner expressed concern with the ordinance and that she could not support imposing a fee when a homeowner is making a modest addition to their home. Committeeman Gallop agreed with the Mayor that it should be passed as it is since there were no good alternatives and suggested revisiting the ordinance in the future as the COAH regulations develop. Deputy Mayor Brower said he does not agree with the concept of this ordinance. He is opposed to this ordinance and agrees with Committeewoman Hagner that certain exemptions should be made.

Committeeman O'Connor moved to adopt Ordinance 2008-19. Committeeman Gallop seconded the motion.

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

#### **ORDINANCE 2008-20**

### **AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING REGULATION OF EXEMPTIONS AND HOURS FOR CANVASSING**

**BE IT ORDAINED**, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, as follows:

1. Chapter IV, GENERAL LICENSING, of the Revised General Ordinances of the Township of Chatham, 1995, is hereby amended to amend Sections 4-1.20g and 4-1.21 as follows:

**4-1.20 Exempt Persons**

g. Any member, officer, employee, agent or representative of a religious or political organization, who is engaged in any door to door canvassing on behalf of or for such organization.

**4-1.21 Hours.** No peddler, solicitor or canvasser shall engage in such activities on Sundays or legal holidays, nor on any weekdays or Saturdays except between the hours of 9:00 a.m. and 5:00 p.m., prevailing time, except that canvassers may engage in such activities on weekdays between the hours of 9:00 a.m. and 9:00 p.m., prevailing time.

2. This ordinance shall take effect in accordance with law.

Attorney Woodward explained the current township ordinance allows canvassing on weekdays only to 8:00 P.M. and that an environmental group who wanted to solicit until 9:00 P.M. had sued the town. By adopting this ordinance that exempts the door-to-door canvassing of the two organizations from registering with the Police Department and increases the canvassing hours, the Township will be withdrawn from the lawsuit. Attorney Woodward also advised that other municipalities have adopted a "Do Not Solicit Ordinance". Residents can either post their property with a sign, or they can place their name on a list that is kept by the Municipal Clerk prohibiting solicitors from their residence. The "Do Not Solicit" list would be provided to solicitors and offenders would be punishable by a fine.

Mayor Tubbs opened the hearing on Ordinance 2008-20.  
Seeing none, Mayor Tubbs closed the public hearing.

Deputy Mayor Brower said he would be supportive of a "Do Not Solicit Ordinance" and suggested that it be introduced at the next meeting. Attorney Woodward explained the type of content that such an ordinance would include. Committeeman O'Connor said he would be in favor of adding addendum language to this ordinance. Administrator Ciccarone recommended that they adopt the present ordinance tonight since the public hearing was already held. Attorney Woodward will have an ordinance ready for introduction at the first meeting in December.

Committeeman Gallop moved to adopt Ordinance 2008-20. Deputy Mayor Brower seconded the motion.

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

#### **Consent Agenda**

#### **RESOLUTION 2008-199**

### **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 \$1,208,319.15 and the prior month's payroll of \$424,374.00 Current Fund, \$43,149.17 Sewer No. 1, \$8,247.61 Sewer No. 2, and \$12,560.75 Police Private Employment be paid.

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

**BE IT FURTHER RESOLVED** that taxes due to the County of Morris, for the Fourth Quarter of 2008, in the amount of \$2,127,392.10 be paid.

**RESOLUTION 2008-200**

**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
- Construction Official – October
- Animal Control – October
- Police Department – September
- Municipal Court – October
- Public Works – October

**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 2008-201**

**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 23, 2008.

**RESOLUTION 2008-202**

**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 October 23, 2008.

**RESOLUTION 2008-203**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM REFUNDING ZONING 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 zoning 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>
Feury Construction Co. 9 Dari Court Lincoln Park, NJ 07035	\$25.00

**RESOLUTION 2008-204**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING A THREE YEAR CONTRACT WITH R&D TRUCKING OF WEST MILFORD, NEW JERSEY FOR THE TRANSPORTATION OF WET SEWAGE SLUDGE**

**WHEREAS**, the Township advertised for bids for the hauling of wet sludge on September 25, 2008 with the bid opening scheduled for October 22, 2008 at 10:00 am; and

**WHEREAS**, the bid specifications requested bids for a one year period commencing December 1, 2008 through November 30, 2009, with one (1) year options for each of the two succeeding years; and

**WHEREAS**, at said date and time three bids were received: R & D Trucking, \$0.043 per gallon for the initial year, with \$.045 per gallon for the second year and \$.045 for the third year; Residuals Management Services, Inc., \$0.0466 per gallon for the initial year, with \$0.049 per gallon for the second year and \$0.0516 for the third year; and Russell Reid Company, \$0.0617 per gallon for the initial year, with \$0.0637 for the second year and \$0.0657 for the third year; and

**WHEREAS**, the lowest bid was submitted by R&D Trucking and meets all required conditions and contract specifications; and

**WHEREAS**, the Chief Financial Officer has certified that sufficient funds are available for this contract in the operating 2008 budget and will be available subject to the adoption of the 2009, 2010 and 2011 budgets;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that the Mayor and Township Clerk are hereby authorized and directed to execute a contract with R&D Trucking of West Milford, New Jersey for the removal of wet sewage sludge at a cost of \$0.043 per gallon for the period December 1, 2008 through November 30, 2009, \$0.045 per gallon for the period December 1, 2009 through November 30, 2010, and \$0.045 per gallon for the period December 1, 2010 through November 30, 2011.

**RESOLUTION 2008-205**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING 2009 INTERLOCAL SERVICES AGREEMENT FOR UTILIZATION OF THE COUNTY'S MOBILE DATA TERMINAL SYSTEM**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham in the County of Morris, State of New Jersey, as follows:

1. The Mayor is hereby authorized to execute and the Township Clerk to attest to an Interlocal Services Agreement with the County of Morris for utilization of the County's Mobile Data Terminal System for a term of one year, commencing January 1, 2009 and terminating December 31, 2009. A copy of this agreement will be kept on file in the Office of the Township Clerk.

**RESOLUTION 2008-206**

**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 2008 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:

<u>Appropriation</u>	<u>To</u>	<u>From</u>
Municipal Clerk S&W	\$2,500	
Code Enforcement S&W	\$12,000	
Engineering OE	\$35,000	
Gasoline	\$20,000	

Public Buildings & Grounds OE	\$15,000	
Water	\$2,500	
Code Enforcement OE		\$20,000
Dispatch S&W		\$37,000
Colony Pool S&W		\$30,000
Total	\$87,000	\$87,000

**RESOLUTION 2008-207**

**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 &amp; ADDRESS</u>	<u>AMOUNT</u>
20	14	Molino, Ida & Antonio 47 Susan Drive Chatham, NJ 07928	\$3,285.39

**RESOLUTION 2008-208**

**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>
Scott & Lezli Bradley 20 Lisa Drive Chatham, NJ 07928	7760011189	\$480.00

**RESOLUTION 2008-210**

**RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY MORRIS, STATE OF NEW JERSEY REDUCING THE PERFORMANCE GUARANTY FOR THE SYCAMORE HILL SUBDIVISION**

**WHEREAS**, the Planning Board has granted preliminary and final subdivision approval for a development known as Sycamore Hill adjacent to Meyersville Road; and

**WHEREAS**, said approvals required, in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the Developer's Agreement between the developer and the Township, the posting of a performance guaranty to secure completion of the public improvements that were part of the project, and which was posted by the developer; and

**WHEREAS**, as the project has proceeded, most work has been substantially completed, and it is appropriate to further reduce the performance guaranty to \$4,788.00 for the work that remains to be completed;

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the performance guaranty posted by the developer is hereby reduced to the amount of \$4,788.00, and that release of the performance guaranty in excess of that amount is hereby authorized, provided that no relief granted herein shall be construed to relieve the developer from the obligation, once all work is completed and accepted, to post a maintenance guaranty in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., and the Developer's Agreement between the Township and the developer.

Committeewoman Hagner asked about the budget transfers. Administrator Ciccarone explained why the transfers were necessary.

Deputy Mayor Brower moved to adopt the Consent Agenda. 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.

#### **RESOLUTION 2008-209**

#### **RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING RAFFLES FOR ST. PATRICK CHURCH**

**BE IT RESOLVED** by the Township Committee of the Township of Chatham that off-premise raffles to be conducted by St. Patrick Church on March 21, 2009, at Corpus Christi Church, Southern Blvd., Chatham Township, are hereby approved.

Deputy Mayor Brower moved to pass Resolution 2008-209. Committeeman Gallop seconded the motion.

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

#### **Discussion: possible ordinance or resolution**

#### **Awarding contract for Modifications to the Chatham Senior Center**

Administrator Ciccarone advised that when the Township went out to bid the second time for improvements to the Senior Center, the bid package was designed with a base bid to make the lavatories usable for adults and handicapped accessible. The lowest bidder for the base bid asked to withdraw his bid due to a mathematical error. The Committee discussed what Chatham Borough would be expected to pay if they decided to award the contract to the bidder with the next lowest base bid. Committeeman O'Connor expressed support to get the whole project done. Deputy Mayor Brower was in favor of moving the project along as quickly as possible. In addition to the base bid, Committeewoman Hagner stated the necessity of replacing the door as well. Administrator Ciccarone explained the Committee would need to award either the base bid to one bidder or the total project to another bidder. Administrator Ciccarone reviewed with the Committee the bid results line by line for each of the items bid by the lowest five bidders.

#### **RESOLUTION 2008-211**

#### **RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM TO AWARD CONTRACT FOR MODIFICATIONS TO THE CHATHAM SENIOR CENTER**

**WHEREAS**, the Township Committee of the Township of Chatham has received bids for Modifications to the Chatham Senior Center and,

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

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee on this day,

November 13, 2008 that:

- 1) Contract for **MODIFICATIONS TO THE CHATHAM SENIOR CENTER** be and is hereby awarded to:  
**MHHC**  
**10 First Street**  
**Murray Hill, NJ 07974**  
On their Total Amount for Base Bid Plus Supplemental Bid Items 1, 2, and 3 of \$98,060.00.
- 2) The exact title of the appropriation to be charged is: Ordinance 2007-08.
- 3) This Resolution shall take effect immediately.

Deputy Mayor Brower moved to approve Resolution 2008-211 to award the entire contract to Murray Hill Construction (MHHC) for their total base bid plus supplemental bid items of \$98,060. 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.

### **Hearing of Citizens**

Mayor Tubbs opened the hearing of citizens.  
Seeing none, Mayor Tubbs closed the public hearing.

### **Executive Session**

#### **RESOLUTION 2008-P-14**

#### **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 go into Executive Session at 10:10 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 10:15 P.M. Committeeman O'Connor moved to adjourn. Committeeman Gallop seconded the motion and it carried unanimously.

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Joy M. Wiley  
Municipal Clerk