

**TOWNSHIP OF CHATHAM
TOWNSHIP COMMITTEE MEETING MINUTES
DECEMBER 3, 2009**

Mayor Tubbs called the workshop meeting of the Township Committee of the Township of Chatham to order at 7:31 PM.

Adequate Notice of this meeting of the Township Committee was given as required by the Open Public Meetings Act as follows: Notice was given to both The Chatham Courier and the Morris County Daily Record on January 8, 2009; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 8, 2009; and notice was filed with the Township Clerk on January 8, 2009.

Mayor Tubbs led the flag salute.

Roll Call

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

Approval of Agenda

Committeeman O'Connor asked that the Environmental Commission's presentation also include the presentation of Sustainable Jersey awards.

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

Presentations

Student Environmental Commissioners

Pat Collington from the Environmental Commission introduced Alex Lynch and Matt Piechnik, who are student members of the Environmental Commission. They are currently 5th graders, and they conducted a research project about the types of items recycled by Chatham Township as compared to other neighboring municipalities. Of the municipalities that Ms. Lynch and Mr. Piechnik researched, most had recycling programs similar to that of Chatham Township, yet there were some exceptions. For example, Livingston and Morristown recycle all types of plastic and Livingston also collects Styrofoam, whereas the only plastics that the Township recycles are types 1 & 2. The biggest problem within the Township that was discovered was that at sporting events, there is a lot of litter left behind, and recyclable items are not placed in the proper bins. Furthermore, there are not a sufficient number of bins. Ms. Lynch and Mr. Piechnik also suggested that businesses make recycling bins available for use, and they listed other ways in which people can help recycling efforts. Mr. Piechnik asked the Township Committee why the Township only collects types 1 & 2 of plastic. Mayor Tubbs said that because of the contract with Morris County, the Township could only recycle those two types since there is not a sufficient market for the other types. He also pointed out that the Township now collects batteries and toner cartridges, and he would be happy to see the Township begin to collect Styrofoam and other types of plastic if there is an outlet that would take those items. Mrs. Collington thanked the Township Committee for allowing this presentation to be made.

Sustainable Jersey Awards

Steve Carroll from the Environmental Commission presented to the Township Committee the Sustainable Jersey Certification Award that was received by the Township. He also gave some background on Sustainable Jersey, and he noted that Chatham Township is one of only 34 municipalities that have received certification. Mr. Carroll also indicated that the Township also received the Sustainable Collaboration Award for its work with Chatham Borough, and the award was presented by Kathy Abbott from the Environmental Commission. Mayor Tubbs recognized the efforts of the Environmental Commission. Committeeman O'Connor

acknowledged the leadership shown by Dot Stillinger, who is the Chairperson of the Environmental Commission.

Reports

Committeeman Gallop reported that the electronic community bulletin board can now be viewed on the Township website. Committeeman O'Connor reported that the Environmental Commission had some discussion on the Platt Property, which is being purchased by Morris County for open space purposes. There was also talk of a greenway along the Passaic River, which would be problematic since the properties are not all publicly owned. Deputy Mayor Hagner reported that the Open Space Committee also discussed the Platt Property, and she noted that the Planning Board is looking to subdivide the property to separate the open space portion from the privately owned portion. Committeeman Brower asked how much tax revenue the Township would be losing due to the County's purchase of the Platt property. Administrator Ciccarone said that it is not a significant loss, since the land is currently assessed as farmland. Mayor Tubbs reported that he attended the League of Municipalities Conference, at which there were discussions on fixing COAH. He is hopeful that the new gubernatorial administration will bring about changes to COAH, and he said that there might be proposed legislation pre-filed in upcoming weeks. Administrator Ciccarone reported that the Township is not affected by the State's decision to withhold the December payment of state aid, since the Township does not receive the particular category of aid. He also reported that Moody's Rating Service has issued the Township an AA2 rating, which means that the Township is in good fiscal health and has sufficient fund balances. Attorney Woodward reported on the submission for Substantive Certification under round three of the COAH regulations. There were some objections to the plan, primarily related to the extension of controls on the affordable units in Vernon Grove. Although COAH has authorized mediation on the objections, Attorney Woodward said that in his opinion there is nothing to mediate since the Township has the right of first refusal on the affected units. Attorney Woodward also gave an update on Green Acres funding. For the Blatz Riverwalk property, all paperwork has been submitted, and the Township is awaiting payment, which should arrive by the end of the year. The NJ Conservation Foundation property's Green Acres funding is also being worked out, and Attorney Woodward said he attended a meeting to help resolve remaining issues. For the Motto Property, there is some more soil sampling that needs to be performed before Green Acres funds can be released. Attorney Woodward has also been in the process of drafting an interlocal agreement for the funding of work to be done at Shunpike Field. Engineer Ruschke reported that the Township is in the process of going out to bid on Shunpike Field, and bids will be received on December 22, 2009. Committeeman Brower asked if bidders could potentially each be bidding on different types of infill. Engineer Ruschke explained that the base bid would be for all of the work except the selection of the infill material. The type of infill material will be bid in three different alternate bid items, and all bidders will be bidding on the same standards. Committeeman Brower also asked if the bid would include a maintenance contract, and he said that these types of fields usually require a high level of professional maintenance. Engineer Ruschke said that there is a one-year maintenance period, but that does not include regular maintenance. Regarding the improvements at the Wastewater Treatment Plant, Engineer Ruschke said that progress has been slow, but work has been moving along. Committeeman Brower asked about progress at the Southern Boulevard Firehouse. Engineer Ruschke said that the work is behind schedule, and some site improvements such as paving and landscaping will have to wait for spring. However, the quality of work has been satisfactory. Chief Conduis added that he expects to see significant progress on the building over the next few weeks. Mayor Tubbs commented on the former kitchen adjacent to the gym in the Municipal Building. He said that the room is mostly completed, and will soon be in use. The availability of the room for recreation programs will help free up the gym for additional activities. Administrator Ciccarone added that the Department of Public Works also played a significant role in the work done on this room.

Public Hearing/Final Adoption of Ordinances

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:
 - 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 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

- 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.
 - 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 opened the Public Hearing on Ordinance 2009-18.
Hearing no comment, Mayor Tubbs closed the Public Hearing.

Committeeman O'Connor moved to adopt Ordinance 2009-18. Committeeman Gallop seconded the motion.

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

Consent Agenda

**RESOLUTION 2009-227
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 \$523,199.85 and the prior month's payroll of \$446,196.68 Current Fund, \$42,416.85 Sewer No. 1, \$7,135.11 Sewer No. 2, and \$20,466.93 Police Private Employment be paid.

BE IT FURTHER RESOLVED that taxes due to the School District of the Chathams, for the month of December 2009, in the amount of \$3,055,576.03 be paid.

BE IT FURTHER RESOLVED that taxes due to the County of Morris, for Added and Omitted Taxes for 2009, in the amount of \$53,809.05 be paid.

RESOLUTION 2009-228

**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 November 12, 2009.

RESOLUTION 2009-229

**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 November 12, 2009.

RESOLUTION 2009-230

**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>
2	12	Trevor King & Karen J. Mills 815 River Road Chatham, NJ 07928	\$1,185.33
64.01	2.06	Meredith Tsompanidis 2D Heritage Drive Chatham, NJ 07928	\$1,054.37
96	2.02	First American Tax Service Attn: Chase Refund Department 1 First American Way Westlake, Texas 76262 Re: 357 Shunpike Road	\$16,672.53
69	15.02	Christopher & Deborah Baker 82 Southern Blvd. Chatham, NJ 07928	\$3,968.17

RESOLUTION 2009-231

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>
69	15	Ralph Markiewicz 2081 Morris Ave Apt. 112 Union, NJ 07083 Re: 72 Southern Boulevard	\$330.57
83	1	Ralph Markiewicz 2081 Morris Ave Apt. 112 Union, NJ 07083 Re: 71 Pine Street	\$330.57
102.11	4	Ralph Markiewicz 2081 Morris Ave Apt. 112 Union, NJ 07083 Re: 160 Southern Boulevard	\$280.46

TOTAL PAYMENT: \$941.60

RESOLUTION 2009-232

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>
Oak Knoll School Sister Holy Child of Jesus 544 Black Burn Road Summit, NJ 07901	7200012976	\$2,903.22
Farm at Green Village James Brill 403 Green Village Road Green Village, NJ 07935	7760011184	\$261.70
Shree Sridhar 20 Ramapo Trail Chatham, NJ 07928	7760011263	\$120.00
Peter Worden Ann Woodworth 30 Floral Street Chatham, NJ 07928	7200013009	\$120.00
Parry & Laura Gosling 21 Fairfax Terrace Chatham, NJ 07928	7760011231	\$120.00
Home Properties 25 Hickory Place Chatham, NJ 07928	7760011242	\$697.19
Joel & Kara Monson 262 Lafayette Ave Chatham, NJ 07928	7760011202	\$681.20
James Hocko 449 River Road Chatham, NJ 07928	7760011211	\$108.25
Sisters of the Holy Child of Jesus Oak Knoll School 44 Blackburn Road Summit, NJ 07901	7200038899	\$576.27

**RESOLUTION 2009-233
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM,
COUNTY OF MORRIS, STATE OF NEW JERSEY,
CANCELLATION OF STALE DATED CHECKS**

WHEREAS, there exist various reconciling items on the balance sheet of the Municipal Court General Fund and the Bail Account; and

WHEREAS, the funds creating these reconciling items have been investigated and it has been determined that these reconciling items should be cancelled; and

WHEREAS, these cancelled funds will be returned to their respective funds and or accounts;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the following reconciling items are hereby cancelled:

	<u>General Fund</u>		
<u>Check #</u>	<u>\$ Amount</u>		<u>Date</u>
5057	52.51		02-Apr-03
5065	32.73		02-Apr-03
5344	0.45		09-Aug-07
TOTAL	\$85.69		

<u>Check #</u>	<u>Bail Account</u> <u>\$ Amount</u>	<u>Date</u>
1720	17.00	21-Sept/05
1752	7.00	01-Mar-06
1957	158.00	11-Sept-08
1959	6.00	01-Oct-08
TOTAL	\$188.00	

**RESOLUTION 2009-234
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>
83	1	Ralph Markiewicz 2081 Morris Ave Apt. 112 Union, NJ 07083	\$1,095.87 Tax Sale
		Re: 71 Pine Street Certificate # 0906	\$200.00 Premium

Committeeman O'Connor asked about the purchase of a new Ford Edge police car, and asked if the Township had a standard as to which type of police vehicles it buys. Administrator Ciccarone said that the particular vehicle in question was purchased to be used by Chief Paton, and if the Chief is satisfied with it then the Township would convert to that model for squad cars. Mayor Tubbs asked that the electric bill for Nash Field be charged to the baseball funds rather than the general account. Committeeman Brower asked about the costs to the County for the recycling program and the amount of money made through the resale of the recyclables. Mayor Tubbs said that the Township is not obligated to use the County, and it may be worthwhile to explore other options when the current contract is up for renewal. Administrator Ciccarone pointed out that the money collected by the County is distributed to the municipalities in the form of a recycling tonnage grant. He also pointed out that recycling programs lead to a loss of money, since the money brought in from resale is less than the cost of collecting the material.

Committeeman Gallop moved to approve the Consent Agenda. Deputy Mayor Hagner 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.

1. Carol Ethridge, a Chatham Borough resident, addressed the need for a sidewalk on the east side of Lafayette Avenue from Lafayette Avenue School to Watchung Avenue. Mrs. Ethridge asked that a sidewalk be installed in this area in 2010 rather than at a later date. Mayor Tubbs said that because there is a sidewalk on the west side of Lafayette Avenue, a sidewalk on the east side is not a priority. Mrs. Ethridge said that a petition had been submitted to the Township to have the sidewalks installed, and of 16 houses in the proposed area, 10 signed her petition. Of the remaining six, only three were outright opposed to the installation of a sidewalk. Administrator Ciccarone said that there are other issues that would complicate the installation of this sidewalk, including some large oak trees that would possibly need to be removed. He also pointed out that there is a path from Dellwood into the school property, and crossing

guards at the intersection of Lafayette Ave and Watchung Ave and at a crosswalk in front of the school. Deputy Mayor Hagner added that when the prioritization list was made, this area was of a lower priority because there was an existing sidewalk on side of the street and safe places to cross. Administrator Ciccarone added that the same issue exists from Chatham High School toward Southern Boulevard, to which Mrs. Ethridge replied that there are more children heading north toward Main Street in Chatham Borough rather than toward Southern Boulevard. Committeeman O'Connor asked about the path via Dellwood. Mrs. Ethridge pointed out that for many students, to use the path is the "long way." She also stressed that her main concern is that of safety. Committeeman Brower asked if the residents could go ahead and install the sidewalks themselves, should the Township Committee decide not to change the sidewalk prioritization.

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

Discussion

Snow Removal Ordinance

ORDINANCE 2009-19 AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY TO AMEND REGULATIONS REGARDING PLACEMENT OF SNOW OR ICE ON STREETS, SIDEWALKS OR FIRE HYDRANTS

BE IT ORDAINED by the Township Committee of the Township of Chatham, County of Morris, New Jersey, that the Code of the Township of Chatham is hereby amended at Chapter XIX, Streets and Sidewalks, to revise Section 19-10.6, Placing Snow or Ice on Streets, Sidewalks of Fire Hydrants Prohibited, to read as follows:

Section 1. Chapter XIX, Streets and Sidewalks

Section 19-10.6

19-10.6 Placing Snow or Ice on Streets, Sidewalks of Fire Hydrants Prohibited.

No person, including any property owner, shall place, or allow or cause to be placed, snow or ice upon any street, road, sidewalk or municipal right of way, nor, without the owner's permission, upon the lands of any property near, adjoining or across the street from the property from which the snow or ice has been removed. No such person shall place such snow or ice in a manner that will obstruct or impede vehicular or pedestrian traffic or block access to any street, road or sidewalk. No person shall place any snow or ice upon or near any fire hydrant. In the event that the plowing of snow or ice in a driveway cannot reasonably be accomplished without moving some snow or ice onto a street, road or right of way, such snow or ice shall be immediately plowed back onto the property from which it was moved.

Section 2. Effective Date. This ordinance shall take effect as provided by law.

Committeeman Brower said that there have been complaints of people parking on streets during snowstorms, as well as corners being blocked by piles of snow, and he has worked with Chief Paton and Public Works Director Joe Barilla to look into the problem. Committeeman Brower said that there is also an issue of private contractors plowing driveways and dumping the snow onto the street or on neighboring properties. Therefore, he suggested that an ordinance be drafted to prohibit piling snow upon fire hydrants or on other people's property without permission. Deputy Mayor Hagner asked how this ordinance compares with the existing ordinance. Attorney Woodward read aloud the current ordinance, and said that the new ordinance holds both the plower and the property owner responsible for improper plowing. This new ordinance also prohibits plowing snow onto neighboring properties without permission, and requires that if snow must be plowed into the street, it must be returned to the property whence it came. Committeeman O'Connor mentioned that perhaps the Township Committee should look into the topic of snow removal on sidewalks as well. Committeeman Gallop asked Chief Paton

if the snow removal regulations are ever enforced. Chief Paton said that the regulations are rarely enforced.

Committeeman Brower moved to introduce Ordinance 2009-17. Deputy Mayor Hagner seconded the motion.

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

Public Hearing for Ordinance 2009-19 will be scheduled for December 17, 2009.

Lock Box Ordinance

ORDINANCE 2009-20

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING CHAPTER XII, "FIRE PREVENTION", OF THE TOWNSHIP CODE TO ADD SUBSECTION 12-3, "KEY LOCK BOX SYSTEM"

WHEREAS, the Township Committee of the Township of Chatham, New Jersey has determined that the health, safety and welfare of the citizens of Township of Chatham are promoted by requiring certain structures to have key lock box entry systems installed on the exterior; and

WHEREAS, the key lock box entry system is being adopted nationally and will operate on a master key basis that will expedite entry into structures by the Chatham Township and Green Village Fire Departments during times of emergency; and

WHEREAS, the key lock box entry system will eliminate forced entries into structures thereby avoiding costly and time-consuming efforts in gaining access to locked structures during an emergency; and

WHEREAS, the Township Committee of the Township of Chatham, New Jersey is authorized to pass this ordinance;

NOW THEREFORE, BE IT ORDAINED, that the following is adopted in the Township of Chatham Code of Ordinances:

12-3 Key Lock Box System

12-3.1 Definition:

Lock Box: An Underwriter's Laboratory type secured box or vault of a size and style approved by the Township Fire Marshal or his designee, which contains key(s) for the exclusive use of the Chatham Township and Green Village Fire Departments to access the premises in an emergency.

12-3.2 Key Lock Box Required

The following structures equipped with or required to be equipped with fire detection or fire suppression systems or equipment shall have a Key Lock Box installed at or near the main entrance of each structure or such other location as required by the Township Fire Marshal or his designee:

- a. Commercial or business structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency.
- b. Governmental structures, churches, schools and nursing care facilities.
- c. Multi-family residential structures that have restricted access through locked doors and have a common corridor for access to living units.

12-3.3 Key Lock Box location contents and installation

1. The Township Fire Marshal or his designee shall approve in writing the type of Lock Box.
2. The Township Fire Marshal or his designee shall approve the installation location of the Lock Box.
3. The Lock Box shall be installed as per manufacturer specifications and approved by the Fire Marshal or his designee.
4. The owner of each structure required to have a Lock Box shall, at all times, be required to keep the following in the Lock Box, as required by the Township Fire Marshal or his designee.
 - (a) Keys to locked points of ingress, whether on interior or exterior of such buildings.
 - (b) Keys to the locked mechanical rooms.
 - (c) Keys to the locked elevator rooms.
 - (d) Keys to the elevator controls.

- (e) Keys to any fence or secured areas.
- (f) All access or combination codes to locked points of egress or ingress, whether on interior or exterior of such buildings.
- (g) A “business size” card containing the emergency contact person and phone number for such building or unit.

12-3.4 Maintenance and Associated Cost

In the event, the key to the structure is changed or re-keyed, the owner/operator of the building shall immediately notify the Township Fire Marshal or his designee and provide the updated access key. The key to the lock shall be secured in the key box. The property owner shall assume all associated costs for the purchase and installation of a Key Box(s).

12-3.5 Compliance

- (a) The owner(s) of a structure subject to this ordinance in existence on the effective date of this ordinance shall have 120 days from its effective date to comply with this ordinance.
- (b) The owner(s) of each newly constructed structure subject to this ordinance shall have a lock box installed and operational in accordance with this ordinance prior to issuance of a certificate of occupancy.

12-3.6 Violations and Penalties

Any building owner or operator violating any provision of this Lock Box Ordinance shall be subject to a fine of \$100.00 for every violation of this ordinance. The existence of a violation for a period of up to 30 continuous days shall constitute a single violation. The Township Fire Marshal shall notify the responsible party of any violation in writing. Within 30 days of the service of such notice, the owner/operator shall correct the violation or show why the structure was not subject to this ordinance. The Township Fire Marshal shall consider such information, reaffirm or rescind the Lock Box fine and notify the owner of his/her decision by mail. The owner/operator may appeal the decision of the Township Fire Marshal within 20 days after service of the notice of decision by submitting an appeal in writing to the Township Committee which shall hold a hearing thereon and shall affirm, reverse or modify the decision of the Township Fire Marshal.

EFFECTIVE DATE: This ordinance shall take effect as provided by law.

Mayor Tubbs explained that this ordinance would allow for emergency entry into multi-unit dwellings, commercial properties, and other participating properties. Chief Conduis said that the lock box master key would be kept in a coded box on the fire apparatus, and would allow the fire department to gain access to buildings without forcing entry and causing unnecessary damage. Deputy Mayor Hagner asked if the keys in the lock boxes would only allow access to common areas of multi-unit dwellings. Chief Conduis said that access would primarily be to common areas, but people could voluntarily have their keys placed in the lock box as an added safety measure. Furthermore, a police officer would be present at all times when the fire departments have to gain entry. Committeeman Brower said that he supports this program, and he would like to see an optional program for the owners of single-family homes. Chief Conduis said that there is a smaller lock box available for single-family homes, and they do have the option of participating. Committeeman Brower asked about the costs of this program. Chief Conduis said that it would cost \$180 per box. The Township Committee also discussed the implementation of this program, and Mayor Tubbs said that the Township would want to work together with the property owners to get them in compliance. Committeeman Brower pointed out that landlords have certain obligations to their tenants, and Chief Conduis said that this program would help protect the properties and possibly people’s lives. Deputy Mayor Hagner asked if the individual unit owners would be fined if their keys were not placed in the lock box. Chief Conduis said that the residents of private units could not be required to have their keys in the box, but they can opt to participate. Committeeman Gallop asked if there are any plans to make single-family homeowners aware of this program. Chief Conduis said that there are plans to do a public relations campaign by way of newspapers, and Committeeman Brower suggested that a notice be put in the Senior Center’s Newsletter.

Committeeman O’Connor moved to introduce Ordinance 2009-20. Committeeman Brower seconded the motion.

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

Public Hearing for Ordinance 2009-20 will be scheduled for December 17, 2009.

MetroPCS

RESOLUTION 2009-235

RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY MORRIS, STATE OF NEW JERSEY AUTHORIZING APPLICATION BY METROPCS FOR VERIFICATION OF FRESHWATER WETLANDS LOCATION MUNICIPAL PREMISES ON WHICH A CELL TOWER IS LOCATED

WHEREAS, by Land Lease Agreement dated December 30, 1998, the Township of Chatham entered into an agreement with New York SMSA Limited Partnership for the ground lease and construction of a cellular communications tower at the municipal facilities at 401 Southern Boulevard; and

WHEREAS, said Agreement provides at Paragraph 20 that space on the tower may be leased to other parties for communications purposes by agreement of the Township and lessee, which consent shall not be unreasonably withheld, with the gross rental for such space being split equally between the Township and lessee; and

WHEREAS, MetroPCS has proposed to co-locate an cellular antenna array on the existing telecommunications tower, but requires approval from the New Jersey Department of Environmental Protection as to the location of any freshwater wetlands prior to entering into such co-location agreement; and

WHEREAS, the application for said approval requires the consent of the property owner, here the Township; and

WHEREAS, the Township Committee has reviewed the application form and desires that in giving consent to the application that the Township Administrator be authorized to execute the appropriate portion of the application form;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that consent to the application is hereby given, and the Township Administrator is hereby authorized to execute such documents as are necessary to implement this consent.

Attorney Woodward said that MetroPCS has asked the Township to consent to an application for a wetlands delineation/verification because they want to lease out space for an additional cellular antenna. Administrator Ciccarone said that the existing tower is filling up, and the Township Committee may want to consider allowing for an extension in the future. Attorney Woodward explained that MetroPCS has a ground lease to operate the tower, and when other companies lease space on the tower, the income from the lease is split equally between MetroPCS and the Township. Attorney Woodward also indicated that the tower could also be made taller to add more antennas.

Committeeman Brower moved to pass Resolution 2009-235. Deputy Mayor Hagner seconded the motion.

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

2010 Meeting Dates

Administrator Ciccarone indicated that he and Deputy Clerk LaConte went through the 2010 calendar to review suggested meeting dates. The suggested meeting dates generally fall on the second and fourth Thursdays, with a few exceptions. Administrator Ciccarone said that because the Township Committee typically cancels an August meeting, he suggests that there be only one meeting scheduled for August 19th so that there would not be too long of a stretch between meetings. For the month of November, Deputy Clerk LaConte indicated that the second Thursday falls on Veteran's Day, and the fourth Thursday is Thanksgiving, with the third Thursday falling during the NJ League of Municipalities Conference. Administrator Ciccarone suggested that if the November meeting were scheduled for November 18th, anyone going to the League Conference would be able to make it back in time to attend the Township Committee meeting. The Township Committee concurred that the August meeting should be scheduled for the 19th and the November meeting should be scheduled for the 18th. Committeeman Brower

suggested that a meeting not be scheduled for December 23rd, and Mayor Tubbs suggested that the December meetings could each be moved up a week to meet on December 2nd and December 16th.

Executive Session

**RESOLUTION 2009-P-16
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 action would be taken following the Executive Session.

Committeeman Brower moved to pass Resolution 2009-P-16 to go into Executive Session at 9:37 PM. Deputy Mayor Hagner seconded the motion.

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

The Township Committee returned from Executive Session at 10:35 PM.

Committeeman O'Connor moved to authorize the Department of Public Works to make a conditional offer of employment. Deputy Mayor Hagner seconded the motion, and it carried unanimously.

Mayor Tubbs moved to adjourn at 10:38 PM. Deputy Mayor Hagner seconded the motion, and it carried unanimously.

Gregory J. LaConte
Deputy Municipal Clerk