

TOWNSHIP OF CHATHAM
TOWNSHIP COMMITTEE AGENDA

April 21, 2016
April 21, 2016 Draft

Meeting Called to Order

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, 2016; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 8, 2016; and notice was filed with the Township Clerk on January 8, 2016.

Flag Salute

Roll call

Approval of Agenda

Reports:

Presentation – 2015 Municipal Audit

Presentation - School District of the Chatham 2016-17 Budget

Hearing of Citizens/Petitions Note: This is an opportunity for any member of the public to be heard about issues which are not topics scheduled for Public Hearings tonight. To help facilitate an orderly meeting, and to permit all to be heard, speakers are asked to limit their comments to three minutes.

Introduction of Ordinances

1. Ordinance 2016-13 Bond Ordinance

Consent Agenda (routine items that may be passed by a single roll call vote; any Committee member may call for a separate discussion or vote on any item)

1. Resolution 2016-098 Receipt of Reports
2. Resolution 2016-099 Approving Meeting Minutes
3. Resolution 2016-100 Refunding Overpayment of Taxes
4. Resolution 2016-101 Approving Social Affair Permit
5. Resolution 2016-102 Releasing 3rd Party Overtime Escrow Balances
6. Resolution 2016-103 Amending 2016 Budget: Division of Criminal Justice Grant
7. Resolution 2016-104 Amending 2016 Budget: NJDOT Grant for Woodland Road
8. Resolution 2016-105 Authorizing Payment to Municipal Group
9. Resolution 2016-106 Approving Fire Department Membership
10. Resolution 2016-107 Authorizing Estimated Tax Billing
11. Resolution 2016-108 Declaring Fenix Chatham I & Fenix Chatham II In Default

Discussion: possible ordinance or resolution

1. Robert Drive Parking Regulations
2. Approving Historical Society Facility Use Agreement

Hearing of Citizens (Time Permitting)

Executive Session* – If Necessary

Adjourn

*In accordance with the Open Public Meetings Act, items to be discussed in Executive Session will be made public as soon as known.

ORDINANCE 2016-13

BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY, NEW INFORMATION TECHNOLOGY EQUIPMENT AND NEW AUTOMOTIVE VEHICLES, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$885,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS

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

Section 1. The Township of Chatham, in the County of Morris, State of New Jersey (the "Township") is hereby authorized to make various public improvements and to acquire new additional or replacement equipment and machinery, new information technology equipment and new automotive vehicles, including original apparatus and equipment, in, by and for said Township, as more particularly described in Section 4 hereof. Said improvements shall include all work, materials and appurtenances necessary and suitable therefor.

Section 2. There is hereby appropriated to the payment of the cost of making the improvements described in Sections 1 and 4 hereof (hereinafter referred to as "purposes"), the respective amounts of money hereinafter stated as the appropriation for said respective purposes. Said appropriation shall be met from the proceeds of the sale of the bonds authorized and the down payment appropriated by this ordinance. Said improvements shall be made as general improvements and no part of the cost thereof shall be assessed against property specially benefited.

Section 3. It is hereby determined and stated that the making of such improvements is not a current expense of said Township.

Section 4. The several purposes hereby authorized for the financing of which said obligations are to be issued are set forth in the following "Schedule of Improvements, Purposes and Amounts" which schedule also shows (1) the amount of the appropriation and the estimated cost of each such purpose, and (2) the amount of each sum which is to be provided by the down payment hereinafter appropriated to finance such purposes, and (3) the estimated maximum amount of bonds and notes to be issued for each such purpose, and (4) the period of usefulness of each such purpose, according to its reasonable life, computed from the date of said bonds:

SCHEDULE OF IMPROVEMENTS, PURPOSES AND AMOUNTS

A. Acquisition of new additional or replacement equipment and machinery and new automotive vehicles, including original apparatus and equipment, for the use of the Department of Public Works, including, but not limited to, pickup trucks.

Appropriation and Estimated Cost	\$50,000
Down Payment Appropriated	\$2,500
Bonds and Notes Authorized	\$47,500
Period of Usefulness	5 years

B. Acquisition of new information technology equipment for the use of the Police Department, including, but not limited to, a computer server.

Appropriation and Estimated Cost	\$20,000
Down Payment Appropriated	\$1,000
Bonds and Notes Authorized	\$19,000
Period of Usefulness	5 years

C. Undertaking of improvements to various roads, as set forth on a list prepared or to be prepared by the Township Engineer and placed on file with the Township Clerk and hereby approved as if set forth herein in full. Depending upon the contract price and other exigent circumstances, and upon approval by the Township Committee, there may be additions to or deletions from the aforesaid list. It is hereby determined and stated that said roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").

Appropriation and Estimated Cost	\$250,000
Down Payment Appropriated	\$12,500
Bonds and Notes Authorized	\$237,500
Period of Usefulness	10 years

D. Acquisition of new additional or replacement equipment and machinery consisting of self-contained breathing apparatus equipment and various items of firefighting, emergency and safety equipment for the use of the Volunteer Fire Departments.

Appropriation and Estimated Cost	\$30,000
Down Payment Appropriated	\$1,500
Bonds and Notes Authorized	\$28,500

Period of Usefulness 5 years

E. Undertaking of various improvements to Colony Pool, including, but not limited to, structural improvements.

Appropriation and Estimated Cost	\$250,000
Down Payment Appropriated	\$12,500
Bonds and Notes Authorized	\$237,500
Period of Usefulness	15 years

F. Funding the Township's portion of the cost of undertaking various improvements to the Library of The Chathams. It is hereby determined and stated that said public building being improved is of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law.

Appropriation and Estimated Cost	\$285,000
Down Payment Appropriated	\$14,250
Bonds and Notes Authorized	\$270,750
Period of Usefulness	15 years

Aggregate Appropriation and Estimated Cost	\$885,000
Aggregate Down Payment Appropriated	\$ 44,250
Aggregate Amount of Bonds and Notes Authorized	\$840,750

Section 5. The cost of such purposes, as hereinbefore stated, includes the aggregate amount of \$50,000 which is estimated to be necessary to finance the cost of such purposes, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 6. It is hereby determined and stated that moneys exceeding \$44,250, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for said Township, are now available to finance said purposes. The sum of \$44,250 is hereby appropriated from such moneys to the payment of the cost of said purposes.

Section 7. To finance said purposes, bonds of said Township of an aggregate principal amount not exceeding \$840,750 are hereby authorized to be issued pursuant to the Local Bond

Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 8. To finance said purposes, bond anticipation notes of said Township of an aggregate principal amount not exceeding \$840,750 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 9. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of said Township and attested by the Township Clerk or Deputy Township Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance and also the power to sell said notes, is hereby delegated to the Chief Financial Officer who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 10. It is hereby determined and declared that the average period of usefulness of said purposes, according to their reasonable lives, taking into consideration the respective amounts of bonds or notes authorized for said purposes, is a period of 12.45 years computed from the date of said bonds.

Section 11. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Township

Clerk of said Township, and that such statement so filed shows that the gross debt of said Township, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$840,750 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 12. Any funds received from private parties, the County of Morris, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of such purposes, shall be applied to the payment of the cost of such purposes, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for such purposes shall be reduced accordingly.

Section 13. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Township Clerk and is available for public inspection.

Section 14. The Township intends to issue the bonds or notes to finance the cost of the improvements described in Sections 1 and 4 of this bond ordinance. If the Township incurs such costs prior to the issuance of the bonds or notes, the Township hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 15. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Township, and the Township shall levy ad valorem taxes upon all the taxable real property within the Township for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 16. This ordinance shall take effect twenty days after the first publication thereof after final passage.

Introduced: April 21, 2016

TOWNSHIP OF CHATHAM, COUNTY OF
MORRIS, STATE OF NEW JERSEY

Adopted:

Attest:

BY: _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

DRAFT

RESOLUTION 2016-098

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, ACKNOWLEDGING RECEIPT OF REPORTS

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 – March
Construction Official – March
CFO – March
Police Department – March
Vital Statistics - 1st Quarter
Dog Licenses - 1st Quarter
Raffle Licenses – 1st Quarter
State Training Fees - 1st Quarter

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

By _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

DRAFT

RESOLUTION 2016-099

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 April 7, 2016.

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

By _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

DRAFT

RESOLUTION 2016-100

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, REFUNDING OVERPAYMENT OF TAXES

WHEREAS, an overpayment of property taxes or sewer utility fees has been made for the following properties; 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>NAME & ADDRESS</u>	<u>AMOUNT</u>
23	22	De Celles, Joseph P & Mary Jane 806 River Road Chatham, New Jersey 07928	\$250.00 Veterans Deduction– Year 2015

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By _____
Curt Ritter, Mayor

RESOLUTION 2016-101

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING
ONE-DAY SPECIAL PERMIT FOR LIQUOR LICENSE**

BE IT RESOLVED by the Township Committee of the Township of Chatham that the following permit for a One-Day Liquor License is hereby approved:

<u>Name of Organization</u>	<u>Dates of Social Affair</u>	<u>Place where Affair will be held</u>
Chatham Athletic Boosters	June 2, 2016	Noe Pond Club 395 Southern Blvd Chatham, NJ 07928

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

By _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

DRAFT

RESOLUTION 2016-102

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY REFUNDING THIRD-PARTY POLICE SERVICES ESCROW ACCOUNT OVERPAYMENT

WHEREAS, the Township, pursuant to Section 2-49 of the Code of the Township of Chatham, has established a policy regarding the employment of off-duty police officers by private employers for matters involving safety and security; and

WHEREAS, Section 2-49.2 authorizes the establishment of an escrow account for the deposit of funds paid by private employers in advance of the rendering of such security and safety services; and

WHEREAS, Miller Pipeline Corp. has deposited funds in an escrow account for such employment; and

WHEREAS, after expenses the account has a remaining balance of \$1,000.00 to be refunded;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the Treasurer of the Township of Chatham is hereby authorized to refund from the Third-Party Police Services Escrow Account to Miller Pipeline Corp. the sum of \$1,000.00; and

Adopted: April 21, 2016

Attest:

Gregory J. LaConte, Clerk

THE TOWNSHIP OF CHATHAM
IN THE COUNTY OF MORRIS

By _____
Curt Ritter, Mayor

RESOLUTION 2016-103

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE 2016 BUDGET.

WHEREAS, N.J.S. 40A: 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have become available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Township of Chatham has received \$2,268.08 from the State of New Jersey Body Armor Replacement Fund and wishes to amend its 2016 Budget to include these funds as a revenue,

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Chatham, County of Morris, State of New Jersey hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2016 in the sum of \$2,268.08 which is will be available as a revenue from:

Miscellaneous Revenues – Section F: Special Items of General revenue – Public and Private Revenues Offset with Appropriations:

Body Armor Replacement Fund, and

BE IT FURTHER RESOLVED, that a like sum of \$2,268.08 be and the same is hereby appropriated under the caption of:

Public and Private Programs Offset by Revenues:

Body Armor Replacement Fund.

BE IT FURTHER RESOLVED, that the Township Clerk forward a copy of this resolution to the Director of Local Government Services.

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By _____
Curt Ritter, Mayor

RESOLUTION 2016-104

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE 2016 BUDGET.

WHEREAS, N.J.S. 40A: 4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have become available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Township of Chatham will receive \$138,000 NJDOT Municipal Aid Program for Improvements to Woodland Road and wishes to amend its 2016 Budget to include these funds as a revenue,

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Chatham, County of Morris, State of New Jersey hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2016 in the sum of \$138,000 which will be available as a revenue from:

Miscellaneous Revenues – Section F: Special Items of General revenue – Public and Private Revenues Offset with Appropriations:

NJDOT Municipal Aid Woodland Road Improvements, and

BE IT FURTHER RESOLVED, that a like sum of \$138,000 be and the same is hereby appropriated under the caption of:

Public and Private Programs Offset by Revenues:

NJDOT Municipal Aid Woodland Road Improvements.

BE IT FURTHER RESOLVED, that the Township Clerk forward a copy of this resolution to the Director of Local Government Services.

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By _____
Curt Ritter, Mayor

RESOLUTION 2016-105

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING A \$2,000.00 PAYMENT TO THE MUNICIPAL GROUP

WHEREAS, the Township Committee of the Township of Chatham entered into a Municipal Services Defense Agreement (“MSSDA”) for the purposes as set forth therein, which included retaining a common expert in the Declaratory Judgment action (“Litigation”) that was filed in accordance with In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) (“Decision”); and

WHEREAS, the Township of Chatham contributed \$2,000.00 to become a member of a consortium of municipalities (“Municipal Group”) so that the Municipal Group could enter into an agreement with an expert, which expert is now Econsult Solutions, LLC (“Econsult”); and

WHEREAS, Jeffrey R. Surenian, Esq., is lead counsel for the Municipal Group; and

WHEREAS, Mr. Surenian, on behalf of the Municipal Group, is seeking an additional \$2,000.00 payment in order to continue to fund the preparation of and to defend various expert reports prepared by Econsult to prosecute the litigation; and

WHEREAS, the Township Committee believes that it is cost effective and efficient to participate in the Municipal Group instead of having to undertake retaining an expert and defending that expert individually.

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

1. That an additional payment of \$2,000.00 to the Municipal Group is hereby authorized.
2. That the check be made payable to Jeffrey R. Surenian and Associates, LLC, Trust Account.
3. This Resolution shall take effect immediately.

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By _____
Curt Ritter, Mayor

RESOLUTION 2016-106

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING FIRE DEPARTMENT MEMBERSHIPS

WHEREAS, the Township of Chatham has designated the Green Village Volunteer Fire Department and the Chatham Township Volunteer Fire Department as the official fire companies for the Township; and

WHEREAS, members of both departments are eligible for membership in N.J. State Firemen's Association as provided by applicable law; and

WHEREAS, in order to become members of the association, the Township is required to certify that each applicant is an active member of the respective Fire Department;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey that the following named individual has been admitted to active membership in the respective department as approved by the Township Committee.

<u>NAME</u>	<u>FIRE DEPARTMENT</u>
Michael J. Coyne	Chatham Township Volunteer Fire Department

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

By _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

RESOLUTION 2016-107

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM AUTHORIZING ESTIMATED TAX BILLING

WHEREAS, due to the expected late adoption of the State of New Jersey's budget the Morris County Board of Taxation will be unable to certify the tax rate throughout the County, and the Township's Tax Collector will be unable to mail the tax bills on a timely basis;

WHEREAS, the Tax Collector, in consultation with the Chief Financial Officer, has computed an estimated tax levy in accordance with N.J.S.A. 54:4-66.3, and they have signed a certification showing the tax levies for the previous year, the tax rates and the range permitted estimated tax levies;

NOW, THEREFORE, 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 Municipal Tax Collector is hereby authorized and directed to prepare and issue estimated tax bills for the municipality for the third installment of 2016 taxes. The Tax Collector shall proceed and take such actions as permitted and required by P.L. 1994, c. 72 (N.J.S.A. 54:4-66.2 and 54:4-66.3).
2. The entire estimated tax levy for 2016 is hereby set at \$53,816,918.76.
3. In accordance with the law, the third installment of 2016 taxes shall not be subject to interest until the later of: the end of the grace period, or the twenty-fifth calendar day after the date the estimated tax bills were mailed. The estimated tax bills shall contain a notice specifying the date on which interest may begin to accrue.

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

By _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

RESOLUTION 2016-108

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
CHATHAM DECLARING FENIX CHATHAM I, LLC, AND
FENIX CHATHAM II, LLC, IN DEFAULT**

WHEREAS, Fenix Chatham I, LLC and Fenix Chatham II, LLC (“Fenix”) received final subdivision approval for a nine (9) lot subdivision known as “High Gate at Chatham” from the Township of Chatham Planning Board; and

WHEREAS, on May 30, 2013, Fenix entered into a Developer’s Agreement with the Township of Chatham; and

WHEREAS, Article 1 of the Developer’s Agreement provides that the:

Owner/Developer shall, at its own cost and expense complete, not later than two (2) years after the date of this Agreement (herein called the “Completion Date”), all required public improvements in accordance with the plans approved by the Township Planning Board;

and

WHEREAS, on May 28, 2015, because Fenix would not complete the public improvements by the Completion Date, the Township granted Fenix a thirty (30) day extension of the Completion Date to June 30, 2015; and

WHEREAS, there have been discussions between Fenix and the Township to amend the Developer’s Agreement to further extend the Completion Date but no written extension of the June 30, 2015 Completion Date has been entered into between the Township and Fenix; and

WHEREAS, on October 13, 2015, the Township and Fenix entered into a Settlement Agreement to resolve nine (9) Municipal Court Summonses requiring that the public improvements at High Gate at Chatham be completed no later than January 31, 2016; and

WHEREAS, as of April 21, 2016, the public improvements remain to be completed; and

WHEREAS, Fenix posted Subdivision Bond No. 0595809 issued by the International Fidelity Insurance Company, One Newark Center, 20th Floor, Newark, New Jersey 07102 (“Bond”) to secure the construction of the public improvements; and

WHEREAS, the Bond provides that:

At certain land known as “High Gate at Chatham” all of which improvements shall be maintained and completed on or before December 8, 2015.

; and

WHEREAS, May 30, 2015, June 30, 2015, December 8, 2015, and January 31, 2016, have all passed without Fenix completing the public improvements at High Gate at Chatham; and

WHEREAS, Fenix's failure to complete the public improvements at High Gate at Chatham presents a danger to the health, safety and welfare of the Township of Chatham residents; and

WHEREAS, the Township Committee of the Township of Chatham finds that Fenix Chatham I, LLC, and Fenix Chatham II, LLC, are in default of the Developer's Agreement, Subdivision Bond and Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Township of Chatham, County of Morris and State of New Jersey as follows:

1. That Fenix Chatham I, LLC, and Fenix Chatham II, LLC, are hereby declared in default collectively and individually of the Developer's Agreement, Subdivision Bond and Settlement Agreement.
2. That Fenix Chatham I, LLC, and Fenix Chatham II, LLC, and the International Fidelity Insurance Company be notified of the default by Certified Mail, Return Receipt Requested and Regular Mail.
3. That the Township of Chatham Administrator, Engineer and Attorney are authorized to provide said notice and take all steps to have the public improvements completed.
4. This Resolution shall take effect immediately.

Adopted: April 21, 2016

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By _____
Kevin Sullivan, Deputy Mayor