

**MINUTES
TOWNSHIP COMMITTEE
REGULAR MEETING
SEPTEMBER 27, 2018**

Mayor Ritter called the Regular Meeting of the Township Committee of the Township of Chatham to order at 7:33 P.M.

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 5, 2018; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 5, 2018; and notice was filed with the Township Clerk on January 5, 2018.

Mayor Ritter led the flag salute.

Roll Call

Answering present to the roll call were Committeeman Selen, Committeeman Kelly, Committeeman Sullivan, Deputy Mayor Swartz and Mayor Ritter.

Approval of Agenda

Deputy Mayor Swartz asked that a presentation regarding the Police Department's accreditation be added to the Agenda. She also asked that the appointment of a new Police Lieutenant be removed from the Consent Agenda to be voted on as a separate item before reports.

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

Resolution

**RESOLUTION 2018-167
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF CHATHAM APPOINTING CHRISTOPHER SLAYTON LIEUTENANT
IN THE CHATHAM TOWNSHIP POLICE DEPARTMENT**

BE IT RESOLVED, by the Township Committee of the Township of Chatham that Christopher Slayton is hereby appointed Lieutenant in the Chatham Township Police Department, October 1, 2018. The terms and conditions of employment are as specified in the collective bargaining agreement with PBA Local #170.

Deputy Mayor Swartz moved to adopt Resolution 2018-167. Committeeman Selen seconded the motion.

Roll call: Committeeman Selen, Aye; Committeeman Kelly, Aye; Committeeman Sullivan, Aye; Deputy Mayor Swartz, Aye; Mayor Ritter, Aye.

Mayor Ritter noted that an oath of office ceremony will be held at the next Township Committee meeting.

Presentation – Police Accreditation

Dr. Harry Delgado spoke on behalf of the NJ State Chiefs of Police Accreditation Program. He addressed the Accreditation Program, noting how much of an accomplishment it is for the Chatham Township Police Department to have achieved reaccreditation. Dr. Delgado said that only 8% of eligible organizations have achieved accreditation. He also described the standards that must be met to achieve accreditation.

Chief Miller thanked Dr. Delgado for his comments. He also thanked the Township Committee for their support of the Chatham Township Police Department during the reaccreditation process.

Chief Miller further thanked the men and women of the Police Department for their efforts in making the accreditation process a success.

Mayor Ritter complimented the Police Department on everything they do to help Chatham Township remain one of the safest communities in the United States.

Chief Miller said that the Police Department is hosting a “Coffee with a Cop” event on October 4th from 9:00 AM to 11:00 AM in the Community Room at the Municipal Building.

Reports

Committeeman Kelly reported that the Department of Public Works is grateful that recent storms spared Chatham Township. Crosswalk painting is behind schedule due to inclement weather, and recreation field maintenance is being performed as weather allows. Committeeman Kelly also reported that a letter was sent out with tax bills regarding easements, advising residents that vegetative debris should not be dumped in easements. He also noted that DPW planted chrysanthemums at the intersection of Fairmount Ave and Southern Boulevard.

Committeeman Sullivan reported that the Library of the Chathams Board of Trustees are continuing their fundraising campaign. \$550,000 has been raised to date, and that comes from many residents of both the Chathams. A library construction bond act will likely be done next year.

Deputy Mayor Swartz reported that the Senior Center is holding the semi-annual Shred Event on October 20th from 9:00 AM to 12:00 PM at Lafayette Avenue School. She also reported that Fire Prevention Week is coming up. The Green Village Fire Department will be hosting an open house on October 7th from 1:00 to 3:00. The Chatham Township Fire Department will also be conducting an open house.

Mayor Ritter thanked all those who participated in the 3rd Annual Out of the Darkness Suicide Prevention Walk. He also reported that the train shuttle survey is still open until October 4th.

Engineer Ruschke reported that the 2018 Road Paving Program is substantially complete, and Woodlawn Drive still needs to be paved once drainage improvements have been completed. Drainage work also needs to be performed on Lenape Trail and Yarmouth. Engineer Ruschke also addressed a “fatburg” blockage in a Chatham Borough sewer line which was recently in the news. He said that the Township has historically not had issues with blockages, as the areas in need of higher maintenance have become known over the years.

Hearing of Citizens

Mayor Ritter opened the Hearing of Citizens.

Seeing no public comment, Mayor Ritter closed the Hearing of Citizens.

Introduction of Ordinances

Ordinance 2018-18

ORDINANCE 2018-18
AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING SUBSECTION 30-61.4, TITLED “INSTALLATION OF IMPROVEMENTS; DEVELOPERS AGREEMENTS AND GUARANTEES; TOWNSHIP DESIGN STANDARDS AND SPECIFICATIONS” BY AMENDING PARAGRAPH C THEREOF TITLED “PERFORMANCE GUARANTEE,” BY ADDING NEW PARAGRAPH K TITLED “SAFETY AND STABILIZATION GUARANTEE,” AND ADDING NEW PARAGRAPH L TITLED “TEMPORARY CERTIFICATE OF OCCUPANCY GUARANTEE.”

WHEREAS, on January 16, 2018, P.L. 2017, c.312 was signed into law, amending N.J.S.A.40:55D-53 of the Municipal Land Use Law regarding performance, maintenance and other guarantee requirements; and

WHEREAS, the Township Committee of the Township of Chatham now desires to amend its Land Development Ordinance to conform to the new legislation.

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

Section 1. Paragraph (c) titled “Performance Guarantee” of subsection 30-61.4 is hereby repealed and replaced as follows:

Performance Guarantee. The performance guarantee shall be in favor of the Township in an amount equal to one hundred twenty (120%) percent of the estimate cost of such improvements as determined by the Township Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 for the following improvements as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor’s monuments, as shown on the final map and required by the “Map Filing Law,” N.J.S.A. 46:23-9.9 et seq., water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements. The performance guarantee may also be required to include, at the discretion of the Township, Planning Board or Zoning Board of Adjustment, a guarantee for the installation of privately-owned perimeter buffer landscaping. At the developer’s option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping. Ten (10%) percent of the performance guarantee shall be in the form of cash or a certified check made payable to "Township of Chatham" and shall be accompanied by a cash deposit agreement and performance guarantee in a form satisfactory to the Township Attorney.

Each performance guarantee, or part thereof, paid in cash, shall be held in escrow by the Township in an account separate from the general funds of the Township and separate from any other such account. The account shall be in a banking institution or savings and loan association in this State insured by an agency of the Federal government, or in any other fund or depository approved for such deposits by the State, in an amount bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The Township Treasurer shall notify the developer in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit.

All interest earned on any account shall be retained in the account until paid over as provided in subsection 30-17.10.

In the event that other governmental agencies or public utilities will automatically own the utilities to be installed or the improvements are covered by a performance guarantee to another governmental agency, no performance guarantee shall be required by the municipality or such utilities or improvements, provided, however, that the municipality may require evidence that the developer has paid to any such other governmental agency or public utility any charges which are required for installation, including any refundable deposits.

All interest earned on any account shall be retained in the account until paid over as provided herein and in accordance with subsection 30-17.10.

Section 2. Subsection 30-61.4 is hereby amended through the addition of Paragraph (k) titled “Safety and Stabilization Guarantee” as follows:

1. *Safety and Stabilization Guarantee.* In addition to a performance guarantee required pursuant to subsection 30-61.4(c), a developer may be required to furnish to the Township a separate guarantee, referred to herein as a “safety and stabilization guarantee”, in favor of the Township, to be available to the Township solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

a. site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and

b. work has not recommenced within 30 days following the provision of written notice by the Township to the developer of the Township’s intent to claim payment under the guarantee. The amount of the safety and stabilization guarantee shall be calculated as set forth in N.J.S.A. 40:55D-53. At the developer’s option, the safety and stabilization guarantee may be included as a line item for safety and stabilization in the performance guarantee rather than in the form of a separate guarantee.

2. The amount of a “safety and stabilization guarantee” for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows:

\$5,000 for the first \$100,000 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus one percent of bonded improvement costs in excess of \$1,000,000.

3. The Township Committee shall release a separate “safety and stabilization guarantee” to a developer upon the developer’s furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph.

4. The Township Committee shall release a “safety and stabilization guarantee” upon the Township Engineer’s determination that the development of the site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

Section 3. Subsection 30-61.4 is hereby amended through the addition of Paragraph (l) titled “Temporary Certificate of Occupancy Guarantee” as follows:

Temporary Certificate of Occupancy Guarantee. In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a “temporary certificate of occupancy guarantee” in favor of the Township in an amount equal to one hundred twenty (120%) percent of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a temporary certificate of occupancy guarantee, all sums remaining under a performance guarantee, required pursuant to subsection 30-61.4(c), which relate to the development, unit, lot, building or phase of development for which the temporary certificate of occupancy is sought, shall be released. The scope and amount of the temporary certificate of occupancy guarantee shall be determined by the Township Engineer. The temporary certificate of occupancy guarantee shall be released by the Township Engineer upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building or phase as to which the temporary certificate of occupancy relates.

Section 4. Severability

If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 5. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 6. This Ordinance shall take effect immediately upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing of the final form of adopted Ordinance by the Clerk with the Morris County Planning Board pursuant to N.J.S.A. 40:55D-16.

Attorney Cruz explained that the Municipal Land Use Law was amended earlier this year, and the changes relate to performance guarantees posted with municipalities. Ordinance 2018-18 seeks to make the Township Code Book consistent with the new statutes. Attorney Cruz also said that the changes lessen a municipality’s ability to require more bondable items, however it allows municipalities to require a landscape bond and a restoration bond. It also allows for the posting of a temporary certificate of occupancy bond pending final completion items. Deputy Mayor Swartz asked if there is any aspect of the new legislation that makes things more onerous on a homeowner wanting to put on an addition. Attorney Cruz said that the legislation was driven by the builders’ lobby. He also said that the legislation creates more problems than it solves for municipalities.

Deputy Mayor Swartz moved to introduce Ordinance 2018-18. Committeeman Kelly seconded the motion.

Roll call: Committeeman Selen, Aye; Committeeman Kelly, Aye; Committeeman Sullivan, Aye; Deputy Mayor Swartz, Aye; Mayor Ritter, Aye.

Public Hearing for Ordinance 2018-18 will be scheduled for October 25, 2018.

Consent Agenda

RESOLUTION 2018-162 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:

CFO – August

Construction Official – August
 Police Department – August
 Tax Collector – January through June

**RESOLUTION 2018-163
 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 September 13, 2018.

**RESOLUTION 2018-164
 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 September 13, 2018.

**RESOLUTION 2018-165
 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, multiple entities have deposited funds in escrow accounts for such employment; and

WHEREAS, after expenses the accounts have remaining balances 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 the following balances:

SBS PTO 110 Southern Blvd Chatham, NJ 07928	\$65.00
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**RESOLUTION 2018-166
 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:

NAME	Project	A/C NUMBER	AMOUNT
Crawford Customs LLC 30 Richford Road Kendall Park, NJ 08824	RO 16-036	7763180111	\$222.22
Crawford Customs LLC 30 Richford Road Kendall Park, NJ 08824	RO 16-035	7763180129	\$222.22

CFM Properties 51 Vail Terrace Branchburg, NJ 08876	RO 2017-40	7764128532	\$500.00
Stinson Landscape Management PO Box 486 Bernardsville, NJ 07924	RO 2015-42	7763179784	\$700.00
Gerald Ellner, LLC 427 South Ave W. Westfield, NJ 07090	BOA 18-69-40 Re: 81 Highland Ave	7764128938	\$162.50
Beth Fuller 711 Shunpike Road Green Village, NJ 07935	BOA 01-144-22	7200038934	\$120.25
Robert Lyon 20 Chestnut Street Chatham, NJ 07928	BOA 15-54-13	7763179742	\$0.00
Melick-Tully Associates 117 Canal Road South Bound Brook, NJ 08880	Street Opening Permit	7760011082	\$100.00

RESOLUTION 2018-168

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM
AUTHORIZING THE AWARD OF A CONTRACT FOR SNOW PLOWING SERVICES**

WHEREAS, the Township of Chatham has a need to acquire snow plowing services; and,
WHEREAS, the Township Committee of the Township of Chatham solicited for bids for Snow Plowing Services;
WHEREAS, two total bids were received and opened on Thursday September 13, 2018 at 11:00 A.M.;
WHEREAS, the term of this contract is from December 1, 2018 to April 1, 2019; and
WHEREAS, Frank Galbraith Excavating and Demolition, having offices at 2365 Waldheim Ave Scotch Plains, NJ 07076 has submitted a proposal on September 13, 2018 indicating they will provide the snow plowing services for the hourly rate of \$180/hour for a 10-foot minimum plow and \$145/hour for an 8-foot minimum plow; and
WHEREAS, a bid was also received from AA Berms LLC at the hourly rate of \$364/hour for a 10-foot minimum plow and \$364/hour for an 8-foot minimum plow; and
WHEREAS, the Chief Financial Officer has determined that sufficient funds available in the 2018 adopted budget and funds are or will be available upon adoption of the budget for year 2019; and
WHEREAS, the total value of this contract is not to exceed \$17,500.00.
NOW THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Chatham authorizes the Mayor and Clerk to enter into a contract with Frank Galbraith Excavating and Demolition as described herein.

Committeeman Kelly moved to approve the Consent Agenda. Committeeman Sullivan seconded the motion.

Roll call: Committeeman Selen, Aye; Committeeman Kelly, Aye; Committeeman Sullivan, Aye; Deputy Mayor Swartz, Aye; Mayor Ritter, Aye.

Discussion

NJDOT Grant Application

Engineer Ruschke provided background on the NJDOT Municipal Aid Grant Program, and said that the Township has successfully applied for such grants in the past. He also noted that most municipalities apply for Municipal Aid Grants for paving, however they are also available for sidewalks. Engineer Ruschke said that one option for a grant application is for a sidewalk on

Fairmount Ave from Southern Boulevard to Longwood Ave, and he notified affected residents that the topic would be discussed at this meeting. The second potential project is repaving in the Sandy Hill neighborhood, which would be an approximately \$309,000 project. As such, the Township would apply for \$200,000 for the repaving project. The sidewalk project would cost approximately \$400,000, and the application would be for \$200,000. Engineer Ruschke also commented on how the NJDOT rates applications.

Mayor Ritter said that he received an email from the Safe Routes to School Committee expressing their support of a sidewalk application. The Historical Society also expressed an interest to Mayor Ritter in having a sidewalk on Fairmount Ave.

Committeeman Sullivan said that there are existing sidewalks in disrepair, and they should be fixed before new sidewalks are added. He also said that road repaving should be a higher priority. He would also like to see a formal method developed to assess public interest in having sidewalks installed.

Committeeman Kelly said that he has walked the section of Fairmount Ave for which a sidewalk is proposed, and it is currently dangerous to walk there in the absence of the sidewalk. He also asked if contact has been made with Chatham Borough to see if they will extend their sidewalk to meet the proposed sidewalk. Mayor Ritter said that he has reached out to Borough officials, and has not heard back yet.

Committeeman Sullivan asked about the right-of-way, and if the sidewalk is installed deeper on a busy street like Fairmount Ave. Engineer Ruschke said that he anticipates a grass strip would be included in between the sidewalk and the road.

Committeeman Selen asked if the road will be made narrower by the sidewalk. Engineer Ruschke said that minimum road widths would need to be maintained, and the sidewalk would be within the right-of-way. Committeeman Selen also asked about sidewalk maintenance.

Committeeman Sullivan asked if the land in a right-of-way is still legally owned by the private landowner. Attorney Cruz said that a right-of-way is essentially an easement, and the location of a property line will dictate who owns a particular section of land. However, it is typically owned by the homeowner. A survey for a property would be needed for determinations to be made regarding specific cases.

Deputy Mayor Swartz asked about the role of Morris County with the sidewalk, as Fairmount Ave is a County road. Engineer Ruschke said that the County is ok with sidewalk installations as long as they do not have to maintain them.

Mayor Ritter opened the floor to the public to comment on this discussion.

1. Madeline Boland, 369 Fairmount Ave, spoke in favor of the proposed sidewalk project. She addressed how the sidewalk would afford her the option of walking to school safely.

Committeeman Selen complimented Ms. Boland on her willingness to address the Township Committee.

2. William Aprea, 292 Fairmount Ave, spoke in favor of the proposed sidewalk installation. He noted that it would make things safer for his school-age children. Mr. Aprea also suggested the inclusion of Belgian-block curbing.
3. Christopher Jagoe, 318 Fairmount Ave, said that he opposed the sidewalk installation. He said that it is not a short distance between Longwood Avenue and the Borough's sidewalk. Mr. Jagoe also said that there are better ways to get to downtown Chatham than walking. Mr. Jagoe further raised a concern about the potential environmental impact of a sidewalk. He also said that the existing sidewalks are in poor condition, and it would be a disgrace to build a new sidewalk and allow it to deteriorate. Mr. Jagoe also asked for more public vetting of this project.

Seeing no further public comment, Mayor Ritter closed the public comment session.

Mayor Ritter polled the Township Committee regarding preferences for paving or sidewalks.

Committeeman Sullivan said that he would prefer a paving project.

Deputy Mayor Swartz spoke in favor of a paving project grant application, as the Township knows that money will need to be spent on road resurfacing.

Mayor Ritter opined that pedestrian safety is paramount, and a lack of pedestrian activity in some areas is due to the lack of a sidewalk.

Committeeman Kelly said that the safety concern is greater than the fiscal concern, and he would prefer to see an application for a sidewalk project.

Committeeman Selen said that he would prefer more public input. He said that he will vote in favor of a sidewalk application, but would like more public input at future meetings.

RESOLUTION 2018-161
RESOLUTION OF THE TOWNSHIP COMMITTEE AUTHORIZING SUBMITTAL OF A GRANT APPLICATION AND EXECUTION OF A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE FAIRMOUNT AVENUE SIDEWALK EXTENSION PROJECT

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Chatham formally approves the grant application for the above stated project. The project limits are on Fairmount Avenue (CR 638) from Southern Boulevard (CR 647) to Longwood Avenue, which is the Municipal boundary with Chatham borough.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2019- Fairmount Avenue Sidewalk Extension-001070 to the New Jersey Department of Transportation on behalf of the Township of Chatham.

BE IR FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Chatham and that their signature constitutes the acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Committeeman Kelly moved to adopt Resolution 2018-161. Committeeman Selen seconded the motion.

Roll call: Committeeman Selen, Aye; Committeeman Kelly, Aye; Committeeman Sullivan, Nay; Deputy Mayor Swartz, Nay; Mayor Ritter, Aye.

Committeeman Kelly asked that Engineer Ruschke continue to provide notice to affected residents. Committeeman Sullivan asked that there not be any narrowing of Fairmount Ave.

Supplementing Prohibition of Smoking on Public Property

ORDINANCE 2018-19
AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING SECTION 3-11.1, TITLED “SMOKING PROHIBITED” OF CHAPTER III, TITLED “POLICE REGULATIONS.”

WHEREAS, the Revised General Ordinances of the Township of Chatham (“Township”) set forth certain limitations related to smoking within the Township; and

WHEREAS, the Township Committee wishes to revise these provisions to clarify that said limitations apply not only to tobacco smoking but the smoking of other matters or substances and to clarify that smoking is prohibited on all Township property.

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

Section 1. Section 3-11.1 titled “Smoking Prohibited” of Chapter III titled “Police Regulations” is amended as follows:

To protect members of the public from the hazards of second hand smoke, smoking is prohibited in and about any municipal building or structure, or within fifty (50) feet thereof, and in or on municipal owned property which shall include, but not be limited to, any municipally-owned park, playground, recreation area or athletic field, including parking lots. For the purposes of Chapter 3-11 of the Revised General Ordinances of the Township of Chatham, the term “smoking” shall mean the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or

substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

Section 2. Severability

If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 3. Effective Date

This Ordinance shall take effect upon final adoption and publication according to law.

Mayor Ritter said that Governor Murphy is pursuing the legalization of marijuana in New Jersey. This proposed ordinance will prohibit vaping and the recreational use of marijuana in certain public places. Mayor Ritter noted that the ordinance will not affect the use of medical marijuana.

The Township Clerk noted that vaping was discussed at the recent Board of Health meeting, and the Board supports this ordinance.

Deputy Mayor Swartz said that she wants to see the Township Committee adopt an ordinance with the strongest language possible to prohibit the use of marijuana in public places.

Attorney Cruz said that this ordinance also clarifies those areas where smoking and vaping are prohibited.

Deputy Mayor Swartz moved to introduce Ordinance 2018-19. Committeeman Selen seconded the motion.

Roll call: Committeeman Selen, Aye; Committeeman Kelly, Aye; Committeeman Sullivan, Aye; Deputy Mayor Swartz, Aye; Mayor Ritter, Aye.

Public Hearing for Ordinance 2018-19 will be scheduled for October 11, 2018.

Mayor Ritter said that he has also reached out to Attorney Cruz to see if the Township can prohibit the sale of vaping materials. He said that Attorney Cruz has advised that the sale of such materials cannot be prohibited, however the Township can prohibit establishments whose sole purpose is the sale of vaping materials. Attorney Cruz said that the Township could adopt a zoning ordinance to prohibit smoke shops and vaping shops. The Township Clerk noted that the Board of Health briefly discussed potentially requiring licensing for establishments seeking to sell vaping related equipment.

Hearing of Citizens/Petitions

Mayor Ritter opened the Hearing of Citizens.

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

Executive Session

RESOLUTION 2018-P-11

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING CONFERENCE OF THE TOWNSHIP COMMITTEE WITH THE PUBLIC EXCLUDED

WHEREAS, N.J.S.A. 10:4-12 of the Open Public Meetings Act permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Township Committee of the Township of Chatham is of the opinion that such circumstances presently exist.

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

1. The public shall be excluded from discussion of the specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:

- a. Litigation: In the Matter of the Township of Chatham for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan Docket No. MRS-L-1659-15
 - b. Litigation: Fair Share Housing Center v. Township of Chatham Docket No. MRS-L-000234-18
3. It is anticipated that the minutes on the subject matter of the Executive Session will be made public upon conclusion of the matter under discussion; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and 4-13.
 4. The Committee will come back into Regular Session and may take further action.
 5. This Resolution shall take effect immediately.

Deputy Mayor Swartz moved to adopt Resolution 2018-P-11 to enter Executive Session at 9:12 PM. Committeeman Kelly seconded the motion.

Roll call: Committeeman Selen, Aye; Committeeman Kelly, Aye; Committeeman Sullivan, Aye; Deputy Mayor Swartz, Aye; Mayor Ritter, Aye.

The Township Committee returned to public session, and Deputy Mayor Swartz moved to adjourn at 11:00 PM. Committeeman Kelly seconded the motion, which carried unanimously.

Gregory J. LaConte
Municipal Clerk