

**MINUTES
TOWNSHIP COMMITTEE
SPECIAL MEETING
FEBRUARY 20, 2020**

Mayor Kelly called the Special Meeting of the Township Committee of the Township of Chatham to order at 3:30 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 February 14, 2020; notice was posted on the bulletin board in the main hallway of the Municipal Building on February 14, 2020; and notice was filed with the Township Clerk on February 14, 2020.

Mayor Kelly led the Flag Salute.

Roll Call

Answering present to the roll call were Committeewoman Ewald, Committeewoman Fondaco, Committeewoman Swartz and Mayor Kelly. Deputy Mayor Ness arrived a few minutes late.

Approval of Agenda

Mayor Kelly noted that the purpose of this meeting is for an Executive Session to discuss litigation.

Committeewoman Swartz moved to approve the agenda. Committeewoman Fondaco seconded the motion, which carried unanimously.

Hearing of Citizens

Mayor Kelly opened the Hearing of Citizens.

1. Dan Miller. 465 Green Village Road, said that the Township should avoid lawsuits from residents and instead let the State sue the Township. Mr. Miller also addressed recent removal of political signs, and alleged that Mayor Kelly was responsible for the sign removal. He also said that the signs were removed because of the message on the particular signs. Mr. Miller asked that Mayor Kelly and Deputy Mayor Ness step down as Mayor and Deputy Mayor, and allow Committeewoman Swartz and Committeewoman Ewald to be Mayor and Deputy Mayor respectively.

Mayor Kelly read into the record a statement he had issued over the weekend regarding the recent removal of signs, and the errors that occurred in that effort. Mayor Kelly apologized for the accidental removal of signs from private property. He also suggested that the Township's ordinance regarding signs be reviewed to see if updates are needed.

Administrator Hoffmann stated that he was responsible for issuing a directive for removal of signs from public property, and the Township Committee had not been involved in that directive. He said that he did not want the signs on municipal property to give the appearance that the Township agrees with the substance of the signs. Administrator Hoffmann said that his directions to the DPW Director were not clear, and he said that the signs that were taken from private property were returned. He also noted that he is responsible for the day to day operations of the Township, and the Township Committee is a legislative body. Mr. Miller thanked Administrator Hoffmann for his willingness to accept responsibility for his actions, and he reaffirmed his position that the Township Committee is responsible for the sign removal. Mr. Miller also said that the signs were removed because of the message on the particular signs. He also said that the opinion of the Court should not outweigh the opinion of Township residents.

2. Smitha Raghuvver, 30 Candace Lane, asked why DPW was able to allegedly enter her property to remove a sign if they were not able to enter her property to remove a tree.

Mrs. Raghuveer asked what instruction was given to DPW that it was able to be misconstrued to involve removing signs from private property.

3. Chris Felice, 20 Candace Lane, asked if the Township Committee has heard the public's sentiment about not putting the affordable housing all in one place, and if the Township Committee is willing to rescind the designation of 58 Meyersville Road as the site for 64 units.
4. Rich Ferrara, 20 Evergreen Road, asked if traffic studies were conducted, and if Mountainview Road will remain a two-way street.

Mayor Kelly noted that the Township Committee will answer any questions at the end of the Hearing of Citizens.

Mr. Ferrara asked why the Township Committee is holding a meeting at 3:30 PM. He also asked if any traffic studies were conducted.

5. Mike Maloney, 15 Evergreen Road, asked when the first Mt. Laurel Doctrine was first developed. Mayor Kelly said the case was decided in 1975. Mr. Maloney asked how many multi-housing projects have been built since 1975 to today that require an affordable component. Mr. Maloney accused the previous Township administration of violating the law by not requiring previous developments to have affordable components. He also called for Mayor Kelly's resignation.
6. Larry Niech, 19 Lisa Drive, asked if open space purchased with Green Acres funding could be used for development of affordable housing. He also asked if the Township could inform the Court that sufficient land for developing affordable housing is not available. Mr. Niech also acknowledged the danger of builders remedy lawsuits, and asked if developers would be able to find land if the Township is unable to do so. Mr. Niech also asked if the requirements for upgrades to the Police Department Headquarters are inculcated by a government agency or if the sally port is a suggestions. He also asked if there have been any studies on how often the Township has a male and female detainee at the same time.
7. Scott Citron, 49 Mountainview Road, said this is the third meeting at which the Township Committee has been unable to provide answers regarding affordable housing, and asked when information will be publicly available. Mayor Kelly reiterated that some questions will be answered following the Hearing of Citizens. Mr. Citron said that it appears that the Township Committee does not know when answers will be provided.

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

Mayor Kelly said that traffic studies can be done once the Township knows where the units will be built and how many units will be built at the particular site. He also said that the Township has not yet made those determinations, and certain discussions need to be had with the Court prior to public discussions. Mayor Kelly also addressed the fact that the meeting is being held at 3:30 PM, and said that the Open Public Meetings Act requires that meetings be noticed and set aside time for public comment. He noted that this meeting is not a reduction in public meetings for February, and there will still be a regular meeting on February 27th with a full opportunity for public comment. Mayor Kelly said that this meeting is being held in the afternoon to accommodate the schedule of an affordable housing professional who will be attending the Executive Session.

Deputy Mayor Ness said that special meetings for Executive Sessions have been scheduled because the Township Committee cannot legally meet without a Public Notice being issued.

Mayor Kelly said that the Township Committee is close to being able to provide answers to the public, and he said that the Township has a meeting with a mediator on February 21st to work towards an Affordable Housing solution. Mayor Kelly also said that the Township may have information available as early as February 28th. He further addressed the question regarding Open Space, and said that land purchased with Green Acres Funding is only supposed to be used for Open Space. The process to divert Green Acres land is also lengthy and costly. Mayor Kelly

also addressed the question if the Township can tell the Court that the Affordable Housing cannot be built, and noted recent news stories about other municipalities which have shown that judges do not look kindly upon non-compliance. Mayor Kelly added that if there is a builders remedy lawsuit, the Township would lose control over the zoning of Affordable Housing developments.

Deputy Mayor Ness addressed the loss of control of zoning with builders remedy lawsuits, and noted that developments might be taller or denser than the Township's zoning regulations allow. She also said that private properties become more attractive to developers when they do not need to abide by zoning regulations. Deputy Mayor Ness also said that Sutton Woods, Melrose and Rose Valle did not have affordable components, and the Township is now paying a price for what past Township Committees did or did not do. She also said that it was not illegal for there to have not been an affordable component, as there were not any COAH regulations in effect at the time.

Attorney Cruz said that from 1999 to 2015, COAH tried to adopt Third Round Rules and each attempt was struck down by the Court. In 2015, the NJ Supreme Court ruled that COAH was dysfunctional and jurisdiction on Affordable Housing was remanded to the Courts. Attorney Cruz also noted that the NJ Legislature has failed to adopt any remedial legislation to address Affordable Housing. As the Legislature has abdicated their responsibility for promulgating rules to be applied statewide, municipalities have been forced to address the issue on their own. Attorney Cruz also said that the Affordable Housing mandate is a State mandate, and there is a frustration with the State Legislature's failure to properly address Affordable Housing rules.

A member of the audience asked about the presence of Affordable Housing in Society Hill, and asked why the Township did not have any Affordable Housing built in the past 15 years. He also expressed his frustration of the perceived lack of transparency on this issue. Mayor Kelly described the methods employed by the Township to meet Affordable Housing obligations in the First and Second Round. He also said that the affordable controls on the Vernon Grove units were extended for 30 years, which counts toward the Township's Third Round obligation. Attorney Cruz addressed "The Hills at Basking Ridge," and said that it is the result of Affordable Housing litigation.

Mayor Kelly said that the NJ Department of Corrections informed the Township of those items that are not in compliance. He also said that the need for a sally port is not limited to one gender, and he described the purpose of the sally port. Mayor Kelly said that the current State standards require separate detention cells for males and females.

Deputy Mayor Ness addressed a Letter to the Editor recently written by Mr. Miller, and she said that she is opposed to the removal of political signs. She further said that she and Mayor Kelly were not responsible for the recent sign removal, and she said that her campaign signs have been removed in the past. Committeewoman Swartz said that she does not recall having her own campaign signs removed from municipal property. Deputy Mayor Ness asked about Mr. Miller's request for her resignation. Mr. Miller said that he requested for a reorganization of the Township Committee to have Committeewoman Swartz serve as Mayor and Committeewoman Ewald serve as Deputy Mayor. Deputy Mayor Ness said that the Township Committee was not apprised of the sign removal prior to the removal, and she would have objected had she been informed. Deputy Mayor Ness also noted that apology letters were sent, and offers were made to assist in returning the signs. She also suggested that the Township review how neighboring municipalities deal with signs in right-of-ways to see if the Township's ordinances need to be updated.

A resident shouted from the back of the room about frustrations about DPW allegedly having removed signs from private property.

Committeewoman Swartz said that in November 2019 the Township Committee voted to designate the Municipal Building as the site for Affordable Housing, and that decision was met with public criticism. She asked if the Township Committee could vote to rescind the prior decision. Attorney Cruz said that he would prefer to give legal advice in Executive Session.

Executive Session

RESOLUTION 2020-P-05
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 – Complaint in Lieu of Prerogative Writs and for Declaratory Judgment, Injunctive Relief, and Damage
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 Ness moved to adopt Resolution 2020-P-05 to enter Executive Session at 4:30 PM. Committeewoman Fondaco seconded the motion.

Roll call: Committeewoman Ewald, Aye; Committeewoman Fondaco, Aye; Committeewoman Swartz, Aye; Deputy Mayor Ness, Aye; Mayor Kelly, Aye.

The Township Committee returned from Executive Session at 8:08 PM.

Committeewoman Swartz moved to adjourn at 8:08 PM. Committeewoman Ewald seconded the motion, which carried unanimously.

Gregory J. LaConte
Municipal Clerk