

TOWNSHIP OF CHATHAM
TOWNSHIP COMMITTEE AGENDA
SEPTEMBER 27, 2018
September 25, 2018 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 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.

Flag Salute

Roll call

Approval of Agenda

Reports:

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 2018-18 Regarding Temporary Certificate of Occupancy Guarantee

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 2018-162 Receipt of Reports
2. Resolution 2018-163 Approving Meeting Minutes
3. Resolution 2018-164 Approving Executive Session Minutes
4. Resolution 2018-165 Refunding 3rd Party Police Escrow
5. Resolution 2018-166 Releasing Escrow Balances
6. Resolution 2018-167 Appointing Police Lieutenant
7. Resolution 2018-168 Accepting Snowplowing Services Proposal

Discussion: possible ordinance or resolution

1. NJDOT Grant Application
2. Supplementing Prohibition of Smoking on Public Property

Hearing of Citizens (Time Permitting)

Executive Session* – Resolution 2018-P-11

1. 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
2. Litigation: Fair Share Housing Center v. Township of Chatham
Docket No. MRS-L-000234-18

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 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.

Introduced:

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

Adopted:

Attest:

BY: _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

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

Adopted: September 27, 2018

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By _____
Curt Ritter, Mayor

DRAFT

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.

Adopted: September 27, 2018

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

By _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

DRAFT

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.

Adopted: September 27, 2018

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

By _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

DRAFT

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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Adopted: September 27, 2018

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

By _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk

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:

<u>NAME</u>	<u>Project</u>	<u>A/C NUMBER</u>	<u>AMOUNT</u>
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

Adopted: September 27, 2018

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By _____
Curt Ritter, Mayor

DRAFT

RESOLUTION 2018-168

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM AUTHORIZING THE AWARD OF A FAIR AND OPEN CONTRACT FOR SNOW PLOWING SERVICES

WHEREAS, the Township of Chatham has a need to acquire snow plowing services as a fair and open contract pursuant to the provisions of *<N.J.S.A. 19:44A-20.4 or 20.5 as appropriate>*; and,

WHEREAS, the anticipated term of this contract is 1 year; and

WHEREAS, Frank Galbraith Excavating and Demolition 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, 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

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.

Adopted: September 27, 2018

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By _____
Curt Ritter, Mayor

CERTIFICATION OF THE AVAILABILITY OF FUNDS

I herewith certify that as of September 27, 2018 sufficient funds are available in the budget for year 2018 to carry out the purpose of this resolution. I herewith further certify that sufficient funds will be available upon adoption of the 2019 budget to carry out the purpose of this resolution.

Debra A. King
Chief Financial Officer

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.

Adopted: September 27, 2018

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By: _____
Curt Ritter, Mayor