

**MINUTES
TOWNSHIP COMMITTEE
REGULAR MEETING
NOVEMBER 14, 2019**

Mayor Selen called the Regular Meeting of the Township Committee of the Township of Chatham to order at 7:30 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 January 4, 2019; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 4, 2019; and notice was filed with the Township Clerk on January 4, 2019.

Mayor Selen invited Township Committee Members-Elect Stacey Ewald and Celeste Fondaco to lead the Flag Salute.

Roll Call

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

Approval of Agenda

The Commuter Shuttle discussion item was removed from the agenda, as Committeeman Ritter said he could provide an update during reports.

Committeewoman Ness moved to approve the Agenda as amended. Deputy Mayor Kelly seconded the motion, which carried unanimously.

Reports

Committeeman Ritter reported that he and Administrator Hoffmann had a conference call with TransOptions and State Shuttle, and progress is being made on the pilot program. The survey had over 130 responses. The shuttle fee is currently anticipated to be \$5, and steps are being taken to try to reduce it to \$3.50. The Township recommended a two-week pilot period will be run to see if the shuttle is feasible. Determinations need to be made who will underwrite potential shortfalls for the two-week pilot program. The Township stated that it would not fund a shortfall. Committeeman Ritter further reported that the 11th Annual Chatham Turkey Trot will be held on Thanksgiving Day, and proceeds benefit the Chatham Township Fire Department, Diabetes Research Institute and Chatham Emergency Squad. Committeeman Ritter also said that the Township Committee has discussed establishing a veterans memorial, and he suggested potentially renaming Shunpike Field as Veterans Park.

Committeewoman Swartz extended sympathies to the Nelson Family following the recent passing of Peggy Nelson. Committeewoman Swartz noted all of Mrs. Nelson's various volunteer endeavors, including having served on the Library of the Chathams Board of Trustees.

Committeewoman Ness reported that the Environmental Commission has discussed a Transition Team for the implementation of the plastic bag ordinance. The Green Team is working toward Sustainable Jersey Silver Status. Committeewoman Ness reported that the Joint Recreation Committee has begun discussing possibly allowing recreation activities to begin earlier on Sundays. Committeewoman Ness further noted that she recently attended a fundraiser for the John Taylor Babbitt Foundation, and she discussed the Foundation's efforts to supply AEDs. Committeeman Ritter asked how many teams requested an early start on Sundays. Committeewoman Ness said that several sports have requested an early start, mainly the baseball travel teams. Currently the start time on Sunday is noon, and the Recreation Committee has discussed a trial period with a 10:30 AM start time.

Committeeman Kelly reported that the Community Garden has three self-funded projects. Eagle Scout candidate Brian Becker has finished a project to better outline the garden plots to clearly define and delineate the area. A gate reconstruction project and a fence reconstruction project will also be undertaken. Both will be funded through the fees paid by plot-holders. The registration deadline for existing plot-holders to renew their registration is November 30th, after which new gardeners will be invited to apply for a plot. Deputy Mayor Kelly further reported

that the Chatham Township Historical Society recently hosted a program by Kevin Doherty about businesses that used to exist within the Township.

Mayor Selen congratulated Stacey Ewald and Celeste Fondaco on winning the election for Township Committee, and congratulated all candidates who ran. Mayor Selen also reported that the Township has been awarded a Green Acres grant toward the purchase of open space, and he thanked Deputy Mayor Kelly, Administrator Hoffmann and Open Space Chairman Joe Basralian for their efforts in applying for the grant. Mayor Selen also recognized Veterans Day, and further wished everyone a Happy Thanksgiving.

Deputy Mayor Kelly reported that two Eagle Scout candidates are working with the Open Space Committee on the Green Village Pond Area trailhead. Scouts Jared Simonetti and Jonathan Field are working on a bridge project along the trail.

Committeeman Ritter asked about the purpose of the open space grant. Deputy Mayor Kelly said that it is a retroactive grant to reimburse the Township for a portion of the purchase price of the open space property on the southwest side of Southern Boulevard at the intersection of River Road.

Hearing of Citizens

Mayor Selen opened the Hearing of Citizens.

1. Dan Miller, 465 Green Village Road, spoke about his family's history in Green Village. He also addressed the noise ordinance as it relates to garbage collection. Mr. Miller said that the Morris County MUA's collection of recycling has been occurring earlier than the Board of Health's noise ordinance allows. Administrator Hoffmann asked if the alleged violations have been reported. Mr. Miller said that he has not previously reported the matter. Mr. Miller also addressed noise from bicycle riders and joggers, stating that bicyclists and joggers often speak very loudly while travelling on Green Village Road. Committeewoman Ness asked about a Board of Health response. The Township Clerk indicated that when a noise disturbance is occurring, residents can call the Police. He noted that enforcement of noise ordinance violations by bicyclists can be difficult, as the bicyclist has moved on prior to the arrival of police officers. Mr. Miller suggested that signage be put up to remind bicyclists and joggers to be cognizant of noise. Mr. Miller further addressed traffic violations committed by bicyclists, and asked that the Police Department enforce the rules with bicyclists the same way they would with drivers.
2. Jane Devlin, 420 River Road, suggested that the Township put up a nicer Christmas tree this year, and noted that the Borough has a beautiful Christmas tree.
3. Stacey Ewald, 54 Nicholson Drive, commented on the Veterans Memorial Park concept, and suggested that Shunpike might be too busy of a location. Committeeman Ritter said that if the memorial is in too quiet of an area, nobody will know it is there.
4. Rich Matlaga, 36 Dale Drive, asked if the Township Committee has a liaison to the Board of Education. Committeewoman Ness said that she is the liaison, and there is two-way communication when topics of interest arise.
5. Chris Jagoe, 318 Fairmount Avenue, addressed the Fairmount Avenue Sidewalk Project, and said that he had been informed by Administrator Hoffmann that the Township will still have to pay almost \$250,000 toward the project. Mr. Jagoe said that the project is an unnecessary expense, and he asked about the funding approval process. Administrator Hoffmann said that the project is partially funded by a Safe Routes to School Grant, and it is a 50% matching grant. If the Township moves forward with the project, the Township Committee will be asked to adopt a capital ordinance to fund the Township's share of the costs. Engineer Ruschke added that the Township has until August 2020 to award the contract for the project. Administrator Hoffmann said that during the 2020 Budget process, the funding of the project will be further addressed. Committeewoman Swartz asked if there is a chance that the Township Committee will opt to not move forward with the project. Engineer Ruschke said that is up to the Township Committee to decide, and noted that it is frowned upon by the DOT for municipalities to turn down awarded grants for which they had applied.

6. Mrs. Devlin agreed with Committeeman Ritter’s comments about having a veterans memorial in a public area.

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

Consent Agenda

RESOLUTION 2019-202

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM AUTHORIZING PAYMENT OF BILLS, PAYROLLS, SCHOOL TAXES AND COUNTY TAXES

BE IT RESOLVED that bills in the total amount of \$1,110,763.43 and the prior month’s payroll of \$408,708.80 Current Fund, \$43,127.88 Sewer No. 1, \$8,802.73 Sewer No. 2, and \$19,793.70 Police Private Employment be paid.

BE IT FURTHER RESOLVED that taxes due to the School District of the Chathams, for the month of November 2019, in the amount of \$3,200,207.00 be paid.

BE IT FURTHER RESOLVED that taxes due to the County of Morris, for the Fourth Quarter of 2019, in the amount of \$2,586,055.96 be paid.

RESOLUTION 2019-203

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 – October
- Tax Collector – October
- Police Department – October
- Construction Official – June, July, August, September
- State Training Fees – 2nd Quarter

RESOLUTION 2019-204

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 meetings held on October 24, 2019.

RESOLUTION 2019-205

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 meetings held on October 24, 2019.

RESOLUTION 2019-206

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>
Primavera Hills at Chatham 117 North Union Ave Cranford, NJ 07016	RO 18-036	7764943352	\$423.00

Primavera Hills at Chatham 117 North Union Ave Cranford, NJ 07016	Performance Bond For RO 18-036	7764943360	\$270.00
Calusa Partners 89 Sunset Drive Chatham, NJ 07928	RO 18-037	7764943386	\$190.00
James L. Sibona 6 Cypress Circle Morristown, NJ 07960	BOH 19-139-51	7765172405	\$975.00

RESOLUTION 2019-207

RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY MORRIS, STATE OF NEW JERSEY RELEASING THE PERFORMANCE BOND AND CASH BOND FOR ROSEPOND LLC, BLOCK 135, LOTS 19 AND 19.01

WHEREAS, the Planning Board has granted preliminary and final site plan approval for a project at Valle Estates, Block 135, Lots 19 and 19.01 (the subject property); and

WHEREAS, said approvals required, in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the Developer's Agreement between the developer and the Township, the posting of a performance bond and cash bond to secure completion of the public improvements that were part of the project, and which was posted by the developer; and

WHEREAS, as set forth by the Township Engineer, John Ruschke, P.E., in his report dated November 4, 2019, the public improvements have been satisfactorily completed to the extent that Performance Bond No. 0396796 in the amount of \$549,632.52 and a Cash Bond held in Escrow Account 11089 in the amount of \$61,645.82 plus interest may be released and returned to the developer;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that Performance Bond 0396796 in the amount of \$549,632.52 and a Cash Bond held in Escrow Account 11089 in the amount of \$61,645.82 plus interest posted by the developer is hereby released and returned to the developer, in accordance with the report of John Ruschke, P.E., dated November 4, 2019, and it is further provided that no maintenance guaranty is required.

RESOLUTION 2019-208

A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE 2019 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 \$20,073.00 from the County of Morris Municipal Alliance to Prevent Alcoholism and Drug Abuse DEDR and wishes to amend its 2019 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 2019 in the sum of \$20,073.00 which will be available as a revenue from:

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

Municipal Alliance to Prevent Alcoholism and Drug Abuse DEDR, and

BE IT FURTHER RESOLVED, that a like sum of \$20,073.00 be and the same is hereby appropriated under the caption of:

Public and Private Programs Offset by Revenues:

Municipal Alliance to Prevent Alcoholism and Drug Abuse DEDR.

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

RESOLUTION 2019-209
**A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM,
COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING THE 2019 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 \$3,000.00 from the County of Morris Municipal Alliance to Prevent Alcoholism and Drug Abuse Supplemental and wishes to amend its 2019 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 2019 in the sum of \$3,000.00 which will be available as a revenue from:

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

Municipal Alliance to Prevent Alcoholism and Drug Abuse Supplemental, and

BE IT FURTHER RESOLVED, that a like sum of \$3,000.00 be and the same is hereby appropriated under the caption of:

Public and Private Programs Offset by Revenues:

Municipal Alliance to Prevent Alcoholism and Drug Abuse Supplemental.

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

RESOLUTION 2019-210
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN
THE COUNTY OF MORRIS, AMENDING EMPLOYEE SALARIES FOR THE YEAR 2019**

WHEREAS, Resolution 2019-092 was adopted on March 28, 2019 setting the employee salaries for the year 2019; and

WHEREAS, the salary for the Assistant Pool Manager needs to be amended so that the position receives the agreed to 2% increase which equates to \$357.00.

BE IT RESOLVED by the Township Committee of the Township of Chatham, in the County of Morris, New Jersey, that Resolution 2019-092 is hereby amended be effective May 1, 2019.

Assistant Pool Manager	\$18,207
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This Resolution shall take effect immediately.

RESOLUTION 2019-211
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM
APPOINTING CHARLES RIBAUDO TO THE POSITION OF SPECIAL LAW
ENFORCEMENT OFFICER III**

BE IT RESOLVED, by the Township Committee of the Township of Chatham that a conditional offer of employment is hereby extended to Charles Ribaudo with an appointment date of November 16, 2019 at a rate of \$35 per hour pending the successful completion of his pre-employment physical and qualifications; and,

BE IT FURTHER RESOLVED, that the Special Law Enforcement Officer III will work 35 hours a week, and no more than 40 hours a week; and

BE IT FURTHER RESOLVED, that the terms and conditions of the Shared Services Agreement with the School District of the Chathams Board of Education as authorized by Resolution 2018-12 shall be considered part of the terms of employment.

RESOLUTION 2019-212
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM
AUTHORIZING BUDGET TRANSFERS**

WHEREAS, the Township Committee of the Township of Chatham, County of Morris has determined that certain appropriations, in the 2019 municipal budget, are not sufficient to meet anticipated expenses; and

WHEREAS, N.J.S. 40A: 4-58 authorizes the transfer from appropriations where excess exists to other appropriations that are anticipated to be insufficient.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris that the following transfers are hereby affected:

Current Fund

Appropriation	To	From
General Administration OE	\$ 15,000	
Municipal Clerk OE	\$ 1,000	
Computerized Data Process OE	\$ 1,000	
Legal Services OE	\$ 30,000	
Planning Board OE	\$ 20,000	
Code Enforcement /Admin OE	\$ 2,000	
Police OE	\$ 5,000	
Road Repairs OE	\$ 10,000	
Vehicle Maintenance OE	\$ 15,000	
Police S&W		\$ 15,000
Colony Pool S&W		\$ 70,000
Recreation S&W		\$ 14,000
Current Fund Total	\$ 99,000	\$ 99,000

RESOLUTION 2019-213

**A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM,
COUNTY OF MORRIS, STATE OF NEW JERSEY, CANCELLING VARIOUS UNEXPENDED
BALANCES**

WHEREAS, The Report On Examination of Financial Statements (Audit) for the year ended December 31, 2018 revealed a number of miscellaneous items including unallocated receipts, appropriated reserves, reserves for special deposits, unexpended improvement authorizations, and state aid receivables and reserves, and

WHEREAS, The Chief Financial Officer has determined that these items may all be cancelled,

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

Current Fund Schedule of Receivables	
Municipal Alliance Program DEDR	\$2,681.30
FEMA Emergency Generator Grant	\$200.00
Current Fund Appropriation	
Matching Funds for Grants	
-Municipal Alliance Program	\$740.88
FEMA Emergency Generator Grant	\$200.00
Sewer Utility #1 Capital Fund Schedule of Improvement Authorizations	
Ordinance 2013-015	\$2,110,888.81
Ordinance 2016-018	\$48,951.97
Sewer Utility #2 Capital Fund Schedule of Improvement Authorizations	
Ordinance 2010-15	\$13,261.88

Committeeman Ritter asked about the salary resolution amendment. Administrator Hoffmann said that the Assistant Pool Manager had not received the 2% increase that should have been included in the 2019 salary.

Committeewoman Ness moved to approve the Consent Agenda. Deputy Mayor Kelly seconded the motion.

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

Presentation

Best Practices Inventory

Administrator Hoffmann reported that every municipality in New Jersey is required by the State to complete a Best Practices Inventory, and it must appear on a governing body agenda and be discussed. The Township's score in 2019 is 41.5 out of 46, and any score over 30 means that the municipality will not lose out on State Aid. Administrator Hoffmann noted that what the State calls State Aid is in reality money owed to municipalities for use of right-of-ways. Administrator Hoffmann said that the Township had to answer "no" on some questions, and he reviewed those questions with the Township Committee. Administrator Hoffmann noted that the Audit commented on the need for segregation of duties, and the Township's staffing levels are too low to properly segregate duties.

Committeewoman Swartz asked about the anticipated IT Audit, and if integrating personnel will be part of that. Administrator Hoffmann said that the new IT provider will be part of that discussion. He also noted that the Township received 12 bids for IT services, and the review process has been interesting in the level of detail and analysis required. A recommendation for contract award is anticipated for the December 12th meeting.

Committeewoman Ness commented on the Veterans Day Observance Ceremony in Green Village on November 11th. Mayor Selen said that he also attended the Veterans Day Ceremony at Juniper Village.

Committeewoman Ness also commented that Santa and Mrs. Claus will be at the Chatham Borough Gazebo on December 7th and 8th.

PILOT Agreement

Administrator Hoffmann explained that a Payment In Lieu of Taxes (PILOT) is a financial agreement that helps implement goals for development and redevelopment, and PILOTs are a financing tool for municipalities to assist in projects that would not otherwise be feasible. Administrator Hoffmann also said that PILOT programs help facilitate affordable housing obligations through development and redevelopment. Administrator Hoffmann further explained that the first step is for a property to be declared by the governing body as an area in need of redevelopment, and a redevelopment plan has to be presented. The redevelopment plan is then reviewed by both the Planning Board and Governing Body. An agreement would then be entered into with the developer for an annual service charge, which is based on the gross annual revenues generated by the development which is usually rental income.

Administrator Hoffmann discussed the benefits of a PILOT. He said that a PILOT provides tax relief to developers, and gives them certainty about some of the future costs. This helps them obtain funding for the project. The redevelopment transforms blighted property, and beings in more ratables following the term of the PILOT. The municipality retains 95% of the PILOT, and the County receives the remaining 5%. The portion retained by the municipality is intended to cover municipal services such emergency services.

For the Arbor Green Project, Administrator Hoffmann stated that the agreed rate of the PILOT will be 6.28% of the gross rental income. This will result in the Township receiving approximately \$17,900 in the first year, and the County will receive \$900. The corresponding Dixiedale project will be market rate subject to property taxes. Administrator Hoffmann said that an analysis was performed to see how projected property taxes from the Dixiedale development would cover the costs associated with any new students in Chatham schools from the two developments. The projected ratable increase is approximately \$636,000 which will expand the tax base. This may help decrease the amount that each Township taxpayer has to pay in school taxes.

Attorney Cruz said that there will be a request to introduce an ordinance for a PILOT at the Arbor Green development. He noted that the development provides 24 units toward the Township's affordable housing obligation. Attorney Cruz further stated that if the Dixiedale property had been subject to a builders remedy lawsuit, there could potentially be a much larger number of units than the 53 that will be built.

Committeeman Ritter asked that the affordable housing FAQs on the Township website be updated.

Administrator Hoffmann indicated that the data in his report was reviewed with the Superintendent and Business Administrator of the School District of the Chathams. Attorney Cruz addressed the projection of the number of school children that the developments will generate. He said that existing similar developments in the Township can be used for comparative purposes to develop projections. A study by Rutgers University's Bloustein School of Planning and Public Policy is also used as a basis for the projections.

Municipal Affordable Housing Site or Sites

Administrator Hoffmann addressed the implementation of the Court-approved Affordable Housing Plan. On December 13, 2018 the Township Committee authorized a settlement of the litigation with the Fair Share Housing Center regarding affordable housing compliance. The agreement stipulates that the Township's realistic development potential is 200 units, and it was agreed that 24 units will be developed at the Skate Park site. The Township had also renewed affordable controls on the 72 Vernon Grove affordable housing units, a group home counted as 4 units, and a regional contribution of 8 units will result in the Township contributing to the rehabilitation of 8 units for affordable housing somewhere in Morris County. The Township agreed to build 74 units on municipally owned land. The Township has 28 bonus credits, 18 of which are being used at this time.

Attorney Cruz discussed the Vacant Land Analysis (VLA), and said that it is a tool for municipalities to determine the realistic development potential. The properties in the VLA may not necessarily get developed as affordable housing, and the VLA helps project the Township's capacity for future development. Attorney Cruz said that the VLA is a mechanism to help reduce the Township's obligation based upon available land. Typically for the Township to have 200 affordable units, 1000 total units would need to be built. However, the mechanisms employed by the Township reduces the total development while meeting the Township's Third Round obligation. By remaining compliant with the Settlement Agreement, the Township is protected from builders remedy lawsuits.

Administrator Hoffmann reiterated that the Township agreed to construct 74 affordable units on municipally controlled land. The Township Committee had considered the pros and cons of risking a builders remedy lawsuit, which could potentially result in 500 new homes being built in order to generate the required affordable housing. Having a 100% affordable housing solution was deemed a better option, as it would result in less overall development. The Township considered all municipally owned properties and easements to determine the best location for the 74 units.

Administrator Hoffmann said that the site of the Municipal Building on Meyersville Road has been determined as the best place for 65 units. He noted that the Senior Center will be able to remain, and the Township will also still have a gym at the site. The municipal offices will move to a new location. Nine affordable units will be build at another site as yet to be determined, and the units will be built with grant funding.

Attorney Cruz noted that the Township will not become a landlord, but will rather designate a developer to build the units.

Administrator Hoffmann said that in March 2008, a report was commissioned to assess the needed improvements to the Municipal Building. The projected cost of the improvements required at the time came to \$3,807,216.00 in 2008 figures. Factoring in the Bureau of Labor Statistics inflation rate, the 2019 figure comes to \$4,588,493.35.

Administrator Hoffmann noted that the Municipal Building was originally constructed as a school and opened in 1970, and was vacated in the early 1980s. After a few years of the building being vacant, municipal offices moved in during 1987. Administrator Hoffmann described the various improvements needed in the Municipal Building, including HVAC upgrades and a new roof. He also noted the utility costs relative to the number of employees in the building. Administrator Hoffmann also discussed the improvements needed at the Police Headquarters, which include new holding cells, a sally-port, a new roof, HVAC improvements and electrical upgrades. The anticipated cost of the Police Headquarters comes to \$5 million. Administrator Hoffmann said that it will be cheaper over the 30-year lifespan of a bond for the Township to build a new municipal complex than to make the necessary repairs at the two current facilities.

The next step for the Township will be to designate a developer, and then to present to concept plans to the public once they are available. The Township will also keep in touch with the

Senior Center and the Recreation Department to make sure their needs are satisfied. A new parking plan for the municipal complex will also be needed.

Committeeman Ritter noted that other sites were considered. Administrator Hoffmann said that the Municipal Building became the most viable site when it was determined that the other site was too constrained and too costly. What was thought to be a primary site had several limitations, and it would have been five-stories tall and would require the extension of a sewer line at the cost of the Township. Committeeman Ritter noted that even if the Municipal Building were in pristine condition, it would still be the best site.

Attorney Cruz said that the Settlement Agreement stipulates that a site or sites would be designated by the end of June 2019. For various reasons, the Court granted the Township extensions to determine the best site. Attorney Cruz said that he needs to report back to the Court in December with the designated site. The Township Committee is being asked to designate the Municipal Building as the site for 65 affordable units with a site or sites for the remaining 9 units to be determined at a later time so that the Township can remain in compliance with the Settlement Agreement.

Committeewoman Swartz asked about the ramifications for not designating a site or sites for the 74 units. Attorney Cruz said that the Court has been extending the Township's immunity from builders remedy lawsuits. Committeewoman Swartz asked Attorney Cruz to elaborate on the benefits of immunity from builders remedy lawsuits. Attorney Cruz said that the immunity allows municipalities to retain control over their own zoning regulations. Builders remedy lawsuits allow developers to construct new housing at a higher density. Committeewoman Swartz said that there is a possibility that a developer might not be able to find available land for a builders remedy lawsuit.

Deputy Mayor Kelly said that several other sites were eliminated by the Township for consideration, but a developer would not be constrained by the 74 units figure. He noted that a developer could feasibly propose 15 units on a single acre with only two or three affordable units toward the Township's obligation. Deputy Mayor Kelly said that such a method would potentially result in much more development. Committeeman Ritter said that a developer would not likely build townhomes on a road such as Huron Drive. He said that the Noe Pond Club is one of the largest private parcels that could be subject to a builders remedy lawsuit. Committeeman Ritter further noted that the Township was criticized for allowing 54 units at Dixiedale, when there could have potentially been up to 405. He also reiterated that use of the Municipal Building as a site for affordable housing remains the best option, and the process does not end with the proposed action. Attorney Cruz said that the process will include an application before the Planning Board. He also noted that the Court hearing to approve the development will also be a public hearing.

Mayor Selen noted the failure of the NJ State Legislature to address affordable housing matters, and he hopes that the Trenton politicians will step up and solve affordable housing issues.

Committeewoman Swartz noted that the Senior Center will need to temporarily relocate, and the use of the gym will temporarily be lost. She also said that the Township will lose acreage that it will not be able to get back. Committeewoman Swartz stated that the Township will lose a resource by giving up the current Municipal Building.

Committeewoman Ness noted that the settlement negotiations began in 2015, and concluded in 2018. She said that in 2019 the Committee needs to implement what had been agreed to in prior years. Committeewoman Swartz commended the Township Committee for wading through the various issues regarding affordable housing, as well as the Finance Committee for analyzing the costs of repairing the Municipal Building.

Committeewoman Swartz said that having 65 units at the Municipal Building site leaves 9 more to be developed elsewhere.

Deputy Mayor Kelly asked that the public be given a chance to speak before a vote is taken to designate a site for affordable housing.

Mayor Selen opened the floor for public comment.

1. Nancy Style, 97 Ormont Road, said that it is emotional and disturbing for a site to be chosen. Mrs. Style said that the only criteria that she saw considered for choosing the

Municipal Building site was cost, and she is concerned about the loss of open space. Mrs. Style said she is not convinced that the other potential areas are not developable.

Committeeman Ritter asked if the alternate sites can be disclosed. Attorney Cruz said that factors other than cost were considered, and the proposal for the Municipal Building site is to use the footprint of the current structure. Attorney Cruz also said that all municipally controlled properties and easements were considered.

Committeewoman Ness said that using the Municipal Building site will result in minimal disturbance.

Mrs. Style said she does not believe that the open space at the site will remain.

2. Dan Miller, 465 Green Village Road, said that the Township should disclose what properties were considered and let the public decide what is best. Administrator Hoffmann reiterated that every municipally owned property was considered, as well as municipal easements and tax foreclosures, and he said that due diligence was performed. Mr. Miller said that while due diligence may have been performed, there should be more transparency in the process. Mr. Miller also asked who will fund refurbishing the Senior Center and the Mountainview Gym. Committeewoman Ness said that discussions have not gotten that far. Mr. Miller said that the costs should be determined before moving forward. Administrator Hoffmann noted that the Township Administrative Offices will remain in the current facility for at least two more years. Mr. Miller commented on costs for sewers for new affordable housing, and said it would be offensive to spread the cost of those sewers on those who are outside the sewer service area.
3. Jane Devlin, 420 River Road, said that the Township Committee seems to take steps backward, and a lot of people seem afraid for there to be affordable housing. Mrs. Devlin asked that the alternative sites considered be disclosed. Administrator Hoffmann said that the list is extensive, and noted a concern that the Township would receive backlash if a property was overlooked when the list is compiled. Deputy Mayor Kelly said that once a list is reviewed by the Township Attorney, perhaps a list of the top three or four alternatives could be released.
4. Stacey Ewald, 54 Nicholson Drive, asked if the selection of the Municipal Building will be locked in, or if another property could be selected if something suitable is found. Attorney Cruz said that the Township will need an adequate reason to change sites. He said that any other site would have to be viable and municipally-controlled. Mrs. Ewald asked if the developer selection is subject to public bidding. Attorney Cruz said that typically developers would not want the limitation of having to keep the Senior Center. Committeeman Ritter asked if the Court would be concerned that two new members are joining the Township Committee in January. Attorney Cruz noted that there are elections every year, and nothing would ever get done if the Court let that be a concern. He also noted that the Settlement Agreement was entered into in 2018.
5. Ruth Ann Connors, 48 Meyersville Road, said she only found out a couple days ago that the Municipal Building was under consideration for affordable housing. She also addressed Committeewoman Ness's comment about disruption, and said that there is not anywhere in the Township where 65 units could be placed without causing disruption. Mrs. Connors also alleged that most affordable housing residents are divorced mothers. She also questioned the projection that only 16 students will be added to the School District from the proposed development. Mrs. Connors reiterated that the affordable housing development will be disruptive wherever it is built, and noted that the open space at the Municipal Building site is one of the only open space sites in this section of the Township. She also asked about the number of stories that the proposed building would have. Administrator Hoffmann said that there will be three stories, plus the Senior Center. Mrs. Connors said she does not understand why 65 units will be in one spot, and asked if they could be spread around the Township. Administrator Hoffmann clarified that the projection of 16 students is for the Arbor Green and Dixiedale sites, and with the Municipal Building site the total is anticipated to be 50 students.
6. Christina Mott, 22 Nicholson Drive, asked about the criteria of using the Municipal Building site and the Skate Park site for affordable housing. Administrator Hoffmann said that moving the Police Department to the Municipal Building site would increase response times. He said that relocating DPW was also considered, however the Great

Swamp's environmental protections disallowed that. Mrs. Mott also asked who will be writing the grant applications for affordable housing at the Municipal Building site. Administrator Hoffmann said that the developer will need to apply for the grants, and the Township will be performing due diligence by meeting with the funding agencies.

7. Sue Hoag, 76 Canterbury Road, said that she was on the Open Space Committee for over 20 years, and many of the available properties in the Township are constrained by open space regulations or steep slopes. Mrs. Hoag also said that she lives in Chatham Glen, and said that the Vernon Grove residents are lovely people. Mrs. Hoag also said that there are 300 units in her condominium complex, and she said she has not seen a traffic impact.
8. Larry Niech, 19 Lisa Drive, said that the decision to designate the Municipal Building site for affordable housing seemed to come out of nowhere. He also said that the decision is being made without knowing where the new municipal complex will be located.
9. Mrs. Devlin said that the Township should not generalize who will live in the affordable housing. She asked that people be open minded and that Chatham be a welcoming town. Mrs. Devlin further said that she wishes that affordable housing programs could give a preference to people who already live in the community. She also said that supporting affordable housing is an ethical thing to do.
10. Jennifer McNally, 19 Ferndale, thanked Administrator Hoffmann for his presentation. Mrs. McNally asked if the necessary repairs to the Police Department and the Municipal Building are a surprise or if they were previously known. Administrator Hoffmann said that the compliance dates for the Police Department are October 2020 and October 2021, and there are improvements required by the State. The cost of repairs includes an addition and reconfiguration, and it was in July 2019 that it came to his attention. Committeewoman Ness said that the Township was informed a few years ago that the upgrades to the Police Department were needed.
11. Doug Pitney, 54 Mountainview Road, said that the affordable housing will appear to be four stories from where his house is located. Mr. Pitney read from a letter that he had sent to the Township Committee members. He said that he objects to converting the Municipal Building to affordable housing. Mr. Pitney further suggested that the Township seek tenants for the space formerly occupied by the School District. He also expressed his outrage that the roof is leaking at the Municipal Building. Mr. Pitney suggested that if the Municipal Building does become affordable housing, that Mountainview Road be turned into a cul-de-sac at the bottom of the hill.
12. Chris Jagoe, 318 Fairmount Avenue, asked that the Township Attorney be directed to ask the Court for an extension on the affordable housing matter.

Mayor Selen closed the floor to the public.

Committeeman Ritter asked if the Township can request an extension. Attorney Cruz said that an extension can be requested, and it would be up to the Judge if the extension is granted. He noted that the Township has already received extensions, and the designation of a site was supposed to have been made in July 2019. Attorney Cruz further stated that the Municipal Building is a viable site, and he said that "not in my backyard" is not a viable argument to make before the Court. Committeeman Ritter asked about the threat of a builders remedy lawsuit. Attorney Cruz said that there are builders who seek out such opportunities, and a builders remedy lawsuit could come at any time if immunity is lost. The next case management conference is scheduled for December 17th, and Attorney Cruz recommended that the Township Committee act on the designation at this meeting so as to maintain compliance with the Judge's orders and the Settlement Agreement. Committeeman Ritter asked if the Township can request a change in January if the new Township Committee members have ideas regarding a different location, or if the Township will be locked in to the decision. Attorney Cruz said that the Court will respond to changed circumstances. However, picking a new site that had previously been rejected is not a changed circumstance.

Mr. Pitney disrupted the meeting, and asked why the Township Committee has to make a decision on this matter. He also why the Township will be voting on the matter when negotiations were not done publicly. Mayor Selen said that the floor is closed to the public, and

Mr. Pitney will have a chance to ask questions later. Attorney Cruz said that matters of litigation are required to be handled in Executive Session. Mr. Pitney accused Attorney Cruz of not adequately representing the Township, and said that the Township should continue to seek alternative locations. He also said that the Township Committee is not adequately prepared to make a decision. Administrator Hoffmann said that the Township has received several extensions from the Court, and said in an angry tone that Attorney Cruz has been properly representing the Township.

Committeewoman Ness said that the Township Committee has often asked Attorney Cruz when it will be appropriate to publicly discuss the affordable housing issues, and the Township Committee has been reviewing and discussing options for a long time. She also said that the Township has been unable to find space to build a Skate Park, much less affordable housing. Committeewoman Ness further commented on the work that went in to reviewing various possibilities.

Deputy Mayor Kelly said that if a decision is not made at this meeting, there will not be any additional information to help make a decision at the December 12th meeting. He noted that the Township Committee is obligated to designate a site or sites for affordable housing.

Committeewoman Swartz said that the Township Committee is deciding to walk away from an asset, and she noted that there are still a lot of unknown costs.

Committeeman Ritter said that when Mrs. Ewald and Mrs. Fondaco take office, they may have new ideas to present. He also said that nobody likes the idea of converting the Municipal Building to affordable housing, however because of the nature of litigation there cannot always be transparency. Committeeman Ritter encouraged the public to attend Township Committee meetings to be aware of the business being conducted.

Committeewoman Ness moved to designate 58 Meyersville Road as the Municipal Affordable Housing Site. Deputy Mayor Kelly seconded the motion.

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

Deputy Mayor Kelly said he will be holding a Coffee with a Committeeman event on Saturday.

Additional Resolutions for Consideration

Resolution 2019-214

**RESOLUTION 2019-214
RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE
OF NEW JERSEY, AUTHORIZING THE MAYOR AND CLERK TO SIGN A
REDEVELOPMENT AGREEMENT BETWEEN THE TOWNSHIP OF CHATHAM
AND SOUTHERN BOULEVARD URBAN RENEWAL, LLC**

WHEREAS, on October 12, 2017 and October 26, 2017, the Township Committee of the Township of Chatham (“Township”) designated a portion of Block 48.16, Lot 117.27 (“Property”) as the Skate Park Redevelopment Area (“Redevelopment Area”); and

WHEREAS, on December 13, 2018, the Township Committee adopted an Ordinance authorizing the Redevelopment Plan for the Redevelopment Area (“Plan”); and

WHEREAS, on December 13, 2018, the Township adopted a Resolution conditionally designating Southern Boulevard Urban Renewal, LLC (“Redeveloper”) as redeveloper of the Redevelopment Area subject to certain conditions; and

WHEREAS, on October 21, 2019, the Redeveloper received Final Site Plan Approval from the Township Planning Board for the Redevelopment Area for a two-story twenty-four (24) unit affordable housing development (“Approval”); and

WHEREAS, the Approval was granted subject to the execution of a Redevelopment Agreement between the Township and the Redeveloper; and

WHEREAS, the Township and Redeveloper negotiated a Redevelopment Agreement which is attached to this Resolution; and

WHEREAS, the Redevelopment Agreement is in substantially final form subject to finalization by the Township Attorney.

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 Mayor and Clerk are hereby authorized to sign the Redevelopment Agreement with Southern Boulevard Urban Renewal, LLC, as discussed in this Resolution.
2. The Agreement to be signed will be in substantially the form attached subject to finalization by the Township Attorney.
3. This Resolution shall take effect immediately.

Attorney Cruz provided background and explained the purpose of Resolution 2019-214.

Deputy Mayor Kelly moved to adopt Resolution 2019-214. Committeewoman Ness seconded the motion.

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

Resolution 2019-215

**RESOLUTION 2019-215
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
CHATHAM AUTHORIZING A REQUEST FOR QUALIFICATIONS (RFQ) OR
REQUEST FOR PROPOSAL (RFP) FOR ARCHITECTURAL SERVICES**

BE IT RESOLVED, by the Township Committee of the Township of Chatham that authorization is given to the Township Administrator and the QPA solicit quotes or prepare an RFP for architectural services.

Attorney Cruz said that this resolution authorizes the Township Administrator to solicit quotes for architectural services.

Committeewoman Ness moved to adopt Resolution 2019-214. Deputy Mayor Kelly seconded the motion.

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

Introduction of Ordinances

Ordinance 2019-18

**ORDINANCE 2019-18
AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF
NEW JERSEY, AMENDING CHAPTER XXIX, TITLED “AFFORDABLE HOUSING” OF THE
REVISED GENERAL ORDINANCES TO ADD A NEW SUBSECTION 29-2, TITLED
“DEVELOPMENT FEES”**

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. Subsection 29-2 titled “Development Fees” of Revised General Ordinances of the Township of Chatham, is hereby added as follows:

29-2 Development Fees.

§29-2.1 Purpose

- A. In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (“Act”), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (“COAH's”) adoption of rules.
- B. Pursuant to P.L.2008, c.46 section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Non-residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and

have a COAH-approved spending plan may retain fees collected from nonresidential development.

- C. In Re Adoption of N.J.A.C. 5:96 and 5:97 by COAH, 221 N.J. 1 (2015) (“Mount Laurel IV”), the Supreme Court remanded COAH’s duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 7, 2025 are under the Court’s jurisdiction and are subject to approval by the Court.
- D. This article establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c.46, §§ 8 and 32-38. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:93-8.

§ 29-2.2 Definitions.

As used in this Subsection, the following terms shall have the meanings indicated:

AFFORDABLE HOUSING DEVELOPMENT

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

COAH or THE COUNCIL

The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

DEVELOPER

The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT FEE

Money paid by a developer for the improvement of property as permitted in N.J.A.C 5:93-8.3

EQUALIZED ASSESSED VALUE

The assessed value of a property divided by the current average ratio of assessed-to-true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (N.J.S.A. 54:1-35a through N.J.S.A. 54:1-35c).

SUBSTANTIAL IMPROVEMENT

Any reconstruction, addition, or other improvement of a structure, the cost of which exceeds fifty (50%) percent of the equalized assessed value of the structure before the start of construction of the improvement or an addition where the improvement exceeds 3,000 square feet.

SUBSTANTIVE CERTIFICATION

A determination by COAH approving a municipality's housing element and fair-share plan in accordance with the provision of the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and the rules and criteria as set forth herein.

§ 29-2.3 Development fees.

- A. Residential development fees.

- (1) Imposed fees.

- (a) Within the Township of Chatham, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.

(b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 4% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage up to 4% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

(2) Eligible exactions, ineligible exactions and exemptions for residential development:

- (a) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (b) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

Alternate 1 (New construction only)

- (c) Except as provided in Subsection 29-2.3A(2)(d) below, development fees shall be imposed and collected on new residential construction. The development fee shall be calculated on the equalized assessed value of the new residential structure.

Alternate 2 (New construction and substantial improvement)

- (d) Except as provided in Subsection 29-2.3A(2)(d) below, development fees shall be imposed and collected on new residential construction or when an existing residential structure undergoes a substantial improvement as defined in Section 29-2.2 above, excluding additions, or is demolished and replaced. The development fee shall be calculated on the equalized assessed value of the new residential structure or on the increase in the equalized assessed value of the substantially improved residential structure.

Alternate 3 (New construction, substantial improvement and additions)

- (c) Except as provided in Subsection 29-2.3A(2)(d) below, development fees shall be imposed and collected on new residential construction or when an existing residential structure undergoes a substantial improvement as defined in Section 29-2.2 above, is demolished and replaced, or is expanded where the size of the change, replacement, or expansion is greater than 3,000 square feet. The development fee shall be calculated on the increase in the equalized assessed value of the new or improved structure.
- (d) Developers of residential structures demolished and replaced as a result of fire, or natural disaster, or other catastrophic events shall be exempt from paying a development fee.

B. Nonresidential development fees.

(1) Imposed fees.

- (a) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (b) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and

improvement, at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

- (2) Eligible exactions, ineligible exactions and exemptions for nonresidential development.
- (a) The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the development fee of 2.5% unless otherwise exempted below.
 - (b) The fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - (c) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
 - (d) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L.2008, c.46, shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
 - (e) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township as a lien against the real property of the owner.

§ 29-2.4 Exempt development types.

The following development types are exempt from development fees:

- A. Nonprofit and public education buildings.
- B. Houses of worship.
- C. Public amenities (recreational, community, or senior centers).
- D. Parking lots and structures.
- E. Nonprofit hospital relocation or improvement.
- F. State, county and local government buildings.
- G. Transit hubs, transit villages, and light-rail hubs.
- H. Commercial farm buildings and Use Group U structures.
- I. Developments with a general development plan approval, or executed developer's or redeveloper's agreement, prior to July 17, 2008, with a fee or affordable housing requirement the equivalent of at least 1% of equalized assessed value.

§ 29-2.5 Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority (Planning or Zoning Board) shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Township Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the Township Tax Assessor that he has prepared to be issued the first building permit for a development, at which time an amount of 50% of the total fee is due at the issuance of the first building permit. The remaining amount owed will be paid at the issuance of a final certificate of occupancy.
- D. Within 30 days of receipt of that notice, the Township Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development and the fee is calculated as cited above.

- E. The construction official responsible for the issuance of a final certificate of occupancy notifies the Township Tax Assessor of any and all requests for the scheduling of a final inspection on property.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the remaining amount of the fee due.
- G. Should the Township fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- H. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- I. Appeal of development fees.
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Township. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Township. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 29-2.6 Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (1) Payments in lieu of on-site construction of affordable units;
 - (2) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with the Township's affordable housing program.
- C. The Township previously provided COAH with written authorization, in the form of a three-party escrow agreement between the Township, a bank, COAH, to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8. The Superior Court shall now have jurisdiction to direct the disbursement of the Township's trust funds.
- D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH or a court of competent jurisdiction.

§ 29-2.7 Use of funds.

- A. The Township shall not spend development fees until COAH or a court of competent jurisdiction has approved a plan for spending such fees. Thereafter, the expenditure of all funds shall conform to the spending plan approved by COAH or a court of competent jurisdiction. Funds deposited in the housing trust fund may be used for any activity approved by COAH or a court of competent

jurisdiction to address the Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8 and specified in the approved spending plan.

- B. Funds shall not be expended to reimburse the Township for past housing activities.
- C. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - (1) Affordability assistance programs may include down-payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
 - (2) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
 - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:93-8.16(d).
- E. No more than 20% of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements as set forth in the Court-approved Settlement Agreement with FSHC, dated December 13, 2018. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

§ 29-1.8 Monitoring.

On or about December 13 of each year through 2025, the Township shall provide annual reporting of trust fund activity to the DCA, COAH, or NJLGS, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township's housing program, as well as to the expenditure of revenues and implementation of the plan approved by COAH or a court of competent jurisdiction. All monitoring reports shall be completed on forms designed by COAH or other entity designated by the State of New Jersey.

§ 29-1.9 Ongoing collection of fees.

The ability for the Township to impose, collect and expend development fees shall expire with its Court-issued Judgment of Compliance and Repose unless the Township has (1) filed an adopted Housing Element and Fair Share Plan with COAH, a court of competent jurisdiction or other entity designated by the State of New Jersey; (2) has petitioned for substantive certification or filed a declaratory judgment action; (3) and has received COAH's or a court of competent jurisdiction's approval of its Development Fee Ordinance. If the Township fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New

Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (N.J.S.A. 52:27D-320). The Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance; nor shall the Township retroactively impose a development fee on such a development. The Township shall not expend development fees after the expiration of its judgment of compliance.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This Ordinance shall not become effective until approved by the Superior Court of New Jersey.

Attorney Cruz said that the draft ordinance has three options for the Township Committee to consider. He also explained the purpose of collecting a development fee is to collect a one-time fee for the affordable housing needs of the Township. The fees collected are put into a trust fund rather than the general account, which can only be used for affordable housing purposes specified in a spending plan which is subject to the approval of the Superior Court. Attorney Cruz said that development fee ordinances are common tools utilized to help meet the Constitutional mandate for realistic affordable housing development, and a development fee ordinance is important for municipalities such as Chatham Township who have chosen to have a municipally sponsored affordable housing development. He further noted that the Township has had an unenforced development fee since 2008.

Attorney Cruz also said that this draft ordinance addresses a prior discussion regarding a definition of "substantial improvement," and the current definition in the Township Code Book is utilized in this draft. He said that any reconstruction, addition or improvement of a structure the cost of which exceeds 50% of the equalized assessed value of the structure before the start of construction of the improvement.

Committeeman Ritter moved to introduce Ordinance 2019-18. Deputy Mayor Kelly seconded the motion.

Attorney Cruz noted that the ordinance has an exemption for residential structures that are demolished and replaced as a result of fire, natural disaster or catastrophic event.

Committeewoman Ness said that prior discussion of additions greater than 2,000 square feet, and she commented on the number of permits that were issued for additions of that size. She said that she favors the third option if it is set at 2,000 square feet.

Committeeman Ritter said that he favors only having the development fee apply to new construction. Mayor Selen asked if tear-downs are also considered new construction. Attorney Cruz said that new construction would be on vacant land, and he noted that option 2 includes new construction and tear-downs.

Committeewoman Swartz said that the ordinance leaves too much uncertainty, and said she would prefer to go with option 2 to include new construction and tear-downs. Committeeman Ritter asked if the ordinance should define what percentage needs to be demolished for it to be considered a tear-down, or if it is the cost of the work to be done. Attorney Cruz said it is by cost. Engineer Ruschke addressed FEMA definitions of tear-downs. He also said that the Township has a need to start collecting fees, and the ordinance can be modified if necessary. Engineer Ruschke also said that it is not a substantial number of homeowners who will be impacted by this ordinance.

Deputy Mayor Kelly said that the public has expressed that they do not want taxes levied on those least able to pay them, and not having a development fee will result in a tax on everyone. He noted that the property owners to whom the development fee would apply will be voluntarily making improvements to their properties with the foreknowledge that they need to pay the fee.

Deputy Mayor Kelly also said that a substantial improvement to a home makes it less affordable, therefore there is a philosophical justification to the development fee.

Mayor Selen said that he supports the development fee as a means to avoid having a tax on all Township property owners. He also said that he prefers having the fee assessed on additions of 3,000 square feet rather than 2,000 square feet.

Committeewoman Swartz noted that the Planning Board deemed a prior draft of this ordinance to be inconsistent with the Master Plan.

Committeeman Ritter asked if amendments to the draft ordinance need to be approved by the Committee-member who had made the motion to introduce the ordinance. Attorney Cruz confirmed that such approval is necessary. Committeeman Ritter having made the motion to introduce the ordinance, he indicated that he does not agree to amending the ordinance unless it is to limit the development to tear-downs. Attorney Cruz noted that the Township Committee can override the Planning Board's inconsistency determination by adopting a reasons resolution.

Attorney Cruz noted that the Township Committee can vote against the motion to introduce the ordinance with all three options, and then have a motion from someone else to introduce it with an option for which there is consensus.

Roll call: Committeewoman Ness, Nay; Committeewoman Swartz, Nay; Committeeman Ritter, Nay; Deputy Mayor Kelly, Nay; Mayor Selen, Nay.

Ordinance 2019-22

ORDINANCE 2019-22

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER XXIX, TITLED "AFFORDABLE HOUSING" OF THE REVISED GENERAL ORDINANCES TO ADD A NEW SUBSECTION 29-2, TITLED "DEVELOPMENT FEES"

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. Subsection 29-2 titled "Development Fees" of Revised General Ordinances of the Township of Chatham, is hereby added as follows:

29-2 Development Fees.

§29-2.1 Purpose

- E. In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 ("Act"), N.J.S.A. 52:27D-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's ("COAH's") adoption of rules.
- F. Pursuant to P.L.2008, c.46 section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Non-residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from nonresidential development.
- G. In Re Adoption of N.J.A.C. 5:96 and 5:97 by COAH, 221 N.J. 1 (2015) ("Mount Laurel IV"), the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from municipal affordable housing trust funds to implement municipal Third Round Fair Share Plans through July 7, 2025 are under the Court's jurisdiction and are subject to approval by the Court.
- H. This article establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L. 2008, c.46, §§ 8 and 32-38. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:93-8.

§ 29-2.2 Definitions.

As used in this Subsection, the following terms shall have the meanings indicated:

AFFORDABLE HOUSING DEVELOPMENT

A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one-hundred-percent affordable development.

COAH or THE COUNCIL

The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

DEVELOPER

The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT FEE

Money paid by a developer for the improvement of property as permitted in N.J.A.C 5:93-8.3

EQUALIZED ASSESSED VALUE

The assessed value of a property divided by the current average ratio of assessed-to-true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (N.J.S.A. 54:1-35a through N.J.S.A. 54:1-35c).

SUBSTANTIAL IMPROVEMENT

Any reconstruction, addition, or other improvement of a structure, the cost of which exceeds fifty (50%) percent of the equalized assessed value of the structure before the start of construction of the improvement.

SUBSTANTIVE CERTIFICATION

A determination by COAH approving a municipality's housing element and fair-share plan in accordance with the provision of the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and the rules and criteria as set forth herein.

§ 29-2.3 Development fees.

C. Residential development fees.

(3) Imposed fees.

- (e) Within the Township of Chatham, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
- (f) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 4% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application. Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage up to 4% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

(4) Eligible exactions, ineligible exactions and exemptions for residential development:

- (e) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

- (f) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (g) Except as provided in Subsection 29-2.3A(2)(d) below, development fees shall be imposed and collected on new residential construction or when an existing residential structure undergoes a substantial improvement as defined in Section 29-2.2 above, is demolished and replaced, or is expanded where the size of the change, replacement, or expansion is greater than 2,500 square feet. The development fee shall be calculated on the increase in the equalized assessed value of the new or improved structure.
- (h) Developers of residential structures demolished and replaced as a result of fire, or natural disaster, or other catastrophic events shall be exempt from paying a development fee.

D. Nonresidential development fees.

(3) Imposed fees.

- (d) Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
- (e) Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
- (f) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

(4) Eligible exactions, ineligible exactions and exemptions for nonresidential development.

- (f) The nonresidential portion of a mixed-use inclusionary or market-rate development shall be subject to the development fee of 2.5% unless otherwise exempted below.
- (g) The fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (h) Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- (i) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L.2008, c.46, shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (j) If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township as a lien against the real property of the owner.

§ 29-2.4 Exempt development types.

The following development types are exempt from development fees:

- J. Nonprofit and public education buildings.

- K. Houses of worship.
- L. Public amenities (recreational, community, or senior centers).
- M. Parking lots and structures.
- N. Nonprofit hospital relocation or improvement.
- O. State, county and local government buildings.
- P. Transit hubs, transit villages, and light-rail hubs.
- Q. Commercial farm buildings and Use Group U structures.
- R. Developments with a general development plan approval, or executed developer's or redeveloper's agreement, prior to July 17, 2008, with a fee or affordable housing requirement the equivalent of at least 1% of equalized assessed value.

§ 29-2.5 Collection procedures.

- J. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority (Planning or Zoning Board) shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- K. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Township Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- L. The construction official responsible for the issuance of a building permit shall notify the Township Tax Assessor that he has prepared to be issued the first building permit for a development, at which time an amount of 50% of the total fee is due at the issuance of the first building permit. The remaining amount owed will be paid at the issuance of a final certificate of occupancy.
- M. Within 30 days of receipt of that notice, the Township Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development and the fee is calculated as cited above.
- N. The construction official responsible for the issuance of a final certificate of occupancy notifies the Township Tax Assessor of any and all requests for the scheduling of a final inspection on property.
- O. Within 10 business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the remaining amount of the fee due.
- P. Should the Township fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- Q. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- R. Appeal of development fees.
 - (3) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Township. Appeals from a determination of the Board may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (4) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Township. Appeals from a determination of the Director may be made to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days

after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 29-2.6 Affordable Housing Trust Fund.

- E. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- F. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (8) Payments in lieu of on-site construction of affordable units;
 - (9) Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (10) Rental income from municipally operated units;
 - (11) Repayments from affordable housing program loans;
 - (12) Recapture funds;
 - (13) Proceeds from the sale of affordable units; and
 - (14) Any other funds collected in connection with the Township's affordable housing program.
- G. The Township previously provided COAH with written authorization, in the form of a three-party escrow agreement between the Township, a bank, COAH, to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8. The Superior Court shall now have jurisdiction to direct the disbursement of the Township's trust funds.
- H. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH or a court of competent jurisdiction.

§ 29-2.7 Use of funds.

- F. The Township shall not spend development fees until COAH or a court of competent jurisdiction has approved a plan for spending such fees. Thereafter, the expenditure of all funds shall conform to the spending plan approved by COAH or a court of competent jurisdiction. Funds deposited in the housing trust fund may be used for any activity approved by COAH or a court of competent jurisdiction to address the Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to, preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8 and specified in the approved spending plan.
- G. Funds shall not be expended to reimburse the Township for past housing activities.
- H. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
 - (4) Affordability assistance programs may include down-payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.
 - (5) Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
 - (6) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- I. The Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:93-8.16(d).

- J. No more than 20% of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements as set forth in the Court-approved Settlement Agreement with FSHC, dated December 13, 2018. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

§ 29-1.8 Monitoring.

On or about December 13 of each year through 2025, the Township shall provide annual reporting of trust fund activity to the DCA, COAH, or NJLGS, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website. This reporting shall include an accounting of all housing trust fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township's housing program, as well as to the expenditure of revenues and implementation of the plan approved by COAH or a court of competent jurisdiction. All monitoring reports shall be completed on forms designed by COAH or other entity designated by the State of New Jersey.

§ 29-1.9 Ongoing collection of fees.

The ability for the Township to impose, collect and expend development fees shall expire with its Court-issued Judgment of Compliance and Repose unless the Township has (1) filed an adopted Housing Element and Fair Share Plan with COAH, a court of competent jurisdiction or other entity designated by the State of New Jersey; (2) has petitioned for substantive certification or filed a declaratory judgment action; (3) and has received COAH's or a court of competent jurisdiction's approval of its Development Fee Ordinance. If the Township fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (N.J.S.A. 52:27D-320). The Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance; nor shall the Township retroactively impose a development fee on such a development. The Township shall not expend development fees after the expiration of its judgment of compliance.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This Ordinance shall not become effective until approved by the Superior Court of New Jersey.

Committeewoman Ness moved to introduce Ordinance 2019-22 with the third option amended to 2,500 square feet, and amending the definition of a substantial improvement. Deputy Mayor Kelly seconded the motion.

Committeewoman Swartz asked if the ordinance still has all three options. Attorney Cruz said that the draft with all three options was not introduced, and the motion on the table makes the changes described by Committeewoman Ness.

Committeeman Ritter asked if the ordinance can be further amended at the next meeting. Attorney Cruz said that it can be amended, and a determination would need to be made at that time if the amendment was substantive enough to warrant republication and a further public hearing.

Committeeman Ritter noted that had the General Election turned out differently, the ordinance might be amended again next year.

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

Public Hearing for Ordinance 2019-22 will be scheduled for December 12, 2019.

Ordinance 2019-19

ORDINANCE 2019-19

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, ESTABLISHING AN INCLUSIONARY AFFORDABLE HOUSING OVERLAY ZONE IN THE PI-1 PROFESSIONAL INSTITUTIONAL DISTRICT AND AMENDING CHAPTER XXX, TITLED “LAND DEVELOPMENT”, ARTICLE 7, TITLED “ZONING REGULATIONS” APPLICABLE TO BLOCK 128, LOT 9, LOCATED AT 466 SOUTHERN BOULEVARD TO ADDRESS A PORTION OF THE TOWNSHIP OF CHATHAM’S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

WHEREAS, the Township of Chatham (“Township”) filed a Declaratory Judgment Action in the Superior Court of New Jersey, Morris County, captioned IMO Township of Chatham, Docket No. MRS-L-1659-15 (“Declaratory Judgment Action”), in furtherance of the Supreme Court’s March 10, 2015, decision in In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (“Supreme Court Decision”); and

WHEREAS, the Township entered into a Settlement Agreement with the Fair Share Housing Center, Inc. on December 13, 2018 (“Settlement Agreement”) that determines the Township’s affordable housing obligation and the mechanisms for how the obligation will be addressed; and

WHEREAS, the Township’s Planning Board adopted a Housing Element and Fair Share Plan, that comprehensively provides for the creation of affordable housing in the Township in a manner consistent with all applicable affordable housing statutes and regulations and the Settlement Agreement; and

WHEREAS, the Township identified one parcel of land determined to be appropriate for development of higher-density inclusionary residential development in the Township located on Block 128, Lot 9 located at 466 Southern Boulevard within the PI-1 District which possesses sufficient land area to accommodate inclusionary residential development at appropriate inclusionary zoning densities to address a portion of the Township’s Third Round affordable housing obligation; and

WHEREAS, the zoning amendments herein support residential inclusionary development consistent with the Settlement Agreement and the Township’s Housing Element and Fair Share Plan.

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. Article XXX, Subsection 30-75.1 titled “Zone Districts” is hereby amended to add a new overlay zone titled “PI-AHO” Professional and Institutional Affordable Housing Inclusionary Overlay Zone as follows:

30-75.1 Zone Districts.

For the purpose of this Chapter, the Township is hereby subdivided into twenty-two (22) zone districts known as:

- CP County Park District
- WA Wilderness Area District
- R-1 Residence District
- R-1A Residence District
- R-2 Residence District
- R-2A Residence District
- R-2B-1 Residence District
- R-2B-2 Residence District
- R-3 Residence District
- R-4 Residence District
- R-5 Residence District
- R-5A Residence District
- R-6A Townhouse District
- R-6B Townhouse District
- R-6C Residence District
- R-7 Apartment District
- AH Affordable Housing District
- B-1 Business Center District
- B-2 Neighborhood Business District
- PI-1 Professional Institutional District
- PI-2 Professional Institutional District

Overlay Districts:

- Great Swamp Watershed Overlay District (Ord. No. 2017-16)
- Upper Passaic River Watershed Overlay District (Ord. No. 2017-16)
- Professional and Institutional Affordable Housing Inclusionary Overlay Zone

Section 2. Article XXX, Subsection 30-75.2 titled “Map and Schedule” is hereby amended to include the following: one (1) new overlay zone designation, "PI-AHO” Professional and Institutional Affordable Housing Inclusionary Overlay Zone as indicated on the “Official Zoning Map, Township of Chatham, Morris County, New Jersey,” dated March, 1999, which is hereby replaced by the “Official Zoning Map, Township of Chatham, Morris County, New Jersey,” dated March, 1999, revised as of October, 2019, and listed below:

Block 128, Lot 9

Section 3. Amend Article XXX to include a new Section 30-84, titled “Requirements for PI-AHO Professional and Institutional Affordable Housing Inclusionary Overlay Zone”, to the Revised General Ordinances of the Township of Chatham as follows:

(a) Purpose.

The Township recognizes its obligation under the New Jersey Fair Housing Act to provide for its "fair share" of the regional need of low and moderate income (affordable) housing. The PI-AHO Professional and Institutional Affordable Housing Inclusionary Overlay Zone is established to provide an affordable housing overlay development option allowing townhouses and/or apartments on Block 128, Lot 9 to address a portion of the Township's affordable housing obligation subject to the affordable housing set-asides prescribed below.

(b) Area and Density Requirements.

1. Minimum Area. Each development shall have a minimum tract area of three (3) acres. Public or private roads, easements or rights-of-way shall not be deemed to divide acreage of a development.
2. Maximum Density. Twelve (12) dwelling units/acre.
3. Minimum Lot Size Per Dwelling. A minimum lot size of 1,200 square feet shall be required for all fee simple townhouse dwelling units.

(c) Maximum Building Coverage.

1. The total ground floor area of all buildings shall not exceed thirty (30%) percent of the lot area.

(d) Maximum Impervious Coverage.

1. The total area of all impervious surfaces shall not exceed sixty (60%) percent of the lot area.

(e) Setback Requirements.

1. No principal building shall be located within thirty (30) feet of a public street or exterior property line of the tract nor within ten (10) feet of any internal roadway.
2. No townhouse dwelling structure shall have more than two (2) continuous attached dwelling units with the same front building line, and such variations in the building line shall be offset at least four (4) feet.

(f) Distance Between Buildings. Minimum distances as specified below shall be maintained between principal buildings:

Positions of Building Walls	Minimum Distance Between Buildings at Any Point
Front facing front	50'
Front facing rear	50'
Front facing side	25'
Rear facing rear	50'
Rear facing side	30'
Side facing side	15'

(g) Building Requirements.

1. Height. No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet whichever is the lesser, except that existing buildings in excess of the permitted number of stories or height may be re-used for any permitted principal or accessory use.
2. Units Per Building. No townhouse building shall contain more than six(6) dwelling units.

(h) Dwelling Unit Requirements.

1. Each dwelling unit shall contain as a minimum a separate living room, a separate bedroom, a separate bath, a room for storage and utilities, and a kitchen, which kitchen facility shall be located separate and apart from other rooms in the unit with the exception of the dining room.
2. Minimum Floor Area. Each dwelling unit shall have a minimum floor area, as "floor area" is defined in Section 30-6, in accordance with the following schedule:

Number of Bedrooms	Minimum Required Floor Area Per Dwelling Unit (in Sq. Ft.)
1	900
2	1,150
For each additional	200 additional

3. No basement shall contain a bedroom.
4. Each dwelling unit shall have at least two (2) private outside entrances.
5. Each dwelling unit shall contain its own heating plant and system and shall constitute a separate, independent unit for metering and all other purposes with respect to all required utilities and similar conveniences. No central or common laundry or similar facilities intended for two (2) or more units shall be permitted.
6. Each dwelling unit shall have at least one (1) individual private yard area, balcony, deck, open patio or court adjoining the unit and having a width of at least fifteen (15) feet and an area of at least one hundred fifty (150) square feet. Each private yard area, patio, court or deck shall be effectively screened in order to provide a reasonable degree of privacy.
7. In addition to the above requirements, a storage space with separate access and containing a minimum of eighty (80) square feet of floor area shall be provided for each dwelling unit in the basement of the building in which the unit is located or in the garage serving the unit. Storage space located in a garage shall not encroach upon or be located above a minimum area of ten feet by twenty (10' by 20') feet for the parking of a motor vehicle.
8. The layout and arrangement of buildings and their design shall incorporate energy saving and green design features where practicable.

(i) Accessory Buildings.

1. Setbacks. Accessory buildings shall meet the street, property line and internal roadway setbacks of the principal buildings and shall be at least twenty-five (25) feet from a principal building and fifteen (15) feet from another accessory building. Detached garages shall be at least fifteen (15) feet from a principal building or from any other garage or accessory building. Clubhouses, swimming pools and recreation facilities shall be at least one hundred (100) feet from a property line.
2. Height. The maximum height of an accessory building shall be fifteen (15) feet except for clubhouses which shall not exceed twenty-eight (28) feet in height. Existing buildings in excess of the permitted number of stories or height may be re-used for any permitted principal or accessory use.
3. When a clubhouse or other accessory building is attached to a building containing a permitted principal use, the bulk requirements for the permitted principal use shall apply.
4. Design. Architectural design and materials used in the construction of accessory buildings shall conform to or complement the style of construction of principal buildings.
5. Except to the extent inconsistent with the specific provisions of this Subsection, the provisions of Subsection 30-96.13 shall be followed.

6. Signs. The provisions of Section 30-98 shall be followed.

(j) Off-Street Parking and Internal Roadways. Off-street parking and internal roadways shall conform to the provisions of Subsection 30-64.2, and, in addition, the following requirements shall be met:

1. All off-street parking areas and internal roadways shall be paved, bounded by permanent curbing and constructed in accordance with Township of Chatham road specifications; provided, however, that, upon recommendation of the Township Engineer, the requirement of curbing may be waived or modified when found not to be needed for control of storm water, protection of pavement and similar purposes.
2. Parking areas shall be located at least five (5) feet from a building and fifteen (15) feet from a property line.
3. Except as otherwise provided in the New Jersey Residential Site Improvement Standards, internal roadways shall be at least twenty-four (24) feet in width for two (2)-way traffic and twelve (12) feet in width for one (1)-way traffic and shall not enter a street within fifty (50) feet of an existing intersection. Drives leading from internal roadways to parking areas shall be at least twenty (20) feet in width.
4. The arrangement and location of garages, parking areas and internal roadways shall be subject to approval of the Planning Board and shall be designed to insure maximum safety, proper circulation and maximum convenience for residents and their guests.
5. Sidewalks shall be provided along at least one side of any internal road serving the development.
6. Unless otherwise provided in the New Jersey Residential Site Improvements Standards, minimum requirements for off-street parking spaces shall be as follows for low and moderate income housing units:

1 bedroom	1.75 parking spaces
2 bedroom unit	2.0 parking spaces
3 or more bedroom unit	2.5 parking spaces

(k) Landscaping and Common Open Space.

1. There shall be provided a minimum of thirty (30%) percent of the entire tract for common open space, which shall be deed restricted against future development and managed by the homeowners association. Said open space shall not contain any impervious surfaces, detention facilities or other structural or infrastructure improvements.
2. The common open space, where improved, shall be attractively landscaped with varieties of flowering plants, grasses, trees and shrubs that will serve to minimize water use. All proposed landscaping, including existing and new trees, shrubs and natural screening shall be shown on the site plan submitted to the Planning Board for approval.
3. Except as otherwise provided in the New Jersey Residential Site Improvement Standards, sidewalks or walkways constructed in accordance with the Township specifications shall be provided in such locations and of such widths as required and approved by the Planning Board to insure safe and convenient pedestrian traffic.
4. Sidewalks shall be provided along Southern Boulevard within the development.
5. Effective screening by a fence or wall no less than five (5) feet nor more than seven (7) feet in height shall be provided to shield parking areas and other common facilities from view of adjoining residential properties, provided, however, screening by hedge or other natural landscaping may be substituted for the required fence or wall if approved by the Planning Board as part of the site plan.
6. Lighting. Adequate artificial lighting shall be provided in parking areas and along sidewalks, walkways and internal roadways. The source of lighting shall be directed downward, away from buildings and adjoining streets and property lines. Lighting fixtures shall be so arranged that the direct source of light is not visible from any adjacent property.

(l) Utilities.

1. Adequate provision shall be made for storm water drainage, water supply and sewage treatment and disposal.
2. All telephone, electric and CATV service, including outdoor lighting on the property, shall be by underground conduit.
3. Fire Hydrants. Fire hydrants shall be installed at locations specified by the Township. Such hydrants shall be provided with appropriate water pressure and otherwise adequately maintained by the owner or owners of the dwelling units. All such hydrants shall conform to the standards of the National Board of Fire Underwriters or Township requirements, whichever is more restrictive.
4. Solid Waste, Including Recyclable Materials. Suitable provision shall be made for the orderly deposit and pick-up of solid waste, including recyclable materials. The locations and numbers of all facilities for such purposes shall be subject to approval by the Planning Board and shall meet all regulations of the Township Board of Health and applicable provisions of Section 18-1 of the Revised General Ordinances of the Township of Chatham as well as the following:
 - (a) Each receptacle shall be located in a completely enclosed building.
 - (b) Buildings used solely for the purpose of housing receptacles shall be located at least five (5) feet from an internal roadway and shall otherwise meet the requirements for accessory buildings.
 - (c) Buildings used to house receptacles shall be so located as to permit convenient vehicular access.

(m) Developer's Obligation to Provide Affordable Housing.

1. Prior to the issuance of any construction permit, and as a condition precedent to the grant of any approval of a development application by the Planning Board, Board of Adjustment or Zoning Officer, as applicable, a developer shall be required to enter into an agreement with the Township Committee to construct at least 15 percent to 20 percent of all dwelling units as low and moderate income housing units as prescribed in Subsection 30-84(m)2 below. At least 50% of the rental units shall be available to low income households with the remainder available to moderate income households. The required agreement shall make provisions for the developer's obligation to construct the affordable units and the phasing of construction of market units shall provide for the construction of affordable units in tandem with the market units according to the requirements of N.J.A.C.5:93-5.6(d).
2. The required minimum residential densities and affordable housing set asides shall be as follows:
 - (a) Townhouse or other for-sale units: 12 dwelling units per acre with a 20% affordable housing set-aside; and/or.
 - (b) Multi-family rental housing, such as garden apartments:
12 dwelling units per acre with a 15% affordable housing set-aside.
 - (c) Townhouse and multi-family at the prescribed densities and set-asides identified above may be mixed on single parcel of land.
- (n) Development Option.

The "PI-AHO" Professional and Institutional Affordable Housing Inclusionary Overlay Zone provides a development option allowing townhouses and/or apartments on Block 128, Lot 9 at the election of the owner. The "PI-AHO" Professional and Institutional Affordable Housing Inclusionary Overlay Zone does not supersede the existing underlying PI-1 Professional Institutional District and does not render existing uses on Block 128, Lot 9 non-conforming.

Section 4. All other Ordinances, part of Ordinances, or other local requirements that are inconsistent or in conflict with this Ordinance are hereby repealed to the extent of any inconsistency or conflict, and the provisions of this Ordinance apply.

Section 5. Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.

Section 6. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) 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 the purpose of the ordinance, and said that a copy was sent to the property owner. He said that the property owner did not oppose the ordinance, and the owner will be informed if the ordinance is introduced.

Committeewoman Ness moved to introduce Ordinance 2019-19. Deputy Mayor Kelly seconded the motion.

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

Public Hearing for Ordinance 2019-19 will be scheduled for December 12, 2019.

Ordinance 2019-20

ORDINANCE 2019-20

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, APPROVING THE LONG TERM TAX EXEMPTION APPLICATION AND AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO EXECUTE A FINANCIAL AGREEMENT BY AND BETWEEN THE TOWNSHIP OF CHATHAM AND SOUTHERN BOULEVARD URBAN RENEWAL, LLC, PURSUANT TO N.J.S.A. 40A:20-1 ET SEQ. FOR PROPERTY LOCATED AT 405 SOUTHERN BOULEVARD, ALSO KNOWN AS A PORTION OF LOT 117.27 IN BLOCK 48.16, AS SHOWN ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF CHATHAM, LOCATED IN THE SKATE PARK REDEVELOPMENT AREA

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 Committee of the Township of Chatham (“Township”) designated a portion of Block 48.16, Lot 117.27 (“Property”) as the Skate Park Redevelopment Area (“Redevelopment Area”) and adopted the Redevelopment Plan for the Redevelopment Area (“Plan”) on December 13, 2018.

Section 2. On December 13, 2018, the Township adopted a Resolution conditionally designating Southern Boulevard Urban Renewal, LLC (“Redeveloper”), as redeveloper of the Property subject to certain conditions.

Section 3. Redeveloper is an urban renewal entity, created in accordance with the Long Term Tax Exemption Law, constituting Chapter 431 of the Pamphlet Laws of 1991 of the State, and the act amendatory thereof and supplementary thereto (“Long Term Tax Exemption Law,” as codified in N.J.S.A. 40A:20-1 et seq.), which shall take title to the Property and act as Redeveloper.

Section 4. On October 21, 2019, Redeveloper obtained preliminary and final site plan and subdivision and bulk variance approvals from the Township Planning Board for the Property for a residential development of 24 affordable housing units and related site improvements (“Project”).

Section 5. The Township and Redeveloper have completed negotiations on a Redevelopment Agreement to be considered for approval by the Township on November 14, 2019, which sets forth certain terms and conditions with respect to the sale of the Property to Redeveloper by the Township, the redevelopment of the Property, the construction of the Project and the payment of certain costs in connection therewith (“Redevelopment Agreement”).

Section 6. Pursuant to and in accordance with the provisions of the Long Term Tax Exemption Law, the Township is authorized to provide for tax exemptions within a redevelopment area and for payments in lieu of taxes.

Section 7. The Redeveloper submitted an application (“Exemption Application,” a copy of which is attached hereto as Exhibit A) to the Township, dated October 25, 2019, including a form of financial agreement (“Financial Agreement,” a copy of which is attached hereto as Exhibit B), for the approval of a Project, as such term is used in the Long Term Tax Exemption Law, all in accordance with N.J.S.A. 40A:20-8.

Section 8. The Exemption Application requests a 30-year term for the Financial Agreement and an annual service charge (“Annual Service Charge”) based on 6.28% of annual gross revenue, subject to staged increases beginning in Year 16, as set forth in the Financial Agreement and as provided for under the Long Term Tax Exemption Law.

Section 9. The Township and Redeveloper reached agreement regarding, among other things, the terms and conditions relating to the Annual Service Charge, and they desire to execute the Financial Agreement.

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

Section 1. The Township acknowledges that Redeveloper, by effectuating the redevelopment of the Property, will provide significant and long-term benefits to the Township.

Section 2. The Township makes the following findings:

A. Relative benefits of the Project when compared to the costs:

1. The Property currently generates no real estate tax revenue to the Township because the Property is owned by the Township and assessed as municipal property. The projected Annual Service Charge will generate average revenue to the Township of approximately \$17,000 annually over the term;
2. It is estimated that the Project will create approximately 50 jobs during construction and 1 new permanent job after completion of construction;
3. The Project will provide 24 units of affordable housing to the region;
4. The Project will further the redevelopment objectives of the Redevelopment Plan; and
5. The Township has determined that the benefits of the Project significantly outweigh the costs to the Township.

B. Assessment of the importance of the tax exemption in obtaining development of the Project and influencing the locational decisions of probable occupants:

1. The relative stability and predictability of the Annual Service Charge will make the Project more attractive to investors and lenders needed to finance the Project; and
2. The relative stability and predictability of the Annual Service Charge will allow stabilization of the Project operating budget, allowing a high level of design and aesthetics as well as the use of high quality materials which will maintain the appearance of the buildings over the life of the Project, which will insure that it will have a positive impact on the surrounding area.

Section 3. The Exemption Application is hereby accepted and approved.

Section 4. The Financial Agreement shall be for a 30-year term with an annual service charge based on 6.28% of annual gross revenue for the Project, and subject to certain staged increases beginning in Year 16, in accordance with the Long Term Tax Exemption Law.

Section 5. The Financial Agreement is hereby authorized to be executed and delivered on behalf of the Township by the Mayor in substantially the form attached hereto as Exhibit B. The Township Clerk is hereby authorized and directed to attest to the execution of the Financial Agreement by the Mayor and to affix the corporate seal of the Township to the Financial Agreement.

Section 6. This Ordinance shall take effect upon final passage and publication as required by law.

EXHIBIT A
EXEMPTION APPLICATION

EXHIBIT B
FORM OF FINANCIAL AGREEMENT

EFFECTIVE DATE

This Ordinance shall take effect twenty (20) days after publication in accordance with applicable law.

Attorney Cruz noted that this ordinance was already extensively discussed by Administrator Hoffmann in his presentation.

Committeewoman Swartz asked if the PILOT will impact the Township's ability to apply to the DEP to adjust the wetlands buffer. Attorney Cruz said it would not.

Committeeman Ritter moved to introduce Ordinance 2019-20. Committeewoman Ness seconded the motion.

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

Public Hearing for Ordinance 2019-20 will be scheduled for December 12, 2019.

Ordinance 2019-21

ORDINANCE 2019-21
AN ORDINANCE ADDING ARTICLE III, TITLED “DEPARTMENTS ESTABLISHED”, SECTION 2-11, TITLED “POLICE DEPARTMENT”, SUBSECTION 2-11.17, TITLED “POLICE CHAPLAIN”, OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CHATHAM TO ALLOW FOR A POLICE CHAPLAIN

WHEREAS, statutory authority provides that the Township Committee of the Township of Chatham by Ordinance may create the appointment of one or more Chaplains to the Police Department; and

WHEREAS, Police Chaplains serve an integral role in providing comfort to members of the Police Department as well as the public and aid in community policing; and

WHEREAS, the Township Committee finds it is in the best interest of the Township of Chatham to create the position of Police Chaplain.

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. Article III, titled “Departments Established”, Section 2-11, titled “Police Department”, Subsection 2-11.17, titled “Police Chaplain” of the Revised General Ordinances of the Township of Chatham is hereby added as follows:

Subsection 2-11.17 Police Chaplain

- A. Position created. The position of Police Chaplain for the Township of Chatham Police Department is hereby created in accordance with statutory authority. The position(s) will be a volunteer position. The position of Chaplain shall be under the supervision of the Chief of Police.
- B. Qualifications. Any person appointed as Chaplain shall be an ordained clergyman in good standing in the religious body from which he/she is selected. The chaplain shall have basic training and shall be a certified Police Chaplain credentialed in accordance with the rules and regulations of the Township of Chatham Police Department and shall be qualified in accordance with statutory requirements.
- C. Duties of Police Chaplain. The Duties of Police Chaplain shall include, but not be limited to, assisting the Township of Chatham Police Department in death notifications, station house adjustments, and any other duties that may be assigned by the Chief of Police.
- D. Rank and salary. Any person appointed as Chaplain shall serve in that capacity without rank or salary.
- E. Term of office. A person(s) appointed as Chaplain shall serve for a period of one year from the date of appointment and shall continue to serve in that capacity until he/she is either terminated or reappointed with the recommendation of the Chief of Police regarding the appointment of the Chaplain. The Mayor shall appoint the Chaplains in accordance with this section with the advice and consent of the Township Committee.

Section 2. If any Section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the Section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

Section 3. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect after final passage, adoption and publication according to law.

Deputy Mayor Kelly moved to introduce Ordinance 2019-21. Committeewoman Ness seconded the motion.

Committeewoman Swartz asked if the State mandates that municipalities have a Police Chaplain. Attorney Cruz said that municipalities are empowered by statute to have a Police Chaplain, and an ordinance is required to establish the position but it is optional to have one.

Committeeman Ritter asked if the Township previously had a Police Chaplain. Committeewoman Swartz said that Monsignor Mahoney had informally held the position prior to his retirement. Attorney Cruz noted that the Township Committee will be the authority responsible for appointing a Police Chaplain upon recommendation by the Police Chief.

Committeewoman Ness said that she supports having a Police Chaplain.

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

Public Hearing for Ordinance 2019-21 will be scheduled for December 12, 2019.

Hearing of Citizens/Petitions

Mayor Selen opened the Hearing of Citizens.

1. Rich Matlaga, 36 Dale Drive, said that it is unfair to the public for meetings to go past midnight and for action to be taken so late. He also stated that the selection of the Municipal Building as the site for affordable housing was sprung on the public, and there should have been more opportunity for public input.

Seeing no comment, Mayor Selen closed the Hearing of Citizens.

Committeewoman Ness moved to adjourn at 12:14 AM. Deputy Mayor Kelly seconded the motion, which carried unanimously.

Gregory J. LaConte
Municipal Clerk