

**MINUTES  
TOWNSHIP COMMITTEE  
REGULAR MEETING  
DECEMBER 14, 2017**

Mayor Ritter called the Regular Meeting of the Township Committee of the Township of Chatham to order at 7:31 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 6, 2017; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 6, 2017; and notice was filed with the Township Clerk on January 6, 2017.

Mayor Ritter led the flag salute.

**Roll Call**

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

**Approval of Agenda**

Deputy Mayor Swartz moved to approve the agenda. Committeeman Selen seconded the motion, which carried unanimously.

**Oath of Office**

**Chatham Township Police Department**

Mayor Ritter provided background on the highlights Officer Scott Herchick's law enforcement career.

Deputy Mayor Swartz also commented on Officer Herchick's accomplishments, and thanked him for everything he does for the community.

Committeeman Sullivan thanked Officer Herchick and the members of the Chatham Township Police Department for their service.

Officer Scott Herchick was sworn in as a Sergeant in the Chatham Township Police Department. The Oath of Office was administered by Mayor Ritter.

A Recess was taken at 7:41 PM for a reception in honor of Sergeant Herchick. The meeting was reconvened at 7:53 PM.

**Reports**

Committeeman Selen reported that he was sworn in again as a Township Committee Member after having been duly elected to fill the remainder of Committeeman Maurer's vacancy. He also reported that he attended the NJ League of Municipalities Conference, and it was a very informative experience.

Committeeman Kelly reported that Public Works did an excellent job responding to the two recent snowstorms. He also asked residents to shovel their sidewalks when it snows. The compost area at the Recycling Center will be extended for two further Saturdays. The ice skating area at Nash Field is prepared for the season, and will be up and running once it rains enough for there to be ice.

Committeeman Sullivan reported that he and Lt. Miller attended a Morris County OEM meeting, and the Smart 9-1-1 System was discussed. The system allows people to enter vital information into a database in case they need to call 9-1-1 from a mobile phone. Committeeman Sullivan also reported on affordable housing, and he and other members of the Township Committee have met with the public on this issue. He also said that the NJ Legislature has had several bills to address affordable housing wind up dying in committee, and he suggested that citizens reach out

to their legislators to ask that they take action on affordable housing. Committeeman Sullivan also reflected on the Township Committee's accomplishments over the past year.

Deputy Mayor Swartz asked Committeeman Sullivan where he obtained the list of Assembly bills which have stalled in Committee. Committeeman Sullivan said that he obtained the information from Assemblyman Bucco. He also opined that affordable housing should have a priority for veterans, municipal employees and emergency volunteers. Deputy Mayor Swartz noted that the Township and Borough have different legislative representation, and residents should reach out to all applicable representatives.

Deputy Mayor Swartz reported that a meeting was held between Township and Borough officials and representatives of the US Post Office regarding problems with the Chatham Post Office. She said that it was a very productive meeting, and residents can let Township Committee members know if the postal problems persist. Deputy Mayor Swartz further reported that a meeting was held with Chatham Glen residents regarding proposed development of the Dixiedale property.

Mayor Ritter reported that a press release was issued regarding FAQ's posted on the Township website about affordable housing. He also reminded residents to sign up for ACT Now! alerts. Mayor Ritter also reported that the Chatham Township Turkey Trot donated \$10,000 to the Chatham Township Fire Department, and money was also donated to diabetes research organizations. He thanked all residents who participated in the Turkey Trot.

### **Presentation –Concept Plan for Dixiedale Farm Development**

Attorney Cruz reviewed the procedure for the Dixiedale Farm Rezoning Ordinance. He noted that the presentation on this meeting's agenda is substantively the same as the prior presentations. He also provided background on the process thus far, and commented on the Planning Board's findings during their review of the ordinance as introduced. Attorney Cruz also said that the ordinance is based on an existing ordinance governing the zone where Rose Valle is located.

The potential Dixiedale developer was represented by Douglas Henshaw, Esq. and Michael Tobia, PP. Mr. Tobia noted that the PowerPoint for this presentation is the same as the last Township Committee meeting. Mr. Tobia noted that the anticipated traffic impact will be one car every two minutes during peak hours, and the impact will be spread roughly evenly in each direction.

Attorney Cruz asked if the developer will consult with Township professionals prior to submitting a site plan to see if different layouts are possible. Mr. Tobia said that they would like to meet with Mr. Ruschke prior to submitting their engineering drawings. Attorney Cruz also asked if they will meet with Township professionals to see if site access alternatives exist. Mr. Tobia said that they would like such a meeting. He also said that the developer's civil engineer checked to see if access from River Road would be feasible, and it is virtually impossible due to steep slopes, wetlands and sight triangles. Attorney Cruz also asked if the developer will address the safety of the public and users of the facility to ensure no unreasonable interference with traffic on surrounding streets. He also asked if the ordinance as introduced is acceptable to the developer. Mr. Tobia said that the concept plan was modified in accordance with the ordinance, and he addressed the affordable housing component.

Committeeman Sullivan asked about the idea of a cul-de-sac being created on Hillside Ave. Mr. Tobia said that he does not anticipate the creation of a cul-de-sac, but the developer does not oppose one. He noted that a cul-de-sac would render Hillside Ave into a private drive.

### **Public Hearing/Final Adoption of Ordinances**

#### **Ordinance 2017-15**

#### **ORDINANCE 2017-15**

**ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING CHAPTER XXX, TITLED "LAND DEVELOPMENT", OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CHATHAM, SECTION 30.78, TITLED "R-RESIDENCE DISTRICTS", SUBSECTION 30-78.1, TITLED "PERMITTED PRINCIPAL USES", TO ADD A NEW SUBSECTION 30-78.1(g) TO ALLOW "ONE-FAMILY DWELLINGS AND MULTI-FAMILY DWELLINGS IN THE R-6C DISTRICT", AND TO ADD A NEW SECTION 30-78.13, TITLED "REQUIREMENTS FOR ONE-FAMILY DWELLINGS**

**AND MULTI-FAMILY DWELLINGS IN THE R-6C DISTRICT” TO CHANGE THE ZONING DISTRICT CLASSIFICATION FROM THE R-2 RESIDENCE DISTRICT TO THE NEW R-6C DISTRICT FOR BLOCK 66, LOT 1 FRONTING ON RIVER ROAD AND HILLSIDE AVENUE**

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

**SECTION 1.** Chapter XXX, titled “Land Development” of the Revised General Ordinances of the Township of Chatham, Section 30.78, titled “R-Residence Districts”, Section 30.78.1, titled “Permitted Principal Uses”, is hereby amended to add a new Subsection 30-78.1(g) as follows:

“One-Family Dwellings and Multi-Family Dwellings in the R-6C District.”

**SECTION 2.** Chapter XXX, titled “Land Development” of the Revised General Ordinances of the Township of Chatham, Section 30.78, titled “R-Residence Districts” is hereby amended to add a new Subsection 30-78.13 titled “Requirements for One-Family Dwellings and Multi-Family Dwellings in the R-6C District” to change the zoning district classification from R-2 Residence District to the new R-6C District for Block 66, Lot 1 fronting on River Road and Hillside Avenue as follows:

“30-78.13 Requirements for One-Family Dwellings and Multi-Family Dwellings in the R-6C District.

- (a) Permitted Principal and Accessory Uses
  - 1. Principal uses - One-family dwellings and multifamily dwellings or any combination thereof.
  - 2. Accessory Uses – Indoor and outdoor recreation facilities, including clubhouse, meeting areas and active and passive recreation.
- (b) Area and Density Requirements.
  - 1. Minimum Area. Each development shall have a minimum tract area of thirty (30) acres. Public or private roads, easements or rights-of-way shall not be deemed to divide acreage of a development.
  - 2. Maximum Density. Two (2) dwelling units/acre, not to exceed a total of fifty-four (54) units, except as provided in Section 30-78.13(n).1 below.
  - 3. Minimum Lot Size Per Dwelling. A minimum lot size per dwelling of 1,200 square feet shall be required for all fee simple dwelling units.
- (c) Maximum Building Coverage
  - 1. The total ground floor area of all buildings shall not exceed fifteen (15%) percent of the lot area of the development.
- (d) Maximum Impervious Coverage
  - 1. The total area of all impervious surfaces shall not exceed thirty (30%) percent of the lot area of the development.
- (e) Setback Requirements.
  - 1. No principal building shall be located within fifty (50) feet of a public street or exterior property line of the tract nor within twenty (20) feet of any internal roadway.
  - 2. No dwelling structure shall have more than two (2) continuous attached dwelling units with the same front building line, and variations in the building line shall be 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 building shall contain more than four (4) 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 Article 2 of this chapter, 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, 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 those used in the 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 complied with.
6. Signs. The provisions of Section 30-98 shall be complied with.

- (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 twenty-five (25) feet from a development 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. Parking on internal roadways and drives shall be prohibited.
  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. A public trail network shall be provided around and through the site and shall be designed to connect with any nearby public trail or sidewalk system.
  7. Unless otherwise provided in the New Jersey Residential Site Improvements Requirements, minimum requirements for off-street parking spaces shall be as follows for low and moderate income housing units:

1 bedroom or efficiency unit	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 forty (40%) 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. Provision shall be made for the protection and preservation of existing trees and the prominent hedgerow along Hillside Avenue as well as natural features including those in designated critical areas. 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. A naturalized trail around the perimeter of the property shall be constructed by the developer and maintained and repaired by the HOA and such trail may be surfaced with wood chips or other suitable surface and need not be paved. A public access easement shall be provided allowing public access across the perimeter trail.
  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 residential 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 the Township Recycling Ordinance 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). Roads on Master Plan

If a proposed road shown on the Township Master Plan is located on any property intended to be used for the development, the Planning Board may require that provision shall be made for the dedication and improvement of that portion of said road located within the property in question in accordance with Township road specifications. The area within the right-of-way of any such road may be included in the gross acreage of the property for the purpose of determining maximum density.

(n). Developer's Obligation to Provide Affordable Housing Development.

1. Prior to the issuance of any construction permit, or 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 24 low and moderate income, rental housing units on the site or tract being developed or at another location in the Township. If the required number of affordable units are to be constructed at another location, the maximum number of market rate units on the site shall not exceed 54 units. If the required affordable units are constructed on the site of the 54 market units, the maximum number of units shall be 78 units, of which a maximum of 54 units shall be market units and 24 units shall be affordable units. 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).

(o) Adaptive Reuse of Building

1. The adaptive reuse of the existing residential structure shall meet the following standards to the maximum extent possible.
2. The existing residential structure has unique architectural features which shall be preserved through adaptive reuse of the structure.
3. The adaptive reuse of the structure shall consist of incorporating up to four (4) individual residential units on the second and third floors. The first floor of the structure shall be repurposed as a clubhouse.

4. The original elements of the front facade of the structure may not be substantially altered in size or appearance. Rehabilitation shall include restoring the building's front exterior facade to its original profile to the maximum extent reasonably feasible. Repairs should involve the least intervention possible, concentrating specifically on areas of deterioration. When repair is not possible, replacement in-kind is encouraged, reproducing by new construction the original feature exactly, including the original materials, finish, detailing and texture.
5. Remediation of hazardous material such as asbestos and lead, if present, shall be mitigated in accordance with federal and state requirements. The mitigation measures must incorporate the restoration of existing architectural features to pre-existing conditions to the maximum extent possible.

**SECTION 3.** 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 4.** 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 5.** 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.

Mayor Ritter opened the Public Hearing on Ordinance 2017-15.

1. Stacey Ewald, 54 Nicholson Drive, thanked Committeeman Kelly for meeting with the public regarding this ordinance. She asked if the developer will need to present a new plan, should the State not allow the affordable housing to be developed at the Skate Park site. Attorney Cruz said that the ordinance allows for on-site or off-site affordable housing. The developer would need site plan approval from the Planning Board. Mrs. Ewald asked if this is an approval for 78 units. Attorney Cruz said that this ordinance is zoning legislation, and the Planning Board has jurisdiction to approve the potential land use application.
2. Ray Greeve, 59 Buxton Road, asked if the proposed project borders on Fairmount Ave and Southern Boulevard. Mayor Ritter said that the parcel in question is between Hillside Ave and River Road. Deputy Mayor Swartz noted that the other undeveloped area is open space and cannot be developed. Committeeman Sullivan noted the property which the Township is in the process of purchasing for open space. Mr. Greeve said that the traffic on Snake Hill backs up, and he raised a concern that if Hillside Ave becomes a cul-de-sac, it may impact traffic on Snake Hill. Mr. Banisch said that the proposed impact will not have a noticeable effect on Snake Hill.
3. Robert Bowker, 214 Hillside Ave, said that he is disappointed that River Road is not a feasible access for the proposed project. He also said that at the bottom of Hillside Ave onto River Road, traffic in three different directions has to be monitored. Mr. Bowker noted that sight lines on River Road are not safe, and he is concerned about the safety impacts of extra traffic on Hillside Ave. Committeeman Sullivan asked if Mr. Bowker has an opinion about having Hillside Ave become a cul-de-sac. Mr. Bowker said that a cul-de-sac would be a safer alternative.
4. Mr. Greeve asked for clarification about a potential cul-de-sac, which he would oppose due to impacts on Snake Hill. Mayor Ritter said that the focus this evening is the ordinance as introduced. Attorney Cruz said that the ordinance does not address cul-de-sacs, and said discussion should be addressed before the Planning Board.

Seeing no further comment, Mayor Ritter closed the Public Hearing.

Attorney Cruz said that he had questions for Township Planner Frank Banisch, who was sworn in to give testimony.

Attorney Cruz asked why the Planning Board found the rezoning ordinance inconsistent with the Master Plan. Mr. Banisch said that the ordinance is inconsistent because it proposes multi-family dwellings. Attorney Cruz asked what recommendation the Planning Board has regarding the rezoning ordinance. Mr. Banisch said that the Planning Board recommends that the ordinance be adopted. He also said that the ordinance advances the objectives of the Master Plan, and he described those objectives which are advanced.

Attorney Cruz also said that affirmative votes are needed from a majority of the full membership of the Township Committee to adopt the ordinance, along with a Reasons Resolutions. Attorney Cruz read aloud the Reasons Resolution into the record.

**RESOLUTION 2017-213**  
**A RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM IN**  
**THE COUNTY OF MORRIS STATING THE REASONS FOR ADOPTING ORDINANCE 2017-**  
**15 AND ORDINANCE NO. 2017-16**

**WHEREAS**, the Township Committee of the Township of Chatham referred Ordinance No. 2017-15 and Ordinance No. 2017-16 to the Planning Board for statutory review pursuant to NJSA 40:55D-26; and

**WHEREAS**, the Township Committee recognizes that the Planning Board found Ordinance No. 2017-15, amending the Zoning Ordinance to establish a new R6-C Zone to be inconsistent with the Land Use Plan designation of the property but to advance many of the objectives of the comprehensive zone plan, and

**WHEREAS**, the Township Committee recognizes that the Planning Board found Ordinance No. 2017-16, amending the Zoning Map, to be inconsistent with the Land Use Plan designation of the property, and

**WHEREAS**, the Planning Board recommended adoption of these Ordinances, notwithstanding such inconsistency, for the reasons expressed by the Planning Board, and

**WHEREAS**, the Township Committee concurs with the findings of the Planning Board that the following specific goals and objectives of the comprehensive zone plan, as expressed in the Land Use Plan are advanced by proposed Ordinances Nos. 2017-15 and 2017-16 in a number of ways because the Goals of the 2011 Land Use Plan were designed to:

5. Preserve the desirability of the community and its neighborhoods by managing the scale of new and expanded buildings and alterations to their landscapes.
6. Promote a balance of housing types for all segments of the population.
7. Establish a Greenway system incorporating public and private open spaces and connect the Greenway with a pedestrian- and bicycle-friendly system of streets, sidewalks, paths, and bikeways to reduce traffic, ensure the safety of our children, increase the enjoyment of the walking and cycling public, and improve air quality.
8. Preserve links to our history and heritage by preserving the historic areas in the Township and promoting awareness of historical homes.
9. Protect and maintain the remaining rural ambiance and significant natural, cultural and scenic landscapes and identify and protect scenic vistas.
10. Limit development to densities and intensities that will retain the remaining natural areas of the Township and protect sensitive environmental areas; and

**WHEREAS**, these Land Use Plan objectives complement those of the 2005 Conservation Plan Element, which included, among others:

6. Preserving open space, scenic vistas and quality of life; and

**WHEREAS**, the proposed rezoning will advance the objectives of the Housing Element and Fair Share Plan, which "... is designed to ensure the provision of the required affordable housing in the Township with a minimal impact on neighborhood character and community services"; and

**WHEREAS**, the provisions of Ordinance No. 2017-15 advance the cited objectives of the comprehensive zone plan as follows:

The R6-C Zone specifies design, density and coverage standards that will *preserve the desirability of the community and its neighborhoods by managing the scale of new and expanded buildings and alterations to their landscapes.*

The R6-C Zone provides for inclusionary residential development that will provide low and moderate income housing and *promote a balance of housing types for all segments of the population.*

The R6-C Zone will help to *establish a Greenway system incorporating public and private open spaces and connect the Greenway with a pedestrian- and bicycle-friendly system of streets, sidewalks, paths, and bikeways to reduce traffic, ensure the safety of our children, increase the enjoyment of the walking and cycling public, and improve air quality* by providing a perimeter trail system on private property that is available to the public.

The R6-C Zone requires the retention, exterior restoration and adaptive reuse of the Dixiedale Farm manor home, which will help to *preserve links to our history and heritage and promoting awareness of historical homes.*

The R6-C Zone will help to *protect and maintain the remaining rural ambiance and significant natural, cultural and scenic landscapes* and the development review process will allow the Planning Board to *identify and protect scenic vistas*.

The R6-C Zone's conservation-based townhouse design and standards for *density and intensity* will provide for compact development that will help to *retain the remaining natural areas of the Township and protect sensitive environmental areas*.

**WHEREAS**, the R6-C Zone's conservation-based townhouse design and standards for density and intensity that will retain most of the R6-C Zone in its natural state will *preserve open space, scenic vistas and quality of life*, advance the 2005 Conservation Plan Element objective #6, and

**WHEREAS**, the Housing Element and Fair Share Plan objective *to ensure the provision of the required affordable housing in the Township with a minimal impact on neighborhood character and community services* is advanced by the inclusionary housing requirements that will provide affordable housing either on site or at an off site location and the compact arrangement of development provided for in Ordinance No. 2017-15, which will preserve major portions of Dixiedale Farm in a natural state.

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

1. That Ordinance 2017-15 and Ordinance 2017-16 substantially advance objectives of the adopted Chatham Township Master Plan.
2. That the reasons stated in this Resolution are sufficient to enact said Ordinances notwithstanding any inconsistencies with the Land Use Plan.
3. That the Township Committee hereby adopts Ordinance No. 2017-15 and Ordinance 2017-16.
4. That this Resolution be filed with the County of Morris Planning Board
5. This Resolution shall take effect immediately.

Deputy Mayor Swartz commented that the term "inconsistency" appears incendiary, however the Township Planner has demonstrated in the Reasons Resolution that the inconsistency is overcome by the proposed uses of the Dixiedale Farm property.

Committeeman Kelly said that Dixiedale Farm is a special property, and he thanked the members of the public in attendance at the meeting for their interest in the matter. He also said that he will be voting in favor of the resolution and ordinance because it makes sense from an environmental perspective, and having 17 single-family homes would be more environmentally disruptive. He also said that all indications are that the proposed development will result in a smaller impact on the number of new students in the School District of the Chathams than would single-family homes. Committeeman Kelly also commented on the anticipated traffic impact, and that it is not anticipated to be a significant issue. He further commented on the affordable housing component, and how the developer is proposing to exceed what they would normally be required to build.

Committeeman Selen said that many of his concerns will be addressed during the Planning Board process. He also noted that he is concerned that the affordable housing will be built later, and he is concerned that the State might not allow the affordable housing to be built at the Skate Park. Attorney Cruz said that the ordinance requires a linkage between the market-rate and affordable housing, and there will be phasing for the two to be built in tandem.

Deputy Mayor Swartz moved to adopt Resolution 2017-213. Committeeman Kelly seconded the motion.

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

Committeeman Sullivan said that the rezoning ordinance is a long time coming, and he thanked the property owners for their patience with the process. He also noted that there was a risk of much greater development at the site.

Mayor Ritter said that the conversation regarding the potential development of Dixiedale Farm will continue at the Planning Board, and he encouraged residents to attend the Planning Board meetings when this topic is on the agenda.

Committeeman Sullivan moved to adopt Ordinance 2017-15. Deputy Mayor Swartz seconded the motion.

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

### **Hearing of Citizens**

Mayor Ritter opened the Hearing of Citizens.

1. Stacey Ewald asked about the temporary cell tower at Esternay Field and when it will be taken down. Administrator Ciccarone said that T-Mobile has relocated to the PSE&G transmission lines, so the temporary tower should be taken down very soon. Mrs. Ewald asked why it was allowed to stay up for 5 years when it should only have been up for 3 years. Administrator Ciccarone said that the Township directed T-Mobile to vacate the site, and T-Mobile subsequently sued the Township and a court order was issued allowing the temporary tower to remain. He also said that there was a delay because PSE&G only powers down the transmission line once a year, and that is the time period when the cellular antennas can be relocated to the transmission lines.
2. Tracey Ness, 31 Geoffrey Court, said that the Township is no longer going to be participating with the Borough and Chatham Athletic Foundation in a cost-sharing program for turfing of Lum Field, and she asked what discussions the Township Committee had on this matter. Administrator Ciccarone provided background on the agreement that had existed, which was for Lum Field and Shunpike Field. There was an agreement to turf Lum Field, and a portion of Shunpike Field, and the Township performed additional improvements at Shunpike Field without the Borough's involvements. Mrs. Ness asked what discussions were held with the Township Committee. Deputy Mayor Swartz said that she did not participate in any discussions regarding Lum Field. Administrator Ciccarone cited projects performed by the Borough on Sheppard-Kollock Field and Memorial Field without any input from the Township. Mrs. Ness asked if the agreement that was in place had been dissolved. Administrator Ciccarone said that the existing agreement is only for the recreation program staffing, and the 2005 agreement was terminated by the Borough. A new agreement was subsequently entered into regarding staffing. Mrs. Ness asked about an agreement regarding on-going field maintenance. Administrator Ciccarone said that the agreement was a one-time agreement for Lum Field and Shunpike Field. Mrs. Ness said that there was an expectation that there would be an on-going cost sharing agreement. Administrator Ciccarone said that the Borough damaged Lum Field through improper maintenance, and subsequently unilaterally decided to turf the field without discussing the matter with the Township. Committeeman Kelly said that he is concerned that the Borough is turfing on one schedule, and the Township is getting a significantly longer lifespan out of Shunpike Field, and he does not think it would be equitable for both municipalities to be funding both fields. Administrator Ciccarone noted that it was a unilateral decision by the Borough to turf Lum Field. He also said that the Township has also always contributed more to the Joint Recreation Program and field maintenance than the Borough has. Mrs. Ness said that she would like to see the Township avail itself of any cost-sharing opportunities, which should be discussed in public by the Township Committee.
3. Jane Devlin, 25 Hickory Place, congratulated Deputy Mayor Swartz and Committeeman Kelly on their reelection, and congratulated Committeeman Selen on his election. She also acknowledged Committeeman Selen's comments regarding all constituents as reported in TAP on November 7<sup>th</sup>. Mrs. Devlin asked about the Township's Christmas tree, and said that it looked disheveled and crooked. She also said that the Township's Christmas tree does not look as good as Green Village or Madison's Christmas trees. Mrs. Devlin also commented on the recent issues with the Chatham Post Office, and she does not believe that it is only a recent phenomenon. She suggested that a Town Hall meeting be held with Post Office officials so they can address how they will be resolving the problems being faced. Deputy Mayor Swartz said that the Post Office will have customer service representatives available Monday through Saturday from 11:00 AM to 3:00 PM to talk with postal patrons about their concerns. Mrs. Devlin said that the matter was addressed due to the public pressure which was exerted on the Post Office. She also said that she learned from Congressman Frelinghuysen's office that the Post Office has a form patrons can submit to have particular issues addressed. Mayor Ritter responded about Mrs. Devlin's Christmas tree concerns, and said that perhaps in 2018 the Township can get a better tree.

4. Phil Ankel, 16 Jay Road, said he has a comment about one of the ordinances. Mayor Ritter said that ordinance questions can be addressed on the appropriate public hearings.
5. Jessica Romeo, 49 Pine St, said that she is pleased to learn that the Township is looking to perform organic lawn care on recreation fields.
6. Melissa Cavallone, 400 Fairmount Ave, said that she is passionate about anti-bullying and suicide prevention. Mrs. Cavallone accused the Township Committee of cutting off residents and speaking to them in a demeaning manner, and she said that the Township Committee should treat residents with respect. Mayor Ritter thanked Mrs. Cavallone, and noted that respect works both ways. Committeeman Sullivan noted that in many towns the governing bodies do not engage in dialogue with residents during public hearings as does the Township Committee.
7. Genevieve Castelino, 104 Ormont Road, said that the Township Committee has a difficult job, and she thanked the Township Committee for their service. She said that the recent meeting conducted by Committeeman Kelly was very collaborative, and she would like to see Township Committee meetings be more collaborative. Mrs. Castelino advised those in attendance to be collaborative on the remaining agenda items. Mayor Ritter noted that the Township Committee wants what is best for the community, and there will not always be agreement on all matters. Mrs. Castelino said that residents who attend Township Committee meetings do so because they love the Township. Deputy Mayor Swartz noted that brutal and derogatory statements are often posted on Facebook. Administrator Ciccarone acknowledged that there have been times when he has interrupted people and came across as dismissive during Township Committee meetings. He offered an apology to Mrs. Ness in the comments he made to her at the last Township Committee meeting. Administrator Ciccarone also said that he does not read comments on Facebook, and he will be mindful of how he addresses residents moving forward.

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

### **Public Hearing/Final Adoption of Ordinances**

#### **Ordinance 2017-20**

#### **ORDINANCE 2017-20**

#### **ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, REPEALING CHAPTER XXX, ARTICLE 6, SECTION 30-64.3A OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CHATHAM TITLED “GREAT SWAMP WATERSHED OVERLAY DISTRICT STORMWATER MANAGEMENT ORDINANCE” AND REPLACING WITH A NEW CHAPTER XXX, ARTICLE 7, SECTION 30-83 TITLED WATERSHED PROTECTION**

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

**SECTION 1.** Chapter XXX, Article 6, Section 30-64.3A of the Revised General Ordinances of the Township of Chatham titled “Great Swamp Watershed Overlay District Stormwater Management Ordinance” is hereby repealed

**SECTION 2.** New Chapter XXX, Article 7, Section 30-83 shall be as follows:

#### **Article 7 Watershed Protection**

#### **DEFINITIONS**

"API" means the American Petroleum Institute, 1220 L Street, NW, Washington, DC, 20005-4070, <http://www.api.org/>.

"ASME" means the American Society of Mechanical Engineers, 3 Park Avenue, New York, NY, 10016-5990, <http://www.asme.org/>.

"ASTM" means the American Society of Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA, 19428-2951, <http://www.astm.org/>.

“BMP” means Best Management Practice.

"CFR" means the Code of Federal Regulations.

"Cleanup activities" means actions to clean up or remove or attempt to clean up or remove a discharge of a hazardous substance or the source thereof, or to chemically neutralize the discharge, or measures to prevent or mitigate any damages to the public health, safety or welfare, including, but not limited to, public and private property, shorelines, beaches, surface waters, water columns and bottom sediments, soils and other affected property, including wildlife and other natural resources.

"Cleanup and removal costs" means all costs associated with cleanup and removal activities incurred by the State, its political subdivisions or their agents or any person with written approval of the Township of Chatham, New Jersey.

"Containment" or "containment activities" means actions to limit or prevent the spread of a leak or discharge.

"Diligent inquiry" means: Conducting a diligent search of all documents which are reasonably likely to contain information related to a possible discharge, which documents are in such person's possession, custody or control, or in the possession, custody or control of any other person from whom the person conducting the search has legal right to obtain such documents; and

Making reasonable inquiries of persons who may have knowledge or documents relevant to a discharge.

"Discharge" means any intentional or unintentional action or omission, unless pursuant to and in compliance with the conditions of a valid and effective Federal or State permit, resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of a hazardous substance into the waters or onto the lands of the State, or into waters outside the jurisdiction of the State when damage may result to the lands, waters or natural resources within the jurisdiction of the State. This term does not include "leak".

"Discharge monitoring device" means any equipment or instrumentation that is used to detect discharges of hazardous substances.

"Double-walled piping" means piping which consists of one pipe fixed inside another, with an annular space between.

"Hazardous substances" shall be defined as follows:

- (a) Petroleum and petroleum products and all substances listed in Appendix A of NJAC 7:1E, incorporated herein by reference, shall be considered hazardous substances, except that sewage and sewage sludge shall not be considered as hazardous substances.
- (b) The following shall not be considered hazardous substances:
  1. Metals, in either their pure elemental form or alloyed, in solid pieces with at least one-dimensional measurement equal to or exceeding 100 micrometers (0.004 inches) or chemically bonded to an inert substrate; and
  2. Any flammable substance or inert gas listed in Appendix A of NJAC 7:1E and which is designated by an asterisk including, and not limited to, natural gas and propane.

"Environmentally sensitive areas" shall be defined as follows:

1. Surface waters, including, without limitation the following: rivers, streams, creeks, ponds, lakes and reservoirs as defined in NJAC 7:7-12.1(b); canals as defined in NJAC 7:7-9.8(a); estuaries, as defined in 33 U.S.C. 1330(k); and bays, including without limitation open bays, semi-enclosed bays and back bays, as defined in NJAC 7:7-12.1(b);
2. Any water resource, as defined at NJAC 7:19-1.3, which is utilized by a public water system, nonpublic water system, or water system, as defined at NJAC 7:10-1.3;
3. Wetlands and wetland transition areas, including without limitation the following: freshwater wetlands and transition areas, as defined at NJAC 7:7A-1.4; wetlands, as defined in NJAC 7:7-9.27(a); and wetland buffers and transition areas, as defined in NJAC 7:7-9.28(a);
4. Critical wildlife habitat, as defined in NJAC 7:7-9.37(a); Prime fishing areas, as defined in NJAC 7:7-9.4(a);
5. Finfish migratory pathways, as defined in NJAC 7:7-9.5(a);
6. Submerged vegetation habitat, as defined in NJAC 7:7-9.6(a);
7. Forest areas, including prime forestland and unique forestland;
8. Habitat for Federal and State endangered or threatened plant and animal species, as defined in NJAC 7:7-9.36(a);
9. Federal and State wilderness areas, including areas included within the Natural Areas System, as designated in NJAC 7:5A-1.13, or the State Register of Natural Areas pursuant to the Natural Areas System Act, N.J.S.A. 13:1B-15.12a et seq. and 15.4 et seq., and NJAC 7:5A-1.4, and

preserved land held by the New Jersey Natural Lands Trust pursuant to the New Jersey Natural Lands Trust Act, N.J.S.A. 13:1B-15.119 et seq.; and  
10. Wild and scenic river corridors, as defined in NJAC 7:7-9.44(a).

"Impermeable" means utilizing a layer of natural or man-made material of sufficient thickness, density, and composition so as to have a maximum permeability for the hazardous substance being contained of 10<sup>-7</sup> centimeters per second at the maximum anticipated hydrostatic pressure.

"Integrity testing" means a method of testing structures as established in NJAC 7:1E-2.16.

"Internal inspection" means an examination of the interior of an aboveground storage tank appropriate to the type and size of the tank and in accordance with NJAC 7:1E-2.16.

"Leak" or "leakage" means any escape of a hazardous substance from the ordinary containers employed in the normal course of storage, transfer, processing or use into a secondary containment or diversion system or onto a surface from which it is cleaned up and removed prior to its escape into the waters or onto the lands of the State.

"Major leak" means an accident required to be reported pursuant to 49 CFR 195.50.

"NJAC" means New Jersey Administrative Code.

"NJDEP" means New Jersey Department of Environmental Protection

"Out-of-service" means any container, pipe, or equipment from which all liquid and sludge has been removed, all connecting lines and piping have been disconnected and blanked off, all valves (except for ventilation valves) have been closed and locked, and on which conspicuous signs have been posted that state that it is out of service and note the date of removal from service.

"Petroleum" or "petroleum products" means any liquid that is essentially a complex mixture, whether natural or synthetic, of hydrocarbons of different types with small amounts of other substances, such as compounds of oxygen, sulfur or nitrogen, or metallic compounds, or any of the useful liquid products obtained from such a liquid by various refining processes, such as fractional distillation, cracking, catalytic reforming, alkylation and polymerization. This term shall include, but not be limited to, gasoline, kerosene, fuel oil, synthetic oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, and hazardous substances which are to be used in the refining or blending of crude petroleum or petroleum stock in this State.

"Repair" means any work necessary to maintain or restore a storage tank or other equipment to a condition suitable for safe operation, other than that necessary for ordinary, day-to-day maintenance to keep up the functional integrity of the storage tank or other equipment.

"Secondary containment or diversion system" means any structures, devices, or combinations thereof supplementary to the ordinary containers employed in the normal course of storage, transfer, processing, or use, designed and operated to prevent leaks of hazardous substances from becoming discharges.

"Soil permeability testing" means a quantitative measurement of the ease with which a liquid move through soil, such as ASTM D5856.

"Storage tank" means any tank or reservoir which is a container for hazardous substances and which is primarily used for bulk storage.

"Township" means a duly authorized representative of the municipality or local board of health, including, but not limited to, a member of the police, fire, or public works, public health officer, Township Engineer, zoning officer, director of emergency management, or environmental compliance officer.

"Transmission pipeline" means new pipe and any equipment, facility, rights-of-way, or building used or intended for use in the transportation of a petroleum or hazardous substance by a pipeline.

"Underground storage tank" means any tank defined as such in NJAC 7:14B.

"Watershed" means a geographic area containing all the lands from which water, sediments, and dissolved materials drain to a particular receiving surface water body or to a particular point along a receiving surface water body.

### **30-83.1 PROTECTION OF GREAT SWAMP WATERSHED OVERLAY DISTRICT**

#### **A. Applicability**

The provisions of this subsection shall be applicable to all property within the Great Swamp Watershed Overlay District. The limit of the District is illustrated on the municipal official zoning map.

#### **B. Stormwater Management**

a. General.

1. Applicability. The provisions of this subsection shall be applicable to all property within the Great Swamp Watershed Overlay District, as that district is established by the map annexed hereto, which involve disturbances of five thousand (5,000) square feet or more.
- b. Design Standards.
1. Stormwater Control System shall comply with the design standards set forth in Municipal Code 30-64.3. To the extent that any requirements or controls herein are more stringent than the requirements or controls for the Township as set forth in Municipal Code 30-64.3, as may be amended from time to time, the requirements and controls herein shall control.
  2. If infiltration on site for the design storm is not practicable (for example based on soil permeability constraints, topography or groundwater level considerations), an applicant shall provide off-site mitigation subject to the approval of the Planning Board/Zoning Board prior to project commencement. Options for mitigation are as follows:
    - a) Funding specific projects recommended in watershed based stormwater management plans.
    - b) Funding stormwater related studies or regional stormwater management plans approved by the Township Committee in an amount equivalent to a construction cost estimate of a suitable infiltration system sized for the proposed development submitted and prepared by the applicant's professional engineer and approved by the Township Engineer and local approving authority. This requirement shall be applied equally to all applications for development and redevelopment within the Great Swamp Watershed portion of Chatham Township.
  3. No Net Increase in Stormwater Pollutant Loads.
    - a) Stormwater control system shall be designed to the extent practicable so that there is no calculated or anticipated increase from predevelopment to post-development conditions in conventional pollutant loads (such as total suspended solids, nitrogen and phosphates.) to the receiving watercourse due to stormwater runoff. Compliance with this provision shall be attained when it is demonstrated that the project's Stormwater Management Plan ("Plan") has considered current BMP's (e.g., those presented in the DEP BMP Manual) for applicability to the project in order to achieve the goal of no net increase in stormwater pollutant loads. The applicant must provide economic or other justification where implementation of the Plan is not predicted to achieve compliance with the goal of no net increase in stormwater pollutant loads.
    - b) Nonstructural stormwater management practices shall be utilized prior to the use of structural management measures, unless it is demonstrated that these practices are not feasible from an engineering, environmental or economic perspective on a particular site. Nonstructural measures include elements of site design to protect water quality (e.g. vegetated buffers adjacent to watercourses), limitations on use of impervious surfaces, limitations on site disturbance, limitations on tree removal, use of native vegetation, and requirement of appropriate fertilizer and pesticide use.
- c. Maintenance Standards.
1. General. In developing a Stormwater Management Plan, an applicant shall give preference to facilities and practices which minimize the need for long term maintenance programs. Maintenance requirements shall be included as part of all Stormwater Management Plans and comply with Municipal Code 30-64.3. Specific maintenance tasks and schedules shall be provided for each type of stormwater management facility used on the site. A project's maintenance plan shall be designed in consideration of the guidance in the "Stormwater Management Facilities Maintenance Manual" ("Maintenance Plan") authored by the New Jersey Department of Environmental Protection, or the most recent revision thereto.
  2. Monitoring. If deemed necessary by the Township Engineer, the maintenance plan shall provide for a program of water quality monitoring and reporting to measure the effectiveness of the Stormwater Management Plan in achieving, to the extent practicable, the goal of no net increase. The Plan shall include a provision for review and revision, in the event monitoring demonstrates that implementation of the Plan has not achieved the results originally anticipated. Responsibility for compliance with this provision shall remain with the property owner, unless the property owner enter into an agreement with the Township to ensure long term compliance.
  3. Maintenance Responsibility. The Maintenance Plan shall provide a long term maintenance program for all facilities and practices which are proposed to achieve compliance, to the extent practicable, with the goal of no net increase. Where appropriate, the Maintenance Plan shall be recorded upon the deed of record for the property. Responsibility for maintenance of the stormwater management facilities shall remain

with the property owner, unless the property owner enters into an agreement with the Township to ensure the proper operation and maintenance of the facilities.

**C. Hazardous Substances**

- a. The installation of new above and underground storage tanks for the storage of petroleum and hazardous substances is prohibited in the Great Swamp Watershed Overlay District. Existing service stations and municipal facilities are exempt from this requirement provided that the storage tanks and piping are installed and maintained in accordance with current State and Federal laws and regulations.

An aboveground heating oil tank for on-site consumption is permitted provided it does not exceed 350 gallons for residential uses and 2,000 gallons for non-residential uses. Existing above and underground storage tanks are exempt until such time they are decommissioned.

- b. The installation of above and underground piping, including transmission pipelines, for the transport of petroleum or hazardous substances is prohibited in the Great Swamp Watershed Overlay District. Pipes holding less than 50 gallons are exempt from the Township Code.
- c. Containers of petroleum and hazardous substances with a capacity of less than 60 gallons are exempt from the Township Code.

**30-83.2 PROTECTION OF UPPER PASSAIC RIVER WATERSHED OVERLAY DISTRICT**

**A. Applicability**

The provisions of this subsection shall be applicable to all property within the Upper Passaic River Watershed Overlay District. The limit of the District is illustrated on the municipal zoning map.

**B. Stormwater Management**

Stormwater management for major projects shall comply with the design standards of Section 30-64.3 of the Township Code. Linear projects are not exempt from these design standards.

**C. Hazardous Substances**

- a. The installation of new above and underground storage tanks for the storage of petroleum or hazardous substances is prohibited in the Upper Passaic River Watershed, except for aboveground heating oil tanks for on-site consumption of less than 350 gallons for residential purposes and 2,000 gallons for non-residential uses. Existing above and underground storage tanks are exempt until such time they are decommissioned.
- b. The installation of above and underground piping, excluding transmission pipelines, for the transport of petroleum or hazardous substances is prohibited in the Upper Passaic River Watershed. Pipes holding less than 50 gallons are exempt from the Township Code.
- c. The installation of transmission pipelines containing petroleum or hazardous substances are conditionally permitted in the Upper Passaic River Watershed provided they comply with the provisions of the Township Code.
- d. Containers of petroleum and hazardous substances with a capacity of less than 60 gallons are exempt from the Township Code.

**D. Conditional use of Transmission Pipelines**

1. Setback: transmission pipelines must have a 100-ft. setback from all habitable structures.
2. Hazardous substances, including petroleum products, stored, or transported near a Flood Hazard Area as delineated and defined by the Federal Emergency Management Agency or NJDEP shall be adequately protected so as to prevent the product from being discharged into a surface water body.
3. Installation of transmission pipelines shall comply with the following requirements:
  - a) All transmission pipeline shall be sufficiently marked by lettering, color banding or color coding to enable transmission pipeline personnel to identify any substance being leaked or discharged.
  - b) All pipelines shall have a product-sensitive leak detection device and shall be double walled or have secondary containment. All portions or areas of associated transmission pipelines in which the substances are routinely refined, produced, stored, held, handled, processed, or transferred shall be designed so that any leak will be prevented from becoming a discharge. The minimum volume of secondary containment shall be the maximum volumetric flow rate multiplied by the maximum amount of time between the detection of a leak and the shutdown of the pipe. Secondary containment systems shall not be used as backup storage systems nor for any other purpose that would impair their capacity to contain leaks.
  - c) All transmission pipelines must demonstrate through detailed geotechnical and groundwater modeling that discharges from secondary containment will not impact

critical land uses, habitable structures, or environmentally sensitive areas within a forty-eight (48) hour period.

- d) All transition pipelines shall be subject to integrity testing prior to being placed into service and every five (5) years in accordance with the following:
    1. Transmission pipelines operated at atmospheric pressure shall follow API 653 and the schedule and series of tests and inspections established in that standard, except that similar service and risk based inspection scheduling contained in API 653 are not permitted.
    2. Transmission pipelines operated under pressure shall follow API 510 or ASME Section VIII and the schedule and series of tests and inspections established in the applicable standard. If no protocols for integrity testing outlined in this section are applicable for a given application, the owner or operator shall propose an acceptable protocol to the Township for approval. If a tank or transmission pipeline fails to meet the applicable standards as to structural integrity or where a condition has been determined to exist for which there is no standard but which, in the opinion of the person performing the tests or inspection as set forth in the report, constitutes a condition which will threaten structural integrity, the tank or transmission pipeline shall be emptied and remain empty until it is repaired or replaced. Conditions threatening structural integrity may include, but are not limited to, wall thinning, leaks, or extensive corrosion, pitting, or cracking.
  - e) If a section of buried pipe is exposed for any reason, the owner or operator shall ensure that it is carefully examined for deterioration, and if found to be deteriorated, shall be repaired or replaced.
  - f) Out-of-service pipes shall be capped or blank-flanged and marked as to origin, or physically removed.
  - g) Pipe supports shall be designed to minimize abrasion and corrosion and allow for expansion and contraction.
4. An application for a conditional use of a transmission pipelines must meet the following requirements:
- a) The business name(s), address and telephone number of the owner or operator of the transmission pipeline;
  - b) The name or designation of the transmission pipeline, and the name, title, and telephone number of a contact person for the transmission pipeline;
  - c) The name and business address of the owner or operator's registered agent;
  - d) A description of the transmission pipeline substances, including maximum quantities of each substance stored at any one time, which are stored, held, handled, transferred or transported.;
  - e) The transfer capacity and the average daily throughput, on an annual basis, of the transmission pipeline.
  - f) Accurate maps showing the location of each of the owner or operator's transmission pipeline, storage areas, or other structures in or on which substances are stored or handled.
  - g) An inventory of all types of pipe used for the transmission of substances.
  - h) Engineering plans and reports demonstrating compliance with the technical requirements of this chapter.
  - i) Preparation of a Discharge Prevention Plan
  - j) Preparation of a Discharge Cleanup Plan
5. All transmission pipelines shall conform to 49 CFR 195, "Transportation of Hazardous Liquids by Transmission Pipeline," and any future supplements and amendments thereto. If any of these standards are less stringent than the requirements specified herein, the local municipal standards shall govern the installation.
6. Mapping Requirements:
- a) General site plans shall:
    1. Accurately reflect the proposed transmission pipeline, including the property lines, easements, delineating and identifying, by labeling or other means, transmission pipeline storage tanks, small container storage areas, process buildings and any other structures.
    2. Be drawn to a maximum scale of one-inch equals 50 feet, such that it is sufficient to delineate all items to be mapped and is appropriate for the size of the

- transmission pipeline. If labels or other items on the general site plan are illegible, the scale should be changed or inserts should be used; and
3. Be certified by both a land surveyor and a professional engineer licensed in the State of New Jersey.
- b) Drainage and land use maps, shall include the land area within 1,000 feet of the transmission pipeline's boundary and shall:
1. Employ current basemaps at a scale equal to or larger than one inch equals 100 feet, and appropriate for the size of the transmission pipeline;
  2. Show the transmission pipeline boundary;
  3. Delineate and label the following categories of land use:
    - i. Residential;
    - ii. Educational institutions;
    - iii. Health institutions;
    - iv. Commercial and services;
    - v. Industrial;
    - vi. Transportation, communication, and utilities;
    - vii. Industrial and commercial complexes;
    - viii. Other urban lands not specified above;
    - ix. Recreational land and parks;
    - x. Streams and canals;
    - xi. Lakes and reservoirs;
    - xii. Wetlands;
    - xiii. Agricultural land;
    - xiv. Flood hazard areas;
    - xv. Brushland and shrubland; and
  4. Locate and label all arterial and collector sewers, storm sewers, catchment or containment systems or basins, diversion systems, watercourses, and all public utilities.
- c) General site plans and drainage and land use maps, in addition to (a) and (b) above, maps shall meet:
1. Be prepared in a digital environment that is compatible with the Township's Geographic Information System. Compatible digital formats include AutoCAD, Arc View, and Arc GIS;
  2. Be projected in New Jersey State Plane feet (North American Datum 1983); and
  3. Contain a legend block stating the name and affiliation of the preparer of the map, the name and location of the transmission pipeline, the scale or scales employed, the sources of the data used, and the date of preparation of the map.
- d) Topographical maps showing environmentally sensitive areas, shall:
1. Employ current basemaps at a scale equal to or larger than one-inch equals 100 feet;
  2. Clearly show the location of the transmission pipeline;
  3. Not be so crowded as to obscure the clarity of the mapped information;
  4. Accurately transfer mapped data from other sources to the basemaps;
  5. Contain a legend block stating the name and affiliation of the preparer of the map, the name of the transmission pipeline, the scale or scales employed, the sources of the data used, and the date of preparation;
  6. Cover that area in which the transmission pipeline is located which is downgradient or topographically lower than the highest land point within the transmission pipeline and which could be affected by a discharge assuming a direct discharge from primary piping (i.e, no secondary or other provisions are preceded);
  7. Extend to the maximum area of potential impact, the loss of secondary containment and other provisions, the dispersiveness of the substance, temperature extremes, average rainfall and stream flows, prevailing winds, and potential threat to the environment. This area shall be fifteen (15) miles from the transmission pipeline boundary or to the municipal boundary, downgradient along the path a discharge

would follow, including all flood prone areas around any surface water or wetland features; and

8. Delineate and label the environmentally sensitive areas;
- e) All maps shall be submitted in digital and paper copy form. The digital and one paper copy shall accompany the initial plan submission for approval.
- f) As-built information, including, without limitation, as-built drawings, a copy of GIS shapefiles of the transmission pipeline and its related appurtenances and transmission pipeline within the Township, and any additional requested information about the transmission pipeline shall be filed 90 days before the date the transmission pipeline is proposed to become operational. Updated as-built information, including, without limitation, as-built drawings, a copy of GIS shapefiles of the transmission pipeline and its related appurtenances and transmission pipeline within the Township, and any additional information requested by the Township about the pipeline shall be filed within 60 days after the transmission pipeline has become operational.
- g) The transmission pipeline owner and operator shall give notice 48 hours prior to the proposed start date of construction of the transmission pipeline to all affected residents, businesses and to the Township and Police Township. Private property owners and business owners shall have access to their properties at all times during transmission pipeline construction.
- h) The transmission pipeline owner shall post adequate escrow for the Township Engineer to inspect the installation of the transmission pipeline. A initial escrow deposit shall be 5% of the construction cost within the Township.
- i) Sixty (60) days prior to the first date of operation of the transmission pipeline, the transmission pipeline owner and transmission pipeline operator shall meet with the Township representative and submit an Emergency Preparedness Plan (“EMP”) for any and all emergencies that may result in an accidental leak or failure incident regarding the transmission pipeline and its related appurtenances and transmission pipeline. The EMP shall cover the requirements stated in 49 CFR 195.402 and 195.403 and shall identify a responsible local emergency response official and a direct twenty-four (24) hour emergency phone number. No transmission pipeline shall become operational, nor shall any substance be introduced into the transmission pipeline prior to the transmission pipeline owner and transmission pipeline operator receiving the prior written approval of the EMP by the Township.
- j) No transmission pipeline owner or operator shall operate any transmission pipeline without first obtaining insurance policies covering general liability, environmental incidents and contamination, and property damage in an aggregate amount to be determined by the Township based upon reasonable estimates of potential liability and property damage that would result from a leak, spill, or other failure of the transmission pipeline. Prior to the first operation of the transmission pipeline and every year in which the transmission pipeline is in operation thereafter, the owner or operator shall submit insurance coverage certificates and endorsements to the Township adding the Township as an additional named insured on the insurance policies, demonstrating that the required policies and levels of insurance have been obtained.
- k) Prior to the first operation of the transmission pipeline, the owner and operator shall both agree in writing to indemnify and hold harmless Township, as well as its officers, officials, supervisors, employees, agents, contractors, and assigns, from any and all liability relating to or arising from the transmission pipeline, including, but not limited to, any failure, leak, spill, contamination, cleanup, remediation, property damage, and personal injury from and related to such transmission pipeline. The indemnification and hold harmless agreement shall include a provision for the payment of Township’s reasonable attorneys’ fees and litigation costs.
- l) Any easements or rights-of-way obtained by the transmission pipeline owner or operator for the shall be recorded by the transmission pipeline owner or pipeline operator in the office of the County Clerk.
- m) The transmission pipeline owner or Operator shall install and maintain markers to identify the location of the pipeline in accordance with all applicable federal and state requirements.
- n) In the event of a leak, spill, or failure occurring, the transmission pipeline owner and operator shall notify the Township and all property owners within 1000 feet of the affected transmission pipeline area within one-hour of discovery of the leak, spill or failure. The transmission pipeline owner and operator shall cooperate with Township officials and make every effort to respond as soon as possible to protect the public’s health, safety, and welfare. All leak or spill remediation plans shall be made in consultation with the Township, and no remediation may be deemed complete without final approval thereof by the Township. In the event that the transmission pipeline is shut

down due to a leak, spill, or failure, the transmission pipeline owner and operator shall not restart the transmission pipeline without the written approval by the Township.

7. Discharge Prevention Plan

- a) The owner or operator of a transmission pipeline shall:
  1. Prepare a Discharge Prevention Plan demonstrating compliance with these standards; and
  2. Appoint a contact who shall be responsible for insuring compliance with the EMP. The contact shall be responsible for submission of all plans and reports.
- b) The plan shall contain the following general information:
  1. The name, telephone number and locations including street and mailing address, county, municipality, and tax lot and block number;
  2. The name(s), telephone number(s) and business address(es) of the owner or operator of the transmission pipeline;
  3. The name, title, telephone number, and business address of the contact;
  4. The name and business address of the owner's or operator's registered agent, if applicable;
  5. A brief description of the transmission pipeline;
  6. A general site plan;
  7. A drainage and land use map;
  8. Topographical maps;
  9. The anticipated date on which the transmission pipeline will become operational;
  10. A description of all secondary containment including, but not limited to, their capacity and materials of construction;
  11. A description of any flood hazard areas and any measures implemented to protect hazardous substances from flood waters and washout;
  12. A description of all visual inspection and monitoring procedures;
  13. An outline of the housekeeping and maintenance program;
  14. A description of the personnel training program, including types of training given, time periods required for various phases of training, and training procedures, and procedures for instructing of contractors;
  15. A description of the physical security measures;
  16. A current index of all standard operating procedures; and
  17. A description of the recordkeeping system.

8. Discharge Cleanup Plan

- a) The owner or operator shall appoint a response coordinator.
- b) The owner or operator shall prepare and implement a Discharge Cleanup Plan (“DCP”) DCR plan containing, at a minimum, the following information, in the following order or indexed to this order:
  1. The name, title and 24-hour business telephone number of the transmission pipeline's response coordinator or other person authorized to hire contractors and release funds for discharge response, containment, cleanup and removal. A response coordinator or alternate shall be available at all times;
  2. The chain of command for an emergency response action;
  3. Notification procedures;
  4. Provisions for an annual simulated emergency response drill to determine the currency and adequacy of, and personnel familiarity with, the emergency response action plan and the DCP. This drill shall be critiqued in writing and that critique retained pursuant to the recordkeeping requirements. The drill shall be based on different scenarios from year to year in order to address all anticipated emergency response scenarios at the facility and cannot be of the same type, such as a table top drill, in consecutive years. When possible, this annual drill may be combined with other required emergency response drills;
  5. A list of types and minimum quantities of containment and removal equipment and materials to which the pipeline has access through ownership, contract or others means, including, but not limited to, vehicles, vessels, pumps, skimmers, booms,

chemicals, and communications devices, and indicating if access is through ownership, contract or other means. The transmission pipeline shall have available to it, by ownership or by arrangement with a discharge cleanup organization, adequate equipment to clean up any discharge that may occur at the facility. A copy of all current contracts or agreements between the owner or operator and a discharge cleanup organization for emergency response service shall be maintained, as appropriate, and shall be available to the Township for review upon request;

6. A list of the trained personnel who are available to operate such equipment and a brief description of their qualifications, and whether personnel are employed at the facility or by a discharge cleanup organization. Each major facility shall have available to it, by ownership or by arrangement with a discharge cleanup organization, adequate personnel to clean up any discharge that may occur at the transmission pipeline. In lieu of supplying a list of names, the owner or operator may supply a list of job titles of employees who will be assigned to operate containment and removal equipment, and a statement of the minimum qualifications that will be required of each employee so assigned;
  7. On-site response measures, including response to leaks, and the types and sizes of discharges that facility personnel will respond to;
  8. Off-site response measures, including:
    - i. Identification of and protection and mitigation measures for off-site residential, environmentally sensitive, or other areas prioritized based on use, seasonal sensitivity, or other relevant factors.
    - ii. Provisions for an environmental assessment of the impact of any discharge.
9. Visual Inspections and Monitoring
- a) All equipment and portions of the major facility in service using hazardous substances, as well as all cleanup and removal equipment and supplies, shall be visually inspected in accordance with standard operating procedures. Visual inspections shall be performed at a minimum according to the following schedule:
    1. Prior to each marine transfer for adequacy, deterioration, leaks or discharges, all transfer area lighting and all aboveground transfer valves, pumps, flanges, flexible hoses and connections, unless they are not readily accessible, that are to be used in the transfer;
    2. Once daily for integrity and leaks, all secondary containment systems and diversion systems for aboveground storage tanks which are not impermeable;
    3. Once daily or prior to each use, whichever is less frequent, for integrity, deterioration and leaks, loading or unloading areas, including flexible hoses;
    4. Once weekly for integrity and leaks, process areas;
    5. Once monthly for integrity and leaks, all other storage areas and secondary containment or diversion systems, and all aboveground pipes; and
    6. Once quarterly:
      - i. For integrity and leaks, all other aboveground valves, pumps, flanges, connections and equipment;
      - ii. For integrity, all security fences and locks; and
      - iii. For adequacy and location, all cleanup and removal equipment and supplies.
  - b) Records shall be kept for all visual inspections. These records shall document the date, person performing the inspection, any problems found, including if no problems were found, and the subsequent correction of such problems.

Cleanup of all leaks or discharges of hazardous substances shall begin promptly upon detection. Loose quantities of hazardous substances shall not be allowed to persist on grounds, floors, walls or equipment, or any other places within the transmission pipeline.
  - c) The transmission pipeline operator or owner shall keep on hand, in convenient locations, adequate quantities of sorbent materials, chemical neutralizing agents or other materials as needed, sufficient to contain and clean up those small leaks or discharges that transmission pipeline personnel will respond to, as described in the DCP.
  - d) The transmission pipeline operator or owner shall maintain an adequate supply of protective safety equipment, such as chemically resistant coveralls, boots, or respiratory protection, in convenient locations for use by any personnel who are required to clean up

leaked or discharged hazardous substances. Where protective safety equipment is required by any regulation of the Federal Occupational Safety and Health Administration, compliance with such regulation shall be deemed to fulfill this requirement.

- e) Secondary containment or diversion systems shall be maintained in good repair, free of accumulated debris, and free of cracks through which hazardous substances could be discharged.

#### 10. Employee Training

- a) Owners or operators of transmission pipelines shall implement an appropriate program for training their employees involved in the handling of petroleum and hazardous substances and shall maintain a written description of the program.
- b) The training program shall include, at the minimum, the following:
  - 1. A written job description which includes the duties and responsibilities relating to hazardous substances for each position, and training necessary to qualify for the position;
  - 2. Specified time periods of in-house training for each position covering orientation, specific substances training and on-the-job training, and periodic refresher training; and
  - 3. Procedures to determine whether an employee has demonstrated the ability to carry out the duties and responsibilities of a specific position.
- c) The training which all employees involved in the handling of substances will receive shall include:
  - 1. General orientation and initial training of new employees before assignment to transmission pipeline operations, which shall include instruction on the general site rules and practices, and safety procedures;
  - 2. Job-specific training for new or newly assigned employees involved with petroleum and hazardous substances, consisting of classroom and/or on-the-job training, as appropriate, which covers:
    - i. Standard operating procedures, including a detailed review of the hazardous substance material safety data sheets, the safe handling practices for the substance, the hazards of the operation involving the substance, and the application of standard operating procedures to actual conditions;
    - ii. Safety, equipment, and procedures used in the cleanup and removal of a specific hazardous substance;
    - iii. Procedures regarding fires, leaks and discharges; and
    - iv. Equipment familiarization;
  - 3. Training on updated or new standard operating procedures; and
  - 4. Refresher training at least once a year which shall present an overview and updated information, and which can be combined with such training required under any other State or Federal requirement.
- d) The training program shall specify the qualification required for the personnel responsible for training employees working with petroleum and hazardous substances.
- e) Documentation of all training, including final qualifying activities, shall be kept on-file for each employee and shall include identification of all personnel trained, subjects covered and training dates.
- f) Owners or operators shall have procedures to insure that all employees utilized by outside contractors have received site-specific information covering emergency and safety procedures.

#### 11. Security

- a) Facilities associated with transmission pipelines shall be adequately illuminated so that personnel can detect intruders, leaks, or discharges. Lighting intensities shall not exceed Township Code within residential areas.
- b) Transmission pipelines shall have security sufficient to prevent unauthorized persons from gaining access to hazardous substances.

#### 12. Standard Operating Procedures

- a) The owner or operator of transmission pipelines shall have written standard operating procedures for all operations involving petroleum and hazardous substances. They shall be in English in a manner understandable by employees of the major facility and shall

also be written in the language of fluency of employees utilizing those Standard Operating Procedures (SOPs) not fluent in English.

- b) A copy of the standard operating procedures shall be readily available to employees.
- c) A copy of material safety data sheets or fact sheets for each substance used or stored at the transmission pipeline shall be readily available to employees.
- d) The SOPs shall include, at a minimum, the following:
  - 1. A description of the operation;
  - 2. Procedures for visual inspection of equipment;
  - 3. Procedures and conditions for normal operation;
  - 4. A description of leak monitoring equipment and alarms; and
  - 5. A description of leak or discharge conditions which could occur from the operation, including the control and mitigation procedures to be followed to reduce the impact of the leak or discharge conditions.
- e) As appropriate for the operation being described, the following items, in addition to those in above, shall be included in the SOPs:
  - 1. Simplified process flow sheets, showing flows, temperatures, and pressures;
  - 2. A description of the most frequent abnormal conditions, including the control and mitigating procedures to be followed to return to normal conditions;
  - 3. Pre-startup procedures;
  - 4. Startup procedures including conditions to be maintained during startup;
  - 5. Shutdown procedures including provisions for normal and emergency shutdown and details on the condition of equipment to be maintained after shutdown;
  - 6. Procedures to perform and inspect maintenance work; and
  - 7. Log sheets and checklists.
- f) A generic SOP may be written when more than one piece of equipment designed to perform the same function is located at the transmission pipeline. Such a generic SOP must cover all substances utilized with all the equipment and must delineate any special conditions associated with a specific piece of equipment or hazardous substance.
- g) Modifications to the SOPs shall be incorporated into the standard operating procedures prior to their implementation.
- h) A current index of the SOPs, including title(s), identification number(s) and latest date(s) of issue shall be maintained and readily available.

### 13. Recordkeeping

- a) The owner or operator of a transmission pipeline shall maintain records of employee training, drills for discharge prevention, inspections of cleanup and removal equipment, and transmission pipeline inventories for a period of three years.
- b) The owner or operator of a transmission pipeline shall maintain records of inspection and repair for ten (10) years or the lifetime of the equipment, device, or structure, whichever is shorter, for:
  - 1. All equipment, and detection or monitoring, prevention or safety devices related to discharge prevention and response; and
  - 2. All structures other than aboveground storage tanks.
- c) For aboveground storage tanks, the owner or operator shall maintain records of integrity testing, inspection, and repair for the lifetime of the tank.
- d) All records shall be available for inspection upon the request of the appropriate local agencies.

### 14. Notification of malfunctions in discharge detection systems

- a) The owner or operator of a transmission pipeline shall immediately notify the NJDEP and the Township of any malfunction of a discharge detection or other discharge monitoring, prevention or safety system or device. In the event that this number is inoperable, any owner or operator shall immediately notify the New Jersey State Police.
- b) Notification received by the NJDEP and Township pursuant to (a) within 15 minutes of the time that the owner or operator knew, or reasonably should have known, of the occurrence of a malfunction shall be considered immediate. It shall be presumed that notification received by the NJDEP and the Township more than 15 minutes after the owner or operator knew, or reasonably should have known, of the malfunction is not immediate.

- c) Within two hours of the initial notification, the owner or operator shall notify the NJDEP and the Township that one of the following situations exists:
  - 1. The malfunction has been repaired;
  - 2. An alternate discharge detection system has been activated for the equipment utilizing the malfunctioning system; or
  - 3. The equipment protected by the discharge detection system has been taken out of service.

**30-83.3 ABOVEGROUND STORAGE TANKS**

- a) Permitted aboveground storage tanks shall meet the following standards:
  - 1. Aboveground storage tank installations shall be provided with secondary containment equal to 110% of the volume in the primary tank.
  - 2. The base underlying the storage tank shall be made of or surfaced with a material impermeable to passage or chemical attack by the stored substance under the conditions of storage prevailing within the tank. Existing storage tanks shall be exempt from this requirement until such time as they may require substantial reconstruction or replacement, or the bottom is being replaced, unless the Township orders a storage tank removed from service because of the likelihood of a discharge. Before such a tank is returned to service, it must meet this requirement.
  - 3. Pipes leading to and from aboveground storage tanks which enter the tank below the liquid level shall be equipped with valves that can be remotely activated or are readily accessible in the event of a leak or discharge, and which are sufficiently close to the tank that they can prevent the contents of the tank from escaping outside the secondary containment area in the event of a pipe failure outside the containment area. Such pipes shall not penetrate or pass through any walls, dikes or berms used as secondary containment, unless the impermeability or integrity of the secondary containment is not impaired.
- b) Tanks shall be attended at all times during the filling procedure.
- c) Storage tank overfill lines, or vent lines on storage tanks without overfill lines, where they exist, shall be protected by secondary containment, or directed into other tanks, or other appropriate holding areas.
- d) If a storage tank is served by internal heating coils, such coils, the pipes leading to and from them, and the appurtenances to which they connect, must be designed so that any leakage passing from the tank into the heating coil system will be captured and contained in a secondary containment or wastewater treatment system.
- e) All non-residential aboveground storage tank shall have a high liquid level audible or visual alarm set to activate at a predetermined level and designed to alert personnel directly responsible for the filling operation of high liquid level conditions, and one of the following:
  - 1. A high-high liquid level pump cutoff device, with a level detector separate from the high liquid level detector, designed to stop flow at a predetermined level;
  - 2. Direct communication between tank gauge and pumping station, such as direct line of sight, or telephone or radio communication; or
  - 3. Fast response systems for determining liquid levels, which result in rapid shutdown of pumping.
- f) Mobile or portable storage tanks shall be positioned or located so as to be protected by secondary containment or diversion structures.
- g) Totes and drums shall be stored on or within secondary containment or diversion systems.

3. **SECTION 3.** Notwithstanding that any one 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.

4. **SECTION 4.** 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.

Engineer Ruschke said that the two watersheds in the Township are the Great Swamp and the Passaic River. There is an existing ordinance regulating stormwater into the Great Swamp, and those regulations are not changing, nor are the regulations regarding drainage into the Passaic

River. The current ordinance prohibiting oil pipelines may not be defensible in court, and there are not any current ordinances regarding underground storage tanks. This ordinance addresses underground storage tanks in both watersheds, and limits petroleum pipelines to the Passaic River Basin under very rigorous standards.

Mayor Ritter said that this ordinance will take a step in the right direction in the fight against the Pilgrim Pipeline.

Mayor Ritter opened the Public Hearing on Ordinance 2017-20.

1. Jessica Romeo said that this is a very solid ordinance, and she thanked the Township Committee and Engineer Ruschke for their efforts on this matter.

Seeing no further comment, Mayor Ritter closed the Public Hearing.

Committeeman Kelly moved to adopt Ordinance 2017-20. Committeeman Selen seconded the motion.

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

#### Ordinance 2017-16

#### **ORDINANCE 2017-16**

**ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING SUBSECTION 30-75.1 TITLED “ZONE DISTRICTS” OF CHAPTER XXX, TITLED “LAND DEVELOPMENT” OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CHATHAM, TO ADD A NEW ZONING DISTRICT CLASSIFICATION ON THE OFFICIAL ZONING MAP TO BE KNOWN AS THE “R-6C RESIDENCE DISTRICT” TO INCLUDE THE FOLLOWING PROPERTY: BLOCK 66, LOT 1 FRONTING ON RIVER ROAD AND HILLSIDE AVENUE AND TO ADD TWO OVERLAY DISTRICTS TO BE KNOWN AS THE GREAT SWAMP WATERSHED OVERLAY DISTRICT AND THE UPPER PASSAIC RIVER WATERSHED OVERLAY DISTRICT**

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

**SECTION 1.** Subsection 30-75.1, titled “Zone Districts”, of Section 30-75 titled “Zone Districts and Enforcement” of Chapter XXX, titled “Land Development”, of the Revised General Ordinances of the Township of Chatham is hereby amended as follows:

- A. Add a twenty-second zoning classification on the official zoning map as the R-6C Residence District (One-Family & Multi-Family Dwellings Density: Two D.U./1.0 acres, max. 54 D.U.).
- B. Add an overlay district on the official zoning map to be known as the Great Swamp Watershed Overlay District as defined by Chapter XXX, Article 7, Sections 30-83.1 and 30-83.2.
- C. Add an overlay district on the official zoning map to be known as the Upper Passaic River Watershed Overlay District as defined by Chapter XXX, Article 7, Sections 30-83.1 and 30-83.3.

**SECTION 2.** Subsection 30-75.2 titled “Map and Schedule” of Section 30-75 titled “Zone Districts and Enforcement” of Chapter XXX titled “Land Development” of the Revised General Ordinances of the Township of Chatham is hereby amended as follows:

- A. Change the zoning district classification on the official zoning map to the R-6C Residence District for the following property:

Block 66, Lot 1

- B. Add an overlay district on the official zoning map to be known as the Great Swamp Watershed Overlay District as defined by Chapter XXX, Article 7, Sections 30-83.1 and 30-83.2.
- C. Add an overlay district on the official zoning map to be known as the Upper Passaic River Watershed Overlay District as defined by Chapter XXX, Article 7, Sections 30-83.1 and 30-83.3.
- D. The “Official Zoning Map, Township of Chatham, Morris County, New Jersey”, dated March, 1999, is hereby replaced by the “Official Zoning Map, Township of Chatham,

Morris County, New Jersey”, dated March, 1999, revised as of November, 2017, and is hereby adopted and replaces “Appendix III Item 1: Zoning Map” to the “Appendix to Land Development”, with the “Schedule of Zoning Requirements” remaining as shown in Appendix I.

**SECTION 3.** 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 4.** 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 5.** 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 reiterated that the Planning Board found Ordinance 2017-15 inconsistent with the Master Plan, and Ordinance 2017-20 not inconsistent with the Master Plan. Thus, as cited in the Reasons Resolution previously adopted, Ordinance 2017-16 is partially inconsistent with the Master Plan and partially not inconsistent with the Master Plan.

Mayor Ritter opened the Public Hearing on Ordinance 2017-16. Seeing no public comment, Mayor Ritter closed the Public Hearing.

Deputy Mayor Swartz asked that the map be added to the Township website.

Committeeman Sullivan moved to adopt Ordinance 2017-16. Committeeman Kelly seconded the motion.

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

#### Ordinance 2017-17

#### **ORDINANCE 2017-17**

#### **AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, REPEALING SECTION 3-6, TITLED “HUNTING, FIREARMS AND OTHER WEAPONS” OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF CHATHAM AND REPLACING WITH A NEW SECTION 3-6, TITLED “USE OF FIREARMS AND OTHER WEAPONS” TO ALLOW THE USE OF FIREARMS OR WEAPONS FOR DEER AND BEAR HUNTING**

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that Section 3-6, titled “Hunting, Firearms and Other Weapons” of the Revised General Ordinances of the Township of Chatham is hereby repealed and replaced with a new Section 3-6, titled “Use of Firearms and Other Weapons” as follows:

**Section 1.** Section 3-6, titled “Hunting, Firearms and Other Weapons” of the Revised General Ordinances of the Township of Chatham is hereby repealed and replaced with a new Section 3-6, titled “Use of Firearms and Other Weapons” as follows:

#### **3-6 USE OF FIREARMS AND OTHER WEAPONS.**

##### **3-6.1 Definitions.**

As used in this section:

*Chief of Police* shall mean the Chief of the Police Department of the Township of Chatham.

*Firearm* shall mean any gun, shotgun, rifle, air rifle, pistol, revolver or other device from which a shot is fired by explosive force.

*Game* shall mean any wild bird, animal or fowl.

*Township* shall mean the Township of Chatham in the County of Morris, New Jersey.

*Weapon* shall mean any firearm, bow and arrow, slingshot, or like device.

##### **3-6.2 Use of Firearms or Weapons Prohibited.**

Except as provided in Subsections 3-6.3 and 3-6.4 below, no person shall at any time within the Township use, discharge or fire any firearm or weapon.

##### **3-6.3 Target Practice; Shooting Preserves; Control of Certain Destructive Animals.**

Nothing contained in this Section 3-6 shall be interpreted to prohibit the use or discharge of firearms or weapons in connection with any of the following activities:

- a. Target practice with bow and arrow on private property owned or leased by the persons engaged in such practice or their guests;
- b. Trap shooting or skeet shooting with shotguns at shooting facilities complying with the following safety standards and conditions:
  1. No shooting station shall be located within three hundred (300) yards of any of the following: any public street or highway; any dwelling or other structure occupied or used by persons or domestic animals; any park or recreation lands, whether public or private, which are used by persons or domestic animals.
  2. A safety shot fall zone semi-circular in shape shall be provided on the same property with the shooting stations, which zone shall have a radius of not less than three hundred (300) yards measured from the central shooting station. All land in this safety zone which is within one hundred (100) yards of the center shooting station shall be cleared. Conspicuous warning signs shall be maintained along the outer limits of this safety zone.
  3. Structures housing traps shall be located and constructed so as to complete protection for operators.
  4. A fence or other barrier shall be maintained to keep spectators at least seventy-five (75) feet behind any shooting station.
  5. Only shotguns shall be permitted at any trap or skeet shooting facility. Only shot no larger than No. 4 fine shot may be used. Solid projectiles shall not be discharged from any shotgun at any time.
  6. A trap or skeet shooting range shall be operated only during daylight hours.
  7. At all times during the operation of a trap or skeet shooting facility, the facility shall be under the immediate supervision and control of a person qualified in safety procedures in accordance with standards established by the National Rifle Association.
  8. No alcoholic beverages shall be permitted at or in the vicinity of a shooting facility on any day when the facility is in operation.
  9. No firearms or ammunition shall be stored at any shooting facility at any time when the facility is not in operation. In order to assure compliance with the foregoing safety standards and conditions, no trap or skeet shooting facility shall be operated in the absence of written approval issued by the Chief of Police after inspection of the facility. Such an approval shall remain in effect until revoked. If at any time the Chief of Police finds that the foregoing safety standards or conditions are not being complied with, then the Chief of Police may revoke the approval by a written notice setting forth the violation or violations, which notice shall be delivered to the owner of the property upon which the facility is located. The facility shall not be again operated until any violations are corrected and a new written approval has been issued by the Chief of Police.
- c. The operation of a commercial pheasant, wild turkey, quail and partridge-shooting preserve from time to time licensed by the Division of Fish and Game in the Department of Environmental Protection of the State of New Jersey in accordance with N.J.S.A. 23:3-29, provided that owner or tenant of the land used for such preserve first files from time to time with the Chief of Police a statement regarding any license issued, the expiration date thereof and the tract of land subject of the license; or
- d. The control by farmers and fruit growers of certain animals destructive to crops, produce and poultry as provided in N.J.S.A. 23:4-9, 25 and 42 or other statutes of the State of New Jersey, provided that the owner or tenant of any property where such control will be carried on first files a statement to that effect with the Chief of Police.
- e. The harassment of waterfowl on any property larger than five (5) acres by the owner or occupier thereof by the use of shellcrackers discharged from a firearm, provided that the owner or occupier of such property where such harassment will take place first files a statement to that effect with the Chief of Police.
- f. Deer hunting with bow and arrow, subject to the following safety standards and conditions:
  1. Any person proposing to engage in deer hunting within the borders of the Township of Chatham shall first obtain a permit from the Police Department of the Township of Chatham allowing the discharge of a bow and arrow for deer hunting.
  2. Permits shall only be issued to individuals possessing a valid New Jersey State deer bow hunting permit, and shall be limited to no more than twenty (20) permits per day.

3. Discharges of bow and arrow for deer hunting may only take place from tree stands.
  4. Discharges of bow and arrow for deer hunting may not take place on properties within the R-3, R-4, R-5, R-6A, R-6B and R-6C Residential Districts as described on the Zone Map of the Township of Chatham, nor where permission has not been obtained from the property owner.
  5. For any bow hunter who shall use a motor vehicle to access a permitted hunting area, such hunter shall display during hunting on such motor vehicle, when parked, a copy of the Township permit or such other placard or notice as may be provided by the police department.
  6. All laws, rules and regulations regarding hunting now or as may be adopted by the State of New Jersey apply and are incorporated herein.
- g. Deer hunting with shotgun, subject to the following safety standards and conditions:
1. Any person proposing to engage in shotgun deer hunting within the borders of the Township of Chatham shall first obtain a permit from the Police Department of the Township of Chatham allowing the discharge of a shotgun for deer hunting.
  2. Permits shall only be issued to individuals possessing a valid New Jersey State deer shotgun-hunting permit, and shall be limited to no more than twenty (20) permits per day.
  3. Discharges of shotguns for deer hunting may only take place from tree stands.
  4. Discharges of a shotgun for deer hunting may take place on properties, as more particularly located on the south side of River Road to the Morris County line with Union County from Passaic Street to the Township boundary with Long Hill Township, on the north side of Green Village Road from the Township boundary with Harding Township to the intersection with Shunpike Road and running north to the Township boundary, on the south side of Green Village Road from the Township boundary with Harding Township to the R-5A District as shown on the Zoning Map of the Township of Chatham and running south to the boundary of the Great Swamp National Wildlife Refuge, on Lots 117 and 117.01 in Block 48.15, Lot 117.27 in Block 48.16, Lot 10.01 in Block 128 along Southern Boulevard, on Lots 1 and 2 in Block 64 along River Road, and Lots 92, 93 and 94 in Block 18, and Lots 74, 76, 77, 87, 88, and 89 in Block 48 at the end of Tanglewood Lane, Block 66, Lot 1 fronting River Road and Hillside Avenue but only when permission has first been obtained from the property owner.
  5. For any shotgun hunter who shall use a motor vehicle to access a permitted hunting area, such hunter shall display, while hunting, on such motor vehicles, when parked, a copy of the Township permit or such other placard or notice as may be provided by the police department.
  6. All laws, rules and regulations regarding hunting now or as may be adopted by the State of New Jersey apply and are incorporated herein.
- h. Bear hunting with bow and arrow, subject to the following safety standards and conditions:
1. Any person proposing to engage in bear hunting within the borders of the Township of Chatham shall first obtain a permit from the Police Department of the Township of Chatham allowing the discharge of a bow and arrow for bear hunting.
  2. Permits shall only be issued to individuals possessing a valid New Jersey State bear bow hunting permit, and shall be limited to no more than twenty (20) permits per day.
  3. Discharges of bow and arrow for bear hunting may only take place from tree stands.
  4. Discharges of bow and arrow for bear hunting may only take place on a property and in an area of the Township that complies with all laws, rules and regulations now or as may be adopted by the State of New Jersey, including the person having all necessary State and Township permits.
  5. For any bow hunter who shall use a motor vehicle to access a permitted hunting area, such hunter shall display during hunting on such motor vehicle, when parked, a copy of the Township permit or such other placard or notice as may be provided by the police department.
  6. All laws, rules and regulations regarding hunting now or as may be adopted by the State of New Jersey apply and are incorporated herein.

- i. Bear hunting with shotgun, subject to the following safety standards and conditions:
  1. Any person proposing to engage in shotgun bear hunting within the borders of the Township of Chatham shall first obtain a permit from the Police Department of the Township of Chatham allowing the discharge of a shotgun for bear hunting.
  2. Permits shall only be issued to individuals possessing a valid New Jersey State bear shotgun-hunting permit, and shall be limited to no more than twenty (20) permits per day.
  3. Discharges of shotguns for bear hunting may only take place from tree stands.
  4. Discharges of a shotgun for bear hunting may only take place on a property and in an area of the Township that complies with all laws, rules and regulations now or as may be adopted by the State of New Jersey, including the person having all necessary State and Township permits.
  5. For any shotgun hunter who shall use a motor vehicle to access a permitted hunting area, such hunter shall display, while hunting, on such motor vehicles, when parked, a copy of the Township permit or such other placard or notice as may be provided by the police department.
  6. All laws, rules and regulations regarding hunting now or as may be adopted by the State of New Jersey apply and are incorporated herein.

**3-6.4 Exceptions.**

Any public officer or other person enumerated in N.J.S.A. 2C:39-6 are specifically exempted from the provisions of this section.

**3-6.5 Carrying of Loaded Firearms.**

The carrying of any loaded firearm within the Township shall constitute prima facie evidence of a discharge prohibited by subsection 3-6.2.

**3-6.6 Penalties.**

Any person who shall violate any provision of this section shall, upon conviction, be subject to the penalty stated in Chapter I, Section 1-5, for each and every offense.

**Section 2. Severability.**

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. Effective Date.**

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

Committeeman Sullivan asked Chief Hennelly if hunters have to first get a permit from the State, and then obtain an additional permit from the Police Department plus permission of the property owner where they want to hunt. Chief Hennelly confirmed that the process for permits for deer hunting is as described by Committeeman Sullivan. Committeeman Sullivan asked if permits would be issued for hunting in the Wickham Woods neighborhood or Rolling Hill neighborhood. Chief Hennelly said that permits would not be granted for those areas. They may be issued for larger properties in Green Village or backing up against the Great Swamp.

Mayor Ritter asked how many bear calls have been received by the Police Department this year. Chief Hennelly estimated 20-30.

Deputy Mayor Swartz asked how far shotgun shot travels. Chief Hennelly said that it can depend on environmental factors and the size of the round being fired. Mayor Ritter noted that the ordinance requires use of tree stands. Chief Hennelly noted that the hunter would need to be shooting downward, and the State regulates the minimum distance from a dwelling for hunting to occur.

Committeeman Selen asked how many bear attacks or injuries have been reported over the past few years. Chief Hennelly said that there have not been any reports of aggressive bears, and there have been reports of some minor property damage.

Mayor Ritter asked what makes a bear aggressive. Chief Hennelly said that a bear could become aggressive due to any number of circumstances, and they can be unpredictable.

Mayor Ritter opened the Public Hearing on Ordinance 2017-17.

1. Phil Ankel, 16 Jay Road, asked if the Township Committee members can cite an example of any aggressive bears in the Township. Mayor Ritter noted an example of a bear charging down Van Houton Avenue when children were waiting for the school bus. Mayor Ritter added that he proposed this ordinance to address public safety. Mr. Ankel also read into the record a letter from his daughter addressed to the Mayor in which she expressed her opposition to bear hunting.
2. Jessica Romeo said that the ACT Now! alerts about bears have been of non-threatening bears. She also said that Township officials have indicated that there is not a bear problem in the Township. Mrs. Romeo also said that the Township has a stellar Police Department, and she thinks that residents should rely on them when there is a bear issue.
3. Bob Hander, 99 Huron Drive, said that the protocol currently in place regarding bears is sufficient. Mr. Hander also raised a concern about hunting in a suburban area. Mr. Hander also noted that the ordinance does not delineate where bears can or cannot be hunted. He further noted a recent news story in which a woman was mistaken for a deer and accidentally shot and killed by a hunter. He also cited an example of a man who was accidentally shot by a hunter while on his own property, and suffered lasting injuries. Mr. Hander also cited an incident in the 1970's in which a shot was fired in Loantaka Brook Reservation, and the shot traveled 2.5 miles and killed someone on Shunpike Road near where Castle Park is located. Mr. Hander said that there are other areas in Morris County where hunting can take place, and he does not think it should be allowed in Chatham Township.
4. Barbara Veeder, 568 River Road, said that she lives across the street from one of the areas where deer hunting is allowed. She has had bears in her yard, and her dog has scared them away. Mrs. Veeder said that she trusts the Police Department to handle bears in her neighborhood. She also cited an example of a hunter in her neighborhood, and she is concerned that accidental discharge could harm her family. Mrs. Veeder also said that she has been the victim of gun violence, and she does not want guns in the community.
5. Bob Higgins, 5 Jay Road, said that there is a resident bear in his neighborhood, and there have not been any issues with it. He also said that several popular shotgun models have a kill zone of 250 yards. Mr. Higgins also said that accidental discharge can happen under a variety of circumstances. He also said that he has a copy of the news article about the bear on Van Houton, and it was four years ago. Mr. Higgins asked if a bear charging down the road would be considered a Class 1 aggressive bear. Chief Hennelly read the criteria for a bear to be considered Class 1. He also said that he is not familiar with the details of the bear reported charging down Van Houton. Mayor Ritter asked about bear sightings and how often the bear is still there. Chief Hennelly said that it is usually still there, and often not intimidated by the Police presence. Mr. Higgins said that bear hunting season ends in two days, and Governor-Elect Phil Murphy has indicated that he will end the bear hunt when he takes office. Mr. Higgins asked if permits will be issued in the next two days if this ordinance is adopted. Attorney Cruz said that the ordinance would not take effect until publication of the notice of final adoption, and the Township Clerk indicated that publication would be in the December 21<sup>st</sup> edition of the Chatham Courier. Mr. Higgins also noted that it is unknown if there are 2 or 4 bears in the Township, and there is not a bear problem. He suggested that education measures be taken, and he noted that Mayor Ritter has held bear safety seminars. Mr. Higgins also said that measures should be taken to reduce the attraction to bears.
6. Sharon Roche, 333 Green Village Road, said that her property is adjacent to the Great Swamp, and she and her children use their back yard. She is worried about accidental discharge of firearms hurting her children, and she urged the Township Committee to not allow bear hunting. Mrs. Roche also asked if a notice can be sent out when a permit is issued for hunting.
7. Donna Leyens, 21 Woodmont Drive, said that bears can be a nuisance, but she wants to know why hunting is the proposed solution. Mrs. Leyens also said that her property backs up to the Fairmount Country Club, and she gets hundreds of golf balls in her yard during the course of the year which are shot there accidentally, and she used this as an analogy for gun related accidents.

8. Jonathan O'Brien, 5 Pembroke Road, said that a bear was scared out of his yard by his dog, and the Police have been responsive. Mr. O'Brien also asked if bear experts have been consulted. Mayor Ritter said that there have been cubs in the Township, and he said that bears are docile until they are not. Mr. O'Brien said that he has read more stories in the area about threats of child abductions than threats from bears. Mr. O'Brien also asked if the police will be monitoring hunters staying in tree stands, which Chief Hennelly said they would not. Mr. O'Brien also said that the timing of this ordinance is ridiculous.
9. Lisa Nigido, 52 Garden Avenue, spoke in favor of education regarding bears rather than hunting. She also said that in the past year there have been 1000 hunting accidents in the United States, and only 24 bear attacks in the same period.
10. Jane Devlin, 25 Hickory Place, said that Chatham Township is not a rural enough area for hunting, and the matter has not been studied enough. Mrs. Devlin also asked if alternatives could be used to handle aggressive bears such as subduing them with darts. Mrs. Devlin would also like to see public forums before decisions are made.
11. Stacey Gregg, 40 Sunrise Road (Wharton), said that she appreciates the Township Committee's desire to protect residents, however that is the job of the Police Department. Mrs. Gregg asked Chief Hennelly if he has ever been charged at by a bear. Chief Hennelly said that in his 30 year career, he has not been charged at by a bear. Mrs. Gregg opined that Governor-Elect Phil Murphy was elected partially due to his opposition to bear hunting. She also said that she has photographed bears. Mrs. Gregg also noted that there are methods to cull bears with birth control. She also said that bears shot from tree stands are baited, and the baiting process teaches bears to seek food in populated areas.
12. Michelle Higgins, 5 Jay Road, asked how long ago the incident happened in which a bear was reported charging down Van Houton Ave. Mayor Ritter said it was 4 years ago. Mrs. Higgins asked if the eyewitness was still a Township resident. Mayor Ritter said that she is. He also said that there are residents who support this ordinance, but they are afraid to attend the meeting and voice their support because those who oppose the ordinance will attack them on social media.
13. David Koch, 8 Long Hill Lane, spoke in favor of Ordinance 2017-17, and said that he would like to be able to hunt on his property.
14. Kathy Abbott, 40 Wynwood Road, said that it is important to have grassroots input regarding public safety, rather than having policies coming from the top down.
15. Ray Greeve said that he appreciates that the Township Committee wants to keep residents safe. He said that he has had bears in his yard, and they have been docile. Mr. Greeve said that accidental shootings is a concern, and he suggested that an education campaign be attempted as an initial step.
16. Donna Leyens said that the theme of the public comment has been that there are solutions available other than hunting, and hunting may create additional problems.
17. Jessica Romeo said that the Environmental Commission is conducting a joint-seminar on January 24<sup>th</sup> at the Library of the Chathams about cohabitating with wildlife. She also said that protection of public safety should be left to the Police Department.
18. Melissa Cavallone noted that she tries to be civil in her social media posts. She also suggested that the Township coordinate a sale of bear-proof trash receptacles at a price closer to wholesale.
19. Barbara Veeder thanked the Township Committee for their service, and said that it is inappropriate for the Committee to be mistreated on social media.
20. John Strelkoff, 544 Green Village Road, asked if the ordinance would allow hunting in public parkland. Chief Hennelly said it would only apply to private property. Mr. Strelkoff asked if this ordinance could be used as a precedence for target shooting on private property. Attorney Cruz said that the proposed ordinance is an exception to

the general rule prohibiting discharge of firearms to allow for bear and deer hunting. Mr. Strelkoff noted that accidental discharge and missed targets seem to be the main concern being raised. He suggested that the Township consider only allowing bow hunting. Mr. Strelkoff also noted that bears are wild animals, and they will lose their fear of humans. He said that hunting will not be an effective way to deal with bears, and other methods should be considered. Mr. Strelkoff also addressed comments on social media, and said that people need to be respectful of the Committee. Administrator Ciccarone said that when people post comments online, they should be mindful of the effect that those comments may have on the family members of the subjects of the comments.

21. Jane Devlin said that she does not post online, and there should not be an assumption that people who appear at meetings are the same people who post scathing comments online. Mrs. Devlin also said that if people post online, they should be civil and not hide behind anonymity.

Seeing no further comment, Mayor Ritter closed the Public Hearing.

Committeeman Selen said that during his recent electoral campaign, he did not hear anything about bears being a problem. Committeeman Selen also said that he could not find any facts to lead him to support this ordinance.

Committeeman Sullivan said that this topic has come up in the past, and Mayor Ritter has done a lot of work regarding bear safety education including two public presentations. He also said that he would like to have this ordinance as part of the Township Code in case the bear population becomes a problem in the future.

Deputy Mayor Swartz agreed with Committeeman Sullivan that this ordinance would be a precautionary measure. She also commented that a lot of hunting accidents are resulting from hunters falling out of their own tree stands. Deputy Mayor Swartz also noted that she supports hunting and fishing, and is a member of the NRA. She also said that the Township Committee has no higher calling than to protect residents, and the Township can reconsider this ordinance at a later time.

Committeeman Kelly said that he will be voting against Ordinance 2017-17, as it does not address an existing public safety need.

Mayor Ritter thanked the public for their input and said that he appreciates the comments from the Township Committee members. He also said that he is often asked what steps the Township is taking to protect children. Mayor Ritter said that this ordinance is designed to be proactive and have the means to deal with a bear population if it becomes a problem. He also said that bears are docile until they are not. Mayor Ritter also said that many people have contacted him expressing their support for this ordinance.

Committeeman Sullivan said that it is very rare that the Township Committee has people show up at meetings to show their support for ordinances, and they usually come out in opposition.

Committeeman Sullivan moved to adopt Ordinance 2017-17. Mayor Ritter seconded the motion.

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

#### Ordinance 2017-18

#### **ORDINANCE 2017-18**

#### **AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, ESTABLISHING ANNUAL SERVICE CHARGES FOR WATER POLLUTION CONTROL SYSTEM NO. 1.**

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

1. The annual service charges for the Water Pollution Control System No. 1, as set forth at Section 17-3.1a, Service Charges Established, of the Township Code, are hereby amended commencing January 1, 2018, as follows:

<i>Use</i>	<i>Annual Service Charge</i>
Single-family dwelling	
1. Without accessory office use	\$ 750.00
2. With accessory office	\$1,500.00
Church	\$ 330.00
All other uses (commercial and institutional)	\$7.00 per 100 cubic feet of water consumed (approximately 748 gallons). There shall be a minimum charge of \$750 annually.

Mayor Ritter opened the Public Hearing on Ordinance 2017-18. Seeing no public comment, Mayor Ritter closed the Public Hearing.

Committeeman Sullivan moved to adopt Ordinance 2017-18. Committeeman Selen seconded the motion.

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

Ordinance 2017-19

**ORDINANCE 2017-19  
AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, ESTABLISHING ANNUAL SERVICE CHARGES FOR WATER POLLUTION CONTROL SYSTEM NO. 2.**

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

2. The annual service charges for the Water Pollution Control System No. 2, as set forth at Section 17-5.1, Service Charges Established, of the Township Code, are hereby amended commencing January 1, 2018, as follows:
  - a. The owner of every property connected to Water Pollution Control System No. 2 (a self-liquidating municipal public utility established by Ordinance 2-84 entitled "An Ordinance of the Township of Chatham, in the County of Morris, New Jersey, Providing for the Operation and Maintenance of Water Pollution Control System No. 2 as Self-liquidating Municipal Utility" adopted on March 1, 1984) shall pay an annual service charge in accordance with the following schedule:

<i>Use</i>	<i>Annual Service Charge</i>
Manor house or townhouse	\$610.00

2. This Ordinance shall take effect as provided by law.

Mayor Ritter opened the Public Hearing on Ordinance 2017-19. Seeing no public comment, Mayor Ritter closed the Public Hearing.

Committeeman Kelly moved to adopt Ordinance 2017-19. Committeeman Selen seconded the motion.

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

**Consent Agenda**

**RESOLUTION 2017-200  
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 \$1,274,456.48 and the prior month's payroll of \$400,677.29 Current Fund, \$45,015.88 Sewer No. 1, \$10,264.22 Sewer No. 2, and \$22,878.52 Police Private Employment be paid.

**BE IT FURTHER RESOLVED** that taxes due to the School District of the Chathams, for the month of December 2017, in the amount of \$3,831,791.00 be paid.

**BE IT FURTHER RESOLVED** that taxes due to the County of Morris, for Added and Omitted Taxes for 2017, in the amount of \$73,654.15 be paid.

**RESOLUTION 2017-201  
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:

Construction Official – November  
CFO – October, November  
Police Department – October

**RESOLUTION 2017-202  
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 November 8, 2017.

**RESOLUTION 2017-203  
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP  
OF CHATHAM APPROVING EXECUTIVE SESSION MINUTES OF MEETINGS**

**BE IT RESOLVED** that the Township Committee of the Township of Chatham acknowledges receipt of and approves Executive Session minutes of the Township Committee meeting held on November 8, 2017.

**RESOLUTION 2017-204  
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>
Lancor Construction Attn: Gordon Gutjahr 180 Post Kunhardt Road Bernardsville, NJ 07924	BOH 10-140-4.02	7760011310	\$71.81
Chatham Day School 700 Shunpike Road Chatham, NJ 07928	BOA 15-135-1&9	7763179792	\$76.50
Jean Earle 37 Rose Terrace Chatham, NJ 07928	EIF 17-92-8	7764128368	\$131.27
KJB Builders LLC 433 E. Dudley Ave Westfield, NJ 07090	BOA 16-140-2.02 Re: 7 Loantaka Lane N	7764128318	\$47.50
Robert Ardolino			

49 Townsend Drive Florham Park, NJ 07932	TCC 09-93-5	7760011270	\$565.00
Ronald Gunn 41 Fairview Ave Madison, NJ 07940	PLANBD 14-9-1	7761693535	\$40.76
Rivermount Development, LLC c/o Robert Ahrens 74 Walker Road West Orange, NJ 07052	ROI 08-39-63 Re: 820 Fairmount Ave	7760011215	\$355.55
Rivermount Development, LLC c/o Robert Ahrens 74 Walker Road West Orange, NJ 07052	ROI 07-39-65 Re: 692 River Rd	7760011188	\$600.00

**RESOLUTION 2017-205**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, DESIGNATING A \$2,000,000 BOND ANTICIPATION NOTE, DATED NOVEMBER 15, 2017 AND PAYABLE JULY 11, 2018, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED**

**WHEREAS**, the Township of Chatham, in the County of Morris, New Jersey (the "Township"), intends to issue a \$2,000,000 Bond Anticipation Note, dated November 15, 2017 and payable July 11, 2018 (the "Note"); and

**WHEREAS**, the Township desires to designate the Note as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code");

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

**SECTION 1.** The Note is hereby designated as a "qualified tax-exempt obligation" for the purpose of Section 265(b)(3) of the Code.

**SECTION 2.** It is hereby determined and stated that (1) the Note is not a "private activity bond" as defined in the Code and (2) the Township and its subordinate entities, if any, do not reasonably anticipate issuing in excess of \$10 million of new money tax-exempt obligations (other than private activity bonds) during the calendar year 2017.

**SECTION 3.** It is further determined and stated that the Township has, as of the date hereof, issued the following tax-exempt obligations (other than the Note) during the calendar year 2017, viz:

<u>Amount</u>	<u>Dated - Due</u>
\$9,181,750 BANS	7/13/17 - 7/11/18

**SECTION 4.** The Township will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b)(3) of the Code; however, the Township does not covenant to do so, and hereby expressly states that a covenant is not made hereby.

**SECTION 5.** The issuing officers of the Township are hereby authorized to deliver a certified copy of this resolution to the original purchaser of the Note and to further provide such original purchaser with a certificate of obligations issued during the calendar year 2017 dated as of the date of delivery of the Note.

**SECTION 6.** This resolution shall take effect immediately upon its adoption.

**RESOLUTION 2017-206**

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

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

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

**WHEREAS**, Top Line Construction has deposited funds in an escrow account for such employment; and

**WHEREAS**, after expenses the account has a remaining balance of \$1,560.00 to be refunded;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the Treasurer of the Township of Chatham is hereby authorized to refund from the Third-Party Police Services Escrow Account to Top Line Construction the sum of \$1560.00; and

**RESOLUTION 2017-207**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE TOWNSHIP OF MILLBURN FOR ANIMAL CONTROL SERVICES**

**WHEREAS**, the Township of Chatham desires to enter into an Interlocal Services Agreement, copy of which is attached hereto, for animal control services from the Township of Millburn; and

**WHEREAS**, the Agreement is in full compliance with the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq; and

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham, in the County of Morris and State of New Jersey, that the Township Committee of the Township of Chatham hereby approves the Interlocal Services Agreement with the Township of Millburn for animal control services; and

**BE IT FURTHER RESOLVED** that this agreement shall be effective as of January 1, 2018 and extend for a period of two years or until such time as the Township notifies the Township of Millburn in writing, 60 days in advance, of the date the Township no longer requires these services; and

**BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to sign the attached Agreement; and

**BE IT FINALLY RESOLVED** that a copy of the Resolution and the Agreement for Interlocal Services be sent to the Township of Millburn for their approval and signature.

This Resolution shall take effect immediately.

**RESOLUTION 2017-208**

**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 2017 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	\$ 8,000	
General Engineering	\$30,000	
Group Insurance	\$40,000	
Buildings & Grounds OE	\$10,000	
Vehicle Maintenance	\$10,000	
Animal Control	\$ 500	
Colony S&W		\$40,000
Recreation OE		\$15,000
Road Repairs OE		\$20,000
Zoning Board OE		\$7,500
Township Committee S&W		\$6,000
Police OE		\$10,000
 Current Fund Total	 \$98,500	 \$98,500

**RESOLUTION 2017-209**

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

**WHEREAS**, an overpayment of property taxes has been made for the following properties; and

**WHEREAS**, the Tax Collector has recommended the refund of such overpayment,

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham that the following refunds be made:

<b>BLOCK</b>	<b>LOT</b>	<b>NAME &amp; ADDRESS</b>	<b>AMOUNT</b>
6	1	Borges, Francis & Alvarine, Syiem	\$2,120.92

	900 River Road Chatham, NJ 07928	3 <sup>rd</sup> Quarter 2017  Overpayment of Taxes
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**RESOLUTION 2017-210**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM,**  
**COUNTY OF MORRIS, STATE OF NEW JERSEY, CANCELLATION OF STALE DATED**  
**CHECKS**

**WHEREAS**, there exist various reconciling items on the balance sheet of the Current Fund and Payroll; and

**WHEREAS**, the funds creating these reconciling items have been investigated and it has been determined that these reconciling items should be cancelled; and

**WHEREAS**, these cancelled funds will be returned to their respective funds and or accounts;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the following reconciling items are hereby cancelled:

<u>Current Fund</u>		
<u>Check #</u>	<u>\$ Amount</u>	<u>Date</u>
35339	\$9.90	01/19/17
	<u>\$9.90</u>	
<u>Payroll</u>		
<u>Check #</u>	<u>\$ Amount</u>	<u>Date</u>
61273	\$454.06	08/30/16
	<u>\$454.06</u>	

**RESOLUTION 2017-211**  
**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, 2016 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 State Aid Receivable	
Municipal Alliance Program DEDR	\$182.32
Current Fund Appropriation	
Matching Funds for Grants	
-Municipal Alliance Program	\$490.88

**RESOLUTION 2017-212**  
**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM,**  
**COUNTY OF MORRIS, STATE OF NEW JERSEY AUTHORIZING TAX FORECLOSURE ON**  
**CERTAIN PROPERTIES AS SET FORTH ON THE TAX FORECLOSURE LIST OF THE TAX**  
**COLLECTOR DATED NOVEMBER 1, 2013**

**WHEREAS**, N.J.S.A. 54:5-104.35 provides the authority for the governing body to proceed with the "In Rem" Foreclosure process, on those municipally held tax sale certificates held for more than six months from the date of Tax Sale.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the Township Attorney is hereby authorized to proceed with "In Rem" foreclosure, by filing a copy of the complaint in the offices of the Tax Collector, County Clerk, and the Attorney General of the State of New Jersey, and to undertake such other actions as may be necessary to complete such foreclosure, for those properties appearing on the attached Tax Foreclosure List as prepared and certified by the Tax Collector dated November 1, 2013, those properties being specifically designated as Block 2, Lot 5; Block 14, Lot 48.01; Block 15, Lot 1; Block 16, Lot 70; Block 62, Lot 71; and Block 138, Lot 4

**BE IT FURTHER RESOLVED**, that a certified copy of this Resolution be forwarded to the Tax Collector and the Township Attorney.

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

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

**Hearing of Citizens/Petitions**

Mayor Ritter opened the Hearing of Citizens.

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

Committeeman Selen moved to adjourn at 11:57 AM. Deputy Mayor Swartz seconded the motion, which carried unanimously.

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Gregory J. LaConte  
Municipal Clerk