

**MINUTES
TOWNSHIP COMMITTEE
REGULAR MEETING
OCTOBER 8, 2020**

Mayor Kelly called the Regular Meeting of the Township Committee of the Township of Chatham to order at 6:30 P.M.

Adequate Notice of this meeting of the Township Committee was given as required by the Open Public Meetings Act as follows: Notice was given to both *The Chatham Courier* and the *Morris County Daily Record* on June 12, 2020; notice was posted on the bulletin board in the main hallway of the Municipal Building on June 12, 2020; and notice was filed with the Township Clerk on June 12, 2020.

Pursuant to Executive Orders Nos. 102, 103, 104 and 107 and to ensure the safety of all, during a State of Emergency declared by New Jersey Governor, Phil Murphy, on March 9, 2020 to “contain the spread of COVID-19”, the Township of Chatham limited the public from physically attending the Township Committee meeting to be held on Thursday, October 8, 2020.

Roll Call

Answering present to the roll call were Committeewoman Ewald, Committeewoman Fondaco, Deputy Mayor Ness and Mayor Kelly. Committeewoman Swartz was absent.

Committeewoman Ewald and Committeewoman Fondaco participated in the meeting via Zoom.

Approval of Agenda

Committeewoman Ewald moved to approve the Agenda. Deputy Mayor Ness seconded the motion, and the motion carried.

Executive Session

RESOLUTION 2020-P-27

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

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

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

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

1. The public shall be excluded from discussion of the specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:
 - a. Personnel Matter – Police
 - b. Collective Bargaining Negotiations – PBA
 - c. Litigation - In the Matter of the Township of Chatham for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan Docket No. MRS-L-1659-15
 - d. Litigation-Kronos Holdings, LLC v. Township of Chatham et als. Docket No. MRS-L-2024-20
3. It is anticipated that the minutes on the subject matter of the Executive Session will be made public upon conclusion of the matter under discussion; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and 4-13.
4. The Committee will come back into Regular Session and may take further action.
5. This Resolution shall take effect immediately.

Mayor Kelly announced that the Township Committee will return to Public Session at 7:30 PM. Attorney Cruz noted that the same Zoom Meeting information will be used for the 7:30 PM public session.

Deputy Mayor Ness moved to adopt Resolution 2020-P-27 to enter Executive Session at 6:32 P.M. Committeewoman Ewald seconded the motion.

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

The Township Committee returned to Public Session at 7:32 PM.

Mayor Kelly addressed the procedure for the public to participate in public hearings.

Mayor Kelly led the Flag Salute.

Proclamation – Breast Cancer Awareness Month

Mayor Kelly noted that it is currently National Fire Prevention Week, and noted the Township Committee's appreciation of the local volunteer fire fighters.

Committeewoman Ewald stated that she is a breast cancer survivor. She encouraged residents to get regular cancer screenings.

Committeewoman Ewald read aloud the attached proclamation for Breast Cancer Awareness Month.

Committeewoman Ewald moved to adopt the proclamation. Committeewoman Fondaco seconded the motion, which carried unanimously.

Administrator Hoffmann noted that breast cancer can happen at any age.

Reports

Committeewoman Ewald reported that the Board of Health will be meeting on October 13th. She noted that trick-or-treating guidance from the NJ Department of Health has been posted online, and Committeewoman Ewald provided a summary of the guidelines. Committeewoman Ewald further reported that the Planning Board will be conducting a review of the Circulation Plan Element and Open Space Element of the Master Plan. The Flu Clinic is being held on October 22nd at the Municipal Building and appointments are required.

Committeewoman Fondaco reported that the Environmental Commission passed a resolution encouraging the designation by State and Federal agencies of the Monarch Butterfly as an endangered species. The Environmental Commission is also seeking a grant from the NJDOT for electric car charging stations.

Deputy Mayor Ness reported that Judge Troxell is retiring, and interviews have been conducted for a new Joint Municipal Court Judge. The Joint Municipal Court Committee has recommended the appointment of Judge Blumenthal, who also serves in South Orange, Union Township, Kenilworth, Springfield and Passaic. Deputy Mayor Ness also commented that the Joint Municipal Court has been held up as a model of a well run shared service for a municipal court. Deputy Mayor Ness further reported that the Joint Recreation Committee met recently, and things are going well with youth sports. Reminders have been sent out to parents and coaches about social distancing and wearing masks. Guidance regarding winter sports is being sought from the NJSIAA. The roof leaks in the Wrestling Room at the Municipal Building have been repaired. Regarding Fire Prevention Week, Deputy Mayor Ness reminded residents to change batteries in smoke detectors, check fire extinguishers and have chimneys cleaned. Deputy Mayor Ness further reported that the Colony Pool Committee met, and the number of memberships in 2020 were 342 in-town members and 49 out-of-town members. In 2019 there were 362 in-town members and 33 out-of-town members. Revenue in 2020 was \$95,250 compared to \$131,585 in 2019. The Colony Pool Committee is looking into ways to further improve the facility. Deputy Mayor Ness further reported that the new Township Website has gone live, and was developed by Township staff member Ashley Osieja. The Township Clerk indicated that several of the photos on the new website were taken by Tom Salvas.

Mayor Kelly provided an update on Affordable Housing. He reviewed the mechanisms that are being used to meet the Township's Third Round Obligation, which includes 62 units to be built at 522 Southern Boulevard. Mayor Kelly said that on this meeting's agenda there is a public hearing and final adoption of Ordinance 2020-17 to approve the Redevelopment Plan for 522 Southern Boulevard. A Reasons Resolution is needed to adopt the ordinance because the Planning Board deemed it to be inconsistent with the Master Plan. Mayor Kelly further gave an update on Englewood Cliffs loss of Builder's Remedy litigation immunity, and other adverse impacts from their choice to litigate rather than comply. Mayor Kelly stated that the Township Committee anticipates selecting a developer for Affordable Housing at the next meeting on October 22nd. Mayor Kelly also commented on the Township's steps to acquire the property. He also indicated that the Silverman Group has not responded to the Township's request for a public presentation for their plans for the Noe Pond Club, and they also did not submit an RFP for the development of Affordable Housing at 522 Southern Boulevard.

The Township Clerk reminded the public that the upcoming General Election is being conducted by Vote By Mail Ballot, and he cited the methods available to return ballots. Voting in person is only by provisional ballot, and the Township Clerk noted that provisional ballots are not counted until after all the mail-in ballots are counted. It was noted that the voter registration deadline is October 13th.

Engineer Ruschke reported that several ordinances are required to comply with the State's stormwater permitting regulations, which will be on the October 22nd agenda for introduction. Engineer Ruschke also said that the NJDOT has announced that they are accepting applications for TAP Grants, and he provided examples of TAP Grants that the Township has received in the past for sidewalks. He also described a potential sidewalk project for Southern Boulevard from River Road to Fairmount Avenue, and another on Fairmount Avenue from the two access points to Runnymede Road. The consensus of the Township Committee was to move forward with the Southern Boulevard sidewalk, to be formally approved at the next meeting.

Administrator Hoffmann thanked Ashley Osieja for all the work she has done building the new Township website. He also noted the new Water Pollution Control page on the website, and invited residents to view the information on that page. Administrator Hoffmann further thanked Tom Salvas for the photos he contributed. Administrator Hoffmann further noted that Resolution 2020-217 on the Consent Agenda to authorize a new phone system. He also reported that Resolutions 2020-218 and 2020-219 authorize additional savings to the Township from a street lighting and a fire hydrant audit. Administrator Hoffmann further noted that Resolution 2020-221 approves a memorandum of understanding with the PBA for contract renewal terms.

Mayor Kelly asked about JCP&L's tree trimming project. Administrator Hoffmann said that there are fewer trees to be removed than JCP&L first thought, and he will try to get an updated list for the next meeting. Deputy Mayor Ness asked about the monopole project. Engineer Ruschke said that the Zoning Board of Adjustment has granted approval for the project, and the NJDEP permit is still pending.

Hearing of Citizens

Mayor Kelly reviewed the procedures for participation in the Hearing of Citizens.

Mayor Kelly opened the Hearing of Citizens.

1. Kim Visentini, Glenmere Drive, asked if the Township has a flyer available for residents to post on mailboxes that trick-or-treaters are welcome. She also expressed her support for the Township's efforts to acquire the Charlie Brown's site for Affordable Housing.

Administrator Hoffmann asked Mrs. Visentini to send him what she had in mind for a flyer, and the Township could make it available to residents so long as it does not contain anything inappropriate or offensive.

2. Nicole Hagner, River Road, said that a sidewalk assessment had been prepared in the past, and she offered to drop off her copy for the Township Committee to review. She also said that there were not any documents available on the Township website for this meeting.

3. Beth McNaughton, Yarmouth Road, expressed her support for the Township's efforts to acquire 522 Southern Boulevard, and said she understands why the Township has to move forward with Affordable Housing compliance.
4. Stacey Wilson, Woodmont Drive, expressed her support for the Township's efforts to acquire 522 Southern Boulevard.
5. Genevieve Castelino, Ormont Road, congratulated the Township on the new website. She asked where the Dixiedale project would fit in to a situation like what Englewood Cliffs is facing for Affordable Housing.

Attorney Cruz said that the Dixiedale Development and the Skate Park Development are two parts of an inclusionary development. The Planning Board has approved these developments. Attorney Cruz stated that the Fair Share Housing Center challenged the approvals, and the lawsuit will be dismissed with prejudice as part of the amended Settlement Agreement. Due to the Settlement Agreement, the Dixiedale Property will not be under any more development threat than what was already approved.

Mayor Kelly reiterated that Judge Gaus ruled that the Township's Affordable Housing Plan is fair to low- to moderate-income families. He also said that Englewood Cliffs was taken to task for failing to work towards compliance with their Constitutional obligation.

6. Meredith Mintz, Gates Road, expressed her support for the Township's efforts to acquire 522 Southern Boulevard.
7. Dan Simonetti, Rolling Hill Drive, expressed his support for the Township's efforts to acquire 522 Southern Boulevard, noting that the property is for sale and nobody will be displaced by the redevelopment. He also said that the Township should continue to work to avoid a Builder's Remedy Lawsuit.
8. Stephanie Ryan, Southward Court, expressed her support for the Township's efforts to acquire 522 Southern Boulevard.
9. Chris Tully, Robert Drive, expressed his support for the Township's efforts to acquire 522 Southern Boulevard. He also warned that if the Township is unable to acquire the site, the Township will lose any flexibility in addressing Affordable Housing.

Mayor Kelly restated that the Township has invited the Silverman Group to present to the Township Committee. He also said that the Township's Affordable Housing Plan was ruled fair and reasonable, and the Township Committee plans to move forward with that plan.

10. Sally Simonfay, Westminster Road, expressed her support for the Township's efforts to acquire 522 Southern Boulevard for Affordable Housing. She also asked the Township Committee to help residents to preserve the Noe Pond Club site, and she commented on the history of the site.

Deputy Mayor Ness agreed that it is unfortunate that a historic site is being considered for development. She also reiterated that the Township Committee is moving forward with the current Affordable Housing Plan.

11. Dan Lin, Conger Terrace, supported the Township's effort to acquire 522 Southern Boulevard and avoid a Builder's Remedy Lawsuit.
12. Jen McNally, Ferndale Road, expressed support of using eminent domain to acquire 522 Southern Boulevard, and stressed the importance of the Township retaining control over zoning regulations.
13. Frances Orabona, Whitman Drive, expressed her support for the Township's efforts to acquire 522 Southern Boulevard. She noted her concern about what would happen if the Township lost immunity to Builder's Remedy Lawsuits, and how many units could be built at the Noe Pond Club if immunity were lost.

14. Lauren Carlson, Hampton Road, expressed her support for the Township's efforts to acquire 522 Southern Boulevard. She said that the property will be developed whether acquired by the Township or a private developer.
 15. Tim Maloney, Rolling Hill Drive, offered his support for the Township's acquisition of 522 Southern Boulevard for Affordable housing.
 16. Sharon Roche, Green Village Road, noted that she lives near the Charlie Brown's site, and said that she supports the Township's acquisition of the site for Affordable Housing.
 17. Lauren Petersen, Shunpike Road, expressed her support for the Township's efforts to acquire 522 Southern Boulevard. She also raised a concern about the potential environmental impact of development of the Noe Pond Club site. Mrs. Petersen also noted that the For Sale sign at Charlie Brown's now has an Under Contract addendum.
- Mayor Kelly noted that the Silverman Group is the contract purchaser of 522 Southern Boulevard.
18. Corey Kaplan, Glenmere Drive, expressed his support for the Township's acquisition of 522 Southern Boulevard for Affordable housing. He said that it is the least disruptive Affordable Housing solution put forward thus far.
 19. Sally Allen, Old Farm Road, thanked the Township Committee for the work they have done regarding Affordable Housing, and expressed her support for the Township's acquisition of 522 Southern Boulevard for Affordable housing. Mrs. Allen also said that she and her husband opted to raise their children in Chatham Township because of Noe Pond, and she expressed a desire to see the site preserved.
 20. Shaun and Amy Ewing, Southern Boulevard, expressed their support for the Township's efforts to acquire 522 Southern Boulevard for Affordable Housing. He also warned residents to consider the impact of development of the potential development of Noe Pond.
 21. Mark Hamilton, Highland Avenue, congratulated the Township Committee on selecting 522 Southern Boulevard as an appropriate site for Affordable Housing. He agreed with Mayor Kelly that condemnation should be avoided if possible, but the Township should still move forward with that option if needed. Mr. Hamilton said that there seems to be misinformation being spread that the Township's purchase of 522 Southern Boulevard will result in Noe Pond Club being preserved. Mr. Hamilton also asked if Judge Gaus will formally approve the ruling regarding the Township's Fair Share Plan and dismiss with prejudice the litigation with the Fair Share Housing Center.

Deputy Mayor Ness said that the process was difficult, and stated that the Township Committee spent a lot of time seeking the best site possible. Regarding Noe Pond Club, Deputy Mayor Ness stated that it was revealed at the recent Court hearing that the Silverman Group is the contract purchaser for both sites, and it is not known what they plan to do with either site.

Attorney Cruz stated that Affordable Housing Litigation is settled in two parts. The first part, which occurred on September 24th, is a Fairness and Preliminary Compliance Hearing. The second part is a Final Compliance Hearing, and the Township's hearing is scheduled for December 14th. Regarding the Dixiedale challenge, Attorney Cruz stated that upon approval of the Settlement Agreement, that litigation will be dismissed with prejudice unless the Judge sets that agreement aside.

Committeewoman Ewald said that the Township has put protection of the immunity from Builder's Remedy Lawsuits at the forefront, and the Township Committee wants to protect control over zoning regulations.

22. Phil Ankel, Jay Road, commended the Township Committee for finding a way to keep Colony Pool safely open in 2020. He also commended the Township Committee on not losing sight of the importance of preserving immunity from Builder's Remedy Lawsuits. Mr. Ankel commented on the threat that developers pose when a municipality loses control over zoning regulations.

Mayor Kelly said it would have been easy to keep Colony Pool closed in 2020, and he recognized the efforts of Deputy Mayor Ness and Administrator Hoffmann for the work they did to ensure that Colony Pool could open. Administrator Hoffmann recognized the efforts of Colony Pool Manager Lauren Hauser for her work on the reopening plan, and he noted that nobody got sick at Colony Pool this year.

23. Fran Leff, Joseph Street, said that she hopes residents in other neighborhoods understand the challenges faced by the Sunset Lake neighborhood. Mrs. Leff asked what kind of environmental impact studies regarding development of 522 Southern Boulevard will be conducted. She also asked if there is a timeline available regarding the development that can be provided to the Sunset Lake neighborhood.

Mayor Kelly stated that the environmental impact study will be part of the Planning Board application process. He noted that the Dixiedale and Arbor Green applications took the better part of a year to be completed. Mayor Kelly also noted that there will be a series of public hearings on matters related to the redevelopment of 522 Southern Boulevard. He said that the Township Committee does not have a full schedule at this time, but it will be made public when available.

24. Bob Higgins, Jay Road, asked if there is anything that the Silverman Group could do to derail the Township's Fair Share Plan now that it has been approved by Judge Gaus. He also asked if the closure of Noe Pond Club creates an opportunity to make a greater investment in Colony Pool.

Mayor Kelly said it would be speculative to guess what the Silverman Group might try to do to derail the Township's Affordable Housing compliance efforts. Attorney Cruz advised that it would not be wise to engage in such speculation. Deputy Mayor Ness said that the Township Committee does not want to see Noe Pond Club cease to operate. She also stated that perhaps the closure of Noe Pond Club will create an opportunity to bring paddle ball back to Colony Pool.

25. Peter Flynn, Williams Road, expressed his support for the Township moving forward with developing Affordable Housing at 522 Southern Boulevard. Regarding the Noe Pond Club, Mr. Flynn acknowledged that the site is privately owned and the property owners have every right to sell the land. Mr. Flynn recommended that the Township Committee consider purchasing Noe Pond to preserve the land as open space.

26. Rachel Welz, Shunpike Road, thanked the Township for opening Colony Pool in 2020. She also said that she was saddened to hear that Noe Pond Club is closing. Mrs. Welz also said that she supports the Township Committee's decision to move forward with acquiring 522 Southern Boulevard.

27. Rich Rein, Rolling Hill Drive, asked what the Township needs to accomplish by the end of the year to demonstrate Affordable Housing compliance. He also said that potential litigation regarding 522 Southern Boulevard could drag out for some time. Mr. Rein also addressed Mrs. Leff's comments, and said that a full environmental study for development of 522 Southern Boulevard would be expected from any developer. Mr. Rein further said that it would be naïve to think that the Charlie Brown's property and Noe Pond Club property will not become linked if there is a Builder's Remedy Lawsuit.

Attorney Cruz said that the Settlement Agreement sets out an expeditious schedule that the Township must follow, and there will be a Final Compliance Hearing on December 14th. Attorney Cruz also stated that the Township could be eligible for conditional approval contingent upon the acquisition of 522 Southern Boulevard. He further stated that the Township is required to keep the Special Master, the Fair Share Housing Center and Judge Gaus updated on progress toward compliance. Attorney Cruz also provided an outline on the condemnation process. He also indicated that the Township is at the stage of having made an offer to the owners of 522 Southern Boulevard in the amount of the appraised fair market value for the property.

28. Stewart Carr, Crestwood Drive, said that he supports use of condemnation for the acquisition of 522 Southern Boulevard. Mr. Carr asked what recourse the property owner would have to block the condemnation process. Mayor Kelly said that the Township

Committee should not answer that question. Mr. Carr asked if there would not be any recourse for the owner of Noe Pond Club to file a Builder’s Remedy Lawsuit. Mayor Kelly said that the owner of the property should ask that question of their own attorney rather than have the Township Attorney provide an answer.

- 29. Amee Shah, Country Club Drive, commended the Township Committee on working to comply with the Settlement Agreement and compliance with the Affordable Housing obligation. Mrs. Shah noted the importance of preserving immunity from Builder’s Remedy Lawsuits. She further stated that she hopes that resident concerns regarding 522 Southern Boulevard will be heard.
- 30. Emily Conlin, Chatham Street, expressed support for the Township’s acquisition of 52 Southern Boulevard for Affordable Housing. She also expressed interest in seeing Noe Pond preserved.
- 31. Beth Loggains, Dale Drive, expressed support for the Township’s acquisition of 52 Southern Boulevard for Affordable Housing.

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

Public Hearing/Final Adoption of Ordinances

Attorney Cruz noted that Kronos Holding LLC has filed a lawsuit against the Township, and he was asked by their attorney if he would accept service of the complaint. Attorney Cruz said that normally the municipal clerk would accept service, and he asked if the Township Committee would authorize his to accept service. As it was the consensus of the Township Committee authorize Attorney Cruz to accept service of this lawsuit, Mayor Kelly directed him to do so.

Ordinance 2020-17

ORDINANCE 2020-17
AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, ADOPTING THE REDEVELOPMENT PLAN FOR 522 SOUTHERN BOULEVARD, BLOCK 128, LOT 2 ON THE TOWNSHIP TAX MAP

WHEREAS, the Township of Chatham has a constitutional obligation to provide for the realistic development of affordable housing; and

WHEREAS, the Township endorsed the 2020 Housing Element and Fair Share Plan on August 13, 2020 identifying 522 Southern Boulevard, Block 128, Lot 2 (“Property”) as appropriate for a 100% municipally sponsored family rental affordable housing development; and

WHEREAS, the Township Committee wishes to prepare a “mini-master plan” for the Property and to provide bulk standards; namely, height, front, side and rear yard set-backs and design and parking criteria for the Property through the adoption of a Redevelopment Plan for the Property.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that the attached Redevelopment Plan for the Property, dated August, 2020, prepared with assistance from Banisch Associates, Inc., be adopted.

Section 1. This Ordinance and Redevelopment Plan repeals, replaces and supersedes the existing or underlying zoning for the Property.

Section 2. The Redevelopment Plan for the Property is adopted as attached.

Section 3. The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Morris County Planning Board and to all other persons or entities entitled to notice, including to the Clerk of adjoining municipalities, to the last owner of the property and all persons at their last known address, if any, whose names are noted on the assessment records as claimants of an interest in the Property. The Township Clerk shall execute Affidavits of Proof of Service of the notices required by this Section 3, and shall keep the Affidavits on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

Section 4. After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Chatham for its review in accordance with N.J.S.A. 40A:12A-7e. The Planning Board is directed pursuant to N.J.S.A. 40A:12A-7d to transmit to the Township Committee, within forty-five (45) days after referral, a report finding that the Redevelopment Plan shall be substantially consistent with the Township Master Plan or designed to effectuate the Master Plan or that the Redevelopment Plan is substantially inconsistent with the Township Master Plan or not designed to effectuate the Master Plan.

Section 5. 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 6. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 7. This Ordinance shall take effect immediately upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing of the final form of adopted Ordinance by the Township Clerk with the Morris County Planning Board pursuant to N.J.S.A. 40:55D-16.

Attorney Cruz noted that Ordinance 2020-17 was introduced to replace Ordinance 2020-16, which was not adopted. He noted that both ordinances have been available for public viewing on the Chatham Township website. Attorney Cruz stated that the Planning Board conducted a Master Plan Consistency Review regarding Ordinance 2020-17, and the Township Committee has jurisdiction to move forward with adoption. As the subject property is zoned for commercial use rather than residential use, the Ordinance was deemed inconsistent with the Master Plan. However, the Planning board recommended that Ordinance 2020-17 be adopted because it advances the goals of the Master Plan. The Planning Board further recommended that the Township Committee consider allowing a mixed use at the site. Attorney Cruz stated that a Reasons Resolution will need to be adopted before the Township Committee can adopt Ordinance 2020-17. He also noted that the Reasons Resolution does not adopt the Planning Board's recommendation for mixed use zoning at the site.

Mayor Kelly opened the Public Hearing on Ordinance 2020-17.
Seeing no public comment, Mayor Kelly closed the Public Hearing.

RESOLUTION 2020-213
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM,
COUNTY OF MORRIS, STATE OF NEW JERSEY, STATING THE REASONS FOR
ENACTING ORDINANCE NO. 2020-17 ADOPTING A REDEVELOPMENT PLAN FOR 522
SOUTHERN BOULEVARD, BLOCK 128, LOT 2 ON THE TOWNSHIP TAX MAP

WHEREAS, on September 24, 2020, the Township Committee of the Township of Chatham introduced Ordinance 2020-17, titled "An Ordinance of the Township of Chatham, County of Morris, State of New Jersey, Adopting the Redevelopment Plan for 522 Southern Boulevard, Block 128, Lot 2 on the Township Tax Map"; and

WHEREAS, the Township Committee referred Ordinance 2020-17 to the Planning Board for statutory review pursuant to N.J.S.A. 40A:12A-7(e); and

WHEREAS, the Planning Board determined that Ordinance 2020-17 was inconsistent with the 2011 Land Use Plan ("2011 LUP") because the Redevelopment Plan provides for a 100% municipally sponsored affordable housing multi-family rental development which is not a permitted use in the B-1 District; and

WHEREAS, despite the inconsistency, the Planning Board found that Ordinance 2020-17 advances the affordable housing objectives of the 2011 LUP to "[p]reserve the desirability of the community and its neighborhoods by managing the scale of new and expanded buildings and alternatives to their landscapes" and to "[p]romote a balance of housing types for all segments of the population"; and

WHEREAS, the Planning Board found that a 100% municipally sponsored affordable housing multi-family rental development, while inconsistent with the 2011 LUP, advanced the goals of the 2020 Housing Element and Fair Share Plan and the July 23, 2020 Affordable Housing Amended Settlement Agreement, and assists the Township in meeting its constitutionally mandated fair share obligation with the creation of a 100% municipally sponsored affordable housing multi-family rental development; and

WHEREAS, the Planning Board also recommended that, subject to a three (3) story height limitation, a mixed-use development (rather than an entirely residential development) including retail or other commercial use should be permitted, because such uses are already permitted in the B-1 District and inclusion of these uses will improve consistency with the 2011 LUP; and

WHEREAS, on October 5, 2020, the Planning Board made the above findings at a public meeting based upon the advice and opinions of the Board Planner, including a Memorandum, dated October 1, 2020, as revised during the October 5, 2020 Planning Board hearing, attached as Exhibit B to the Planning Board's Resolution; and

WHEREAS, notwithstanding the above findings, the Planning Board recommended adoption of Ordinance 2020-17 because it advances the objectives of the 2011 LUP and advances the goals in the 2020 Housing Element and Fair Share Plan and the July 23, 2020 Affordable Housing Amended Settlement Agreement; and

WHEREAS, the Township Committee concurs with the findings of the Planning Board that Ordinance 2020-17 advances the goals of the 2011 LUP to preserve the desirability of the community and its neighborhoods because of the proximity of the proposed development to the Township's commercial center; Ordinance 2020-17 promotes a balance of housing types for all segments of the population because it fosters the creation of affordable housing and because Ordinance 2020-17

advances the goals in the 2020 Housing Element and Fair Share Plan and the July 23, 2020 Affordable Housing Amended Settlement Agreement; and

WHEREAS, the Township Committee does not concur with the Planning Board recommendation that the Redevelopment Plan should provide for retail or other commercial uses because 522 Southern Boulevard would be solely acquired by the Township for a 100% municipally sponsored affordable housing multi-family rental development and not retail or other commercial uses pursuant to N.J.S.A. 52:27D-325.

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

1. The Township Committee hereby acknowledges receipt of and review of the October 5, 2020 Planning Board Resolution and Exhibit B to that Resolution, the Planner's Memorandum, dated October 1, 2020, as revised during the October 5, 2020 Planning Board hearing.
2. Pursuant to N.J.S.A. 40A:12A-7(e) approves of the Planning Board recommendation that Ordinance 2020-17 advances the goals of the 2011 LUP, the 2020 Housing Element and Fair Share Plan and the July 23, 2020 Affordable Housing Settlement Agreement because Ordinance 2020-17 promotes affordable housing within the Township.
3. Pursuant to N.J.S.A. 40A:12A-7(e) disapproves of the Planning Board recommendation that Ordinance 2020-17 provide for retail or other commercial uses as permitted uses because 522 Southern Boulevard will solely be acquired for a 100% municipally sponsored affordable housing multi-family rental development pursuant to N.J.S.A. 52:27D-325.
4. The reasons stated in this Resolution serve as a sufficient basis to enact Ordinance 2020-17 despite the inconsistency with the 2011 LUP and the Township Committee hereby adopts Ordinance 2020-17 for the reasons set forth herein.
5. This Resolution shall take effect immediately.

Committeewoman Ewald moved to adopt Resolution 2020-213. Committeewoman Fondaco seconded the motion.

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

Deputy Mayor Ness moved to adopt Ordinance 2020-17. Committeewoman Fondaco seconded the motion.

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

Consent Agenda

RESOLUTION 2020-214

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 \$815,189.44 and the prior month's payroll of \$443,124.96 Current Fund, \$46,351.98 Sewer No. 1, \$10,215.56 Sewer No. 2, and \$26,769.23 Police Private Employment be paid.

BE IT FURTHER RESOLVED that taxes due to the School District of the Chathams, for the month of October 2020, in the amount of \$3,270,037.00 be paid.

RESOLUTION 2020-215

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING MINUTES OF MEETINGS

BE IT RESOLVED that the Township Committee of the Township of Chatham acknowledges receipt of and approves the minutes of the Township Committee meeting held on September 24, 2020.

RESOLUTION 2020-216

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPROVING EXECUTIVE SESSION MINUTES OF MEETINGS

BE IT RESOLVED that the Township Committee of the Township of Chatham acknowledges receipt of and approves Executive Session minutes of the Township Committee meeting held on September 24, 2020.

RESOLUTION 2020-217
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM TO
AWARD A CONTRACT TO EXTELCOMMUNICATIONS, INC., FOR A NEW PHONE
SYSTEM FOR ALL TOWNSHIP BUILDINGS AND FACILITIES

WHEREAS, the Township of Chatham over the past eighteen (18) months has conducted an evaluation of the cost of its voice communications system, as well as the needs of the staff to more efficiently and effectively serve our residents and conduct the business of government in the future; and,

WHEREAS, the Township of Chatham solicited proposals for a new voice communication system including: telephones, voicemail, SIP trunks, POTS lines, as well as related technology products such as licenses and cabling when required to replace its current voice communication system which is twelve (12) years old; and

WHEREAS, the Township's long-term contracts for use of lines and minutes expired during the months of September and October making this the optimum time to evaluate voice communication needs; and,

WHEREAS, over the past year, eight (8) companies expressed an interest in providing the Township with proposals for voice communication services; and,

WHEREAS, companies were provided with information and invited to visit all Township facilities to verify the Township's data and inspect all locations so that well thought out proposals could be presented for evaluation; and,

WHEREAS, two (2) proposals were received and after review one (1) was deemed complete; and,

WHEREAS, EXTEL Communications, Inc., presented a proposal dated August 24, 2020 for a new voice communication system that will serve the needs of the Township now and in the future; and,

WHEREAS, it is estimated that the EXTEL Communications, Inc., will save the Township of Chatham \$20,600 per year or \$103,000 over the next five (5) years when compared to its current costs; and,

WHEREAS, the EXTEL Communications, Inc., proposal will increase the Township's communications ability and provide flexibility for future normal business and emergency needs; and,

WHEREAS, the EXTEL Communications, Inc., proposal has been made through the State Contract for Telecommunications Equipment and Services Blanket Contract T-1316 and Specific Contract 80801 and 88737 with an expiration date of January 31, 2021; and,

WHEREAS, "Certification of Availability of Funds" is annexed hereto:

NOW, THEREFORE, BE IT RESOLVED by the Township Committee on this day, October 8, 2020 that:

- 1) A contract for a new Voice Communications System be and is hereby awarded to:

EXTEL Communications, Inc.
830 Belmont Avenue
North Haledon, New Jersey 07508

On their State Contract price of \$41,224.00

- 2) The exact title of the appropriation to be charged is: Ordinance 2020-06-F.
- 3) This Resolution shall take effect immediately.

RESOLUTION 2020-218
RESOLUTION OF THE TOWNSHIP OF CHATHAM AMENDING RESOLUTION 2020-211
REGARDING THE AUDIT OF STREET LIGHT ACCOUNTS TO ENSURE ACCURACY AND
PROPER PAYMENT

WHEREAS, on September 24, 2020, the Township Committee unanimously adopted Resolution 2020-211 which authorized the audit of Street Light accounts; and,

WHEREAS, the Township of Chatham is a member of the Texas Interlocal Purchasing System (TIPS); and,

WHEREAS, if there is a reduction in future costs for street lighting resulting from the audit and analysis efforts of Troy & Banks, TIPS members pay a fee of 33% of the amount saved each month for a period of 24 months; and,

WHEREAS, TIPS members pay a fee of 33% of the amount saved each month for a period of 24 months; and,

WHEREAS, the Township of Chatham as a TIPS member is entitled to an additional savings of 17% (50%-33%=17%); and,

WHEREAS, all other terms and conditions of Resolution 2020-211 remain the same and are listed in this resolution; and,

WHEREAS, the Township of Chatham budgets over \$50,000.00 per year to pay for street lighting; and

WHEREAS, the Township of Chatham pays a different rate for each street light depending on the type of bulb installed in the fixture; and

WHEREAS, over time, the rates and software used to track each account and size of the light fixture change which could affect billing for the Township's street lighting accounts; and

WHEREAS, the Township of Chatham has not conducted a specialized audit of its street lighting accounts to ensure that there are no billing errors or costs in excess of those permitted so that its accounts are charged the correct fee and that the Township is paying the proper rate; and

WHEREAS, this specialty type of audit, which includes cost recovery if appropriate, requires a level of knowledge and experience that few audit firms have; and

WHEREAS, the firm of Troy & Banks 2216 Kensington Avenue Buffalo, New York 14226 have the experience and resources required to complete this type of audit; and

WHEREAS, if Troy & Banks finds overcharges, billing errors, or costs in excess of those permitted by applicable contracts, tariffs, statutes, rules and regulations, Troy and Banks will be paid 50% of all of the monies refunded or credited to the Township of Chatham; and,

WHEREAS, the Township of Chatham will only pay Troy & Banks when a credit has been posted to an invoice or a refund check has been received; and,

WHEREAS, if there is a reduction in future costs for street lighting resulting from the audit and analysis efforts of Troy & Banks, they shall receive a fee of **33%** of the amount saved each month for a period of 24 months; and,

WHEREAS, the Township of Chatham like several other New Jersey municipalities is a member of the Texas Interlocal Purchasing System (TIPS); and,

WHEREAS, Troy & Banks is an approved TIPS vendor and will provide the services outlined under Contract Number 200601 that is valid through August 27, 2023: and

WHEREAS, The State of New Jersey Local Finance Notice (LFN) 2012-10 dated May 14, 2012 has been reviewed by the Township Administrator to verify that the documents required I Section E. Legal Requirements to Use a National Cooperative Contract are on file.

NOW THEREFORE BE IT RESOLVED, that the Township of Chatham authorizes Troy & Banks to conduct an audit of the Township's street lighting accounts as outlined in this resolution; and

BE IT FURTHER RESOLVED that this contract is awarded under the terms and conditions of the TIPS national contract.

RESOLUTION 2020-219

RESOLUTION OF THE TOWNSHIP OF CHATHAM AMENDING RESOLUTION 2020-210 REGARDING THE AUDIT OF WATER & FIRE HYDRANT ACCOUNTS TO ENSURE ACCURACY AND PROPER PAYMENT

WHEREAS, on September 24, 2020 the Township Committee unanimously adopted Resolution 2020-210 which authorized the audit of Water and Fire Hydrant accounts; and,

WHEREAS, the Township of Chatham is a member of the Texas Interlocal Purchasing System (TIPS); and,

WHEREAS, if there is a reduction in future costs for water service resulting from the audit and analysis efforts of Troy & Banks, TIPS members pay a fee of 33% of the amount saved each month for a period of 24 months; and,

WHEREAS, non-TIPS members pay a fee of 50% of the amount saved each month for a period of 24 months; and,

WHEREAS, the Township of Chatham as a TIPS member is entitled to an additional savings of 17% (50%-33%=17%)

WHEREAS, the incorrect percentage (50% instead of 33%) was listed in Resolution 2020-219; and,

WHEREAS, all other terms and conditions of Resolution 2020-210 remain the same and are listed in this resolution; and

WHEREAS, the Township of Chatham budgets over \$170,000.00 per year to pay for water for fire protection; and

WHEREAS, the Township of Chatham pays a rate that includes maintenance, pressure and diameter of the line; and

WHEREAS, over time, the rates and software used to track each of the factors that are part of the bill may have changed which could affect billing for the Township's water and fire hydrant accounts; and

WHEREAS, the Township of Chatham has not conducted a specialized audit of its water and hydrant accounts to ensure that there are no billing errors or costs in excess of those permitted so that its accounts are charged the correct fee and that the Township is paying the proper rate; and

WHEREAS, this specialty type of audit, which includes cost recovery if appropriate, requires a level of knowledge and experience that few audit firms have; and

WHEREAS, the firm of Troy & Banks 2216 Kensington Avenue Buffalo, New York 14226 have the experience and resources required to complete this type of audit; and

WHEREAS, if Troy & Banks finds overcharges, billing errors, or costs in excess of those permitted by applicable contracts, tariffs, statutes, rules and regulations, Troy & Banks will be paid 50% of all of the monies refunded or credited to the Township of Chatham; and

WHEREAS, the Township of Chatham will only pay Troy & Banks when a credit has been posted to an invoice or a refund check has been received; and

WHEREAS, if there is a reduction in future costs for water service resulting from the audit and analysis efforts of Troy & Banks, they shall receive a fee of **33%** of the amount saved each month for a period of 24 months; and,

WHEREAS, the Township of Chatham like several of other New Jersey municipalities is a member of the Texas Interlocal Purchasing System (TIPS); and,

WHEREAS, Troy & Banks is an approved TIPS vendor and will provide the services outlined under Contract Number 200601 that is valid through August 27, 2023; and,

WHEREAS, The State of New Jersey Local Finance Notice (LFN) 2012-10 dated May 14, 2012 has been reviewed by the Township Administrator to verify that the documents required in Section E. Legal Requirements to Use a National Cooperative Contract are on file.

NOW THEREFORE BE IT RESOLVED, that the Township of Chatham authorizes Troy & Banks to conduct an audit of the Township's water and fire hydrant accounts as outlined in this resolution.

BE IT FURTHER RESOLVED that this contract is awarded under the terms and conditions of the TIPS national contract.

RESOLUTION 2020-220

RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY APPROVING A CONTRACT SETTLEMENT BETWEEN THE TOWNSHIP OF CHATHAM AND PBA LOCAL 170

WHEREAS, the Township of Chatham and PBA Local 170 have reached an agreement on a new contract, the terms of which are contained in a Memorandum of Understanding executed on Wednesday, October 7, 2020; and,

WHEREAS, a full contract document will be prepared by the Township's Labor Counsel and must be signed by the appropriate representatives of the Township of Chatham and PBA Local 170

NOW THEREFORE BE IT RESOLVED that the Township Committee of the Township of Chatham hereby approves the Memorandum of Understanding between the Township of Chatham and PBA Local 170 for the term January 1, 2020 through December 31, 2023; and,

BE IT ALSO RESOLVED that the Township's Labor Counsel is authorized to prepare the contract document which will be signed by both parties.

RESOLUTION 2020-221

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF CHATHAM AUTHORIZING A CHANGE ORDER TO THE CONTRACT WITH DENVILLE LINE PAINTING, INC. FOR THE RIVER ROAD RESURFACING PROJECT (2020 MUNICIPAL AID)

WHEREAS, the Township Committee of the Township of Chatham awarded a contract to Denville Line Painting, Inc. through the 2020 Morris County Cooperative Pricing Council for the River Road Resurfacing Project (2020 Municipal Aid) in the amount of \$4,792.00;

WHEREAS, the contracted work was performed and completed by Denville Line Painting, Inc. in June, 2020;

WHEREAS, the as-built amount completed and billed by Denville Line Painting, Inc. is \$4,532.34, a decrease of \$259.66 from the awarded contract.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey that it hereby approves the Change Order amending the final Contract amount to \$4,532.34.

Deputy Mayor Ness commented that the new phone service will be an improved service at a lower cost to the Township. She also noted that the Street Lighting audit and Water and Fire Hydrant audit will result in cost savings.

Committeewoman Ewald moved to approve the Consent Agenda. Committeewoman Fondaco seconded the motion.

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

Hearing of Citizens

Mayor Kelly opened the Hearing of Citizens.

1. Genevieve Castelino, Ormont Road, thanked Mayor Kelly for his leadership, and complimented him on being calm and rising above the controversy regarding Affordable Housing. Mrs. Castelino said that she wishes more residents could see that leadership, and said she hopes residents will look back at Township Committee meeting videos to see how Mayor Kelly kept calm amidst the anger and vitriol expressed by several

members of the public. Mrs. Castelino also thanked Attorney Cruz for calmly explaining the legalities of the Affordable Housing process despite angry residents yelling at the microphone.

Mayor Kelly said that addressing Affordable Housing matters has been a group effort, and he thanked Mrs. Castelino.

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

Executive Session II

**RESOLUTION 2020-P-28
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING CONFERENCE OF
THE TOWNSHIP COMMITTEE WITH THE PUBLIC EXCLUDED**

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

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

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

1. The public shall be excluded from discussion of the specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:
 - a. Litigation - In the Matter of the Township of Chatham for a Judgment of Compliance of its Third Round Housing Element and Fair Share Plan Docket No. MRS-L-1659-15
 - b. Litigation-Kronos Holdings, LLC v. Township of Chatham et als. Docket No. MRS-L-2024-20
3. It is anticipated that the minutes on the subject matter of the Executive Session will be made public upon conclusion of the matter under discussion; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and 4-13.
4. The Committee will come back into Regular Session and will not take further action.
5. This Resolution shall take effect immediately.

Attorney Cruz emphasized that the Township Committee will not be taking further action following the Executive Session.

Deputy Mayor Ness moved to adopt Resolution 2020-P-26 to enter Executive Session at 10:52 P.M. Committeewoman Fondaco seconded the motion.

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

The Township Committee returned to Public Session, and Committeewoman Ewald moved to adjourn at 11:24 PM. Committeewoman Fondaco seconded the motion, which carried unanimously.

Gregory J. LaConte
Municipal Clerk