

**MINUTES
TOWNSHIP COMMITTEE
REGULAR MEETING
MAY 13, 2021**

Mayor Ness 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 January 8, 2021; notice was posted on the front door and the bulletin board in the main hallway of the Municipal Building on January 8, 2021; and notice was filed with the Township Clerk on January 8, 2021.

Roll Call

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

Committeeman Hamilton, Committeewoman Fondaco and Deputy Mayor Ewald participated in the meeting via Zoom.

Executive Session

**RESOLUTION 2021-P-10
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. Attorney – Client Privilege
 - b. Litigation – Township of Chatham v. Kronos Holdings LLC and SL Chatham II, LLC-Condemnation Action Docket No. MRS-L-789-21
 - c. Potential Litigation
 - d. Personnel
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.

Committeewoman Felice moved to adopt Resolution 2021-P-10 to enter Executive Session at 6:32 PM. Committeewoman Fondaco seconded the motion.

Roll call: Committeewoman Felice, Aye; Committeeman Hamilton, Absent; Committeewoman Fondaco, Aye; Deputy Mayor Ewald, Aye; Mayor Ness, Aye.

The Township Committee returned to Public Session at 7:33 PM.

Mayor Ness led the Flag Salute.

Approval of Agenda

Deputy Mayor Ewald moved to approve the Agenda. Committeewoman Fondaco seconded the motion, which carried unanimously.

Proclamations

Military Appreciation Week

Mayor Ness read aloud the attached proclamation for Military Appreciation Week. She thanked Township Resident and US Air Force Veteran Tom Salvas for bringing this to the Township Committee's attention.

EMS Week

Mayor Ness read aloud the attached proclamation for EMS Week. Captain Mike Lemons of the Chatham Emergency Squad was present via Zoom to receive the proclamation. Captain Lemons thanked the Township Committee for the proclamation. He said that the Chatham Emergency Squad is blessed with a high rate of volunteerism, and receives most of its funding from the generous donations of Chatham residents.

Asian-American and Pacific Islander Heritage Month

Mayor Ness read aloud the attached proclamation for Asian-American and Pacific Islander Heritage Month.

National Police Officers Week

Mayor Ness read aloud the attached proclamation for National Police Officers Week. She also thanked the Chatham Township Police Department for all their hard work.

Reports

Committeewoman Felice reported on Colony Pool, and said that the 2021 membership has surpassed that of all years since 2013 and 2014. She also said that there are many new members joining Colony Pool this year. Committeewoman Felice further reported that there will be a Colony Swim Team this year. The Colony Pool Committee is seeking to bring back tennis lessons. A new concession stand vendor has also been selected for 2021. Committeewoman Felice also said that there will be swimming lessons at Colony Pool this year.

Committeeman Hamilton reported that the Library of the Chathams has reopened to the public. He further reported that he met with the Board of Education's liaison to the Township Committee. Committeeman Hamilton said that there will be in-person instruction for K-12 five days a week with a virtual option. Committeeman Hamilton further reported that the Business Advisory Committee is launching a directory of businesses.

Committeewoman Fondaco reported that Joe Basralian and Boy Scouts Troop 280 will be installing composting bins at the Community Garden, as well as wooden borders for garden plots. Committeewoman Fondaco further reported that the Environmental Commission installed a butterfly wayside garden at Colony Pool. Committeewoman Fondaco further reported on the success of recent Historical Society programs, and said that on May 30th there will be a program about the history of the White House.

Deputy Mayor Ewald reported that the Green Village Fire Department, Chatham Township Fire Department and Chatham Borough Fire Department will be holding a food drive on Saturday May 15th from 10:00 AM to 1:00 PM in association with the Chatham United Methodist Church and Chatham Hills Subacute Care.

Mayor Ness reported that there will be a presentation by the Walters Group on the concept plan for 522 Southern Boulevard. She stated that the formal plan will be discussed at the Planning Board. It is anticipated that the site plan application will be submitted by June 1st with the first public hearing on June 21st. Mayor Ness also said that the remediation of the Rolling Knolls site

will also be discussed. She said that the site is already subject to a restrictive covenant which prevents development. Mayor Ness further noted that the Township may have some future financial responsibility for the site. Mayor Ness further reported that a developer named Spohn Ranch will have a representative in the Township to review potential sites for a new Skate Park with the Township's staff. Mayor Ness said that she anticipates a presentation to the Township Committee about potential sites. Mayor Ness further reported that the Municipal Building's HVAC system improvements have been tested, and the building is now open to the public. Mayor Ness said that Township staff will review the recent Executive Order to see how the Township can further safely open public spaces. Mayor Ness said that COVID rates have declined, and there are currently 20 active cases in the Township. Mayor Ness further reported that the Diversity Committee has developed a survey that is available online.

Engineer Ruschke reported that there is a resolution on the Agenda authorizing paving work to be performed by the Morris County Co-op. He reported that Rose Terrace, Johnson Drive, portions of Longwood Avenue, portions of Lisa Drive, portions of Susan Drive, Hillcrest Avenue, and Woodland Avenue (islands only), are to be repaved. The paving will be performed in two phases. Noe Avenue will also be repaved, and grant funding was received for that project. Work is expected to begin the week of May 24th. Engineer Ruschke said that residents will receive further notice once an exact date has been set for the paving. He also reported that utility companies have been contacted and road opening permit applications have been reviewed to avoid any conflicts with the paving. The Public Works Department is also doing some preparatory work for the paving.

Mayor Ness asked about the Hillside Trail. Engineer Ruschke said that the Trail is substantially complete. Some soil erosion measures need to be fixed and some soil needs to be stabilized. Engineer Ruschke said that a local Boy Scout Troop is assisting with the site restoration.

Administrator Hoffmann reported that the Hillside Trail is a beautiful walking path. He also reported on the 2020 Audit. Administrator Hoffmann said that there is one finding and several minor recommendations. The finding is that there is not sufficient segregation of duties, and said that the duties cannot be segregated due to the Township's staffing levels. Administrator Hoffmann also reported that the Audit and the Corrective Action Plan will be posted on the Township website. The Audit will also be submitted to the State. Administrator Hoffmann commented on the increase of fund balance from the end of 2019 to the end of 2020. He also noted that conservative measures have been and will continue to be taken to ensure the Township's fiscal health.

Mayor Ness thanked Township Auditor Valerie Dolan for the work she does for the Township.

Administrator Hoffmann reported that the deadline to submit a letter of intent to apply for Morris County Trail Grants is mid-June. The completed application would need to be submitted by mid-July. Administrator Hoffmann asked the Township Committee members to let him know if they have any ideas for trail locations.

Discussion

Rolling Knolls Remediation Plan

Special Counsel Carl Woodward was present via Zoom to give an update on the Rolling Knolls Remediation Plan. Mr. Woodward said that a Citizens Advisory Group (CAG) meeting was held in April at which time a lot of questions were asked about the site. Some of the questions were about potential uses for the site after the remediation has been completed. A second CAG meeting was held to continue the public comment session. Mr. Woodward said that Township officials also met with the EPA to discuss the Township's concerns regarding how the site is being evaluated. The EPA said that the cost analysis will be updated, and the PRP Group will be asked to provide a cost analysis of an alternative remediation plan. Mr. Woodward said that the PRP Group will also evaluate the proposal being put forth by the Great Swamp Wildlife Refuge. Mr. Woodward further noted that he has been tasked to work with the Miele Trust regarding the conservation easement on the site. He also said that the process to have the site remediated will be a long process. Mr. Woodward said that he will remain available if anyone has any questions.

Mayor Ness expressed the Township's appreciation for the work being done by the Great Swamp Watershed Association and the Wildlife Refuge. She also noted a shared desire to have accessible open space at the site.

Conceptual Plans for 522 Southern Boulevard

Administrator Hoffmann said that the Concept Plan is being shared with the public, and the application will be heard by the Planning Board once it is submitted.

Joe Del Duca and Ed Speitel of the Walters Group presented the Concept Plan for 522 Southern Boulevard. Mr. Del Duca said that the Walters Group has a site plan under development.

Mr. Del Duca said that the site is approximately 3.2 acres, and he described the surrounding area. He presented a conceptual site plan showing how the complex would be setup. Mr. Del Duca said that the complex will have 63 housing units, including 62 affordable units and a housing unit for the on-site superintendent. Mr. Del Duca said that following redevelopment, the site will have less impervious coverage than the site presently has. He said that stormwater details will be included in the site plan. A traffic study will be conducted, and he said that the impact will be less than what would happen if the site remained a commercial use.

Mr. Del Duca also addressed amenities and the on-site community center. He further addressed where the trash and recycling dumpsters will be located. Programs and social services offered to residents at the on-site community center was also discussed. Mr. Del Duca also addressed typical kitchen features, and said that each unit will include a side-by-side washer and dryer. A typical living room was also presented. Mr. Del Duca further discussed the trash compactor proposed for the site.

Mayor Ness said she is pleased with the Walters Group desire to preserve the tree line and response to the concerns raised by Sunset Lake neighbors. She also complimented the architectural concept.

Committeeman Hamilton asked if the three-story buildings will comply with the Township's height regulation. Mr. Del Duca said that the plans will comply with the Township's zoning regulations, with the exception of the trash compactor being setback only 110 feet rather than 200 feet. Committeeman Hamilton asked about the anticipated number of children who will live in the development. Mr. Del Duca said that similar developments have an average of .8 children per unit. He also said that he cannot predict with any certainty how many children will live in the development.

Deputy Mayor Ewald asked if there is a sense of the competition for the 9% tax credits. Mr. Del Duca said that more communities will appear between now and the end of August. He also said that last year there were 6 suburban awards out of 27 applications that had a perfect score. Mr. Del Duca said that he is confident that the Township's application will be competitive.

Committeewoman Felice asked if the façade facing Southern Boulevard would be flat, or if there will be balconies. Mr. Del Duca described what the façade will look like. All units will have balconies or patios, and said that they are open to suggestion. Committeewoman Felice said that she wants to be sure that the value of the shopping center across the street is maintained, and she is not sure it would be good to have balconies facing Southern Boulevard. Mr. Del Duca said that there will be bike storage on the site, and balconies can be made to look great. Committeewoman Felice thanked Mr. Del Duca for the presentation.

Hearing of Citizens

The Township Clerk indicated that there were not any written comments received prior to the meeting.

Mayor Ness opened the Hearing of Citizens regarding 522 Southern Boulevard and Rolling Knolls.

1. Jessica Romeo, Pine Street, said she is anxious to see what happens if the Township sends an updated letter to the EPA. She said there is an urgency to send an amended

letter expressing the desire for the opening up of the Rolling Knolls site for public use and passive recreation.

2. Fran Leff, Joseph Street, asked if 522 Southern Boulevard will be properly maintained prior to redevelopment. She also complimented the Walters Group on the presentation. Mrs. Leff asked if there will be fencing between the proposed development and the Sunset Lake neighborhood. Regarding the trash compactor, Mrs. Leff asked about if it could be moved to a different spot further away from the Sunset Lake Neighborhood to reduce noise issues.

Mayor Ness said that the Township can contact the owner of 522 Southern Boulevard regarding property maintenance.

Attorney Cruz said that comments regarding the site plan should be noted and addressed at the Planning Board.

Mr. Del Duca said that the trash compactor will not be heard in the residential areas.

3. Tom Evans, Birch Hill Drive, said that there was not any elaboration on the options for the Rolling Knolls site, and he asked about the sixth option.

Mr. Woodward said that there is not a sixth option yet, and what has informally been referred to as option #6 has been discussed with the Refuge but never reduced to writing. Mr. Woodward said that the Refuge has expressed interest in having the garbage on the Refuge portion removed and placed on the portion owned by the Miele Trust. The Miele Trust portion would then be capped.

Administrator Hoffmann said that what is being referred to as the sixth option was only submitted for the Township's attention on Tuesday.

4. Jen McNally, Ferndale Road, said that the Walters Group's presentation was very thoughtful, and it seems that a lot of input was taken from residents and the Township Committee. Mrs. McNally also said she supports having an amended letter sent from the Township Committee to the EPA regarding the Rolling Knolls site. She also thanked Mr. Woodward for his work on behalf of the Township.
5. Dot Stillinger, Noe Avenue, said that there are only five alternatives being considered regarding Rolling Knolls. She also said that the current paperwork from the Township advocates for an option that leaves a lot of waste at the site. Mrs. Stillinger said that Option #3 would prohibit the Township from ever having access to the site for open space purposes.

Mayor Ness said that the Township Committee is moving forward with discussions to try to get the potential sixth alternative added as an option. A cost analysis still needs to be performed for the different options. Mayor Ness also said that the Township is seeking to have open space access to Rolling Knolls.

6. Stewart Carr, Crestwood Drive, mentioned a document that addresses the potential of capping the Rolling Knolls site. Mr. Carr also asked for additional discussion of the matter by the Township Committee. He also asked Mr. Hoffmann when there was public discussion that led to the December 2019 letter to the EPA. Mr. Carr also asked if the Township Committee intends to amend the 2019 letter.

Mr. Woodward said that the EPA has acknowledged that they will not make a decision on the feasibility study until at least September. They are also not planning any public hearing before that time. Mr. Woodward also said that the sampling that is going to be conducted will take approximately three months, and the data will need to be analyzed by the EPA. Mr. Woodward also said that a proposal from the Refuge was received a few days ago, and the Township is working to get all interested parties in contact with each other. He further noted that there will be 20 to 30 parties who will be responsible for funding the remediation.

Administrator Hoffmann said that Mr. Carr had emailed about availability of the April 22nd Township Committee meeting video online, and said that the video has been posted to the Township's YouTube channel. Administrator Hoffmann also said that the letter sent to the EPA was submitted to make sure the Township was positioned to have the most options available.

Deputy Mayor Ewald stated that everyone seems to want the property and nobody wants the liability when it comes to Rolling Knolls. She said the Township is proceeding cautiously, and trails are desired. She also noted that several organizations are working on the Remediation Plan.

7. Rich Rein, Rolling Hill Drive, said that Rolling Knolls does not have a lot of usable open space. He also said that remediation offers a once in a lifetime opportunity to expand open space if it is performed correctly and is affordable.
8. Joe Basralian, Fairfax Terrace, said that Chatham Township can accomplish anything regarding Rolling Knolls. He also commented on the widespread enjoyment of the Giralda Farms Preserve. Mr. Basralian also said that the presentation by the Walters Group was fantastic.
9. Lefty Grimes, East Hanover, said that he used to commute through Chatham on his way to work, and the presentation about 522 Southern Boulevard was great. Mr. Grimes asked how many disabled parking spots for visitors will be included, and how many housing units will be handicapped accessible.

Mr. Del Duca said that he does not know yet how many handicapped parking spots will be included, and the Walters Group typically has more than legally required. He said that all ground-floor housing units will be adaptable for accessibility. The total number of accessible units will depend on how many residents need such a unit.

10. Marty McHugh, Ormont Road, thanked the Township Committee for the alignment with the public sentiment about maintaining the opportunities available at Rolling Knolls. Mr. McHugh asked what the Township Committee can do to influence a decision that favors keeping access to the Rolling Knolls site.

Mayor Ness said that the Township is coordinating with those groups who have the same interest in passive use of the Rolling Knolls site, and has expressed that desire to those groups. Mayor Ness also noted several complications that need to be worked out.

11. Christine Pagano, Edgewood Road, said she would like to speak about the Tree Ordinance and an incident that occurred in her neighborhood. Mayor Ness said that this hearing is about 522 Southern Boulevard and the Rolling Knolls Site, and asked Mrs. Pagano to hold her comments for the next Hearing of Citizens.

Seeing no further public comment about 522 Southern Boulevard or Rolling Knolls, Mayor Ness closed the Hearing of Citizens.

Discussion

Pesticide Ordinance

Environmental Commission member Cara Feeser was present, and addressed the reasons why the pesticide ordinance has been recommended. She said that there is a desire among residents for safe playing fields, as well as a desire for Colony Pool to remain safe. Mrs. Feeser said that pesticides affect children more than adults since their bodies are smaller. Mayor Ness noted that the Township has been using organic lawncare since 2018. She also said that Chatham Borough is pesticide-free, and the School District has used organic processes for several years. Mayor Ness also said that pesticides have a negative impact on pollinators.

Deputy Mayor Ewald asked if the ordinance would count toward Sustainable Jersey points. Mayor Ness said that it will.

A pesticide ordinance will be placed on the May 27th Township Committee agenda for introduction.

Hearing of Citizens

Mayor Ness opened the Hearing of Citizens.

1. Lefty Grimes, East Hanover, asked the Township to consider a medical cannabis dispensary as there are not any in the area. He also said that cannabis delivery presents an extra cost to patients. Mr. Grimes also commented on the long lines at dispensaries and the taxation of medical cannabis. Mr. Grimes described his own use of medicinal cannabis, and said that it helped him get off of pain pills.

Mayor Ness congratulated Mr. Grimes on being able to get off opiate use for pain management, and said she appreciates his advocacy for medical cannabis.

2. Jeff King, Eatontown, advocated for medical cannabis access for patients in need of help. He said that many people can benefit from medical cannabis.
3. Marina Revman, Parlin, advocated in favor of medical cannabis. She described her medical history and how medical cannabis has helped her. Mrs. Revman discussed the number of doctors in New Jersey that prescribe medical marijuana. She asked the Township Committee to consider having a medical cannabis dispensary in the Township.

Mayor Ness said that she hopes Mrs. Revman is on her way to wellness. She also stated that she thinks there are possibilities for medical marijuana for several disabilities and diseases.

4. Jaime Van Sciver, Paulsboro, said that she is a medical marijuana patient and listed her medical conditions. Mrs. Van Sciver also said that she has been free of pharmaceuticals for 6 years since she began using medical cannabis. She also discussed the suicide rate among veterans. Mrs. Van Sciver also advocated for medical cannabis as a treatment for seizures.

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

Public Hearing/Final Adoption of Ordinances

Ordinance 2021-11

ORDINANCE 2021-11

AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP BY ADDING A NEW SECTION 19-3 TITLED “SITING OF POLES, CABINETS AND ANTENNAS” IN CHAPTER 19 TITLED “STREETS AND SIDEWALKS”

WHEREAS, the Township of Chatham (“Township”) is aware that certain technological developments have made access to its Municipal Rights-of-Way desirable by certain telecommunications companies for the placement of small cell wireless facilities (“Small Cells”); and

WHEREAS, it is “axiomatic that municipal corporations are required to exercise ordinary care to maintain their streets and sidewalks . . . [n]or may a municipality in any way surrender or impair its control over the streets”. McQuillan Mun. Corp. (3rd Ed), Section 30.73; and

WHEREAS, the Township acknowledges that its streets “are used for the ordinary purposes of travel and such other uses as customarily pertain there-to which, in recent years, are numerous and various. It thus follows that these public ways must be kept free from obstruction, nuisances, or unreasonable encroachments which destroy, in whole or in part, or materially impair, their use as public thoroughfares” Id.; and

WHEREAS, the Township has determined that its Municipal Rights-of-Way, such as they are or may be, themselves constitute a valuable resource, finite in nature, and which exist as a common right of the public to pass and repass freely over and across said lands without unreasonable obstruction or interference, and which therefore must be managed carefully; and

WHEREAS, the Federal Telecommunications Act preserves local government’s ability to “manage the public Rights-of-Way . . . on a competitively neutral and non-discriminatory basis”, 47 U.S.C. 253(c); and

WHEREAS, the Federal Telecommunications Act preserves local government’s authority over the “placement, construction and modification of personal wireless service facilities”, 47 U.S.C. 332(c)(7)(A); and

WHEREAS, the Federal Telecommunications Act makes it unlawful for local government to prohibit or have the effect of prohibiting the provision of personal wireless service, 47 U.S.C. 332(c)(7)(B)(i)(II); and

WHEREAS, the Federal Telecommunications Act provides that municipalities “shall not unreasonably discriminate among providers of functionally equivalent services”, 47 U.S.C. 332(c)(7)(B)(i)(I); and

WHEREAS, recent developments in wireless technology, specifically the development of 5G, involve the placement of Small Cells and Cabinets in the Municipal Right-of-Way; and

WHEREAS, New Jersey municipalities must give consent before a Small Cell, i.e. a small antenna, can be placed on existing poles pursuant to N.J.S.A. 48:3-19 and for the erection of New Poles within the Municipal Right-of-Way pursuant to N.J.S.A. 48:17-10; and

WHEREAS, the Federal Highway Administration has acknowledged the problem of overburdening the Municipal Right-of-Way by stating “[as] demand for the finite space in existing ROW increases, the difficulty and cost of adding new utility facilities and relocating existing utility facilities also increases. Just as significant is how utility service interruptions may add to public discontent with overall highway construction. It is therefore essential for planners, designers, and builders of street and highway projects to avoid unnecessary utility relocation . . .”Federal Highway Administration, Avoiding Utility Relocations, <https://www.fhwa.dot.gov/utilities/utilityrelo/2.cfm> ; and

WHEREAS, the Federal Communications Commission (“FCC”) adopted an order “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment” WT Docket No. 17-79; WC Docket 17-84, which places a shot clock on municipal review and approval for the placement of Small Cells on Existing Poles and the placement of New Poles and Cabinets in the Municipal Right-of-Way; and

WHEREAS, the erection of New Poles and Ground Level Cabinets in the Municipal Right-of-Way raises significant aesthetic and safety concerns; and

WHEREAS, Ground Level Cabinets attached to small cells trigger certain collocation requirements pursuant to Section 6409(a) of the Middle Class Tax Relief and Jobs Creation Act of 2012 which raises serious concerns as to the ability of local government to protect the public’s interest in the Municipal Rights-of-Way when it comes to aesthetics and the ability of the public to pass and repass over same; and

WHEREAS, New Poles and Ground Level Cabinets also raise concerns related to sight triangle encroachments and other safety related issues related to the use of roadways by the public; and

WHEREAS, it is the Township’s goal to increase collocation of antennas, to the maximum amount possible, on existing poles thereby precluding the proliferation of new poles; and

WHEREAS, the Township understands that technology is advancing in this area and that greater collocation may be required as same becomes more technologically possible; and

WHEREAS, the FCC in its order provides that municipalities can impose aesthetic and location requirements on Small Cells where said requirements are: 1) reasonable; 2) no more burdensome than those applied to other types of infrastructure deployments; and 3) published in advance; and

WHEREAS, the FCC in its order further clarified what it considers “reasonable” aesthetic requirements by stating that “in assessing that this standard has been met, aesthetic requirements that are more burdensome than those the state or locality applies to similar infrastructure deployments are not permissible, because such discriminatory application evidences that the requirements are not, in fact, reasonable and directed at remedying the impact of the wireless infrastructure deployment”; and

WHEREAS, the FCC’s requirement that, in order to protect the aesthetics of the Township’s Municipal Rights-of-Way, it must treat like infrastructure in a like manner, necessitates the introduction of broader aesthetic requirements that apply to all Poles and Antennas and Cabinets in the Municipal Rights-of-Way and not just Small Cells; and

WHEREAS, the Township has determined that the most efficient way to handle this process is to create a Rights-of-Way Permit system for all New Poles, Cabinets and Antennas in the Municipal Rights-of-Way; and

WHEREAS, the Township has determined that it is necessary to set forth standards in relation to the siting of Poles, Cabinets and Antennas for the benefit of its citizens and any utilities which use or will seek to make use of said Municipal Rights-of-Way.

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

Section 1. Chapter 19 titled “Streets and Sidewalks” of the Revised General Ordinances of the Township of Chatham is hereby amended through the addition of new Section 19-3 titled “Siting of Poles, Cabinets and Antennas in the Municipal Right-of-Way” as follows:

§19-3. DEFINITIONS.

- a. “Anticipated Municipal Expenses” means the cost of processing an application for a Right-of-Way Permit including, but not limited to, all professional fees such as engineering and attorney costs incurred by the Township.
- b. “Cabinet” shall mean a small box-like or rectangular structure used to facilitate utility or wireless service from within the Municipal Right-of-Way.
- c. “Electric Distribution System” shall mean the part of the electric system, after the transmission system, that is dedicated to delivering electric energy to an end user.
- d. “Existing Pole” shall mean a pole that is in lawful existence within the Municipal Right-of-Way.
- e. “Ground Level Cabinets” shall mean a Cabinet that is not attached to an existing pole and is touching or directly supported by the ground.
- f. “Municipal Right-of-Way” or “Municipal Rights-of-Way” shall mean the surface of, and the space above or below, any public street, road, place, public way or place, sidewalk, alley, boulevard, parkway, drive held by the Township as an easement or in fee simple ownership. This term also includes rights-of-way held by the County of Morris where the Township’s approval is required for the use of same pursuant to N.J.S.A. 27:16-6. This term shall not include private roadways.
- g. “Pole” shall mean a long, slender, rounded piece of wood, concrete or metal.
- h. “Pole Mounted Antenna” shall mean a device that is attached to a Pole and used to transmit radio or microwave signals and shall include, but not be limited to, small cell equipment and transmission media such as femtocells, picocells, microcells, and outside distributed antenna systems.
- i. “Pole Mounted Cabinet” shall mean a Cabinet that is proposed to be placed on an Existing or Proposed Pole.
- j. “Proposed Pole” shall mean a Pole that is proposed to be placed in the Municipal Right-of-Way.
- k. “Right-of-Way Agreement” shall mean an agreement that sets forth the terms and conditions for use of the Municipal Right-of-Way and includes, but is not limited to, municipal franchise agreements.
- l. “Right-of-Way Permit” shall mean an approval from the Township setting forth applicant’s compliance with the requirements of this Section 19-3.
- m. “Surrounding Streetscape” shall mean Existing Poles within the same right-of-way which are located within five hundred linear (500) feet of the Proposed Pole carrying electric transmission lines shall not be considered part of the “Surrounding Streetscape”.
- n. “Township Committee” shall mean the Township Committee of the Township of Chatham.
- o. “Utilities Regulated by the Board of Public Utilities” shall mean companies subject to regulation by the New Jersey Board of Public Utilities under Title 48 of the Revised Statutes.
- p. “Utility Service” shall mean electric, telephone, or cable service.
- q. “Zone, Non-Residential” shall mean the B-1 Business Center District, and B-2 Neighborhood Business District; PI-1 Professional and Institutional Districts; Planned Commercial District Zones as designated in §30-75 of the Revised General Ordinances of the Township of Chatham.
- r. “Zone, Residential” shall mean any zones permitting single family, two family, or multifamily residences, assisted-living residences, nursing homes, and/or residential health care facilities.

§19-3.2 ACCESS TO RIGHT-OF-WAY, RIGHT-OF-WAY AGREEMENTS.

- a. No person shall operate or place any type of Pole Mounted Antenna, Cabinet or Pole within the Municipal Right-of-Way without first entering into a Right-of-Way Agreement pursuant to the provisions of this Section.
- b. The terms of said Right-of-Way agreement shall include:
 - i. A term not to exceed 15 (fifteen) years;
 - ii. Reasonable insurance requirements;
 - iii. Fine for unauthorized installations;
 - iv. A reference to the siting standards as set forth in this Section 19-3; and
 - v. Any other items which may reasonably be required.

§19-3.3 APPLICATION TO UTILITIES REGULATED BY THE BOARD OF PUBLIC UTILITIES.

- a. Notwithstanding any franchise or Right-of-Way Agreement to the contrary, all Antennas, Poles and Cabinets proposed to be placed within the Municipal Right-of-Way by a Utility Regulated by the Board of Public Utilities, or any other entity with legal access to the Municipal Right-of-Way, shall be subject to the standards and procedures set forth in this Section 19-3 and shall require Right-of-Way Permits for the siting of Poles, Antennas and Cabinets in the Municipal Right-of-Way.

§19-3.4 439-46 RIGHT-OF-WAY PERMITS, SITING STANDARDS FOR POLES, ANTENNAS AND CABINETS IN THE RIGHT-OF-WAY.

- a. No Pole, Antenna or Cabinet shall be installed within the Municipal Right-of-Way without the issuance of a Right-of-Way Permit.
- b. Pole Siting Standards:
 - i. Height. No Pole shall be taller than thirty-five (35) feet or 110% of the average height of Poles in the Surrounding Streetscape, whichever is higher.
 - ii. Location, Safety and Aesthetics. No Pole shall be erected in the Right-of-Way unless it:
 - 1. Is used to bring Utility Service across the Right-of-Way to an existing or proposed development from an Existing Pole; or
 - 2. Is replacing an Existing Pole; or
 - 3. Approved pursuant to a land development application by either the Township's Zoning Board of Adjustment or Planning Board pursuant a land use application; or
 - 4. Located on the opposite side of the street from the Electric Distribution System; and
 - 5. For sites in Residential Zones, is two hundred linear feet from any other Existing Pole or Proposed Pole along the same side of the street, or for sites in Non-Residential Zones is one hundred linear feet from any other Existing Pole or Proposed Pole along the same side of the street; and
 - 6. Is not located in an area with underground utilities; and
 - 7. Does not inhibit any existing sight triangles or sight distance; and
 - 8. Allows adequate room for the public to pass and re-pass across the Municipal Right-of-Way; and
 - 9. Is finished and/or painted, constructed and otherwise camouflaged, in conformance with best available stealth technology methods, so as to blend in compatibly with its background and so as to minimize its visual impact on surrounding properties, and to permit the colocation of additional Pole Mounted Antennas thereon.
- c. Ground Level Cabinet Site Standards
 - i. Ground Level Cabinets are prohibited in Residential Zones.
 - ii. Ground Level Cabinets are permitted in Non-Residential Zones provided that each Ground Level Cabinet:
 - 1. Is less than twenty-eight cubic feet in volume; and
 - 2. Is finished and/or painted to blend in compatibly with its background to minimize its visual impact on surrounding properties; and
 - 3. Does not inhibit an existing sight triangles or sight distance; and
 - 4. Allows adequate room for the public to pass and repass across the Municipal Right-of-Way.
- d. Pole Mounted Antenna and Pole Mounted Cabinet Siting Standards
 - i. Pole Mounted Antennas are permitted on Existing Poles in all zones, provided that each Pole Mounted Antenna:
 - 1. Does not exceed three (3) cubic feet in volume; and
 - 2. Is finished and/or painted and otherwise camouflaged, in conformance with best available stealth technology methods, to blend in compatibly with its background to minimize its visual impact on surrounding properties; and
 - 3. Does not inhibit sight triangles or sight distance; and

4. Allows adequate room for the public to pass and repass across the Municipal Right-of-Way.
- ii. Pole Mounted Cabinets are permitted on Existing Poles in all zones, provided that each Pole Mounted Cabinet:
 1. Does not exceed sixteen (16) cubic feet; and
 2. Is finished and/or painted and otherwise camouflaged, in conformance with best available stealth technology methods, to blend in compatibly with its background to minimize its visual impact on surrounding properties; and
 3. Does not inhibit sight triangles or sight distance; and
 4. Allows adequate room for the public to pass and repass across the Municipal Right-of-Way.
- iii. The Township may also require that an applicant provide a certification from a licensed engineer attesting to the structural integrity of any Pole Mounted Antenna or Pole Mounted Cabinet and the structure on which it is proposed to be mounted.

§19-3.5 APPLICATION PROCESS.

- a. Pre-Application Meeting - While not required by the Township, prior to making a formal application with the Township for use of the Municipal Right-of-Way, all applicants are advised to meet with the Township Engineer to review the scope of applicant's proposal.
- b. The Township Committee shall, by Resolution, approve or disapprove every Right-of-Way Permit application based on the recommendations provided to it pursuant to subsection (e) below.
- c. All applications made under this Section 19-3 which trigger Federal Communications Commission shot clock rules pursuant to the Federal Communications Commission Order "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by the Removal of Barriers to Infrastructure Investment." WT Docket No. 17-79; WC Docket No. 17-84 shall be processed on an expedited basis.
- d. Every application for a Proposed Pole must include a stamped survey prepared by a New Jersey licensed surveyor demonstrating that any such Proposed Pole is located within the Municipal Right-of-Way. An application which does not include such a survey shall immediately be deemed incomplete.
- e. The Township Engineer shall review applications made pursuant to this Section 19-3 and advise the Township Committee of his or her recommendation to approve or disapprove same. If he or she recommends that an application be disapproved, the factual basis for that recommendation must be transmitted to the Township Committee in writing.
- f. If the Township Committee denies any application made under this Section 19-3, it shall do so in writing and set forth the factual basis therefor.

§19-3.6 WAIVER.

- a. The Township Committee may, by Resolution, waive any siting standard set forth in Section 19-3.4 where the applicant demonstrates that strict enforcement of said standard:
 - i. Will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service pursuant to 47 U.S.C. 253(a); or
 - ii. Will prohibit or have the effect of prohibiting personal wireless service pursuant to 47 U.S.C. 332(c)(7)(B)(i)(II); or
 - iii. Will violate any requirement set forth by the Federal Communications Commission Order "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment." WT Docket No. 17-79; WC Docket 17-84.

§19-3.7 RIGHT-OF-WAY PERMIT FEES AND DEPOSIT TOWARDS ANTICIPATED MUNICIPAL EXPENSES.

- a. Every Right-of-Way Permit application must include a Right-of-Way Permit Fee in the following amounts:
 - i. One (1) to five (5) collocation sites on Existing Poles- \$500.00.

- ii. Each additional collocation site on an Existing Pole- \$100.00.
- b. Deposit Towards Anticipated Municipal Expenses
 - i. In addition to the Right-of-Way Permit Fee, the Township Engineer may, in his or her own discretion, require the posting of a Two Thousand Dollar (\$2,000.00) Deposit Towards Anticipated Municipal Expenses related to an application made pursuant to this Section 19-3.
 - ii. Applicant's Deposit Towards Anticipated Municipal Expenses shall be placed in an escrow account. If said deposit contains insufficient funds to enable the Township to perform its review, the Chief Financial Officer of the Township or designee shall provide applicant a notice of insufficient balance. In order for review to continue, the applicant shall, within ten (10) days post a deposit to the account in an amount to be mutually agreed upon.
 - iii. The Chief Financial Officer or designee shall, upon request by the applicant, and after a final decision has been made by the Township Committee regarding his or her pending Right-of-Way Permit application, and subject to review by the Township Engineer, refund any unused balance from applicant's Deposit Towards Anticipated Municipal Expenses.

§19-3.8 Colocation Requirement

Any applicant for a Right-of-Way permit shall, as a condition to the issuance of same, permit the colocation of Pole Mounted Antennas onto any new Pole to the maximum amount that colocation is technically feasible which, in any event, shall not be less than two Pole Mounted Antennas.

§19-3.8 Miscellaneous Provisions.

- a. Any approval received pursuant to this Section 19-3 does not relieve the applicant from receiving consent from the owner of the land above which an applicant's facility may be located as may be required under New Jersey law, or the owner of any existing pole on which the facility may be mounted.
- b. Applicant must, in addition to receiving a Right-of-Way Permit, also receive all necessary road opening permits, construction permits and any other requirement set forth in the Revised Ordinances of the Township of Chatham or state statutes.
- c. The Township's consent for use of County Roads, as required pursuant to N.J.S.A. 27:16-6, shall take the form of a Right-of-Way Permit subject to the standards and application process set forth in this Section 19-3. No such applicant shall be required to enter into a Right-of-Way Agreement with the Township.
- d. Applicant must comply with all applicable state, local and federal regulations including.
- e. Any agreement or Right-of-Way permit issued pursuant to this Section 19-3 shall not supersede or in any way take the place of any local approvals or franchises which otherwise in the future may be required by applicant under the New Jersey Cable Television Act, N.J.S.A. 48:5A-1, *et seq.*

Section 2. The Township Clerk is hereby 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 all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerks of adjoining municipalities. The Township Clerk shall execute Affidavits of Proof of Service of the notices required by this Section, 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 3. After introduction, the Township Clerk is hereby directed to submit a copy of this Ordinance to the Planning Board of the Township of Chatham for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Committee, within thirty-five (35) days after referral, a report including identification of any provisions in this proposed Ordinance which are inconsistent with the Township's Master Plan and recommendations concerning any inconsistencies and any other matters as the Board may deem appropriate.

Section 4. Any article, section, paragraph, subsection, clause, or other provision of the Revised General Ordinances of the Township of Chatham inconsistent with the provisions of this Ordinance is hereby repealed to the extent of such inconsistency.

Section 5. If any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

Section 6. This Ordinance shall take 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.

Mayor Ness opened the Public Hearing on Ordinance 2021-11.
Seeing no public comment, Mayor Ness closed the Public Hearing.

Deputy Mayor Ewald moved to adopt Ordinance 2021-11. Committeewoman Fondaco seconded the motion.

Roll call: Committeewoman Felice, Aye; Committeeman Hamilton, Aye; Committeewoman Fondaco, Aye; Deputy Mayor Ewald, Aye; Mayor Ness, Aye.

Ordinance 2021-12

ORDINANCE 2021-12
AN ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, NEW JERSEY AMENDING THE LAND DEVELOPMENT ORDINANCE SECTION 30-60.5 TITLED “APPLICATION CONTENT” TO REDUCE THE NUMBER OF PAPER COPIES OF APPLICATIONS AND PLANS TO BE SUBMITTED

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

Section 1.

Section 30-60.5 titled “Application Content” of the Revised General Ordinances of the Township of Chatham, the first full paragraph is hereby amended to change the number of hard copies of subdivision plats or site plans to four (4) and one (1) subdivision plat or site plan in electronic format and three (3) hard copies of the application and one (1) application in electronic format as follows:

30-60.5 Application Content.

Applications shall be made on forms available from the Board Manager of the Planning Board. Four (4) hard copies of the application and one (1) copy in electronic format accompanied by the required filing fee as specified in §30-17 shall be submitted. Four (4) hard copies of blue or black on white paper prints of the subdivision plat or site plan and one (1) plat or plan in electronic format, along with any other required documents and improvement plans.

Section 2.

30-60.5a is amended to delete: Two translucent tracing cloth copies;

The remainder of Section 30-60.5 is relettered.

Section 3.

All other subsections of Section 30-60.5 shall remain in full force and effect.

Section 4.

Attachment 5, Appendix II, Checklist A to Chapter 30, titled “Land Development”, the first and fourth Checklist items shall be revised to conform to the Ordinance as follows:

___Three completed copies of the appropriate application form(s) and one complete copy in electronic format.

___Four copies (blue or white) of the plat plan, site plan, building or subdivision plan (25 x 36 inches folded engineer style) and one complete plan in electronic format.

Section 5.

The Township Clerk is hereby 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 all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15, including to the Clerks of adjoining municipalities. The Township Clerk shall execute Affidavits of Proof of Service of the notices required by this Section, 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 6.

After introduction, the Township Clerk is hereby directed to submit a copy of this Ordinance to the Planning Board of the Township of Chatham for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Township Committee, within thirty-five (35) days after referral, a report including identification of any provisions in this proposed Ordinance which are inconsistent with the Township's Master Plan and recommendations concerning any inconsistencies and any other matters as the Board may deem appropriate.

Section 7.

Any article, section, paragraph, subsection, clause, or other provision of the Revised General Ordinances of the Township of Chatham inconsistent with the provisions of this Ordinance is hereby repealed to the extent of such inconsistency.

Section 8.

If any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

Section 9.

This Ordinance shall take effect immediately upon: (1) 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.

Mayor Ness opened the Public Hearing on Ordinance 2021-12.
Seeing no public comment, Mayor Ness closed the Public Hearing.

Deputy Mayor Ewald moved to adopt Ordinance 2021-12. Committeeman Hamilton seconded the motion.

Roll call: Committeewoman Felice, Aye; Committeeman Hamilton, Aye; Committeewoman Fondaco, Aye; Deputy Mayor Ewald, Aye; Mayor Ness, Aye.

Consent Agenda

RESOLUTION 2021-136

**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 \$2,467,372.28 and the prior month's payroll of \$444,662.70 Current Fund, \$49,017.15 Sewer No. 1, \$11,424.99 Sewer No. 2, and \$104,034.90 Police Private Employment be paid.

BE IT FURTHER RESOLVED that taxes due to the School District of the Chathams, for the month of May 2021, in the amount of \$3,270,037.00 be paid.

BE IT FURTHER RESOLVED that taxes due to the County of Morris, for the Second Quarter of 2021, in the amount of \$2,400,041.59 be paid.

RESOLUTION 2021-137

**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 April 22, 2021.

RESOLUTION 2021-138

**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 April 22, 2021.

RESOLUTION 2021-139
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM
CERTIFYING REVIEW OF THE ANNUAL AUDIT

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2020 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, The Local Finance Board has promulgated N.J.A.C. 5:30-6-5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled “Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled “Comments and Recommendations” as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Chatham, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

RESOLUTION 2021-140
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM
ACKNOWLEDGING RECEIPT OF CORRECTIVE ACTION PLAN RELATIVE TO 2020
AUDIT

BE IT RESOLVED by the Township Committee of the Township of Chatham that it, hereby, acknowledges receipt of the Chief Financial Officer’s Corrective Action Plan relative to the 2020 Audit.

BE IT FURTHER RESOLVED that a copy of the Corrective Action Plan be forwarded to the Department of Community Affairs as required by State regulations.

RESOLUTION 2021-141
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:

BLOCK	<u>LOT</u>	<u>NAME & ADDRESS</u>	<u>AMOUNT</u>
35	8.02	Check Payable to: Michael A. Vespasiano, Attorney Trust Account 331 Main St. Chatham, NJ 07928	\$2,366.25 STATE TAX APPEAL Tax Year 2020

		Property Owner: McLeman, Jonathan & Erika 3 Tree Top Lane Chatham, New Jersey 07928	
64.04	15.01	Hudson One Title Agency Attn: Julie Kim 725 Grand Ave, Suite 104 Ridgefield, NJ 07657 Property Address: 154 Riveredge Drive	\$1,903.89 2 nd Quarter 2021

RESOLUTION 2021-142

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:

NAME	<u>Project</u>	<u>A/C NUMBER</u>	<u>AMOUNT</u>
Innovative Construction 46 Cromwell Court Berkeley Heights, NJ 07922	Performance Bond for RO 18-050	7765172207	\$2,085.00
NJ American Water Attn: Brenda Murphy-Bellotti 167 JFK Parkway Short Hills, NJ 07078	RO 21-0034 Re: 7 Spruce Lane	7765172653	\$300.00
NJ American Water Attn: Brenda Murphy-Bellotti 167 JFK Parkway Short Hills, NJ 07078	RO 21-035 Re: 8 Sterling Drive	7765172653	\$300.00

RESOLUTION 2021-143

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPOINTING PAULETTE BECK TO THE POSITION OF CONSTRUCTION OFFICE CONTROL PERSON & TECHNICAL ASSISTANT TO THE CONSTRUCTION OFFICIAL

BE IT RESOLVED, by the Township Committee of the Township of Chatham that Paulette B. Beck is hereby appointed to the position of Construction Office Control Person & Technical Assistant To The Construction Official at an annual salary of \$55,000 effective June 1, 2021 with terms and conditions outlined in Offer Letter dated May 13, 2021.

RESOLUTION 2021-144

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, AMENDING EMPLOYEE SALARIES FOR THE YEAR 2021

BE IT RESOLVED by the Township Committee of the Township of Chatham, in the County of Morris, New Jersey, that annual salaries of non-contractual employees are hereby amended as follows:

Construction Office Control Person/Bd. Manager	\$55,000.00
Assistant Pool Manager	\$18,989.00
Second Assistant Pool Manager	\$9,203.00
Swim Team Coach	\$3,500.00
Assistant Swim Team Coach	\$2,800.00

RESOLUTION 2021-145
RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY ACCEPTING THE BID OF VESPUCCI'S MARKET FOR THE OPERATION OF THE COLONY POOL CONCESSION STAND

WHEREAS, the Township of Chatham has prepared the necessary bid documents and posted the appropriate advertisements to enable it to seek bids for the operation of the Colony Pool concession stand; and

WHEREAS, bids were duly received and opened on May 6, 2021 at 10:00 a.m.; and

WHEREAS, the bid of the Vespucci's Market was the bid most responsive to the specifications, has been reviewed for compliance with the instructions to bidders and has been found to be conforming, and therefore may be awarded; and

WHEREAS, Vespucci's Market will bring in and use several pieces of their own equipment to enhance the quality and service of the food served; and

WHEREAS, the equipment will include a personal pizza oven, slushy machine, nacho machine, meat slicer, and display racks for foods and snacks; and

WHEREAS, a formal list of equipment will be given to the Township and verified by staff for accuracy; and

WHEREAS, the Township requires and Vespucci's Market has agreed to provide the Township with a Certificate of Insurance naming the Township of Chatham as an additional insured or certificate holder so that it is indemnified for any damage caused by their equipment; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that, for the reasons set forth above, the bid of the Vespucci's Market, 90 Ridgedale Avenue, East Hanover, New Jersey is hereby accepted, and the Mayor and Clerk are hereby authorized to execute a contract with the Vespucci's Market in accordance with the bid specifications.

RESOLUTION 2021-146
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM APPOINTING MEMBER TO THE OPEN SPACE ADVISORY COMMITTEE

BE IT RESOLVED by the Township Committee of the Township of Chatham that the following appointment be made effective immediately:

<u>Open Space Advisory Committee</u>	<u>Term Expires</u>
Natalia Lacy	December 31, 2021

RESOLUTION 2021-147
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM REFUNDING CONSTRUCTION PERMIT FEE

WHEREAS, the Township Committee has considered the request submitted by the Construction Official with regard to the fees that was paid for road opening permits that were submitted to the Township; and

WHEREAS, the roads for which the permit applications were submitted are private roads.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham that the following amount be refunded to the depositor of record:

<u>NAME</u>	<u>PERMIT #</u>	<u>AMOUNT</u>
NJ American Water Attn: Brenda Murphy-Bellotti 167 JFK Parkway Short Hills, NJ 07078	RO 21-0034 Re: 7 Spruce Lane	\$100.00

NJ American Water Attn: Brenda Murphy-Bellotti 167 JFK Parkway Short Hills, NJ 07078	RO 21-035 Re: 8 Sterling Drive	\$100.00
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RESOLUTION 2021-148

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM
AUTHORIZING THE MAYOR AND CLERK TO SIGN AN AFFIDAVIT OF CONSIDERATION
OR EXEMPTION AND A SELLER’S RESIDENCY CERTIFICATION**

WHEREAS, on November 7, 1963, the Township Committee of the Township of Chatham authorized the sale of Lot 6A in Block 53 as shown on the Tax Maps of the Township (the lot and block designation for this property is now known as Lot 6.01 in Block 53); and

WHEREAS, on November 21, 2063, the Township published a Notice of Auction/Sale; and

WHEREAS, on December 4, 1963, the Township Committee held the Auction/Sale and Herbert F. Ecker and Anna A. Ecker, as the adjoining property owners, were the successful bidders submitting the sole bid in the sum of \$10.00; and

WHEREAS, on December 4, 1963, the Township Committee accepted the bid of Mr. and Mrs. Ecker; and

WHEREAS, Mr. and Mrs. Ecker paid the Township all sums due; and

WHEREAS, on December 5, 1963, the Mayor and Clerk of the Township signed a Deed to Mr. and Mrs. Ecker; and

WHEREAS, on December 16, 1963, the Township Attorney forwarded that Deed to Mr. and Mrs. Ecker; and

WHEREAS, since December 16, 1963, that Deed has remained unrecorded but the Township real estate tax records were changed to reflect that the property was owned by Mr. and Mrs. Ecker and the real estate taxes have since been paid; and

WHEREAS, Richard Ecker, successor to Mr. and Mrs. Ecker and the now owner of the property, determined that the Deed was never recorded and sought to record the Deed to clear the title to the property; and

WHEREAS, because of the passage of time and changes in law, the Deed cannot now be recorded without an Affidavit of Consideration or Exemption and a Seller's Residency Certification being attached to the Deed; and

WHEREAS, the Township desires that the Deed be recorded and to authorize the Mayor and Clerk to sign the Affidavit of Consideration or Exemption and Seller's Residency Certification.

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 the Mayor and Clerk are hereby authorized to sign an Affidavit of Consideration or Exemption and Seller's Residency Certification to be prepared by the Township Attorney and forwarded to Richard Ecker.
2. That this Resolution shall take effect immediately.

RESOLUTION 2021-149

**RESOLUTION OF THE TOWNSHIP OF CHATHAM AUTHORIZING THE FILING OF A
LOCAL IMPROVEMENT GRANT APPLICATION WITH THE NEW JERSEY DEPARTMENT
OF COMMUNITY AFFAIRS FOR A NEW DOCK AT THE COLONY POOL**

WHEREAS, the Township of Chatham seeks to improve accessibility to the Colony Pool for all residents; and

WHEREAS, the State of New Jersey Department of Community Affairs (NJDCa) has grant funding available for improvements or new options; and

WHEREAS, the Township intends to submit a grant application for the installation of a new dock that will be made of recycled material and is suitable for residents who have mobility and other accessibility challenges; and

NOW THEREFORE BE IT RESOLVED, that the Township of Chatham authorizes the appropriate Township officials to submit a grant application for the purpose of improving accessibility to the Colony Pool.

RESOLUTION 2021-150

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM
AWARDING ROAD RESURFACING CONTRACT TO SCHIFANO CONSTRUCTION
CORPORATION FOR 2021 ROAD RESURFACING**

WHEREAS, Schifano Construction Corporation of 1 Smalley Avenue, Middlesex, New Jersey has been awarded the 2021 Contract #6: Road Resurfacing for District #1 under the Morris County Cooperative Pricing Council; and

WHEREAS, Chatham Township is a member of the Morris County Cooperative Pricing Council and located in District No. 1; and

WHEREAS, Chatham Township wishes to resurface Rose Terrace, Johnson Drive, Longwood Avenue, Lisa Drive (partial), Susan Drive (Partial), Hillcrest Avenue, and Woodland Avenue (Partial, Islands only), collectively referred to as “2021 Road Resurfacing”.

BE IT RESOLVED that the Township of Chatham hereby awards a contract to Schifano Construction Corporation in the amount of \$284,389.43 subject to applicable unit prices and contract provisions under the Morris County Cooperative Pricing Council.

RESOLUTION 2021-151

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM RECOMMENDING AWARD OF NOE AVENUE RESURFACING PROJECT CONTRACT TO SCHIFANO CONSTRUCTION CORPORATION

BE IT RESOLVED that the Township Committee of the Township of Chatham hereby recommends to the New Jersey Department of Transportation that the contract for the Noe Avenue Resurfacing Project (2021 NJDOT Municipal Aid) in the Township of Chatham, County of Morris, be awarded to Schifano Construction Corp. via 2021 Morris County Cooperative Pricing Council whose bid amounted to \$146,577.50 subject to the approval of the Department.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby directed to sign for and on its behalf the Township of Chatham the contract in the prescribed form for said construction. The Township Clerk is hereby directed to seal said contract with the corporate seal of this body and to attest to the same.

RESOLUTION 2021-152

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM SUPPORTING LIBRARY OF THE CHATHAMS GRANT APPLICATION AND PLEDGING UP TO \$404,925 IN MATCHING FUNDS

WHEREAS, since becoming a joint library in 1975, the Library of the Chathams has provided services to the residents of Chatham Township and Chatham Borough, and

WHEREAS, to serve the continuous growth in services as well as to expand the types of services provided, the Library building was expanded in 1940, 1960, 1964, 1983, 1991 and 2004 to its present size and configuration, and

WHEREAS, the Library has conducted consumer research including focus groups, community surveys and interviews with community leaders to ensure that present services satisfy present needs and to identify new and emerging needs of the communities including an enclosed collaborative Teen Space, an enhanced Local History Room, additional private study rooms, a Business Center, a combination STEAM/Meeting Room, an enlarged and dividable Community Room, a Children’s Activity Room, rear entrance and access ramp improvements. and

Whereas the Library staff has developed a Strategic Plan to respond to existing and emerging patron needs and changes in technology and resources used by our residents, and

WHEREAS, the present configuration of spaces within the building limits accommodating the increasing usage of present services and facilities and impedes the introduction of new services in response to needs identified in the consumer research, and

WHEREAS, an engineering study in 2014 identified structural, operational and environmental deficiencies in the present building requiring correction including HVAC system deficiencies and energy savings, and

WHEREAS, the Library Board of Trustees has engaged architects to develop a plan, called *Bridging Space to Place* to address these deficiencies and reconfigure the spaces within the building to accommodate emerging needs and the growth in demand for present services, and

Whereas, the Library has raised \$1.5 million since 2014 through fundraising, and

WHEREAS, the Library intends to apply for a grant under the New Jersey Library Construction Bond Act of 2017, through which the State of New Jersey will match up to 50% of eligible project costs,

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Chatham supports the Library of the Chathams grant application, and

BE IT FURTHER RESOLVED, that the Township of Chatham will support the Library of the Chathams grant application request with funding of up to \$404,925.00 in a 2022 Capital Ordinance or other funding mechanism if the grant application is approved, and,

BE IT ALSO RESOLVED, that the Township of Chatham expresses its thanks to the Borough of Chatham for passing a similar funding resolution and commitment to support the efforts of the Library of the Chathams.

Deputy Mayor Ewald moved to adopt the Consent Agenda. Committeewoman Fondaco seconded the motion.

Roll call: Committeewoman Felice, Aye; Committeeman Hamilton, Aye; Committeewoman Fondaco, Aye; Deputy Mayor Ewald, Aye; Mayor Ness, Aye.

Non-Consent Agenda

RESOLUTION 2021-153
A RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE RELEASE OF CERTAIN CASH ESCROW ACCOUNTS TO THE TOWNSHIP AND RELEASE OF A PERFORMANCE SURETY BOND TO THE INTERNATIONAL FIDELITY INSURANCE COMPANY

WHEREAS, as of December 18, 2020, the Township of Chatham maintained the following cash escrow accounts:

<u>Caplan Escrow Account #</u>	<u>Bank Escrow Account #</u>	<u>Description</u>	<u>Amount</u>
11117	E-77-60-011-117	Candace Lane–Rolling Hill Co-Candace PBd 05-36-16,16.04	\$ 9,041.30
11122	E-77-60-011-122	Candace Lane–Rolling Hill Co-Candace EIF 05-36-16.04	\$11.17
38809	E-72-00-038-809	Cobblestone Court–Kenneth Constr Hall/Cobblestone EIF 95-69-25	\$371.41
38963	E-72-00-038-963	Cobblestone Court–Kenneth Constr Hall/Cobblestone Perf Bond	\$13,912.83
38810	E-72-00-038-810	Molino Drive–Caplan/Molino LLC Molino Dr EIF 92-34-22	\$11.50
38964	E-72-00-038-964	Molino Drive–Caplan Builders Molino Dr Perf Bond pre2001	\$7,221.20
38965	E-72-00-038-965	Tree Top Lane–Caplan Builders Rolling Hill Vistas Perf Bond	\$43,980.70
80096	E-77-63-180-096	Tree Top Lane–Caplan Builders Tree Top Ln EIF 16-35-8.12	\$87.10

WHEREAS, these escrows total \$74,637.21 plus interest; and

WHEREAS, Performance Surety Bond bearing Bond Number 0348803 issued by the International Fidelity Insurance Company to Rolling Hill on June 21, 2004 in the initial sum of \$264,976.20, which has since been reduced to approximately \$88,305.00, is also held by the Township; and

WHEREAS, the developments for which the cash escrows and Performance Surety Bond are held were long completed and the principal of the Developer is incapacitated and the Developer is winding down its business; and

WHEREAS, a dispute arose between the Township and the Developer as to whether the Developer was entitled to the return of the cash escrows and the release of the Performance Surety Bond; and

WHEREAS, the Township and Developer desire to avoid the expense, inconvenience, uncertainty and distraction of litigation and desire to amicably resolve all claims between the Township and Developer and negotiated a Release and Settlement Agreement; and

WHEREAS, the Developer will authorize release the cash escrows to the Township totaling \$74,637.21 plus interest and release an additional payment to the Township in the sum of \$8,000.00 held in escrow by the Township Attorney upon he adoption of this Resolution; and

WHEREAS, the Township will release the Performance Surety Bond upon the adoption of this Resolution; and

WHEREAS, Developer tendered to the Township Attorney check number 8474 made payable to the Township in the sum of \$8,000.00 to be held in escrow until the adoption of this Resolution; and

WHEREAS, in order to memorialize the above, the Township and Developer propose to enter into a Release and Settlement Agreement to conclude the dispute; and

WHEREAS, this Resolution is in the best interests of the Township of Chatham.

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

1. That the Mayor and Clerk are hereby authorized to sign the Release and Settlement Agreement.
2. That the cash escrows in the sum of \$74,637.21 plus interest be transferred from the identified escrow accounts to the Township of Chatham upon the adoption of this Resolution.
3. The Developer tendered to the Township of Chatham Attorney a check in the sum of \$8,000.00 to be held in escrow until this Resolution is adopted, which check may now be released to the Township.
4. That Performance Surety Bond bearing Bond Number 0348803 issued by the International Fidelity Insurance Company on June 21, 2004 is hereby released.

5. This Resolution shall serve as authority for the Township Clerk to return the original Performance Surety Bond 0348803 to the International Fidelity Insurance Company or to execute a certification that the Surety Performance Bond cannot be found or is lost.
6. This Resolution shall take effect immediately.

Deputy Mayor Ewald moved to adopt Resolution 2021-153. Committeeman Hamilton seconded the motion.

Roll call: Committeewoman Felice, Recused; Committeeman Hamilton, Aye; Committeewoman Fondaco, Aye; Deputy Mayor Ewald, Aye; Mayor Ness, Aye.

Hearing of Citizens

Mayor Ness opened the Hearing of Citizens.

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

Deputy Mayor Ewald moved to adjourn at 10:27 PM. Committeeman Hamilton seconded the motion, which carried unanimously.

Gregory J. LaConte
Municipal Clerk

Proclamation

WHEREAS, the rights of life, liberty and the pursuit of happiness, enumerated in our Declaration of Independence, secured by the Constitution and the Bill of Rights, and enjoyed by every citizen of the United States, are secured by the dedication of the members of the United States Armed Forces; and

WHEREAS, the sacrifices made by all members of the United States Armed Forces and their loved ones are to be valued, and the brave men and women of our community who served and enlisted, ready to defend our homeland and safeguard the freedom and values for which we stand, deserve our recognition. Chatham Township residents have a proud history of service in the United States Armed Forces, in times of peace and times of war; and

WHEREAS, we observe Armed Forces Day on Saturday, May 15th and we thank the Library of the Chathams for creating the Veterans Project of the Chathams. This initiative will collect, archive and make available to the public oral and written histories of veterans who are or were residents of the Chathams and inspire us to offer service to our community and country in the ways we can.

NOW, THEREFORE, BE IT PROCLAIMED, by the Township Committee of the Township of the Township of Chatham that the month of May 2021 be “Military Appreciation Month” and all residents and community members be encouraged to recognize those who have served, or are currently serving, our Nation and thank them for their dedication and contributions.

Tracy Ness, Mayor

Proclamation

WHEREAS, emergency medical services is a vital public service; and

WHEREAS, the members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, emergency medical services has grown to fill a gap by providing important, out of hospital care, including preventative medicine, follow-up care, and access to telemedicine; and

WHEREAS, the emergency medical services system consists of first responders, emergency medical technicians, paramedics, emergency medical dispatchers, firefighters, police officers, educators, administrators, pre-hospital nurses, emergency nurses, emergency physicians, trained members of the public, and other out of hospital medical care providers; and

WHEREAS, the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating Emergency Medical Services Week; now

NOW, THEREFORE, I Tracy Ness, Mayor, in recognition of this event do hereby proclaim the week of May 16-22, 2021, as:

EMERGENCY MEDICAL SERVICES WEEK

With the EMS Strong theme, ***THIS IS EMS: Caring for Our Communities***, I encourage the community to observe this week with appropriate programs, ceremonies, and activities.

Tracy Ness, Mayor

Proclamation

WHEREAS, AAPI Heritage Month originated in 1978 when New York Congressman Frank Horton introduced a bill that called for the first week of May to receive that designation. President Carter issued the first presidential proclamation for Asian/Pacific American Heritage Week in March of 1979. AAPI Heritage Week was expanded to a commemorative month in 1990 in a bill signed into law by President George H.W. Bush, which had to be reauthorized each year until May received permanent designation in a law enacted in 1992; and

WHEREAS, Congressman Horton was inspired former Capitol Hill staffer Jeanie Jew, who approached him about the idea in 1976. Jeannie Jew observed that just as Black History Month was decreed by President Ford in 1976, and Hispanic Heritage Week was decreed by President Johnson in 1968, there was a need to provide similar recognition to Asian Americans and Pacific Islanders; and

WHEREAS, Jeanie Jew's great-grandfather, M.Y. Lee, had immigrated to the United States from China in the 1800s and had helped build the transcontinental railroad. As noted by Congressman Horton, M.Y. Lee became a prominent California businessman who was later killed in Oregon during a period of anti-Chinese and anti-Asian sentiment in that state; and

WHEREAS, the month of May was selected for two reasons: (1) to commemorate the arrival of the first known Japanese immigrant to the U.S. on May 7, 1843, and (2) to honor the completion of the transcontinental railroad on May 19, 1869, which upwards of 20,000 Chinese workers helped to construct; and

WHEREAS, as a consequence of the COVID-19 pandemic, the AAPI community in the United States is experiencing an alarming rise in anti-AAPI hate crimes and bias incidents; and

WHEREAS, in our continued efforts to live up to the American values of freedom, justice and equality for all people, the events of this past year have made evident that it is incumbent upon each of us as individuals to challenge our own biases or assumptions regarding race and get educated.

NOW THEREFORE, BE IT PROCLAIMED, that the Township Committee of the Township of Chatham proudly joins in recognizing the annual celebration of Asian American and Pacific Islander History Month and continuing our collective journey, as a community and nation, in honoring and deepening our knowledge of the history and contributions of AAPI members to the American economy, society, culture, freedoms and values.

Tracy Ness, Mayor

Proclamation

National Police Week

WHEREAS, in 1962, President Kennedy proclaimed May 15 as National Peace Officers Memorial Day and the calendar week in which May 15 falls, as National Police Week; and

WHEREAS, the members of the Chatham Township Police Department play an important role in safeguarding the rights and freedoms of the citizens of our community; and

WHEREAS, it is important that all citizens know and understand the problems, duties and responsibilities of their police department, and that members of our department recognize their duty to serve the people by safeguarding life and property, protecting them against violence or disorder, and protecting the innocent against deception and the weak against oppression or intimidation; and

WHEREAS, our Police Department has grown to be a modern law enforcement agency which unceasingly provides a vital public service.

NOW THEREFORE, I, Tracy Ness, Mayor of the Township of Chatham, do recognize the week of May 9-16, 2021, as National Police Week and further extend appreciation to the Chatham Township Police Department and to all Law Enforcement for the vital services they perform and their exemplary dedication to the community they serve.

Tracy Ness, Mayor