MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
OCTOBER 19, 2020

Mr. Franko called the Regular Meeting of the Planning Board to order at 7:30 P.M.

Adequate notice of the meetings of the Planning Board of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a Resolution setting forth the schedule of meetings for the year 2020, and January, 2021 was published in the *Chatham Courier* and the *Morris County Daily Record*, a copy was filed with the Municipal Clerk and a copy was placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Franko, Mr. Nelson, Mrs. Ozdemir, Mr. Coviello, Ms. Hagner, Mrs. Ewald, Mr. Hoffmann, Mr. Kelly, Mr. Sheth, Mrs. Abbott and Mr. Choi.

Also present were Township Planner Frank Banisch, Engineer John Ruschke, and Attorney Amanda Wolfe in place of Board Attorney Steve Warner.

Mr. Franko noted that the Executive Session will be held at the end of the meeting.

Approval of Minutes

Mr. Nelson moved to approve the minutes of the October 5, 2020 meeting. Mrs. Ewald seconded the motion, which carried unanimously.

Resolutions

Mr. Franko said that the two resolutions pertain to new State rules pertaining to the conduct of remote meetings. Ms. Wolfe added that remote meetings technically constitute a change in location, which is why notice is needed.

Mrs. Ewald asked about the reading of resident letters into the record. Ms. Wolfe said that rule does not apply to the Planning Board, as it is a quasi-judicial board at which cross examine needs to be allowed and due process for applicants is guaranteed.

RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING MEETING SCHEDULE FOR THE PLANNING BOARD DURING 2020 AND JANUARY 2021

WHEREAS, The "Open Public Meeting Act," N.J.S.A.10:4-6 requires that public bodies provide adequate notice of meetings.

WHEREAS, on January 6, 2020 the Planning Board adopted a Resolution to establish the regular meeting schedule for the year 2020 and January 2021; and

WHEREAS, due to the COVID-19 Pandemic the public is limited to participation in public meetings through electronic means; and

WHEREAS, the newly enacted regulations governing remote public meetings codified at N.J.A.C. 5:39-1.1 through 1.7, and specifically N.J.A.C. 5:39-1.5(e) requires publication of a revised annual notice where the local public body expects to conduct remote public meetings for a series of regularly scheduled meetings advertised in its annual notice.

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

During the remainder of the calendar year 2020, and January 2021 public meetings (work meetings, regular meetings and Technical Coordinating Committee (TCC) meetings), will be held by the Planning Board by the Zoom virtual platform, on the following dates and at the following times:

MEETING DATES 2020 – 2021

	WORK MEETING (1st Monday, 7:30 p.m.)	**REGULAR MEETING** (3rd Monday, 7:30 p.m.)	**TCC MEETING 2020** (2nd Thursday, 8:00 a.m.)
2020	November 2	November 16	November 12
	December 7	December 21	December 10
2021	January 4	January 18	January 14

Zoom access information for each meeting will be included on the meeting agenda, which will be posted on the Township website at least 48 hours in advance of each meeting. Agendas will also be posted on the front door and the bulletin board in the main hallway of the Municipal Building.

In the case of a special meeting, Zoom access information will also be included in the Open Public Meetings Act notice.

During public hearings, members of the public will be able to participate via Zoom by using the Raise Hand feature to signify their desire to make public comment. The Zoom platform also provides the ability for the public to listen to the meeting by telephone without video and to also comment by telephone by pressing *9 to raise their hand during public comment sessions.

Formal action may be taken at either the work or regular meetings listed above. During the calendar year 2020 and January 2021, additional public meetings will be held by the Planning Board for purposes of site inspections at 9:00 a.m prevailing time, starting at the Municipal Building, 58 Meyersville Road, Chatham, or such other location as announced by the Board, on the following dates:

SITE VISITS 9:00 A.M
First Saturday

	1ST Saturday
2020	November 7
	December 5
2021	January 2

The Secretary of the Planning Board shall cause the Resolution to be published in both the Chatham Courier and the Morris County Daily Record, posted on the bulletin board in the main hallway of the Municipal Building 58 Meyersville Road, Chatham Township, New Jersey, and a copy filed with the Township Clerk.

Mr. Kelly moved to adopt the amended Annual Notice Resolution. Mr. Nelson seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Aye; Mrs. Ewald, Aye; Ms. Hagner, Aye; Mr. Hoffmann, Aye; Mr. Kelly, Aye; Mr. Sheth, Aye; Mrs. Abbott, Abstain; Mr. Choi, Abstain.

RESOLUTION OF THE TOWNSHIP OF CHATHAM PLANNING BOARD ADOPTING EMERGENCY REMOTE MEETING PROTOCOLS, PROCEDURES AND REQUIREMENTS FOR PUBLIC PARTICIPATION AT REMOTE MEETINGS

WHEREAS, the purpose of N.J.A.C. 5:39-1 et seq., Emergency Remote Meeting Protocol for Local Public Bodies, is to ensure that local public bodies can continue to conduct official business in an open and transparent manner whenever a declared emergency exists that prohibits physical attendance by members of the public; and

WHEREAS, a "declared emergency" means a public health emergency pursuant to the Health Powers Act, N.J.S.A. 26:13-1 et seq., or a state of emergency, pursuant to P.L. 1942, c. 251 or both, or a state of local disaster emergency which has been declared by the Governor and is in effect; and

WHEREAS, N.J.A.C. 5:39-1.3 permits a local public body to hold a remote public meeting to conduct public business during a declared emergency if the emergency reasonably prevents a local public body from safely conducting public business at a physical location with members of the public present; and

WHEREAS, if during a declared emergency the Planning Board of the Township of Chatham (the "Planning Board") holds a physical meeting in a location where, pursuant to State/Federal guidelines meant to mitigate risk, capacity restrictions are required to reduce the number of individuals that can be present in a meeting, the Planning Board shall either:

1) Hold the public meeting at another location with adequate capacity for the reasonable expected attendance by the public; or

2) Hold the public meeting as both an in-person and remote public meeting; and

WHEREAS, a public meeting held solely in-person without a remote access alternative provided shall not prohibit members of the public from attending in person; and

WHEREAS, adequate notice of the remote public meeting shall also include, in addition to the Open Public Meeting Act requirements of N.J.S.A. 10:4-8, clear and concise instructions for accessing the remote public meeting, the means for making public comment and how to access any public documents on the Township's website in the manner set forth at N.J.A.C. 5:39-1.5; and

WHEREAS, at the commencement of a remote public meeting the Chair or the Chair's designee, or in his or her absence, the Secretary, shall announce publicly and shall cause to be entered into the minutes an accurate statement regarding adequate and electronic notice or an explanation of the reason or reasons such notice was not adequately provided as set forth in N.J.A.C. 5:39-1.5(g); and

WHEREAS, prior to the commencement of a remote public meeting, the Planning Board shall make a copy of the agenda available to the public for download on the Township website and shall post a copy of same at the building where the meeting would otherwise be held, including posting of same at any designated and clearly delineated handicap accessible entrance to the building, by no later than 3:00 PM on the date of the meeting; and

WHEREAS, the content of the electronic notice shall be posted on the main access door of the building where the public would routinely attend public meetings of the local public body in person and the notice must be viewable from the outside; and

WHEREAS, the electronic communications used for a remote public meeting shall have a function that allows the Planning Board to mute the audio of all members of the public, as well as allow members of the public to mute themselves, and same shall be announced at the beginning of every remote public meeting; and

WHEREAS, pursuant to N.J.A.C. 5:39-1, if the Planning Board holds a remote meeting to conduct public business, it shall use electronic communication technology routinely used in business settings that can be accessed by the public at no cost and with participant capacity consistent with the reasonable expectations of the Planning Board for the type of public meeting being held, and such participant capacity shall, at minimum, not be limited to fewer than 50 public participants (not including persons required to be present to conduct business at the meeting such as the Board members, Board professionals, and all members of the Applicant's team); and

WHEREAS, remote public meetings may be held by the Planning Board in a format as selected by the Planning Board, by means including, but not limited to, electronic communications platforms with video and audio or live streaming via the internet and shall, additionally, provide a telephonic conference line to allow members of the public to dial in by telephone to listen and to provide public comment; and

WHEREAS, when the Planning Board holds a remote public meeting, it shall allow members of the public to ask questions by audio or by audio and video if the meeting is being held over both; and

WHEREAS, any remote public meeting where sworn testimony is being taken shall be broadcast by video, as well as audio, and all individuals giving sworn testimony, including members of the public making comments, shall appear by video; and

WHEREAS, any presentation or documents that would otherwise be viewed by, or made available to, members of the public physically attending an in-person public meeting shall be made available on the internet website of the Township or made visible during the video broadcast of the remote public meeting; and

WHEREAS, except for quasi-judicial hearings on land development applications or similar public hearings, in addition to making public comments at any remote public meeting, the Planning Board, in advance of the remote meeting shall allow public comments to be submitted to the Clerk by electronic mail and in written letter form by a reasonable deadline to be established and posted on the website in advance of the remote public meeting; and

WHEREAS, except for quasi-judicial hearings on land development applications or similar public hearings, public comments submitted prior to the remote public meeting through electronic or regular mail shall be read aloud and addressed during the remote public meeting in a manner audible to all meeting participants and the public; and

WHEREAS, a reasonable time limit shall be placed on the reading of individual written comments, all of which shall be read from the beginning until the established time limit is reached; and

WHEREAS, in support of, and respect for, an open, fair and informed decision-making process, the Planning Board recognizes that civil, respectful and courteous discourse and behavior are conducive to the democratic and harmonious airing of concerns and decision making; and

WHEREAS, in an effort to preserve the intent of open government and maintain a positive environment for citizen input and Planning Board decision making, policies and rules shall be established to promote civility and maintain decorum at in-person public meetings and remote public meetings in accordance with N.J.A.C. 5:39-1.4 (f)-(h); and

WHEREAS, if a member of the public becomes disruptive during a remote public meeting, including during any period for public comment, the Chair or the Chair's designee, or in their absence the Secretary, shall mute or continue muting, or direct appropriate staff to mute or continue muting, the disruptive member of the public and warn that continued disruption may result in the member of the public being prevented from speaking during the remote public meeting or removed from the remote public meeting; and

WHEREAS, disruptive conduct at an in-person public meeting or remote public meeting includes sustained inappropriate behaviors including, but not necessarily limited to, shouting, interruption, and use of profanity; and

WHEREAS, any member of the public who continues to act in a disruptive manner at a remote public meeting after receiving an initial warning, may be muted while other members of the public are allowed to proceed with their questions or comments; and

WHEREAS, if time permits, the disruptive individual shall be allowed to speak after all other members of the public have been given the opportunity to make comment and, if the person still remains disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Chatham, that the standards and procedures for emergency remote meetings, as set forth in this resolution and as codified in N.J.A.C. 5:39-1 et seq., are hereby established and adopted; and

BE IT FURTHER RESOLVED that procedures and requirements for public participation are hereby established and adopted in order to safeguard public participation in any in-person or remote public meetings in the Township of Chatham and shall apply to all members of the public in attendance at any in-person public or remote public meeting in the Township of Chatham.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board as follows:

Section 1. The foregoing recitals are incorporated herein as if set forth in full;
Section 2. This Resolution shall take effect immediately.

Mr. Hoffmann moved to adopt the Resolution regarding protocols and procedures for public participation in remote meetings. Mrs. Ewald seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Aye; Mrs. Ewald, Aye; Ms. Hagner, Aye; Mr. Hoffmann, Aye; Mr. Kelly, Aye; Mr. Sheth, Aye; Mrs. Abbott, Abstain; Mr. Choi, Abstain.

Discussion

Circulation Plan Element of Master Plan Updates

Ms. Hagner noted that references to Hatch Mott MacDonald should be updated to be Mott MacDonald. She also asked about the Passaic River Trail Plan, and said that it might not be a traditional type of trail. Ms. Hagner also said that the section on sidewalks makes is seem as though there are sidewalks in some areas where they have not been installed.

Mr. Franko suggested that a page-by-page review be conducted after the subcommittee has had an opportunity to meet.

Mrs. Ewald commented on several sections that need to be updated, and said she was surprised how out of date the plan is. She particularly commented on the traffic volume section.

Mr. Hoffmann stated that it would be helpful to receive some comments before the subcommittee meets.

Mrs. Abbott said that the version she has seems to be from 2018. Ms. Hagner said that updates were developed in 2018, however the draft never made it to the point of a Public Hearing.

Mr. Hoffmann asked about the Senior Bus. Ms. Hagner said that it is run by the Senior Center, and the service is run when the Senior Center is open.

Ms. Hagner asked where Board members should send their comments on the draft. Mr. Franko said that comments should be forwarded to Mr. Banisch.

Mr. Kelly noted that the Township Committee is very busy with Affordable Housing matters, which will also be a priority for the Township's professionals. He also said that the Open Space Plan will be more easily updated due to the amount of work already performed by Mr. Ruschke and Open Space Committee Chairman Joe Basralian. Mr. Kelly further suggested that updates be conducted in 2021 when the Township can properly budget for the process.

Mr. Banisch agreed with Mr. Kelly's suggested approach. He also said that the Complete Streets approach is why the plan was not brought forward to Public Hearing in 2018. Mr. Banisch said that the Open Space Plan is very straight forward. Mrs. Abbott said that there was a timing challenge in trying to get the Township Committee to pass a Complete Streets resolution, and asked if it would be necessary before the Planning Board could move forward with the updates. Mr. Banisch said it would be necessary for the resolution to include the Complete Streets concept. He also said he thinks the reluctance on the part of the Township Committee was to avoid inadvertently endangering bicyclists.

Ms. Hagner suggested that if Mr. Banisch is too busy to work on the updates, members of the Board could work on preparing the updates. Mr. Banisch supported Ms. Hagner's suggestion, as the draft would reflect the opinion of residents. He said that he and Mr. Ruschke could then supplement the updates prepared by the subcommittee.

Mr. Franko appointed Ms. Hagner, Mrs. Abbott, Mrs. Ewald and Mr. Choi as members of the subcommittee to review the Circulation Plan.

Mr. Hoffmann said that the subcommittee's work will be helpful in budgeting for the maps to be created in 2021.

Open Space Element of Master Plan Updates

Open Space Committee Chairman Joe Basralian discussed the work performed by the Open Space Committee to update the Open Space Element of the Master Plan. He stated that a draft

plan was presented to the Planning Board in November 2019, which included an updated list of Open Space properties. Mr. Basralian noted that additional updates for 2020 have been made.

Mr. Banisch thanked Mr. Basralian for all the work that has been performed to update the Open Space Plan.

Mr. Basralian discussed the individual proposed updates to the Open Space Plan. He mentioned updates to the Greenway section of the plan. Mr. Basralian also noted language that addresses the positive impact that Open Space has on neighboring property values.

Mrs. Ewald asked about the standard for the amount of active recreation space. Mr. Basralian said that if the amount of municipally-owned active recreation space is compared to the national average, Chatham Township's available space is below that average. He said that if the School District's fields are included, the Township has a more comparable amount of recreation fields. Mr. Basralian also opined that the Open Space Plan cannot be used to determine if the Township has enough active recreation space. Mr. Banisch added that the Township is endowed with thousands of acres of Open Space, and the only other municipalities he has worked in with a comparable amount of Open Space are in the Pinelands. He also said that if there are facility deficiencies and needs, the Boards should focus on what is needed.

Mr. Basralian noted that some data in the Open Space Plan was updated to reflect current information.

Mrs. Ewald asked if the Skate Park is included in the Open Space Plan. Mr. Basralian said that the Open Space Committee had been advised not to include the Skate Park, as it is not preserved land.

Ms. Hagner asked if Section 6 addresses connecting the Passaic River Park in Chatham Borough to the Township. Mr. Basralian said that the Open Space Plan should not be addressing properties in other municipalities, and the Passaic River Park mentioned is on River Road in the Township. He said that the connection referenced to Southern Boulevard will be to the intersection of Southern Boulevard and River Road. Mr. Basralian further explained the potential for connectivity.

Ms. Hagner asked if the plan should be more specific between active and passive recreation in targeted areas. Mr. Basralian said that it would be helpful to be more specific as long as the Township's options are not limited. Mr. Hoffmann noted the need to be particularly specific on grant applications.

Mrs. Ewald asked if master plans include feedback from recreation committees regarding facilities. Mr. Basralian said that such input would be welcome. He also said that he spoke with one of the local sport club directors, who opined that more dry land for active recreation is needed. Mr. Basralian also noted that the Open Space Committee used to have a liaison from the Joint Recreation Committee.

Mr. Basralian presented a trail map that is incorporated into the Open Space Plan.

Mr. Franko asked if the Public Hearing should be scheduled for the next Planning Board meeting. Mr. Banisch suggested that the Planning Board discuss the draft further at the next meeting and that the Public Hearing be scheduled for the following meeting. The upcoming meeting schedule was discussed.

Mr. Franko thanked Mr. Basralian for all the work he has done on the Open Space Plan.

Executive Session

RESOLUTION
(Open Public Meetings Act - Executive Session)

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

WHEREAS, it is necessary for the Planning Board of the Township of Chatham to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below.

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

1. The public shall be excluded from the discussion of the hereinafter specified subject matters.

2. The general nature of the subject matters to be discussed is as follows: *Matters Relating to Litigation, Negotiations and the Attorney-Client Privilege.* Specifically, Litigation: Kronos Holdings, LLC v. Township of Chatham et als. Docket No. MRS-L-2024-20

3. It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Planning Board that the public interest will no longer be served by such confidentiality.

4. This Resolution shall take effect immediately.

Mr. Nelson moved to adopt the resolution to enter Executive Session at 8:45 PM. Mr. Kelly seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Aye; Mrs. Ewald, Aye; Ms. Hagner, Aye; Mr. Hoffmann, Aye; Mr. Kelly, Aye; Mr. Sheth, Aye; Mrs. Abbott, Abstain; Mr. Choi, Abstain.

The Planning Board returned to public session at 8:58 PM.

The consensus of the Planning Board was to authorize Mr. Warner to accept service of the complaint filed by Kronos Holding LLC against the Planning Board. Mr. Warner is also authorized to serve as Trial Counsel for the Planning Board.

Mr. Coviello moved to adjourn at 8:18 PM. Mr. Nelson seconded the motion, which carried unanimously.

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Gregory J. LaConte
Planning Board Recording Secretary