

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
APRIL 19, 2021**

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 2021, and January, 2022 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.

Answering present to the roll call were Mr. Franko, Mr. Nelson, Mrs. Ozdemir, Mrs. Abbott, Mrs. Ewald, Mr. Hoffmann, Mrs. Ness, Mr. Kahn and Mr. Choi.

Mr. Coviello was absent.

Also present were Township Planner Frank Banisch and Attorney John Kaplan in place of Board Attorney Steve Warner.

Approval of Minutes

Mr. Franko said that the approval of minutes will be deferred to the next meeting as they were not distributed to the Board in time for this meeting.

Resolution

**RESOLUTION PB-21-013
RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF CHATHAM,
COUNTY OF MORRIS, STATE OF NEW JERSEY, APPOINTING KALI TSIMBOUKIS
AS MANAGER FOR THE PLANNING BOARD**

WHEREAS, the Planning Board of the Township of Chatham, County of Morris, State of New Jersey, desires to appoint Kali Tsimboukis as Manager for the Board for the period commencing March 25, 2021 and ending December 31, 2021; and

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

1. Kali Tsimboukis is hereby appointed as Manager for the Planning Board of the Township of Chatham, County of Morris, State of New Jersey, for the period commencing March 25, 2021 and terminating December 31, 2021; and
2. The compensation to be paid to Kali Tsimboukis for services rendered to the Board shall be in accordance with the Salary Ordinance of the Township of Chatham; and

3. This Resolution shall take effect upon adoption; and
4. A certified copy of the Resolution shall be forwarded by the Secretary of the Board to the Township Committee.

Mr. Hoffmann moved to adopt Resolution PB-21-013. Mr. Franko seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Mrs. Abbott, Aye; Mr. Hoffmann, Aye; Mrs. Ness, Aye; Mr. Kahn, Aye; Mr. Choi, Aye.

Master Plan Consistency Review – Ordinance 2021-11

Mr. Banisch said that the Federal Telecommunications Act allows municipalities to manage public rights-of-way as long as it is in a competitively neutral and non-discriminatory way. He said that placement, construction and modification of wireless facilities is part of what municipalities can govern. Mr. Banisch said that while Ordinance 2021-11 does not fall within Chapter 30, it does regulate development within rights-of-way and it could be construed as a land development regulation, therefore a Master Plan Consistency Review is being conducted. He further stated that when the last comprehensive Master Plan was prepared in 1999, it included a specific objective regarding monitoring the impact of State and County policies and regulations. Mr. Banisch further said that the changes to land use regulations resulting from the Federal Telecommunications Act have prompted the Township to consider the merits of expanded wireless telecommunications which include the lifesaving, life-enhancing and educational benefits of wireless communication capabilities. Mr. Banisch said that the Township's 2011 Land Use Plan included the goal of promoting the public health, safety, morals and general welfare. As such, Mr. Banisch recommended that the Planning Board find that Ordinance 2021-11 advances the intent of the Master Plan and is not inconsistent with the Master Plan, and to recommend that the ordinance be adopted by the Township Committee.

Mayor Ness said that this matter was brought to her attention at a meeting of local mayors. She said that Morris Township had an issue in which 5G poles were being installed in rights-of-way, and they already had an ordinance in effect to regulate such poles. Mayor Ness said that the Township Committee is being proactive by considering an ordinance before such poles become a problem in the Township.

Mrs. Abbott asked if the poles would normally be 35-feet high and what they would look like. Mr. Nelson said that there are pictures available online and the equipment can be installed on top of telephone poles. He also said that he is unsure if such towers could be installed in areas where the utilities are underground. Mr. Nelson noted that the equipment receives electricity from existing powerlines.

Mr. Hoffmann said that there were two municipalities that were successful in having small cell towers removed.

Mr. Franko opened the floor to public comment.
Seeing none, Mr. Franko closed the floor.

RESOLUTION PB-21-014
RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF CHATHAM
FINDING ORDINANCE NO. 2021-12 (“APPLICATION CONTENT”) TO BE NOT
INCONSISTENT WITH THE MASTER PLAN PURSUANT TO N.J.S.A. 40:55D-26(a)
AND -64 OF THE MUNICIPAL LAND USE LAW

WHEREAS, the Municipal Land Use Law (hereinafter referred to as the “MLUL”), specifically N.J.S.A. 40:55D-62, authorizes the Township Committee (hereinafter referred to as the “Township Committee”) of the Township of Chatham (hereinafter referred to as the “Township”) to adopt or amend the Township’s Land Development Ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

WHEREAS, on April 8, 2021, the Township Committee introduced, on first reading, Ordinance No. 2021-12 which amends Section 30-60.5 of the Revised General Ordinances of the Township of Chatham, which is part of Section 30-60 entitled “Filing Procedures,” to reduce the number of paper copies of applications and plans to be submitted, a true and accurate copy of which is attached hereto and made a part hereof as Exhibit A; and

WHEREAS, on April 19, 2021, in accordance with N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64, the Planning Board of the Township of Chatham (hereinafter referred to as the “Board”) reviewed Ordinance No. 2021-12 and considered the April 16, 2021 Memorandum of Frank Banisch, P.P., the Board Planner, a true and accurate copy of which is attached hereto as Exhibit B; and

WHEREAS, on April 19, 2021, after hearing the testimony of the Frank Banisch, P.P., the Board Planner, and discussion amongst the members of the Board and its professionals, the Board determined that Ordinance No. 2021-12 is not inconsistent with the last comprehensive Master Plan prepared in 1999 and the 2011 Land Use Plan Element; and

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Chatham on this 19th day of April 2021, as follows:

1. The foregoing recitals are incorporated herein as if set forth in full;
2. Based on the testimony of the Board Planner, the Planning Board hereby finds that Ordinance No. 2021-12 is not inconsistent with the 1999 Master Plan and the 2011 Land Use Plan Element, and hereby recommends that the Township Committee adopt the proposed amendment to the Land Development Ordinance (attached hereto as Exhibit A);
3. The Secretary of the Planning Board shall forward a copy of this Resolution to the Township Committee upon adoption. This Resolution shall serve as the report to the governing body in accordance with N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64; and
4. This Resolution shall take effect immediately.

Mr. Nelson moved to adopt Resolution PB-21-014. Mrs. Abbott seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Mrs. Abbott, Aye; Mr. Hoffmann, Aye; Mrs. Ness, Aye; Mr. Kahn, Aye; Mr. Choi, Aye.

Master Plan Consistency Review – Ordinance 2021-12

Mr. Franko said that Ordinance 2021-12 reduces the number of paper copies of plans that need to be submitted for land use applications for land use applications from 25 to 4. He said that the Township’s professionals mostly rely on electronic copies, and the excess copies take up space in Township file storage.

Mr. Banisch said that the ordinance falls within land development regulations. He also said that the general welfare is advanced by the ordinance by lessening the cost of the application process. Mr. Banisch said that a reduction in paper also advances the environmental objectives of the Master Plan. He also recommended that the Board find that the ordinance is not inconsistent with the Master Plan and to recommend that it be adopted by the Township Committee.

Mr. Hoffmann noted that the reduction will save applicants money on printing costs. Mr. LaConte said that the savings will also be proportional to the number of revisions that are submitted, as 25 copies need to be submitted every time a revised version is submitted.

Mrs. Abbott opined that the reduction is long overdue. Mr. Hoffmann thanked the Board professionals for supporting the ordinance.

Mr. Franko opened the floor to public comment.
Seeing none, Mr. Franko closed he floor.

RESOLUTION PB-21-015

RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF CHATHAM FINDING ORDINANCE NO. 2021-11 (“SITING OF POLES, CABINETS AND ANTENNAS”) TO BE NOT INCONSISTENT WITH THE MASTER PLAN PURSUANT TO N.J.S.A. 40:55D-26(a) AND -64 OF THE MUNICIPAL LAND USE LAW

WHEREAS, the Municipal Land Use Law (hereinafter referred to as the “MLUL”), specifically N.J.S.A. 40:55D-62, authorizes the Township Committee (hereinafter referred to as the “Township Committee”) of the Township of Chatham (hereinafter referred to as the “Township”) to adopt or amend the Township’s General Ordinances relating to the nature and extent of the uses of land and of buildings and structures thereon; and

WHEREAS, on April 8, 2021, the Township Committee introduced, on first reading, Ordinance No. 2021-11 which amends and supplements the Revised General Ordinances of the Township by adding a new Section 19-3 entitled, “Siting of Poles, Cabinets and Antennas” in Chapter 19, entitled “Streets and Sidewalks,” a true and accurate copy of which is attached hereto and made a part hereof as **Exhibit A**; and

WHEREAS, on April 19, 2021, in accordance with N.J.S.A. 40:55D-26(a), N.J.S.A. 40:55D-64, and Hasbrouck Heights Hosp. Ass’n v. Hasbrouck Heights, 15 N.J. 447 (1954), the Planning Board of the Township of Chatham (hereinafter referred to as the “Board”) reviewed Ordinance No. 2021-11 and considered the April 16, 2021 Memorandum of Frank Banisch, P.P., the Board Planner, a true and accurate copy of which is attached hereto as **Exhibit B**; and

WHEREAS, on April 19, 2021, after hearing the testimony of the Frank Banisch, P.P., the Board Planner, and discussion amongst the members of the Board and its professionals, the Board determined that Ordinance No. 2021-11 is not inconsistent with the last comprehensive Master Plan prepared in 1999 and the 2011 Land Use Plan Element; and

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Chatham on this 19 day of April 2021, as follows:

1. The foregoing recitals are incorporated herein as if set forth in full;
2. Based on the testimony of the Board Planner, the Planning Board hereby finds that Ordinance No. 2021-11 is not inconsistent with the 1999 Master Plan and the 2011 Land Use Plan Element, and hereby recommends that the Township Committee adopt the proposed amendment to the Land Development Ordinance (attached hereto as Exhibit A);
3. The Secretary of the Planning Board shall forward a copy of this Resolution to the Township Committee upon adoption. This Resolution shall serve as the report to the governing body in accordance with N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64; and
4. This Resolution shall take effect immediately.

Mr. Nelson moved to adopt Resolution PB-21-015. Mrs. Ozdemir seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Mrs. Abbott, Aye; Mr. Hoffmann, Aye; Mrs. Ness, Aye; Mr. Kahn, Aye; Mr. Choi, Aye.

Mr. LaConte reminded the Planning Board members that Financial Disclosure Statements must be filed by April 30th to avoid being fined by the State.

Mr. Nelson moved to adjourn at 7:53 PM. Mrs. Abbott seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary