

RESOLUTION 2025-088

RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, NEW JERSEY, AUTHORIZING PAYMENT OF ATTORNEY'S FEES AND COSTS IN CONNECTION WITH THE FUSTER DEVINE OPRA LITIGATION

WHEREAS, CJ Griffin, Esq. of Pashman, Stein, Walder, Hayden, on behalf of Antonio Fuster and Brianna Devine, had filed certain litigation against the Township of Chatham and the Township Clerk (for ease of reference collectively the "Township"), with respect to their request under the Open Public Records Act ("OPRA") for certain government records, and specifically, to obtain certain body worn camera footage from the Township Police Department (the "BWC footage"), which litigation was initially brought before the Superior Court and captioned *Antonio Fuster and Brianna Devine, v. Chatham Township, et al.*, Docket No. MRS-L-1814-22, and then proceeded through the Appellate Division (Docket No. A-1673-22) and into the New Jersey Supreme Court (Docket No. 089030 (collectively, the "Litigation"); and

WHEREAS, following argument before the New Jersey Supreme Court in the Litigation, the Court, in *Antonio Fuster and Brianna Devine v. Chatham Township, et al.*, 259 N.J. 533 (2025), issued a published opinion which determined that the BWC footage be disclosed to Fuster and Devine, a determination which, under pre-September 3, 2024 amendments to OPRA (which apply to this case, which was commenced *prior to* those amendments), directs that a fee award be made in favor of Fuster and Devine, since they are prevailing party in the Litigation which resulted in the production of the sought BWC footage; and

WHEREAS, in the wake of the above ruling by the New Jersey Supreme Court in the Litigation, the parties were able to reach an amicable resolution of the fee award issue without further litigating the same, agreeing upon the payment of attorney's fees and costs in the amount of \$140,000.00, a nearly fifteen percent reduction from the \$164,000 originally sought by counsel; and

WHEREAS, the Township, in consideration of the forgoing and the attendant cost and expense of continuing the Litigation given the entitlement to a fee award, particularly given the fee shifting provisions under the pre-amendment provisions of OPRA which apply to this case, is desirous of authorizing the settlement and compromise of the same, including the authorization of the payment of \$140,000.00 for attorney's fees and costs, all as aforesaid.

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 aforementioned recitals are incorporated herein as though fully set forth at length.
2. The settlement of the fee shifting aspects of the Litigation for the sum of \$140,000.00, be and hereby are approved, and the appropriate Township personnel be and are hereby authorized and directed to process such payment to legal counsel for Fuster and Devine, CJ Griffin, Esq. of Pashman, Stein, Walder, Hayden, in accordance with such invoice, purchase order, W-9 and other information provided or which may be provided in connection with the resolution thereof. All appropriate Township personnel are also hereby authorized and directed to execute any such documents as may be reasonably necessary to effectuate the terms of the settlement, including as necessary the execution of any settlement agreement or waiver and release, in such form as may be approved by Township Administration in consultation with the Township Attorney.
3. This Resolution shall take effect immediately.

Adopted: March 25, 2025

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:



Gregory J. LaConte, Clerk

By



Michael Choi, Mayor

CERTIFICATION OF THE AVAILABILITY OF FUNDS

I hereby certify that as of March 25, 2025, there are sufficient funds available in account 5-01-20-155-299 to carry out the purpose of this Resolution.



Debra A. King
Chief Financial Officer