

ORDINANCE #09-13

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, TO VACATE AND EXTINGUISH ANY AND ALL PUBLIC RIGHTS IN AND TO THE RIGHT OF WAY SITUATED ON MILTON AVENUE AT OR NEAR ELMWOOD AVENUE, AND ADJACENT TO BLOCK 62, LOTS 4 AND 5, AND BLOCK 34, LOT 45

WHEREAS, the Mayor and Council of the Borough of Chatham in the County of Morris are of the opinion that the public interest will best be served by abandoning, vacating, releasing and extinguishing any and all public right which said Borough may have in those portions of the unimproved right of way or otherwise known as a paper street situated on Milton Avenue at or near Elmwood Avenue, and which is adjacent to and running along Lots 4 and 5 in Block 62 and Lot 45 in Block 34; and

WHEREAS, the Borough of Chatham, for itself, its successors and assigns, reserves unto itself the right to construct, install, build, operate, maintain, use repair, replace and relocate such public utilities and cable television facilities, within the described premises, which it may, at any time hereafter deem necessary for the public health, safety, convenience and welfare, and the Borough of Chatham further reserves unto itself the right to use, maintain, repair, replace and relocate all existing utilities and cable television facilities owned or controlled by it located in, adjacent to, upon or through said land, as the case may be, an easement over, under, through and cross the portion of the land described in the attached schedules as may be necessary or expedient for the purpose of maintaining, replacing, relocating, installing, leveling, constructing and repairing its utilities, mains and appurtenances thereto beneath the surface of the aforesaid described land, whether the same be owned by the Borough of Chatham or in combination with others. The Borough of Chatham further reserves for the benefit of the Public Service Electric and Gas Company, and such other public utilities, CATV and such other cable television company the right to maintain, repair, and replace utilities or facilities installed by them in, adjacent to, over or through the aforesaid land. All of the aforesaid rights shall be unaffected by this ordinance; and

WHEREAS, the property to be vacated shall be restricted to allow the Borough access and egress in and to the property for the purpose of maintenance of the proposed twenty (20') foot wide sanitary sewer easement running along the property and the proposed ten (10') foot wide foot path easement as set forth on the proposed vacation plan of a portion of Milton Avenue, situated in the Borough of Chatham, Morris County, New Jersey prepared by Benjamin and Wizorek, Inc., dated January 21, 2009.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Chatham, County of Morris, State of New Jersey, as follows:

SECTION 1. Those portions of the public right-of-way described in the attached Metes and Bounds Descriptions drawn in accordance with the proposed vacation plan of a portion of Milton Avenue, situated in the Borough of Chatham, Morris County, New Jersey prepared by

Benjamin and Wizorek, Inc, and dated January 21, 2009, are hereby declared not needed for public use, subject to the Borough's reservation of rights as set forth herein in Section 3.

SECTION 2. The Borough of Chatham hereby vacates, releases, discharges, and extinguishes all rights to that portion of the public right-of-way or paper street situated on Milton Avenue at or near Elmwood Avenue, and which is adjacent to and running along Lots 4 and 5 in Block 62 and Lots 46 in Block 34, as shown on the Tax Map of the Borough of Chatham.

SECTION 3. The Borough of Chatham, for itself, its successors and assigns, reserves unto itself the right to construct, install, build, operate, maintain, use repair, replace and relocate such public utilities and cable television facilities, within the described premises, which it may, at any time hereafter deem necessary for the public health, safety, convenience and welfare, and the Borough of Chatham further reserves unto itself the right to use, maintain, repair, replace and relocate all existing utilities and cable television facilities owned or controlled by it located in, adjacent to, upon or through said land, as the case may be, an easement over, under, through and cross the portion of the land described in the attached schedules as may be necessary or expedient for the purpose of maintaining, replacing, relocating, installing, leveling, constructing and repairing its utilities, mains and appurtenances thereto beneath the surface of the aforesaid described land, whether the same be owned by the Borough of Chatham or in combination with others. The Borough of Chatham further reserves for the benefit of the Public Service Electric and Gas Company, and such other public utilities, CATV and such other cable television company the right to maintain, repair, and replace utilities or facilities installed by them in, adjacent to, over or through the aforesaid land. All of the aforesaid rights shall be unaffected by this ordinance.

SECTION 4. The property to be vacated shall contain a restriction to allow the Borough access and egress in and to the property for the purpose of maintenance of the proposed twenty (20') foot wide sanitary sewer easement running along the property and the proposed ten (10') foot wide foot path easement as set forth on the proposed vacation plan of a portion of Milton Avenue, situated in the Borough of Chatham, Morris County, New Jersey prepared by Benjamin and Wizorek, Inc., dated January 21, 2009.

SECTION 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 6. If any article, section, subsection, paragraph, phrase, or sentence is for any reason held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed separable.

SECTION 7. This ordinance shall become effective twenty (20) days after final passage and publication, and shall thereupon be forwarded for filing to the Morris County Clerk as a street vacation within sixty (60) days following final adoption in accordance with N.J.S.A. 40:67-19.

INTRODUCED: August 10, 2009

ADOPTED:

Mayor V. Nelson Vaughan, III

ATTEST:

Susan Caljean, R.M.C.