

**MAYOR AND BOROUGH COUNCIL  
and  
BOROUGH OF CHATHAM PLANNING BOARD**

**JOINT SPECIAL MEETING**

**MINUTES**

**September 21, 2016**

Mayor Bruce A. Harris called the Joint Special Meeting of the Mayor and Council of the Borough of Chatham and the Borough of Chatham Planning Board to order on Wednesday, September 21, 2016 at 7:30 p.m. in the Council Chambers in Borough Hall, 54 Fairmount Avenue, Chatham, New Jersey.

**SALUTE TO FLAG**

The Mayor led the assembled in the Pledge of Allegiance.

**MOMENT OF SILENCE**

Mayor Harris asked for a moment of silence for those who have given their lives for our country.

**STATEMENT OF ADEQUATE NOTICE**

Robin R. Kline, Municipal Clerk, read the following statement of adequate notice:

Pursuant to the requirements of R.S. 10:4-10, adequate notice of this Joint Special Meeting had been provided to the press on September 8, 2016 and a copy was posted on the Municipal Bulletin Board on the main floor of Borough Hall.

The purpose of the Joint Special Meeting is two-fold. First, the Mayor and Council and the Planning Board will consider an amendment to the Borough's Recreation and Open Space Inventory (ROSI). Second, the Mayor and Council and Planning Board will consider the proposed Housing Element and Fair Share Plan (the "Plan") for the Borough of Chatham prepared by Susan G. Blickstein, AICP/PP, PhD, the Borough's Planner, and Elizabeth C. McKenzie, AICP, PP, dated November 24, 2015 and last revised April 20, 2016, which was filed with the Morris County Superior Court, Law Division, as well as the items necessary to implement the Plan.

Formal action may be taken at the Joint Special Meeting by both public bodies.

Following the Joint Special Meeting, the Borough of Chatham Planning Board will hold its regularly scheduled meeting.

**ROLL CALL | MAYOR AND BOROUGH COUNCIL**

On a call of the roll, the following officials were present:

Mayor Bruce A. Harris  
Council Member James J. Collander  
Council President James Lonergan  
Council Member Victoria Fife  
Council Member Len Resto  
Council Member Peter Hoffman  
Robert J. Falzarano, Borough Administrator  
James L. Lott, Jr., Borough Attorney  
Robin R. Kline, Borough Clerk

Council Member Gerald J. Helfrich was absent.

## **ROLL CALL | BOROUGH OF CHATHAM PLANNING BOARD**

On a call of the roll, the following officials were present:

Mayor Bruce A. Harris  
Council Member Victoria Fife  
Chairman Susan W. Favate  
Matthew Wagner  
William Heap  
H.H. Montague  
Janice Piccolo  
Vincent Loughlin, Board Attorney  
Dr. Susan Blickstein, Board Planner  
Liz Holler, Recording Secretary

Joseph Mikulewicz, John Bitar, Thomas Gilman (1<sup>st</sup> Alternate), and Wolfgang Robinson (2<sup>nd</sup> Alternate) were absent.

## **MEETING OPEN TO THE PUBLIC**

### **NOTICE OF PUBLIC COMMENT TIME LIMIT**

Hearing of citizens during the Public Comment section of the Agenda is an opportunity for any member of the public to be heard about issues which are/are not topics scheduled for Public Hearing tonight. To help facilitate an orderly meeting, and to permit all to be heard, speakers are asked to limit their comments to a reasonable length of time.

Mayor Harris opened the meeting to the public.

Seeing no one wishing to speak, Mayor Harris closed public comments and proceeded with the discussion item on the agenda.

## **DISCUSSION ITEM**

### **Amendment to Recreation and Open Space Inventory (ROSI)**

Mr. Lott reported that the Borough Council and the Planning Board will need to adopt respective Resolutions, which are listed on tonight's agenda, approving the removal of Block 99, Lot 12 from the Borough's Recreation and Open Space Inventory, commonly known as the ROSI. He advised that the parcel was dedicated to the Borough in the 1950's for roadway purposes and was erroneously included in the ROSI.

Mr. Lott further advised that lands identified on the ROSI are subject to Green Acres restrictions and cannot be disposed of or diverted to a use other than recreation or conservation purposes without the approval of the New Jersey Department of Environmental Protection (NJ DEP). He confirmed that the NJ DEP has approved the removal of the parcel of land from the Borough's ROSI.

## **RESOLUTION REQUIRING SEPARATE ACTION BY THE BOROUGH COUNCIL**

Mayor Harris asked Council Member Resto to proceed with Resolution #16-278.

### **RESOLUTION #16-278**

### **RESOLUTION APPROVING THE AMENDMENT TO THE BOROUGH OF CHATHAM RECREATION AND OPEN SPACE INVENTORY (ROSI) AND AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED DECLARATION OF ENCUMBRANCE AND ROSI BETWEEN THE BOROUGH OF CHATHAM AND NJ DEP GREEN ACRES PROGRAM**

**WHEREAS**, the Recreation and Open Space Inventory (ROSI) is a document compiled by a local government unit as a master list of its Green Acres-restricted lands; and

**WHEREAS**, lands that are subject to Green Acres restrictions cannot be disposed of, or diverted to a use other than recreation or conservation purposes, without the approval of the New Jersey Department of Environmental Protection (NJ DEP) Commissioner and the State House Commission; and

**WHEREAS**, the Declaration of Encumbrance, including the ROSI, is recorded with the appropriate County Clerk as a condition of the Green Acres funding contract in order to provide notice of the Green Acres restrictions on these lands to title searchers and the general public; and

**WHEREAS**, the NJ DEP has approved an amendment to remove Block 99, Lot 12 from the Borough's ROSI pursuant to N.J.A.C. 7:36-25.3g(1); and

**WHEREAS**, the Borough has prepared an amended and restated Declaration of Encumbrance to reflect the deletion of the Block 99, Lot 12 from the ROSI.

**BE IT RESOLVED**, by the Mayor and Council of the Borough of Chatham that they hereby approve of the amendment to remove Block 99, Lot 12 from the Borough's ROSI and authorize the Mayor and Borough Clerk to execute an amended and restated Declaration of Encumbrance for the purpose of updating the ROSI between the Borough and the NJ DEP Green Acres Program to reflect this amendment; and

**BE IT FURTHER RESOLVED**, that all other Borough officials and employees are hereby authorized and directed to take all action necessary and appropriate to effectuate the terms of this Resolution.

Council Member Resto offered Resolution #16-278 and moved its adoption:

**BE IT RESOLVED**, that this Resolution as read by title be adopted and passed.

Council Member Collander seconded the motion.

Mayor Harris asked the Borough Clerk for a Roll Call Vote:

Name	Motion	Second	Yes	No	Abstain	Absent
Collander		X	X			
Lonergan			X			
Fife			X			
Helfrich						X
Resto	X		X			
Hoffman			X			

## **RESOLUTION REQUIRING SEPARATE ACTION BY THE PLANNING BOARD**

Mayor Harris asked Planning Board Chair Favate to proceed with Resolution #PB16-22.

Chair Favate read Resolution #PB2016-22.

### **RESOLUTION #PB 2016-22**

#### **RESOLUTION APPROVING THE AMENDMENT TO THE BOROUGH OF CHATHAM RECREATION AND OPEN SPACE INVENTORY (ROSI) AND AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED DECLARATION OF ENCUMBRANCE AND ROSI BETWEEN THE BOROUGH OF CHATHAM AND NJ DEP GREEN ACRES PROGRAM**

**WHEREAS**, the Recreation and Open Space Inventory (ROSI) is a document compiled by a local government unit as a master list of its Green Acres-restricted lands; and

**WHEREAS**, lands that are subject to Green Acres restrictions cannot be disposed of, or diverted to a use other than recreation or conservation purposes, without the approval of the New Jersey Department of Environmental Protection (NJ DEP) Commissioner and the State House Commission; and

**WHEREAS**, the Declaration of Encumbrance, including the ROSI, is recorded with the appropriate county clerk as a condition of the Green Acres funding contract in order to provide notice of the Green Acres restrictions on these lands to title searchers and the general public; and

**WHEREAS**, the NJ DEP has approved an amendment to remove Block 99, Lot 12 from the Borough's ROSI pursuant to N.J.A.C. 7:36-25.3g(1); and

**WHEREAS**, the Borough has prepared an amended and restated Declaration of Encumbrance to reflect the deletion of the Block 99, Lot 12 from the ROSI; and

**WHEREAS**, the Planning Board has reviewed the amended and restated Declaration of Encumbrance and approves of the amendment to remove Block 99, Lot 12 from the Borough's ROSI finding it to be consistent with the Borough's Master Plan; and

**NOW, THEREFORE**, based upon all of the above, the Planning Board for the Borough of Chatham hereby approves of the amendment to remove Block 99, Lot 12 from the Borough's ROSI and authorizes the Board Chair and Secretary to execute the amended and restated Declaration of Encumbrance and ROSI and/or any and all further documents and agreements necessary or required to effectuate the purposes of this resolution and the proposed amendment in question.

Planning Board Member Wagner offered Resolution #PB2016-22 and moved its adoption:

**BE IT RESOLVED**, that this Resolution as read by title be adopted and passed.

Council Member Fife seconded the motion.

Chair Favate asked the Borough Clerk for a Roll Call Vote.

Name	Motion	Second	Yes	No	Abstain	Absent
Mayor Harris			X			
Council Member Fife		X	X			
Chair Favate			X			
Wagner	X		X			
Heap			X			
Montague			X			
Mikulewicz						X
Bitar						X
Piccolo			X			
Gilman [1 <sup>st</sup> Alt.]						X
Robinson [2 <sup>nd</sup> Alt]						X

## DISCUSSION ITEM

***Housing Element and Fair Share Plan for the Borough of Chatham, prepared by Susan G. Blickstein, AICP/PP, PhD and Elizabeth C. McKenzie, AICP, PP***

Dr. Susan Blickstein began discussion of the Borough's *Housing Element and Fair Share Plan* by first providing a brief history of affordable housing in New Jersey. She reported that the Council on Affordable Housing (COAH), an agency within the Department of Community Affairs, was established to ensure that all New Jersey municipalities provide their fair share of low- and moderate-income housing in response to the Fair Housing Act and the New Jersey Supreme Court rulings known as the Mount Laurel decisions. She reported that due to inaction by COAH in establishing new Third Round

guidelines, the New Jersey Supreme Court transferred jurisdiction over the Fair Housing Act and oversight of affordable housing compliance to the courts..

She reported that New Jersey Supreme Court directed municipalities under COAH's jurisdiction to file a Declaratory Judgment Action in Superior Court seeking a judicial determination of their compliance with their Mount Laurel obligations and approval of their affordable housing plan. Municipalities that choose not to comply with the Court's directive would be exposed to builder's remedy lawsuits that could result in more affordable housing units at a greater density

Dr. Blickstein reported that on September 7, 2016, she, Mr. Lott and other Borough officials presented the Borough's amended *Housing Element and Fair Share Plan* at a Fairness and Compliance conducted before Judge Hansbury in the Morris County Superior Court. Fair Share Housing Center participated in this proceeding as an interested party. In the context of the Borough's Declaratory Judgment action, Fair Share Housing Center argued that the Borough has an Third Round obligation to provide 481 affordable housing units. During negotiation, that number was reduced to 337 units and reduced to a Realistic Development Potential of 36 units based on a vacant land adjustment. The Borough's Plan provides for a realistic development opportunity for the 36 units as well as the Borough's 301-unit unmet need number. The Borough's Plan provides that unmet need will be satisfied by rezoning certain areas to allow for a 15% affordable housing set-aside for new rental units and a 20% affordable housing set-aside for new market units, if and when new housing developments are built.

Dr. Blickstein and Mr. Lott advised that, as a result of the Fairness and Compliance Hearing before Judge Hansbury, the Borough was granted a 10-year period of compliance and repose. During this period, the Borough is protected from builder's remedy lawsuits and the Fair Share Housing Center housing advocates cannot seek further judicial action to demand that additional number of affordable housing units be built.

Dr. Blickstein applauded the Borough for submitting a thorough and well thought out *Housing Element and Fair Share Plan*. She mentioned that the *Housing Element and Fair Share Plan* is a mandatory component of a Master Plan and that the Borough's Plan is intended to fulfill the requirements of the New Jersey Municipal Land Use Law and the Fair Housing Act.

Mr. Lott advised that the Borough was the first municipality in Morris County to be granted an Order of Compliance and Repose.

Mayor Harris commented that the Borough's Affordable Housing Advisory Committee and the Planning Board have been addressing affordable housing strategies in the Borough for several years and the Borough was really prepared when the Declaratory Judgment action was filed.

## **RESOLUTION REQUIRING PUBLIC HEARING AND SEPARATE ACTION BY THE PLANNING BOARD**

Mayor Harris asked Planning Board Chair Favate to proceed with Resolution #PB2016-23.

Chair Favate read Resolution #PB2016-23:

### **RESOLUTION #PB2016-23**

#### **RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF CHATHAM ADOPTING THE THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN FOR THE BOROUGH OF CHATHAM**

**WHEREAS**, pursuant to N.J.S.A. 40:55D-28, the Planning Board of the Borough of Chatham adopted a Third Round Housing Element and Fair Share Plan in December of 2008; and

**WHEREAS**, the Mayor and Borough Council endorsed said plan and submitted it to the New Jersey Council on Affordable Housing ("COAH") together with a Petition for Third Round substantive certification; and

**WHEREAS**, while the Borough's petition was pending, the New Jersey Supreme Court invalidated COAH's Third Round rules (see, In re Adoption of N.J.A.C. 5:96 and 5:67, 215 N.J. 578 (2013)); and

**WHEREAS**, COAH failed to adopt new rules, and on March 10, 2015, the Court issued its decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) ("Mount Laurel IV") in which it directed municipalities under COAH's jurisdiction to file a Declaratory Judgment Action in Superior Court seeking judicial approval of their Housing Element and Fair Share Plan; and

**WHEREAS**, notwithstanding COAH's failure to adopt Third Round rules, the Borough has continued to provide low and moderate income housing opportunities in the Borough; and

**WHEREAS**, in accordance with Mount Laurel IV, the Borough filed a Declaratory Judgment action in Morris County Superior Court seeking a Judgment of Compliance and Repose, In the Matter of the Borough of Chatham Affordable Housing Compliance, Docket No. MRS-L-1906-15; and

**WHEREAS**, in the context of the court action, the Borough's Planning Consultants, Susan G. Blickstein, AICP/PP, PhD and Elizabeth C. McKenzie, AICP, PP, prepared a plan entitled "Housing Element and Fair Share Plan" dated November 25, 2015 and last revised April 20, 2016 (the "Plan"); and

**WHEREAS**, the purpose of the Plan is to address the Borough's Third Round housing obligation pursuant to the direction issued by the Mount Laurel IV; and

**WHEREAS**, a copy of the Plan is attached hereto and made a part hereof this Resolution; and

**WHEREAS**, the Borough and Fair Share Housing Center ("FSHC") negotiated a comprehensive settlement agreement to resolve any of FSHC's objections regarding the Plan; and

**WHEREAS**, on September 7, 2016, Judge Hansbury conducted a Fairness and Compliance Hearing wherein the Court received the testimony of the Borough's Planning Consultant, Dr. Blickstein, as well as the testimony of the Court-appointed Special Master, Michael P. Bolan, PP, regarding the Settlement Agreement and the Plan; and

**WHEREAS**, the Court approved the Settlement Agreement between the Borough and Fair Share Housing Center finding said agreement to be fair and reasonable to low- and moderate-income households; and

**WHEREAS**, the Court further accepted the Plan finding that it creates a realistic opportunity for satisfaction of the Borough's fair share of low- and moderate-income housing obligation and granted the Borough a Final Judgment of Compliance and Repose; and

**WHEREAS**, on September 21, 2016, the Planning Board held a duly noticed public hearing regarding the Plan, during which it took testimony from its consultants and provided the opportunity for comments and questions from members of the public; and

**WHEREAS**, the Planning Board has determined that the Plan is consistent with the goals and objectives of the Borough Master Plan, as amended, and that adoption and implementation of the Plan are in the public interest and will protect the public health and safety and promote the general welfare.

**BE IT RESOLVED**, by the Planning Board of the Borough of Chatham that the foregoing recitals are incorporated herein and made a part hereof as though fully restated; and

**BE IT FURTHER RESOLVED**, that the plan entitled "Housing Element and Fair Share Plan" prepared by the Borough's Planning Consultants, Susan G. Blickstein, AICP/PP, PhD and Elizabeth C. McKenzie, AICP, PP, dated November 25, 2015 and last revised April 20, 2016 is hereby approved and adopted as an amendment to the Borough Master Plan; and

**BE IT FURTHER RESOLVED**, that the Planning Board Secretary is hereby authorized and directed to cause notice of the adoption of this Resolution and the Plan to be published in the Chatham Courier and the Daily Record; and

**BE IT FURTHER RESOLVED**, that the Planning Board Secretary is hereby authorized and directed to transmit a copy of this resolution and the plan to the Borough Clerk; and

**BE IT FURTHER RESOLVED**, that the Planning Board Secretary is hereby authorized and directed to cause a copy of this Resolution and the Plan to be provided to the Morris County Planning Board in accordance with N.J.S.A. 40:55D-13.

Chair Favate opened the public hearing on Resolution #PB2016-23.

Ed Barmakian, 19 Cherry Lane, sought clarification on the number of affordable housing units the Borough is obligated to provide as a result of the Court Order.

Dr. Blickstein clarified that the Borough's Prior Round Obligation of 77 affordable housing units was reduced to a Realistic Development Potential of 23 units based on COAH's approval of a vacant land adjustment in Prior Rounds. She stated that the Fair Share Housing Center calculated a Prospective, or Unmet Need, of 481 affordable housing units, which was reduced 30% through negotiation, resulting in a current round Prospective Need of 337 units. The 36 affordable housing units provided for in the Borough's *Housing Element and Fair Share Plan* further reduced the number of units, resulting in a current round Unmet Need of 301 units. She again confirmed that the Borough agreed to provide for 36 affordable housing units to be built over the next 10 years and the 301-unit Unmet Need will be provided for in re-zoning of certain areas and providing affordable housing set-aside percentages for new housing development.

Seeing no one else wishing to be heard, Chair Favate closed the public hearing on Resolution #PB2016-23.

Planning Board Member Wagner offered Resolution #PB2016-23 and moved its adoption:

**BE IT RESOLVED**, that this Resolution as read by title be adopted and passed.

Planning Board Member Montague seconded the motion.

Chair Favate asked the Borough Clerk for a Roll Call Vote.

Name	Motion	Second	Yes	No	Abstain	Absent
Mayor Harris			X			
Council Member Fife			X			
Chair Favate			X			
Wagner	X		X			
Heap			X			
Montague		X	X			
Mikulewicz						X
Bitar						X
Janice Piccolo			X			
Gilman [1 <sup>st</sup> Alt.]						X
Robinson [2 <sup>nd</sup> Alt]						X

## **RESOLUTIONS REQUIRING SEPARATE ACTION BY THE BOROUGH COUNCIL**

Mayor Harris asked Council Member Fife to proceed with Resolution #16-279.

Council Member Fife read Resolution #16-279.

## **RESOLUTION #16-279**

### **RESOLUTION ENDORSING THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN FOR THE BOROUGH OF CHATHAM**

**WHEREAS**, pursuant to N.J.S.A. 40:55D-28, the Planning Board of the Borough of Chatham adopted a Third Round Housing Element and Fair Share Plan in December of 2008; and

**WHEREAS**, the Mayor and Borough Council endorsed said plan and submitted it to the New Jersey Council on Affordable Housing (“COAH”) together with a Petition for Third Round substantive certification; and

**WHEREAS**, while the Borough’s petition was pending, the New Jersey Supreme Court invalidated COAH’s Third Round rules (see, In re Adoption of N.J.A.C. 5:96 and 5:67, 215 N.J. 578 (2013)); and

**WHEREAS**, COAH failed to adopt new rules, and on March 10, 2015, the Court issued its decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (“Mount Laurel IV”) in which it directed municipalities under COAH’s jurisdiction to file a Declaratory Judgment Action in Superior Court seeking judicial approval of their Housing Element and Fair Share Plan; and

**WHEREAS**, notwithstanding COAH’s failure to adopt Third Round rules, the Borough has continued to provide low and moderate income housing opportunities in the Borough; and

**WHEREAS**, in accordance with Mount Laurel IV, the Borough filed a Declaratory Judgment action in Morris County Superior Court seeking a Judgment of Compliance and Repose, In the Matter of the Borough of Chatham Affordable Housing Compliance, Docket No. MRS-L-1906-15; and

**WHEREAS**, in the context of the court action, the Borough’s Planning Consultants, Susan G. Blickstein, AICP/PP, PhD and Elizabeth C. McKenzie, AICP, PP, prepared a plan entitled “Housing Element and Fair Share Plan” dated November 25, 2015 and last revised April 20, 2016 (the “Plan”); and

**WHEREAS**, the purpose of the Plan is to address the Borough’s Third Round housing obligation pursuant to the direction issued by the Mount Laurel IV; and

**WHEREAS**, a copy of the Plan is attached hereto and made a part hereof this Resolution; and

**WHEREAS**, the Borough and Fair Share Housing Center (“FSHC”) negotiated a comprehensive settlement agreement to resolve any of FSHC’s objections regarding the Plan; and

**WHEREAS**, on September 7, 2016, Judge Hansbury conducted a Fairness and Compliance Hearing wherein the Court received the testimony of the Borough’s Planning Consultant, Dr. Blickstein, as well as the testimony of the Court-appointed Special Master, Michael P. Bolan, PP, regarding the Settlement Agreement and the Plan; and

**WHEREAS**, the Court approved the Settlement Agreement between the Borough and Fair Share Housing Center finding said agreement is fair and reasonable to low and moderate income households; and

**WHEREAS**, the Court further accepted the Plan finding that it creates a realistic opportunity for satisfaction of the Borough’s fair share of low and moderate income housing obligation and granted the Borough a Final Judgment of Compliance and Repose; and

**WHEREAS**, on September 21, 2016, during the Joint Special Meeting, the Planning Board held a duly noticed public hearing regarding the Plan, during which it took testimony from its consultants and provided the opportunity for comments and questions from members of the public, and adopted the Plan; and

**WHEREAS**, the Mayor and Borough Council have determined that the adoption and implementation of the Plan are in the public interest and will protect the public health and safety and promote the general welfare and wish to endorse the Plan.



**BE IT RESOLVED**, by the Mayor and Borough Council of the Borough of Chatham that the foregoing recitals are incorporated herein and made a part hereof as though fully restated; and

**BE IT FURTHER RESOLVED**, that the Mayor and Borough Council hereby endorse the plan entitled “Housing Element and Fair Share Plan” prepared by the Borough’s Planning Consultants, Susan G. Blickstein, AICP/PP, PhD and Elizabeth C. McKenzie, AICP, PP, dated November 25, 2015 and last revised April 20, 2016; and

**BE IT FURTHER RESOLVED**, that all other Borough officials and employees are hereby authorized and directed to take all action necessary and appropriate to effectuate the terms of this Resolution.

Council Member Fife offered Resolution #16-279 and moved its adoption:

**BE IT RESOLVED**, that this Resolution as read by title be adopted and passed.

Council Member Hoffman seconded the motion.

Mayor Harris asks the Borough Clerk for a Roll Call Vote:

Name	Motion	Second	Yes	No	Abstain	Absent
Collander			X			
Lonergan			X			
Fife	X		X			
Helfrich						X
Resto			X			
Hoffman		X	X			

Mayor Harris asked Council Member Fife to proceed with Resolution #16-280.

Council Member Fife read Resolution #16-280.

#### **RESOLUTION #16-280**

#### **RESOLUTION APPROVING AFFIRMATIVE MARKETING PLAN FOR THE BOROUGH OF CHATHAM**

**WHEREAS**, in accordance with the Fair Housing Act, and the New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26-1, et seq.), the Borough of Chatham is required to adopt by resolution an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created by the rehabilitation of rental housing units within the Borough, are affirmatively marketed to low and moderate income households, particularly those living and/or working within Housing Region 2, the COAH Housing Region encompassing the Borough of Chatham; and

**WHEREAS**, the Planning Board of the Borough of Chatham adopted a Housing Element and Fair Share Plan of the Borough of Chatham Master Plan on September 21, 2016, which included a recommendation for approval of an Affirmative Marketing Plan; and

**WHEREAS**, the Mayor and Borough Council have reviewed the proposed Affirmative Marketing Plan, a copy of which is attached hereto and made a part of this Resolution, and determined that it should be approved consistent with and in implementation of the adopted Housing Element and Fair Share Plan and COAH regulations.

**BE IT RESOLVED**, by the Mayor and Borough Council of the Borough of Chatham that they hereby adopt the following Affirmative Marketing Plan:

### **Affirmative Marketing Plan**

- A. All affordable housing units in the Borough of Chatham shall be marketed in accordance with the provisions herein unless otherwise provided by law or regulation of the State of New Jersey.
- B. The Borough of Chatham has a prior round obligation that it has fulfilled, with a surplus of credits to be applied to the third round plus a remaining third round obligation. This Affirmative Marketing Plan shall apply to all developments that contain or will contain low and moderate income units, including those that are part of the Borough's prior round Fair Share Plan and its current Fair Share Plan and those that may be constructed in future developments not yet anticipated by the Fair Share Plan.
- C. The Affirmative Marketing Plan shall be implemented by an Administrative Agent designated by and/or under contract to the Borough of Chatham. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developer/seller/owner of the affordable unit(s).
- D. In implementing the Affirmative Marketing Plan, the Administrative Agent, acting on behalf of the Borough of Chatham, shall undertake all of the following strategies:
  - (1) Publication of one advertisement in a newspaper of general circulation within the housing region.
  - (2) Broadcast of one advertisement by radio or television station broadcasting throughout the housing region.
  - (3) At least one additional regional marketing strategy using one of the other sources.
- E. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the Housing Region in which the municipality is located and covers the entire period of the deed restriction for each restricted housing unit. The Borough of Chatham is located in Housing Region 2, consisting of Morris, Essex, Union and Warren Counties.
- F. The Affirmative Marketing Plan is a continuing program intended to be followed throughout the entire period of restrictions and shall meet the following requirements:
  - (1) All newspaper articles, announcements and requests for applications for low and moderate income units shall appear in the Star Ledger, the Daily Record and the Express Times.
  - (2) The primary marketing shall take the form of at least one press release and a paid display advertisement in the above newspapers once a week for four consecutive weeks. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay for display advertisements. The developer/owner shall provide proof of publication to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.
  - (3) The advertisement shall include a description of the:
    - a. Location of the units;
    - b. Directions to the units;

- c. Range of prices for the units;
  - d. Size, as measured, in bedrooms, of units;
  - e. Maximum income permitted to qualify for the units;
  - f. Location of applications;
  - g. Business hours when interested households may obtain application; and
  - h. Application fees.
- (4) Newspaper articles, announcements and information on where to request applications for low and moderate income housing shall appear at least once a week for four consecutive weeks in at least three locally oriented weekly newspapers within the region, one of which shall be circulated primarily within Morris County and the other two of which shall be circulated primarily outside of Morris County but within the housing region.
- (5) The following regional cable television stations or regional radio stations shall be used during the first month of advertising. The developer must provide satisfactory proof of public dissemination:
  - a. Cablevision of Morris
  - b. Comcast of NJ
  - c. Comcast of Northwest NJ
  - d. Verizon
  - e. WCAA 105.9
  - f. WBLS 107.5
  - g. WPRB 103.3
- G. Applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative action marketing program shall be available/posted in the following locations:
  - (1) Chatham Borough Hall
  - (2) Chatham Borough Website
  - (3) Developer's Sale/Rental Offices
  - (4) Morris County Administration Building
  - (5) Essex County Administration Building
  - (6) Union County Administration Building
  - (7) Warren County Administration Building
  - (8) Morris County Library (all branches)
  - (9) Essex County Library (all branches)
  - (10) Union County Library (all branches)
  - (11) Warren County Library (all branches)

Applications shall be mailed by the Administrative Agent and Municipal Housing Liaison to prospective applicants upon request. Also, applications shall be available at the developer's sales/rental office and shall be mailed to prospective applicants upon request.

- H. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organization(s) in Morris, Essex, Union and Warren Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within that region, including major regional employers identified in Part III, Marketing, Section 3d of the Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 2.
  - (1) Quarterly informational flyers and applications shall be sent to each of the following agencies for publication in their journals and for circulation among their members:

Morris County Board of Realtors  
Essex County Board of Realtors  
Union County Board of Realtors  
Warren County Board of Realtors

- (2) Quarterly informational circulars and applications shall be sent to the administrators of each of the following agencies within the counties of Morris, Essex, Union and Warren:
    - Welfare or Social Service Board (via the Director)
    - Rental Assistance Office (local office of DCA)
    - Office on Aging
    - Housing Authority (municipal or county)
    - Community Action Agencies
    - Community Development Departments
  - (3) Quarterly informational circulars and applications shall be sent to the chief personnel administrators of all of the major employers within the region, as listed on Part III, Marketing, Section 3d.
  - (4) The Borough hereby adds Fair Share Housing Center, Newark NAACP, Morris Co. NAACP, East Orange NAACP, Latino Action Network, Housing Partnership for Morris County, Community Access Unlimited, Inc., and Northwest New Jersey Community Action Program, Inc., to the list of community and regional organizations included as part of this Plan pursuant to N.J.A.C. 5:80-26.15(f)(5) and shall as part of its regional affirmative marketing strategies during the implementation of this Plan provide notice to these organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
- I. The following is a listing of community contact person(s) and/or organization(s) in Morris, Essex, Union and Warren counties that will aid in the affirmative marketing program and provide guidance and counseling services to prospective occupants of low and moderate income units:
- (1) Housing Partnership for Morris County, 2 East Blackwell Street, Dover, NJ 07801
  - (2) Community Access Unlimited, Inc., 30 West Grand Street, Elizabeth, NJ 07202
  - (3) Northwest New Jersey Community Action Program, Inc. (NORWESCAP), 350 Marshall Street, Phillipsburg, NJ 08865
- J. A random selection method to select occupants of low and moderate income housing will be used by the Administrative Agent, in conformance with N.J.A.C. 5:80-26.16 (1). The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 2 comprised of Morris, Essex, Union and Warren Counties.
- K. The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify low and moderate income households; to place income eligible households in low and moderate income units upon initial occupancy; to provide for the initial occupancy of low and moderate income units with income qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26-1, et seq.

- L. The Administrative Agent shall provide or direct qualified low and moderate income applications to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services.
- M. All developers/owners of low and moderate income housing units shall be required to undertake and pay the costs of marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent.
- N. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all low income housing units are initially occupied and for as long as affordable units exist that remain deed restricted and for which the occupancy or reoccupancy of units continues to be necessary.
- O. The Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with the monitoring and reporting requirements pursuant to N.J.A.C. 5:80-26-1, et seq.

And,

**BE IT FURTHER RESOLVED**, that all other Borough officials and employees are hereby authorized and directed to take all action necessary and appropriate to effectuate the terms of this Resolution.

Mayor Harris asked Dr. Blickstein to explain the purpose of the Affirmative Marketing Plan.

Dr. Blickstein stated that one of the requirements of the Borough's adopted *Housing Element and Fair Share Plan* is that all affordable housing units must be affirmatively marketed and documented. The Affirmative Marketing Plan provides the administrative process and required documentation that is to be followed and must be approved by the Council.

Council Member Fife offered Resolution #16-280 and moved its adoption:

**BE IT RESOLVED**, that this Resolution as read by title be adopted and passed.

Council President Lonergan seconded the motion.

Mayor Harris asked the Borough Clerk for a Roll Call Vote:

Name	Motion	Second	Yes	No	Abstain	Absent
Collander			X			
Lonergan		X	X			
Fife	X		X			
Helfrich						X
Resto			X			
Hoffman			X			

## ORDINANCES FOR FIRST READING

Mayor Harris asked Council Member Fife to introduce Ordinance #16-11.

Council Member Fife introduced Ordinance #16-11 by title as follows:

## ORDINANCE #16-11

### AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING VARIOUS SECTIONS OF CHAPTER 165 OF THE BOROUGH CODE TO PROVIDE A MINIMUM AFFORDABLE HOUSING SET-ASIDE IN CERTAIN ZONE DISTRICTS

Council Member Fife stated that this ordinance will amend the Borough's Land Development Regulations to implement the Borough's 301-unit Unmet Need provided in the adopted *Housing Element and Fair Share Plan* by re-zoning certain zone districts to provide affordable housing set-aside percentages for new housing development.

Council Member Fife moved this Ordinance for introduction on First Reading and read:

**WHEREAS**, the above Ordinance was introduced and read by title at this Joint Special Meeting held on September 21, 2016.

**BE IT RESOLVED**, that at the Council meeting to be held on October 24, 2016 at 7:30 p.m. prevailing time, at the Borough Hall, the Chatham Borough Council will further consider this Ordinance for a second reading, public hearing and final passage; and

**BE IT FURTHER RESOLVED**, that the Clerk is hereby requested to publish the proper notice thereof, including this Ordinance, post the Ordinance on the bulletin board in Borough Hall and make copies available to members of the general public.

Council Member Fife offered Ordinance #16-11 and moved its adoption on first reading.

Council President Lonergan seconded the motion.

Mayor Harris asked the Borough Clerk for a Roll Call Vote:

Name	Motion	Second	Yes	No	Abstain	Absent
Collander			X			
Lonergan		X	X			
Fife	X		X			
Helfrich						X
Resto			X			
Hoffman			X			

Mayor Harris asked Council Member Collander to introduce Ordinance #16-12.

Council Member Collander introduced Ordinance #16-12 by title as follows:

## ORDINANCE #16-12

### AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING CHAPTER 69 OF THE BOROUGH CODE TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS

Council Member Collander explained that, in implementing the Borough's *Housing Element and Fair Share Plan*, this ordinance provides the assurances that low- and moderate-income units in the Borough are created with controls on affordability over time and that only low- and moderate-income households shall occupy those units.

Council Member Collander moved this Ordinance for introduction on First Reading and read:

**WHEREAS**, the above Ordinance was introduced and read by title at this Joint Special Meeting held on September 21, 2016.

**BE IT RESOLVED**, that at the Council meeting to be held on October 24, 2016 at 7:30 p.m. prevailing time, at the Borough Hall, the Chatham Borough Council will further consider this Ordinance for a second reading, public hearing and final passage; and

**BE IT FURTHER RESOLVED**, that the Clerk is hereby requested to publish the proper notice thereof, including this Ordinance, post the Ordinance on the bulletin board in Borough Hall and make copies available to members of the general public.

Council Member Collander offered Ordinance #16-12 and moved its adoption on first reading.

Council Member Resto seconded the motion.

Mayor Harris asked the Borough Clerk for a Roll Call Vote:

Name	Motion	Second	Yes	No	Abstain	Absent
Collander	X		X			
Lonergan			X			
Fife			X			
Helfrich						X
Resto		X	X			
Hoffman			X			

#### **RESOLUTION REQUIRING SEPARATE ACTION BY THE PLANNING BOARD**

Mayor Harris asked Planning Board Chair Favate to proceed with Resolution #PB 2016-24.

Chair Favate asked Mr. Wagner to proceed with Resolution #PB2016-24.

Mr. Wagner read Resolution #PB2016-24:

#### **RESOLUTION #PB2016-24**

#### **RESOLUTION AS TO ORDINANCE NO. 16-12 FOR THE AMENDMENT OF CHAPTER 69 OF THE BOROUGH CODE TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) AND ORDINANCE NO. 16-11 FOR THE AMENDMENT OF CHAPTER 165 OF THE BOROUGH CODE TO PROVIDE A MINIMUM AFFORDABLE HOUSING SET-ASIDE IN CERTAIN ZONE DISTRICTS**

**WHEREAS**, the Mayor and Council for the Borough of Chatham, having referred proposed Ordinance No. 16-12 entitled “Amendment to Chapter 69 of the Borough Code to Address the Requirements of the Fair Housing Act and Uniform Housing Affordability Controls (UHAC) Regarding compliance with the Borough’s Affordable Housing Obligation”, and Ordinance No. 16-11 entitled “Amendment to Chapter 165 of the Borough Code to Provide a Minimum Affordable Housing Set-Aside in Certain Zone Districts” (collectively, the “Ordinances”) to the Planning Board for the Borough of Chatham for a consistency review by the Planning Board pursuant to the requirements of N.J.S.A. 40:55D-64; and

**WHEREAS**, at the Joint Special Meeting of the Planning Board for the Borough of Chatham which took place on September 21, 2016, the Ordinances being provided to the Planning Board and having been reviewed and discussed by the Board in open session, and an opportunity being afforded to members of the public and/or any and all interested persons or parties to ask questions and/or to participate in the Board’s consideration of the Ordinances, and a verbatim record of these proceedings was maintained; and

**WHEREAS**, as a result of these proceedings before the Board, the Board has determined that the Ordinances are substantially consistent with the Land Use Plan Element and Housing Plan Element of the Master Plan and further designed to effectuate such plan elements pursuant to N.J.S.A. 40-55D-62, and the Planning Board therefore having determined to forward this finding to Mayor and Council for the Borough of Chatham with the recommendation that the Ordinances as proposed now proceed; and

**NOW, THEREFORE**, based upon all of the above, the Planning Board for the Borough of Chatham hereby, following its review, **RECOMMENDS** Ordinance No. 16-12 and Ordinance 16-11 for further action of the Mayor and Council for the Borough of Chatham, as being consistent with the Land Use Plan Element and Housing Plan Element of the Master Plan, pursuant to N.J.S.A. 40:55D-62 as determined by this Planning Board.

Planning Board Member Wagner offered Resolution #PB2016-24 and moved its adoption:

**BE IT RESOLVED**, that this Resolution as read by title be adopted and passed.

Planning Board Member Montague seconded the motion.

Chair Favate asked the Borough Clerk for a Roll Call Vote.

Name	Motion	Second	Yes	No	Abstain	Absent
Mayor Harris			X			
Council Member Fife			X			
Chair Favate			X			
Wagner	X		X			
Heap			X			
Montague		X	X			
Mikulewicz						X
Bitar						X
Piccolo			X			
Gilman [1 <sup>st</sup> Alt.]						X
Robinson [2 <sup>nd</sup> Alt]						X

## ADJOURNMENT

Having no further business to conduct at the joint Special Meeting, Mayor Harris asked for a motion of adjournment.

Council Member Resto made a motion to adjourn the Joint Special Meeting. Council President Lonergan seconded the motion. The motion passed unanimously by the Members of the Borough Council and the Planning Board.

Meeting adjourned at 8:10 p.m.

Respectfully Submitted:

*Robin R. Kline*

Robin R. Kline, MAS, RMC, CMR  
Borough Clerk  
BOROUGH OF CHATHAM

Approved: October 11, 2016