

April 28, 2011

The Township Committee met on the above date at 7:30 PM. Mayor Lawrence Durr called the meeting to order and opened with the flag salute and a moment of silence. Roll call was taken showing present: Mayor Lawrence H. Durr and Committeeman Richard T. LoCascio. Deputy Mayor Hlubik was not present. Also present were George Morris of Parker McCay, Township Attorney and Christopher Trebisky, Township Engineer. The Open Public Meetings Act statement was read and compliance noted.

Mayor Durr opened the meeting to the public for comments on matters not appearing on the agenda. Hearing none, the Committee continued with agenda items.

#### Approval of Minutes

The minutes of April 13, 2011 were approved on a motion by Mr. LoCascio and second by Mayor Durr. All agreed.

#### Township Engineer

Chris Trebisky explained the issues that have come up with some of the grinder pumps that are part of the sewer system. There are 29 pumps that the Township is responsible to maintain. The sewer has been in for 10 years and there have been issues with 4 pumps over that period. The problem seems to be grease build-up which limits the ability of the pump to work properly. There is a need to educate the residents who have the pumps as what they should and should not put into the sewer system. All of the pumps should be cleaned periodically - every 6-10 years. Mr. LoCascio stated that it is certainly worthwhile to maintain the pumps and prevent problems. Mr. Trebisky will get some quote and the Clerk will check the sewer utility fund for the availability of funds for this purpose.

### Ordinances for Public Hearing

The public hearing on Ordinance 2011-11 was opened on a motion by Mr. LoCascio and second by Mayor Durr. Mayor Durr explained the Ordinance and, hearing no comments, the public hearing was closed on a motion by Mr. LoCascio and second by Mayor Durr. On a motion by Mr. LoCascio and second by Mayor Durr, Ordinance 2011-11 AN ORDINANCE TO AMEND ORDINANCE 2011-10 FIXING SALARIES, WAGES AND COMPENSATION OF OFFICIALS AND EMPLOYEES OF THE TOWNSHIP OF CHESTERFIELD FOR THE YEAR 2011 was finally adopted. All agreed.

### Ordinances for Introduction

Ordinance 2011-12 and 2011-13 were approved for introduction on a motion by Mr. LoCascio and second by Mayor Durr. All agreed. Public hearing on both ordinances will be held May 11, 2011.

### **ORDINANCE 2011-12**

#### **ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF CHESTERFIELD BY ADDING SECTION \_\_\_\_\_ REQUIRING BACKGROUND CHECKS FOR VOLUNTEERS IN YOUTH ORGANIZATIONS**

**WHEREAS**, N.J.S.A. 15A:3A-1 et seq. authorizes the Township of Chesterfield to request that the Volunteer Review Operations Program in the Division of the State Police, New Jersey Department of Law and Public Safety, conduct criminal history record background checks on each prospective and current volunteer and employee of youth organizations using the Township's facilities for the provision of youth programs; and

**WHEREAS**, the Township Committee believes that it should require prospective and current volunteers and employees of youth organizations using the Township's facilities to undergo criminal history record background checks; and

**WHEREAS**, the Township Committee seeks to enhance the conditions under which youth-serving organizations are permitted to use said facilities; and

**WHEREAS**, the Megan Kanka Foundation currently provides volunteer organization with a grant to cover the \$26.25 charge for each volunteer for this initial background check; and

**WHEREAS**, the Township will also require an annual “name check” update through the State Police which currently cost \$10.00 per person; and

**WHEREAS**, the Township Committee has considered the public interest at stake in conducting such background checks and finds that interest to be great as it involves the health and safety of the Township’s children and the minimal costs of these background checks.

**WHEREAS**, the Township Committee hereby finds and declares that requiring background checks of prospective and current volunteers and employees of youth organizations using the Township’s facilities is in the public interest; and

**WHEREAS**, the Township Committee deems it in the best interests of its residents and the public at large to amend the Township Code to provide for such background checks.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Township Committee of the Township of Chesterfield, County of Burlington and State of New Jersey:

**ARTICLE I. RECITALS INCORPORATED.** The foregoing Recitals are incorporated hereby as if set forth at length, and will serve as the factual predicate for this Ordinance.

**ARTICLE II.** This Ordinance adds Chapter \_\_\_\_\_ to the Code of the Township of Chesterfield as follows:

**§ \_\_\_\_\_ Background Checks.**

**§ ( \_\_\_\_\_ ) Purpose.**

The purpose of this Chapter is to provide for the safety of children engaged in activities sponsored by Youth Organizations by taking steps to provide for the reasonable assurance that Volunteers for Youth Organizations have been subject to a Criminal History Record Background Check.

The focus of this Chapter is to require Volunteers for Youth Organizations to obtain their Background Checks. As such, a Youth Organization and an individual administering a Youth Organization's compliance with this Chapter will not be cited for failing to meet the requirements of this Chapter unless the failure was a result of gross negligence or willful misconduct.

**§ ( \_\_\_\_\_ ) Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**CHIEF OF POLICE** – the Chief of Police of the Chesterfield Township Police Department or his designee. In the absence of a Chief of Police, the highest ranking uniformed officer or his designee.

**CRIMINAL HISTORY RECORD BACKGROUND CHECK** (“Background Check”) – A determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file through the New Jersey State Police.

**NEW JERSEY STATE POLICE** – The State Police Force of New Jersey and, in particular, the Volunteer Review Operations Program as that bureau is currently named, or as may be amended by the State Police from time to time.

**TOWNSHIP FACILITY** - (1) any facility owned, leased, or used by the Township or under the Township's control, including without limitation, Township offices, meeting rooms, parks and recreation areas; or (2) any facility used for youth programs for which the Township pays usage fees.

**VOLUNTEER** – Any adult individual of the age of 18 years or older who volunteers his time and acts as a coach, leader, instructor, trainer or the like for a Youth Organization.

YOUTH ORGANIZATION – Any organized program with at least a portion of participants that are Chesterfield residents under the age of eighteen that: (1) are sponsored by the Township of Chesterfield, (2) receive Township assistance for their programs and/or services, or (3) utilize Township Facilities including buildings and/or fields of play on a regular or recurring basis. Youth Organization shall specifically include, but not be limited to, the Chesterfield Township Athletic Association (“CTAA”).

§ (\_\_\_\_\_) **Submission to Background Checks.**

A. Mandatory Background Check. All individuals seeking to volunteer for Youth Organizations shall be required to submit to a mandatory Background Check. This requirement shall apply to new Volunteers as well as existing Volunteers, and the requirement may not be waived by the Youth Organizations or any other entity. Certified teachers who are currently teaching, Law Enforcement Officers, or Federal Agents who are authorized to carry a firearm, or others that already obtain a similar background check may gain exemption by providing a copy of their employer-processed background check to the Youth Organization and the Township Clerk. Determination as to whether the background check information provided is sufficient to meet the standards and intent of this Ordinance shall be made by the Chief of Police.

B. Process. All Volunteers shall be required to submit to a Background Check, which shall be conducted by the State Police. The results of the Background Check will be submitted to the Chief of Police and the Chief of Police shall maintain the results as confidential. If the Background Check reveals that the Volunteer is currently charged with or has been previously convicted of homicide, assault, endangering, threats, kidnapping, sexual offenses, robbery, theft, offenses against the family, children and incompetents, or possession, use, and/or distribution of a controlled dangerous substance as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, except paragraph (4) of subsection a. of N.J.S.A. 2C:35-10; or such act that the Chief of Police determines are grounds for disqualification, then the Volunteer shall be deemed to have failed the Background Check and shall not be permitted to Volunteer in any way for a Youth Organization. The same process shall be utilized to periodic or annual name check verification for continued status as an active Volunteer.

C. Notification of Failed Background Check. If an individual desiring to be a Volunteer for a Youth Organization fails the Background Check, the individual shall be notified of the failure in writing via certified and regular mail by the Chief of Police, with a copy to the Township Clerk. The individual shall further be advised in writing of his or her right to an appeal hearing before the Township Committee, which hearing must be requested within twenty (20) days of the receipt of the notice.

D. Appeal Hearing. If an appeal hearing is requested by the individual pursuant to this Section, at the hearing, the Chief of Police shall first state the reasons for the denial on the record, and the individual shall thereafter be permitted to state his or her reasons as to why they should still be permitted to be a Volunteer. The Township Committee shall thereafter render a decision on the individual's appeal by majority vote and may either permit the individual to be a Volunteer or reject the individual's appeal. The appeal may be granted or denied in the sole discretion of the Township Committee.

The factors to be considered by the Township Committee when considering and deciding an appeal include, but are not limited to: (1) whether the results of the Background Check were accurate; (2) the nature and responsibility of the position for which the individual would hold or has held; (3) the nature and seriousness of the crime or offense; (4) the circumstances under which the crime or offense occurred; (5) the date of the crime or offense; (6) the age of the individual when the crime or offense was committed; (7) whether the crime or offense was an isolated or repeated incident; (8) any social conditions which may have contributed to the crime or offense; (9) any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received, and the acquisition of additional academic or vocational education and prior participation in Youth Organizations; and (10) the recommendation of those who have had experience with the individual.

Within ten (10) days after the hearing, the Township Committee's decision shall be reduced to writing by the Township Committee or by the Clerk or Solicitor on behalf of the Committee and mailed certified and regular mail to the individual.

E. Youth Organization Obligations. All Youth Organization officers or leaders are required to make all reasonable efforts to comply with the requirements of this Chapter. It is the responsibility of the Youth Organization to coordinate with the Chief of Police to ensure background checks are being administered in compliance with this Chapter. Each Youth Organization shall bear the costs associated with conducting the background checks if same is not covered by grant from the Megan Kanka Foundation as well as bear the cost for the annual name check confirmation.

The Youth Organization, through a designated officer or leader, shall use its best efforts to compile a roster of Volunteers that are required to participate in the Background Check procedures of this Chapter. Said roster shall be provided to the Chief of Police thirty (30) days prior to the start of any sports season or fourteen (14) days after the close of registration for the sport, whichever is sooner. The Youth Organization shall sign the roster certifying to the best of the knowledge of the certifying officer or leader of the Youth Organization the accuracy and completeness of the roster and Volunteers' names. The Youth Organization shall maintain records including the names of all known Volunteers and the date of their last background check. These records shall be disclosed

upon request to the Chief of Police to help ensure that all Volunteers are current with regard to the background check requirements.

In the event that any Youth Organization already has a background check policy and procedure in place, the Township may accept the results from the administration of that policy, provided the policy and results are disclosed to the Chief of Police and the Chief of Police is satisfied that the policy and procedures are sufficient to satisfy the standards and purpose of this Chapter.

§ ( \_\_\_\_\_ ) **Written Consent.**

A. Written Consent. Each person seeking to participate in a Youth Organization as a Volunteer shall execute a Written Consent in favor of both the Youth Organization and the Township of Chesterfield and their respective agents, servants and employees, authorizing said investigation, releasing the Youth Organization and the Township, and their respective agents, servants and employees from any liability arising from same, and holding them harmless, on forms to be provided by the Township. Failure to submit to said investigation will disqualify any such person from serving in the Youth Organization.

§ \_\_\_\_\_ . **Frequency of Background Checks.**

There shall be an initial Background Check performed for each Volunteer at the time of the adoption of this Ordinance and/or at the time when the Volunteer first participates in the organization. Thereafter, the Volunteer must undergo a name check on a periodic basis but no less than once a year. The Volunteer will not need to re-submit to subsequent fingerprinting in order to continue to serve as a Volunteer.

§ \_\_\_\_\_ . **Limitations on Access and Use of Criminal History Background Information.**

A. Limitation on Access. Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to authorized personnel of the Township of Chesterfield and the applicable Youth Organization, on a “need to know” basis, as authorized by Federal or State Statute, Rule or Regulation, Executive Order, Administrative Code, Local Ordinance or Resolution regarding obtaining and dissemination of criminal history record information obtained under this Ordinance.

B. Limitation on Use. The Township and the Youth Organizations shall limit their use of criminal history record information solely to the authorized purpose for which it was obtained, and criminal history record information furnished shall not be disseminated to persons or organizations not authorized to receive the

records. Any persons violating Federal or State Regulations governing access to criminal history record information may be subject to criminal and/or civil penalties. The results of Background Checks shall not be subject to public disclosure and shall be retained pursuant to State records retention schedules.

Township officials with access to the criminal history record information shall be limited to the following: Members of the Township Committee, Solicitor, Clerk, Deputy Clerk, the Township Police Department and any other official specifically authorized by the Township Committee, provided they are a confidential employee and the Township Committee determines their involvement is necessary or useful in carrying out the terms and intentions of this Chapter.

**§ \_\_\_\_\_. Adoption of Consent to Background Check Form.**

The Chief of Police is authorized to create or amend a standard Consent to Background Check Form which shall be provided to each sports organization for use in compliance with the requirements of this Ordinance.

**§ \_\_\_\_\_. Compliance a Condition to Funding.**

Compliance with the requirements of this Ordinance shall be a condition to the funding for any organization whose activities fall within the parameters of this Ordinance.

**§ \_\_\_\_\_. Penalties.**

Any person, firm, corporation, association or legal party whatsoever who shall violate, or authorize or procure a violation, or cause to be violated, any provision of this Chapter shall, upon conviction thereof, be punishable by a fine not less than \$100 nor greater than \$1,000, a term of community service not greater than ninety (90) days and/or serve a term of imprisonment not greater than ninety (90) days.

**ARTICLE III. REPEALER, SEVERABILITY AND EFFECTIVE DATE.**

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.
- C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

**ORDINANCE 2011-13**

***AN ORDINANCE AUTHORIZING RIGHT-OF-WAY USE AGREEMENT WITH FIBER TECHNOLOGIES NETWORKS, LLC FOR MUNICIPAL RIGHTS OF WAY***

**WHEREAS**, Fiber Technologies Networks, LLC, (“Fibertech”), a New York limited liability company, with offices located at 300 Meridian Centre, Rochester, New York, has requested municipal consent to utilize the municipal rights-of-way for installation of certain fiber telecommunications system; and

**WHEREAS**, Fibertech has been approved by the New Jersey Board of Public Utilities )”Board” or “BPU”) to provide local exchange and interexchange telecommunications services throughout the State of New Jersey by Order of Approval in Docket No. TE05080683 dated September 14, 2005. Pursuant to such authority granted by the Board, Fibertech may locate, place, attach, install, operate and maintain facilities within the municipal rights-of-way for purposes of providing telecommunications services; and

**WHEREAS**, Fibertech proposes to place its telecommunication facilities aerially on existing utility poles or in underground conduit in the public rights-of-way within the Municipality for the purpose of owning, construction, installing, operating, repairing and maintaining a telecommunications systems; and

**WHEREAS**, the Municipality has no reason to deny consent to Fibertech to occupy said rights-of-way within the Municipality for this purpose; and

**WHEREAS**, the consent granted herein is for the non-exclusive use of the public rights-of-way within the Municipality for the purpose of owning, constructing, installing, operating, and maintaining a telecommunications system.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Township Committee of the Township of Chesterfield, County of Burlington, State of New Jersey that the municipal consent requested by Fiber Technologies be and the same is hereby granted, and the Mayor and Clerk are hereby authorized to execute the attached Rights-of-Way Use Agreement with Fibertech.

## Resolutions

Resolution 2011-4-9 was approved on a motion by Mr. LoCascio and second by Mayor Durr. All agreed.

### ***RESOLUTION 2011-4-9***

#### ***RESOLUTION APPROVING PERSON-TO-PERSON TRANSFER OF PLENARY RETAIL CONSUMPTION LICENSE***

***WHEREAS***, an application has been filed for a Person-to-Person Transfer of Plenary Retail Consumption License Number 0307-33-001-003, heretofore issued to Black Stallion Incorporated for premises located at 633 Chesterfield-Arneytown Road, Chesterfield, New Jersey; and

***WHEREAS***, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

***WHEREAS***, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

***WHEREAS***, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business;

***NOW, THEREFORE, BE IT RESOLVED*** that the Township Committee of the Township of Chesterfield in the County of Burlington and State of New Jersey does hereby approve, effective April 28, 2011 the transfer of the aforesaid Plenary Retail Consumption License to AIA Enterprises, Inc. and does hereby direct the Township Clerk to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions, is hereby transferred to AIA, Inc., effective April 28, 2011.

## Discussion

Parking in Old York Village – Mayor Durr read the memo from the Planning Board which recommended no action be taken about limiting on-street parking in Old York Village. George Morris explained the

significance of passing a resolution to apply Title 39 to those streets prior to Township ownership. Matt Weismantel of Harness Way stated that he thought the Township should look into parking ordinances so RV's and other vehicles could not park along the street and parks areas to make them inaccessible to residents. Mr. LoCascio stated that he is not sure the Title 39 issue will help the situation. No action was taken on this matter.

Ward Avenue Bypass Road – Chris Trebisky reported that ERI submitted 2 alternative routes to PSEG and they have tentatively approved either one conditioned upon the submission of a more detailed plan. They have suggested the amount of \$60,000 for the easement through approximately 1.5 acres of their property. Chris brought up the additional costs that need to be considered, such as the elimination of one lot in the Heritage subdivision to connect to Preservation Blvd. Mayor Durr expressed his concern with that as the lot has already been approved. If we are going to move forward, the owner should be notified before selling the lot, so that should happen as soon as possible.

Accessory Building coverage in the AG zone – the Planning Board has recommended adjusting the lot coverage percentages in the AG zone. Chris Trebisky explained the reasoning of the Planning Board in making this recommendation. George Morris will prepare an Ordinance for introduction at the next meeting.

Cell tower Lease and location – Maude Snyder of 12 Chest–George Road asked for background on the cell tower and Mayor Durr explained. David Falkowski stated that just because it's allowed does not mean it's what the residents want. Mayor Durr continued that it will provide revenue for the town and explained the Planning Board process. It is his understanding that it is difficult to stop them as long as they can show the beneficial use which would outweigh the detriments. Dave Falkowski spoke to all of the detriments of having a cell tower in the village area. George Morris stated that it is his experience that if the cell tower company can prove their case, the application cannot be denied.

Maude Snyder asked where it is being proposed and Mayor Durr explained. Richard Meehan of 25 Chest-George Road asked the amount of revenue and the response was approximately \$2200 – \$2300 per month. Mr. Meehan then asked when it was approved and Mayor Durr explained that it is not before the Planning Board yet. Mr. Meehan continued that there is documentation on the internet where residents have fought cell tower locations and won. Stacy Needell of 10 Chest-George Road feels that Mayor Durr is too complacent about the fact that a cell tower is being put into our town. Kids should be able to play and be safe. The residents will be happy to help find a new location. Rick Meehan asked if the decrease in property value is a consideration of the Planning Board when they are deciding on the application. George Morris stated that he does not believe the Planning Board considers that. Mr. Meehan asked if health concerns are considered and Mr. Morris replied that they are. Maude Snyder asked why the issue is on the agenda tonite? Mayor Durr replied that an issue has been raised as to the location of the tower being in a historic zone by the State Historical society. It is not in the historic zone and showed Ms. Snyder the location and the historic zone on the map. Mayor Durr continued that the appropriate place for questions is the Planning Board when the application is heard. David Snyder of 12 Chest-George Road asked about the ordinance specifying the allowed locations and the Ordinance was read aloud by Mayor Durr. Mr. Meehan stated that the Township should be able to put the tower anywhere they want in the Township, and it makes no sense to put it here. Diana Schumm of 19 Chest-George Road asked if an application has been made or a meeting scheduled and the reply was negative. Alex Robotin asked if the residents fight this can they do it anyway? Mayor Durr replied that it was always his understanding. Maude Snyder stated that if it doesn't absolutely have to be here it shouldn't be here. Rick Meehan asked if "hot" issues in the Township could be listed on the front page of the website. Jim Needell stated that the tower location is too close to homes and the park and the residents would rather give up the income and relocate the tower.

Meeting dates for defeated Elementary School budget – The suggested dates from the School Board are May 10, 11 or 12. The meeting will be scheduled for May 12 at 7:30 pm.

### Payment of Bills

The bill list was approved for payment on a motion by Mr. LoCascio and second by Mayor Durr. All agreed.

The meeting was opened to the public for comments by the public and the Committee.

Mr. LoCascio asked if the Township has a say in the Fiber Tech Right-of-Ways and Mr. Morris replied that they are a public utility and we have no choice.

Tom Ryan of Mathews Lane asked if terminating the use of the fire siren has ever been considered? Mr. Durr, answering as a fireman and not as a Mayor stated that all of the firefighters have pagers and some signals come over the cell phone. Some people don't carry their pagers but are close enough to hear the siren. He will bring it up to the fire company as the siren should not go off after 9:00 PM. He continued that he feels everyone should volunteer as there is something for everyone to do. Those that don't volunteer should know that the volunteers are out.

On a motion by Mr. LoCascio and second by Mayor Durr, Resolution 2011-4-10 authorizing an Executive Session for the purpose of discussing matters related to possible litigation concerning the Chesterfield Township Reforestation Project was approved. The Township Committee entered Executive Session at 8:37 PM.

The Committee resumed open session at 9:03 PM and, on a motion by Mr. LoCascio and second by Mayor Durr, authorized Mr. Gillespie to research the boundaries of the State Historic Preservation Zones, to re-work the time frame in the lease agreement for the cell tower adding

milestones that must be accomplished, and to require the reforestation bidder that withdrew his bid to reimburse the Township for all costs involved with the withdrawal of his bid. All agreed.

On a motion by Mr. LoCascio and second by Mayor Durr, the meeting was adjourned at 9:05 PM. All agreed.

Respectfully submitted,

Bonnie J. Haines, RMC  
Township Clerk