

ORDINANCE NO. 04-45

AN ORDINANCE APPROVING A BID FOR A VEHICLE

WHEREAS, the current status of state government has made the status of joint purchasing uncertain; therefore, the Village of Chatham Utility Department sought and obtained bids for a Sport Utility Vehicle to be used primarily by the Director; and

WHEREAS, the requested bid was noticed in a newspaper of local circulation, with an opening date of June 25, 2004. The attached quotes dated June 30, 2004 were requested and the lowest responsible bidder was identified; and

WHEREAS, the Public Works & Utilities Committee met on July 6, 2004 to review the attached bids and is recommending acceptance of the bid from Heritage Chevrolet for the amount of \$23,500.00.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, ILLINOIS, AS FOLLOWS:

SECTION 1: That the bid from Heritage Chevrolet for \$23,500.00 is hereby approved.

SECTION 2: This Ordinance is effective upon its passage and approval.

PASSED THIS 13th DAY OF JULY, 2004

Thomas S. Gray
Thomas S. Gray, President
Village of Chatham

ATTEST:
Pat Schad
Pat Schad, Village Clerk

KAVANAGH
AYES: 5 HERR BOYLE MCCARTHY MCGRATH
NAYS: 0
ABSENT: 1 M'ADAMS

PASSED: 7-13-04
APPROVED: 7-13-04

June 30, 2004. 11:41 AM

Back Print

Customer Vehicle Search Detail Report
HERITAGE CHEVROLET

2005 Chevrolet 1LP26 - Equinox: AWD LT
"Must Have" Options
64U

"Don't Want" Options

VIN / Order #	Event Code	MSRP
2CNDL73F056007736	5000 Vehicle delivered to dealer	\$25,995
Color1: 64U	Salsa Red Metallic	
Color2: N/A		
Trim: 142	Light Gray LT Leather Trim	
Package: 1SD	LT PEG	
Engine: LNJ	3.4L 3400 Vortec V6 Engine	
Trans: MX0	Automatic Transmission	
Other: AG1	6-Way Power Seat	
AJ1	Tinted Glass	
AP9	NET CONVENIENCE	
B58	Floor Mats	
DF5	MIRROR 1/5 R/V LT SENSITIVE, COMPASS, O/S TEMP DISPLAY	
FE9	Federal Emissions	
JM4	Anti-Lock Brakes	
K34	CRUISE CONTROL AUTOMATIC, ELECTRONIC	
NP5	STEERING WHEEL LEATHER WRAPPED	
PY0	16" Aluminum Wheels	
QKG	TIRE ALL P235/65R16-101S BW R/PE ST TL AL2	
T96	LAMP FOG, FRT	
U1C	RADIO AM/FM STEREO, SEEK/SCAN, CD, CLOCK, ETR	
V1K	Luggage Crossbars	
VK3	Front License Plate Bracket	

24500
 - 1000

 23500
 + Title
 DOC
 PLATE

2005 EQUINOX AWD LT
 15U SANDSTONE METALLIC /V6G
 31C LIGHT CASHMERE
 ORDER NO. HDWCDT/TRÉ STOCK NO.
 VIN 2CN DL73 F6 56029840

 MODEL & FACTORY OPTIONS MSRP
 1LP26 EQUINOX AWD LT 24335.00
 C4Q GVW RATING - 5070 LBS N/C
 DF5 INSIDE MIRROR, AUTO-DIMMING 175.00
 W/TEMPERATURE & COMPASS
 FE9 50-STATE EMISSIONS N/C
 F67 2.70 AXLE RATIO N/C
 LNJ 3.4L SFI V6 0.00
 MX0 5-SPEED AUTO TRANS 0.00
 N75 WHEELS, 17" ALUMINUM 295.00

TOTAL MODEL & OPTIONS 24805.00
 DESTINATION CHARGE 565.00
 LAM DEALER CONTRIBUTION
 LAM GROUP CONTRIBUTION

TOTAL 25370.00

MEMO: TOTAL LESS HOLDBACK AND APPROX WHOLESALE FINANCE CREDIT

 INVOICE DOES NOT REFLECT DEALER'S ULTIMATE C
 REBATES, ALLOWANCES, INCENTIVES, HOLDBACK, F
 DEALER OF ADVERTISING MONIES, ALL OF WHICH M

THIS MOTOR VEHICLE IS SUBJECT TO A SECURITY

FRIENDLY CHEVROLET, INC. REM
 VIN VIN
 \$
 DUE

DATE 6-30-04

DELIVERY SHEET

SALES REP 1013
SAFEGUARD # _____

PURCHASER NAME Village of Chatham
 STREET ADDRESS 116 E. mulberry
 CITY, STATE, ZIP Chatham, IL 62629
 COUNTY Sang
 DR LIC # _____ D.O.B. _____
 SOCIAL SECURITY # _____
 PHONE (H) _____ (W) _____

PURCHASER NAME _____
 STREET ADDRESS _____
 CITY, STATE, ZIP _____
 COUNTY _____
 DR LIC # _____ D.O.B. _____
 SOCIAL SECURITY # _____
 PHONE (H) _____ (W) _____

SOLD VEHICLE DESCRIPTION NEW USED _____ DEMO _____
 STOCK # 050010 YR 05 MAKE Chevy MODEL Equinox EXP _____
 BODY _____ MILEAGE _____ SERIAL # _____
 EQUIP: AUTO, PWR WDS, PWR LKS, TILT, CRUISE, CD, ALUM WHL, LUGG RACK, OTHER _____

TRADE VEHICLE DESCRIPTION
 YR _____ MAKE _____ MODEL _____ LIC _____ EXP _____
 MILEAGE _____ SERIAL # _____
 OVER 100,000 YES / NO _____

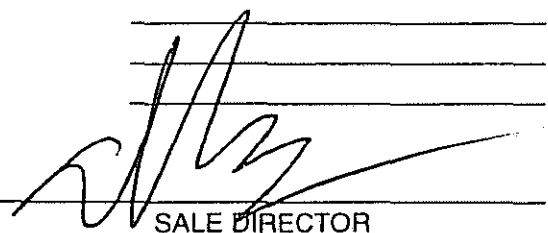
PAY OFF INFORMATION
 LENDER _____ .AMOUNT _____ GOOD UNTIL _____
 ADDRESS _____ ACCT # _____
 CITY, STATE, ZIP _____ BY _____ SECOND LIEN? _____

INSURANCE INFORMATION
 COMPANY NAME _____ POLICY # _____
 AGENCY _____ PHONE _____
 ADDRESS _____ CITY, STATE, ZIP _____
 COMP. DED. _____ COLL. DED. _____ BY: _____ VERIFIED BY: _____

PRICE 23,796.95
 TRADE _____
 DOC. FEE 5352
 SUBTOTAL _____
 TAX N/A
 LIC FEES N/A
 PAYOFF N/A
 SUBTOTAL _____
 CASH INV. N/A
 BALANCE TO FINANCE 23850.47

ADDITIONAL PROMISED ITEMS

PURCHASER'S SIGNATURE



 SALE DIRECTOR

Date: July 6, 2004

To: President Gray, Village Trustees,
Attorney Myers and Chief Barnett

From: Pat Schad, Village Clerk

Re: Third Sergeant Position

Due to the confusion concerning an ordinance creating a third sergeant position at the June 22, 2004 regular village board meeting (RVBM) I said I would research the subject.

After an extensive review of minutes and audio I have the following chronology of events.

- 1) During Hearing of Citizens at the **March 25, 2003** RVBM, Board of Fire and Police Commissioners (BFPC) Chairman Wayne Johnson expressed the BFPC's desire to create a **third** sergeant position.
- 2) During the **January 27, 2004** RVBM, referring to his January 20, 2004 letter attorney Myers initiated discussion of the third sergeant position. There was a pro/con discussion about drafting one or two ordinances. Maybe this is where the confusion about the third sergeant position ordinance originated. John initially suggested drafting **one** ordinance creating the second and third positions. Trustee McCarthy wanted **two** ordinances, based on the budgeting process. It was finally agreed that John would draft **one** ordinance authorizing the second position immediately and authorizing the third affective **May 1, 2004**. But, that didn't happen.
- 3) Ordinance 04-03, An Ordinance Relating to Police Sergeant and Amending the Code of Ordinances of the Village of Chatham, passed and approved (6-0-0) at the **February 10 2004** RVBM, has in Section 1B: In accordance with past practices, there shall be two police sergeant positions in the Village Police Department. 04-03 does not refer to the third sergeant position anywhere.
- 4) As required by the Chatham Code of Ordinances, sergeant positions are created by ordinance and no ordinance creating a third sergeant position had been drafted or presented to the village board ... until the one presented at the **June 22, 2004** RVBM by Trustee McGrath and it has never been an agenda item.
- 5) Since this matter has obviously been a topic for some time, I will put the ordinance creating the third sergeant position on the agenda under Old Business for the **July 13, 2004** RVBM.

not sent

Date: July 6, 2004
To: President Gray, Village Trustees,
Attorney Myers and Chief Barnett
From: Pat Schad, Village Clerk
Re: Third Sergeant Position

Due to the confusion concerning an ordinance creating a third sergeant position at the June 22, 2004 regular village board meeting (RVBM) I said I would research the subject.

After an extensive review of minutes and audio the following is a chronology of events:

- 1) During Hearing of Citizens at the **March 25, 2003** RVBM, Board of Fire and Police Commissioners (BFPC) Chairman Wayne Johnson expressed the BFPC's desire to create a **third** sergeant position.
- 2) During Trustee McGrath's report of an April 14, 2003 Administrative Committee meeting submitted at the **April 22, 2003** RVBM it was reported: Next, there was discussion on the FY04 Budget and it was agreed to accept the budget as prepared at the last Administrative Committee meeting with the exception of creating the second sergeant position at the midway point of FY04.
- 3) Trustee McGrath's April 29, 2003 Administrative Committee meeting report, submitted at the **May 13, 2003** RVBM stated: Chief Barnett said a new list will be created for those eligible for the upcoming sergeant position. According to the Police Commission the old list had expired.* (This is the last reference to any sergeant position until January, 2004.)
- 4) Responding to questions of an Executive Session of **January 13, 2004**, a letter from Attorney Myers to Mayor Gray of January 20, 2004 said, summarizing, that the most recent promotion list for a third sergeant position was expired in terms of usability because no vacancy for sergeant existed when it expired in terms of age because the third sergeant position had not been authorized by the village board. Eligibility list expire after three years. John also said when the position is authorized by ordinance a new promotion list needs to be created. **
- 5) Section 32.11 of the Village Code created a single (the first) sergeant position. Later, but several years ago, Officer Galloway was promoted to a **second** sergeant position but, by oversight, that second position had **not** been approved by the village board. John suggested in his letter to Tom that the village board could rectify that problem perhaps at the same time an ordinance is passed creating a third sergeant position.
- 6) An Administrative Committee meeting report of January 20, 2004 submitted during the **January 27, 2004** RVBM said: there was a general discussion concerning the candidates list for a second and third sergeant position. Attorney Myers will discuss this issue with the village board in executive session.
- 7) Also during the **January 27, 2004** RVBM, but not during an executive session, Attorney Myers discussed the establishment of a third sergeant position and the invalidity of the most recent promotion list for the third sergeant position (i.e.: the January 20, 2004 letter). After listening to the tape, there was a pro/con discussion about drafting one or two ordinances. Maybe this is where the confusion about the third sergeant position

ordinance originated. John initially suggested drafting one ordinance creating the second and third positions. Trustee McCarthy wanted **separate** ordinances, based on the budgeting process. It was finally agreed that John would draft **one** ordinance authorizing the second position immediately and authorizing the third effective **May 1, 2004**. But, that didn't happen; see number 9.

- 8) Now, the **January 27, 2004** RVBM minutes state that John will draft **separate** ordinances and that the ordinance for the third position will be drafted after a new promotion list is created by the BFPC. ** So, the minutes do not accurately recap the discussion, but they do state what will eventually happen. Separate ordinances will be approved and a new promotion list for the third sergeant position has been created.
- 9) Ordinance 04-03, An Ordinance Relating to Police Sergeant and Amending the Code of Ordinances of the Village of Chatham, passed and approved (6-0-0) at the **February 10 2004** RVBM, has in Section 1B: In accordance with past practices, there shall be two police sergeant positions in the Village Police Department. 04-03 does not refer to the third sergeant position anywhere.
- 10) As required by the Chatham Code of Ordinances, sergeant positions are created by ordinance and no ordinance creating a third sergeant position had been drafted or presented to the village board ... until the one presented at the **June 22, 2004** RVBM by Trustee McGrath and, it has never been an agenda item.
- 11) I will put the ordinance creating the third sergeant position on the agenda under Old Business for the **July 13, 2004** RVBM.

* There are conflicting expiration dates. Trustee McGrath mentioned an expired list during his committee report at the **May 13, 2003** RVBM. But, Chief Barnett said the most recent list reference in John's January 20, 2004 letter expired in **November of 2003** and that Trustee McGrath's reported date must be mistaken. Trustee McGrath said he could have misunderstood Chief Barnett.

** Whether a promotion list will be created before or after a sergeant position is authorized by the village board appears to be in conflict here. During the January 27, 2004 RVBM Commissioner Bill Barnhill said the process to create a new list would start before ordinance approval because of the time involved and Director McCord said it's been done before.

Finally, this is all very confusing and my analysis may be unnecessarily exhaustive rather than simply saying an ordinance authorizing a third sergeant position had not been drafted or approved. But, considering the complexity I wanted everyone to have a thorough understanding ... from my perspective.

max

MINUTES OF MARCH 25, 2003
CHATHAM ILLINOIS 62629
REGULAR VILLAGE BOARD MEETING

1
2
3
4

5 **A. MOMENT OF SILENCE**

6 **B. PLEDGE OF ALLEGIANCE**

7 **C. ROLL CALL**

8 Trustees: Herr - present, McAdams - present, Boyle – present, McCarthy - present, McGrath –
9 absent, Dierking - present, and President Gray - present

10
11 Others present - Clerk Schad, Directors Branham and McCord, CFO Dierking, and Attorney
12 Myers.

13
14 **D. HEARING OF CITIZENS**

15 Wayne Johnson, Chairman of the Village of Chatham Board of Police Commissioners, said the
16 commission is establishing a new applicant list. (Chatham police officers are hired from an
17 applicant list which is ranked as a result of physical, written, and oral tests.) Specifically, they told
18 the village board of their desire to hire a third sergeant. The commission thinks there should be a
19 “first line supervisor” on three shifts. The police department currently has two sergeants. This third
20 sergeant would be promoted from within the Chatham police department with the officer vacancy
21 being filled as soon as possible. The positions would be separately filled and only when funding is
22 obligated. Trustee McCarthy asked if Chief Burnett could be that third supervisor thus eliminating
23 the necessity and the costs associated with a promotion and the hiring of a new officer. Members
24 of the commission and Mayor Gray disagreed with that method because of the administrative tasks
25 of a Chief. As requested by the village board, the commission will research to determine the
26 optimum number of officers and supervisors in a community the size and area of Chatham before
27 the third sergeant position is further considered by the village board.

28
29 **E. CONSENT AGENDA**

30 Trustee McCarthy motioned, seconded by Trustee Dierking, to act on the Consent Agenda.

61 **Administration – Trustee McGrath**

62 Meeting April 14

63 Director Dierking distributed copies of two audit firms who replied to the Request for Proposal
64 for the FY04 audit services for the Village of Chatham. After reviewing the proposals Director
65 Dierking recommended Sikich Gardner & Co. over Perrino & Associates, In spite of the annual
66 cost of \$5000 more than Perrino, Sikich Gardner was recommended by Dierking because of
67 several reasons: One, Sikich Gardners familiarity of the village. Two, Perrino indicated the
68 village had responsibility to prepare 55 to 60 pages of financial statements, notes and
69 supplemental schedules as well as the preparation and submission of the annual report filed
70 with the State Comptrollers Office. Three, Perrino included a disclaimer assuming the size and
71 quality of record of the Village which means they could charge additional costs. The
72 committee agreed on a 3 to 1 vote to hire Sikich Gardner & Co.

73
74 Director Dierking distributed an FY03 Appropriation Transfer and Supplemental Appropriation
75 Ordinance. This is an ordinance that allows for the transfer of funds from different line items
76 which helps cover unanticipated expenses at the end of the fiscal year. The committee
77 concurred with the recommendation.

78
79 Next, there was discussion on the FY04 Budget and it was agreed to accept the budget as
80 prepared at the last Administrative Committee Meeting with the exception of creating the
81 second sergeants position at the midway point of FY04.

82
83 At 7:15pm the Administrative Committee went into Executive Session to discuss personnel
84 issues. The committee returned to regular session at 7:45pm.

85
86 **H. PRESIDENT'S REPORT - President Gray (no report)**

87
88 **I. CLERK'S REPORT - Clerk Schad**

89 Clerk Schad received a letter regarding the Gillette property and forwarded it to Attorney Myers,
90 Village Trustees, and President Gray.

MINUTES OF JANUARY 13, 2004
CHATHAM ILLINOIS 62629
REGULAR VILLAGE BOARD MEETING
EXECUTIVE SESSION

Topic 1:

The board discussed its legal options regarding five "Spite Strips" owned by Frank Vala along the west side of Savannah of Southwinds subdivision. Land west of the strip is planned for development by Robert Plummer. These strips are needed for connectivity of roads between subdivisions. The owner is asking a very expensive price for the strips. Village attorney Myers suggested the village approve a pre-annexation agreement with the developer. The developer then negotiates for a more reasonable price for the strips. If a reasonable prize can not be attained the village could acquire the necessary land by eminent domain (condemnation).

Topic 2:

The board discussed the approval of a third sergeant position within the Chatham Police Department. Funding for this position was budgeted. Approving the second sergeant position was discussed in administrative committee during the spring of CY 2003 but it was not approved or created during CY 2003. (Trustee McGrath's committee report maybe should have indicated the sergeant position as the third, not the second. However his report was approved as submitted.) The board was reminded during this session that the policeman selected as the third sergeant is not done or approved by the village board. The Police Commission establishes a ranked eligibility list from which the Chief of Police selects the third sergeant. Chief of Police Roy Burnett said that due to poor job performance; he does not want to promote the first policeman on the list. Ranking on the eligibility list by the Police Commission is established only by standardized written and physical fitness tests. It does not take into account past or present job performance, seniority of other candidates, nor preferences of the Police Chief.

Respectfully Submitted,
Pat Schad, Village Clerk

FEMA Maps

The Village anticipates acquiring new FEMA flood plain maps in early March.

Willows Subdivision Preliminary Plan

Trustee McCarthy reported that he had discussions with developer over concerns the Village has over fencing around a proposed detention pond the committee sees as a safety issue. Mr. Sgro agreed and said he would work with the Village and existing neighbors to fence and screen the detention area.

Otter Lake Water Commission

The staff will meet next week with representatives of the Otter Lake Commission to discuss potential projects and improving connections to existing lines.

Meeting concluded at 8:00 pm Submitted January 27, 2004

Administration – Trustee McGrath

Tuesday, January 20, 2004 6:00pm

Attendance: Mayor Gray, Trustees McCarthy, Kavanaugh, Herr and McGrath. Also in attendance were Director's Branham & McCord and Chief Barnett.

Mayor Gray reported that paperwork for the Tax Increment Finance (TIP) district needs to be completed. Mayor Gray would like to hire Dave Joswiak to complete this work which is very technical and complicated. Dave has performed the work in the past for the village. He will be invited to the next administrative committee meeting.

There was general discussion concerning for the candidates list for a second and third sergeants position. Attorney Meyers will discuss this issue with the board in executive session.

J. NEW BUSINESS

Trustee McCarthy made a motion, seconded by Trustee Herr, to act on **Ordinance 04-02, An Ordinance Vacating an Alley Right-of-Way in the Village of Chatham.** 04-02 This alley was located between a church that was recently demolished and RP Lumber. RP Lumber has acquired the church property. 04-02 was passed by roll call vote 6 yes, 0 no, 0 absent as follows: Herr – yes, McAdams – yes, Boyle – yes, McCarthy – yes, McGrath – yes, Kavanagh – yes.

Trustee McCarthy made a motion, seconded by Trustee Kavanagh, to allow the Chatham Jaycees use of the square for an Easter egg hunt. The motion was passed by voice vote.

Attorney Myers initiated a discussion regarding the establishment of a third sergeant position in the Chatham Police Department. Summarizing: The most recent promotional list is expired because the third sergeant position for which it was created was itself not created or authorized by the village board. Village attorney Myers will draft an ordinance authorizing the already filled second sergeant position. An ordinance authorizing a third position will be drafted after a new promotional list is created by the Board of Fire and Police Commissioners.

K. CALENDAR OF EVENTS

Administration	-----	February 03	6:00	PM
Planning Commission	-----	February 19	7:30	PM
Public Property	-----	February 03	5:30	PM
Public Works	-----	February 03	6:30	PM
Regular Village Board	-----	February 10	6:30	PM

L. ADJOURNMENT @ 7:00 PM

Having no further business to come before the board, Trustee McCarthy, motioned, seconded by Trustee Kavanagh, to adjourn. Motion passed by voice vote.

Schad, Patrick F.

From: John Myers [jmyers@springfieldlaw.com]
Sent: Wednesday, January 28, 2004 9:22 AM
To: Schad, Patrick F.
Subject: Re: Sergeant Position

I attach my letter; it should clarify your point no. 1.

As to point no. 2, you are correct.

Regarding the name of the board, I attach a letter I wrote a couple of years ago which addresses the issue.

----- Original Message -----

From: Schad, Patrick F.
To: Myers, John
Sent: Wednesday, January 28, 2004 8:38 AM
Subject: Sargeant Position

John,
To clarify and summarize:

- (1) The current eligibility list is unofficial because the 3rd Sgt. position wasn't authorized. (I didn't get your letter)
- (2) You're going to draft an ordinance recognizing the existing 2nd sergeant position, currently held by Sergeant Galloway, as a position authorized by the board and creating, or authorizing, a third sergeant position ... to be filled from a new eligibility list yet to be created by the Police Commission.

And, since we're talking procedures:

Is it, by codified ordinance, actually named the Board of Fire and Police Commissioners? I started my community service on the Board of Fire and Police Commissioners in 1988. We've had nothing to do with the Fire Department since before my time. Shouldn't an ordinance be approved officially changing the name to The Board of Police Commissioners or is there a need for fire commissioners I don't understand?

Pat

January 20, 2004

Mr. Thomas Gray
Village President
Village of Chatham
116 E. Mulberry
Chatham IL 62629

Dear Tom:

At the last board meeting, questions were raised regarding the proposed creation of a third sergeant's position in the Chatham Police Department, and how that position might be filled, and whether or not the Board of Fire and Police Commissioners needs to promote from an existing list, on the one hand, or whether it needs to create a new list, on the other. Here are my thoughts on the matter.

Section 10-2.1-15 of the Municipal Code governs promotions by the Board of Fire and Police Commissioners. This section says, in relevant part:

The board, by its rules, shall provide for promotion in the fire and police departments on the basis of ascertained merit and seniority in service and examination, and shall provide in all cases, where it is practicable, that vacancies shall be filled by promotion. All examinations for promotion shall be competitive among such members of the next lower rank as desire to submit themselves to examination. All promotions shall be made from the 3 having the highest rating, and where there are less than 3 names on the promotional eligible register, as originally posted, or remaining thereon after appointments have been made therefrom, appointments to fill existing vacancies shall be made from those names remaining on the promotional register ... The board shall strike off the names of candidates for promotional appointment after they have remained thereon for more than 3 years, provided there is no vacancy existing which can be filled from the promotional register.

In other words, a promotional list is only good for three years, unless there is a vacancy in a promotional position at the time of expiration of the list, in which case the vacancy must be filled from the expired list.

Although I do not know the exact date of the most recent sergeant's list, I am informed that it is over three years old as of the date of this letter. And so, with respect to a third sergeant, the question becomes: does the Board of Fire and Police Commissioners need to create a new list? Or does the Board of Fire and Police Commissioners need to work off the old list? The answer hinges on whether there was, at time of expiration of the old list, a vacancy in a sergeant's position. The Board of Fire and Police Commissioners has something of a dilemma, and it is this: if the Board finds there was a vacancy at the time of expiration of the most recent list, then it might violate the rights of police officers who would otherwise have an opportunity to sit for the competitive examination. On the other hand, if the Board finds there was no vacancy, then the officers on the current list may have cause for complaint.

In my opinion, there is not at present a vacancy in the rank of sergeant; nor, if the list expired any time in the last year, was there a vacancy at the time the list expired. It seems to me that there can be no vacancy in an office which has never been formally created.

In looking at the Chatham Code of Ordinances, I find that the position of sergeant is created by ordinance. Section 32.11 of the Code created a single sergeant position. If the Village ever enacted another ordinance creating more than one position, the ordinance was never included in the codification. Now, I understand that despite the fact that the Village Code provides for only one sergeant, there are currently two sergeants in the Chatham Police Department. However, I believe that the second sergeant was promoted by oversight into a position that did not exist. This problem obviously needs to be rectified—perhaps at the same time an ordinance is passed creating a third sergeant's position. I also understand that the Chatham Village Board has made public its plans to create a third position; that it has appropriated funds to create the third position; and that there have been discussions in committee meetings regarding creating the position midway in fiscal year 2004. However, the Village Board has not passed any ordinance, resolution or motion to consummate that plan.

I might also note that there are court decisions saying that a vacancy exists in a promotional position only when a chief of police or city manager formally informs the Board of Fire and Police Commissioners of a vacancy. These cases turn on interpretations of ordinances which say a vacancy does not exist until the Board of Fire and Police Commissioners is formally informed of the vacancy. Our ordinances are

Page 3 of 3

silent on any requirement of notice. I suggest that we amend our ordinances by adding notice provisions, so as to avoid any ambiguity on the issue in the future.

In sum, in my opinion, the Village needs to create the third sergeant position by ordinance before there is a vacancy in the office. Because there is no vacancy until such an ordinance is passed, then the most recent promotional list is expired. When the new position is created, a new list needs to be created in accordance with the rules of the Board of Fire and Police Commissioners. As long as we are amending the police ordinance, we should provide for some procedures by which the Board of Fire and Police Commissioners is formally notified of vacancies; and we should follow those procedures with respect to the newly created third sergeant position.

Sincerely,

John M. Myers

cc: All Trustees
Chief of Police Barnett
Board of Fire and Police Commissioners

September 11, 2000

Mr. Jeffrey M. Regan
Chatham Police Commission
Board of Commissioners
117 East Mulberry
Chatham, IL 62629

Dear Mr. Regan:

I have reviewed your proposed position description for Sergeant and your revised rules. I see no problems, other than this: technically, there is no such thing as a "Board of Police Commissioners". The Illinois Municipal Code provides only for a "Board of *Fire and* Police Commissioners." Obviously, that is a misleading name in a village such as Chatham where fire services are provided by a fire protection district. However, this problem has never been resolved by the statute. I recommend that you stick with the statutory, if somewhat misleading, name.

Sincerely,

John M. Myers

JMM:pkc

2nd
SERGEANT
POSITION

VILLAGE OF CHATHAM, ILLINOIS

ORDINANCE NO. 04 - 03

AN ORDINANCE RELATING TO POLICE SERGEANT AND AMENDING
THE CODE OF ORDINANCES OF THE VILLAGE OF CHATHAM

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE
VILLAGE OF CHATHAM, ILLINOIS THIS 10TH DAY OF FEBRUARY, 2004

Published in pamphlet form by the authority of the President and
Board of Trustees of the Village of Chatham, Sangamon County,
Illinois, this 10th day of February 2004.

Ordinance N o .04- 03

AN ORDINANCE RELATING TO POLICE SERGEANTS AND AMENDING
CODE OF ORDINANCES OF THE VILLAGE OF CHATHAM

*BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF
THE VILLAGE OF CHATHAM, AS FOLLO WS:*

SECTION 1: Section 32.11(B) of the Code of Ordinances of the Village of Chatham is amended to state as follows:

B. In accordance with past practices, there shall be two police sergeant positions in the Village Police Department.

SECTION 2: Subsection (C) is added to Section 32.11(B) of the Code of Ordinances of the Village of Chatham, to state as follows:

(C) Whenever there is a vacancy in a sergeant position, the Chief of Police shall notify the Village Board of the vacancy. If the Village Board determines that it wishes to fill the vacancy, it shall by motion duly made, seconded and passed, notify the Board of Fire and Police Commissioners of the vacancy and request that the vacancy be filled in accordance with the provisions of the Illinois Municipal Code pertaining to Boards of Fire and Police Commissioners. The Board of Fire and Police Commissioners shall fill no vacancy unless the Village Board in has given notice to it in accordance with this section.

SECTION 3: This Ordinance is effective upon its passage and approval as required by law. The Clerk shall see to its inclusion in the next update of the Village Code of Ordinances.

PASSED THIS 10TH DAY FEBRUARY, 2004

Thomas S Gray

THOMAS S. GRAY, PRESIDENT
VILLAGE OF CHATHAM

ATTEST:

Pat Schad

PAT SCHAD, CLERK
VILLAGE OF CHATHAM

AYES:

6 HERR McADAMS BOYLE McURTHY McGRATH KAVANAUGH

NAYS:

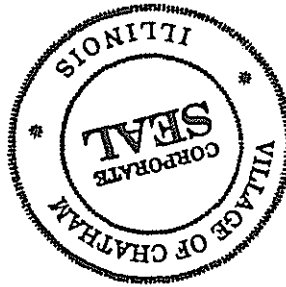
0

ABSENT:

0

APPROVED:

2-10-04



ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

I, the undersigned, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

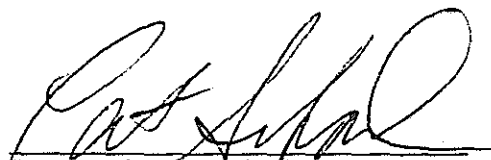
I do further certify that the Ordinance attached hereto is a full, true, and exact copy of Ordinance No. 04-03 adopted by the President and Board of Trustees of said Village on the 10th day of February, 2004, said Ordinance being entitled:

**AN ORDINANCE RELATING TO POLICE SERGEANT AND AMENDING
THE CODE OF ORDINANCES OF THE VILLAGE OF CHATHAM**

I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Village, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Village this 10th day of February, 2004.




Pat Schad, Village Clerk