

Below is a transcript of the part of the 8/12/24 Chatham Borough Council meeting concerning the circumstances surrounding the Council's 6/24/24 vote on a proposal to undertake rolling (annual) reassessment of all Borough real estate. (starting approx. 2:06:54 at

https://chathamborough.granicus.com/MediaPlayer.php?view_id=1&clip_id=256 and reported in TapintoChatham:

<https://www.tapinto.net/towns/chatham/sections/government/articles/chatham-borough-tax-lawyer-offers-mea-culpa-for-canceling-hearing-that-preceded-sham-vote-on-rolling-reassessment-plan>

That discussion deals with issues raised earlier that night at (approx. 1:30:30) and at the Council's 7/8/24 meeting (approx. 1:29:20 at

https://chathamborough.granicus.com/MediaPlayer.php?view_id=1&clip_id=248) about Borough Tax lawyer's 6/17/24 letter asking the County Tax Board to take the Borough off its

6/20/24 agenda, also reported in TapintoChatham:

<https://www.tapinto.net/towns/chatham/sections/government/articles/chatham-residents-question-whether-borough-council-vote-on-rolling-reassessment-was-a-sham-vote-after-letter-revealed> and not fully addressed in the letter published in

TapintoChatham on 7/19/24

<https://www.tapinto.net/towns/chatham/sections/government/articles/chatham-borough-administrator-email-explains-behind-the-scenes-maneuvering-associated-with-rolling-reassessment-decision>

Essential Analysis:

At the 8/12/24 Council Meeting, the Tax Lawyer defined his role in the rolling reassessment issue as follows:

“I didn't make any decisions, so to speak, for the Governing Body. I was just there to be the – basically, effectuate whatever direction I have.”

“We effectuate the will of the Governing Body by making sure you have your legal options.”

“I just wanted to keep all the legal options open for the Borough.”

“My only role there was to make sure to keep options available.”

Yet instead of keeping the Borough's options open until the Governing Body had made a decision, on 6/17/24, the lawyer sent a letter to the Tax Board, announcing that “the Borough Council has decided not to proceed with the request [rolling reassessment] this year,” which was not true.

At the 8/12/24 Council meeting, the lawyer admitted that when he sent that letter the Council had not yet so decided.

“It is my fault. I should have just said, ‘I don't have the authorization at this point.’”

“I just should have said that the Governing Body has not yet given me that authorization.”

But the lawyer never explained *why* he'd made that misrepresentation.

He also insisted that the mistake had been inconsequential:

“If the Governing Body had voted yes, I would have asked the Board to reinstitute at one of their future meetings...”

“No matter how you would have voted thereafter, I'm confident that I could have responded and effectuated what you wanted, by keeping your legal options open, even, even after sending that letter.”

The lawyer did NOT explain why he was so sure he could have moved the County Tax Board to schedule an additional meeting for the Borough's convenience after telling them the rolling reassessment was off. Nor did he say why he would have put the Borough in that position in the first place, when he could have simply told the Tax Board that the Borough Council had yet to decide about the rolling reassessment.

We still need answers to the following crucial questions:

1. Why did the lawyer choose to tell the Tax Board that “the Borough Council has decided not to proceed with the request [rolling reassessment] this year,” instead of simply asking the Board to take the matter off the agenda, as the Governing Body had not authorized him to proceed and wasn't scheduled to meet again until 6/24/24?
2. If the Council had authorized the lawyer. to proceed with a rolling reassessment, was it his intention to seek a Tax Board order to do so?
3. If so, for how would the Borough benefit from such an order? For instance, would it have taken the cost of the rolling reassessment out of the municipal tax or budget cap?

Transcript:

(starting approx. 2:06:54 at

https://chathamborough.granicus.com/MediaPlayer.php?view_id=1&clip_id=256)

Mayor Dempsey: And now to address Mr. Weber's concerns. I wonder if - is [the tax lawyer] on?

Administrator Williams: Yes, he is.

Mayor Dempsey: OK.

Tax Lawyer: Yes, I am. I, I hope that everyone can hear me though, because I'm traveling and I thought it was important to try to attend the meeting. So I apologize if, like, I'm not on the screen. Maybe it's a benefit not to see me. But can everybody hear me?

Mayor Dempsey: Yes

Administrator Williams: Yes, I can Fred.

Mayor Dempsey: Yes, we can hear you, Fred.

Tax Lawyer: I just say I - if I may - I'm special counsel for the Borough on tax appeal matters. I think we've made terrific progress. I think it's now a total of four years. And in representing the Borough the one thing that I do is handle just the tax appeal work and some ancillary tax type issues. I appeared at the County Tax Board, as I do every year, with the Assessor. There's usually one day that you appear. We went through all our cases and the Assessor told me at the end, when the Board said, "That's everything for Chatham Borough this year," the Assessor nudged me and for the first time she notified me was May 8th, Therea had said "The Borough is looking into, or thinking about, a rolling assessment." And I said "Well, that's good to know." Because the County Tax Board, they meet regularly in April and May and then by the end of June they go more towards a very light, recess type schedule because they meet everyday - almost - business day - in May and in April." So I asked the Board if we could reserve a date to hold a date for the Borough to come back if, in fact, it decided to proceed with the rolling assessment, because they had a scheduled date at the end of June usually and they, they gave me that date and they said that, "Look, you can come in." (It was the 20th of June. I don't have any notes with me but) and I said, "Great, if you could hold that date for Chatham Borough and we'll be in touch." That's so that if the process needs to get started, it doesn't get rushed later in the year. There's also an application to the State Division of Taxation

[\[https://www.nj.gov/treasury/taxation/pdf/other_forms/AFR-A.pdf\]](https://www.nj.gov/treasury/taxation/pdf/other_forms/AFR-A.pdf) and also, when you're doing a revaluation, this is the subsequent year. It's pretty much the last year you could do

this. So that's all I did was ask for that date. And as that date came closer - I notified the administration of the date, and as it came closer, I realized the one good thing was there was a public discussion was listed and there was a public discussion. I have to say, in my experience, some towns, when they make these decisions, just put a resolution on and go forward. This Governing Body and administration didn't do that. You had a discussion and I've spoken to even some members of the public who spoke and, and I did speak of course to Mr. Williams and was told that it was a very thoughtful, lively discussion about a rolling assessment, which a lot of towns don't have. But it also led - the Friday before, so where we're supposed to be before the Board, where I was told, "Look, we don't have, at this point, a resolution authorizing to go forward with the rolling assessment." And I asked Mr. Williams, "Does it look like that is going to happen?" And he said "Well, you know generally I can't speak for everybody, but based on the meetings and my impressions, I doubt it." And so, I wrote the Board, because Chatham Borough was the only item that was going to be listed on the agenda for the County Tax Board. [See the agenda attached] Now the County Tax Board has been very good with the Borough, you know. We have, when I came into the Borough, there was issues with the revaluation and the timeliness of it and I believe the Mayor, and Mr. Williams, myself, and the Assessor went, and the Board really started working with us, to give us more time and a better reevaluation, which was very important. So I didn't wanna go to the meeting on the 24th (sic) and say, "Well, I don't have an answer." And at that point, it didn't look like it's gonna happen. **It is my fault. I should have just said, "I don't have the authorization at this point."** Instead, I said basically, like, "It's not gonna happen." But, but the bottom line was, we weren't ready to proceed before the Board and **if the Governing Body had voted yes, I would have asked the Board to reinstitute at one of their future meetings** and it would have all been rushed. It would have been (indecipherable.) But we could have got it done. But what I'm saying to everybody is it was a thoughtful process. I feel as though I should have used a better choice of, not a better choice of words in my letter to the Board. But as I think Mr. Simpson said, it was a withdrawal of the request is how he termed it and I did too. **I just should have said that the Governing Body has not yet given me that authorization** which, which was correct. Didn't happen. So with that being said, I I just wanna say first, you know, I don't want any misunderstandings. I'll, I'll take that responsibility, and I apologize for that. But second, it was a very thoughtful process and no one on this Governing Body reached out to me to say, "We're going to vote this way or that way. Please write this letter or do that." It was just to maintain the appropriate rapport with the County Tax Board, so they weren't looking for us on June 20th and then I get there and I don't have any update for that. I - you know, that's really, that's everything. There was nothing else that was done in any way differently and I think as I said and I say it again, because I only represent municipalities, doing tax appeals. I don't file appeals, unless it's like for my brother or sister, against any

town. That's the only work we do. And most attorneys do both. And so it's very important to me and it's something that I can tell you wholeheartedly the way – don't miss - misinterpret. The way the Borough did this – and the residents came to an outcome in a thoughtful process. But there was nothing done any differently than that. And you know now we, we - there was a vote and **if the vote was differently, I would have had to quickly react to that** and if it -and the way the vote came out we're proceeding that way. It's purely a policy decision and I would say to you that's, it's about everything I can tell you, but I hope that just clarifies any misconceptions or concerns, because it was a very thoughtful process. Thank you very much.

Mayor Dempsey: Thank you. Council member Strickland has a question for you, [Tax Lawyer] Can you stay on a few more minutes?

Tax Lawyer: Sure, sure.

Mayor Dempsey: OK, thank you.

Council Member Strickland: Sir, first I want to say thank you so much for being here on the phone tonight. We greatly appreciate your time. I know that you're traveling and we greatly appreciate it very much so.

Tax Lawyer: Thank you, thank you.

Council Member Strickland: I also – I also want to say that I think it's very important that we - I think everyone in this room recognizes it takes a lot for someone to say, "I take responsibility." It takes – it - that's a big deal and it's, it's, it's a, it's a, it's a lot to say, "Hey, I do not have authorization." That's like raising your hand and saying I committed a foul and I appreciate your straightforwardness with us. It - it – it- we - it's often lacking in today's society, to take accountability - and I appreciate your doing that tonight. It means a lot. I have one question. I just want clarification on something you said at the beginning of what, your speaking, you had said that you–

Tax Lawyer: Sure.

Council Member Strickland: -you had got on the agenda for the 20th because you were told that the rolling reassessment was scheduled for the end of June. Is that correct or, or is that not? Or did I mishear that?

Tax Lawyer: Yeah, no, no, no. Glad you asked. What, what happens is the County Tax Board meets once, pretty much historically, at the end of June. Just once those last 10 days or so, and only- it's because if there's a makeup appear - hearing, or something to that effect. So that's why on May 8th I said "Well, before you cut it, go into your off-season

schedule, can we be listed on whatever your latest date is at the end of June, as they have every year?" And they said, "Well, the date is June 20th," and I said, "Well, can we have a place holder there for the Borough?" Because, as the Assessor had indicated to me, there's some thoughts about this. No confirmed direction, but there's a discussion and this was, sort of, the window to make those decisions, so we didn't wanna call the County Board, you know, sometime in the middle of June and say, "Now we'd like to be on. Can you get us on the agenda?" or ask for a special meeting, unless we really needed it, and they have to call all their members and then advertise. So I took the June 20th date because that's something they would already have advertised and that was the latest I could come in.

Council Member Strickland: And that had nothing to do with anything other than the fact that it was just the latest date that you knew that they were gonna meet?

Tax Lawyer: Yes.

Council Member Strickland: Thank you.

Council Member Hay: I have a question.

Mayor Dempsey: So Council member Hay has a question for you, Mr. [Tax Lawyer]

Council Member Hay: Hi –

Tax Lawyer: Sure.

Member Hay: I just have a quick question which is, can you clarify if it's common practice to, before the Governing Body makes a decision, to use, I guess, rumblings of a vote as an effort to be put on the meeting? Is that -

Tax Lawyer: Yeah, in this case - yeah. In this case, I think I, I owed the County Board at least some thoughts as to where this may go. And I used too strong of a word. But at that point I didn't have the authority and it didn't, it didn't appear that it was going to occur, but - So from that standpoint, I, I thought I owed at least the Board an explanation. Because, you know, honestly, if it was going to happen, I would have wanted to tell them that, too, if, you know, if I thought that there was a greater chance, so to speak. So I, I think I was just trying to gauge this to see if I, for example, if Mr. Williams had said that there's a good chance this could happen after that meeting, then that might have been more along the lines of "Could, could you give us another date?" Which I still could (those last two words aren't clear, then audio cuts out.)

Mayor Dempsey: You cut out Mr. [Tax Lawyer]. Can, can you hear us?

Tax Lawyer: ...in that case (indiscipherable) they were to administratively to take our request so - so it was that the type of circumstance where I would try this - try to gauge how things may go so we'd be prepared, and the Board would be available. I hope that helps.

Council Member Hay: Yes, thank you

Mayor Dempsey: Mr. [Tax Lawyer], It's - none of the Governing Body - we didn't know about your letter, and that's not unusual, correct? Because the - you were preparing us for the possibility of if, if we did vote for it - the rolling reassessment, correct?

Tax Lawyer: Correct, that- that's correct. If for some reason the vote went differently, I would have been ready to respond. I think I would still have to address my use of words in the letter, but I would have been ready and, you know, **I didn't make any decisions, so to speak, for the Governing Body. I was just there to be the - basically effectuate whatever direction I have.** Yeah and (indiscipherable) number two, even asking for it in the beginning it's the Assessor that really works for the County Tax, so I have to always keep that in mind. And I did confer with the Assessor. She reached out to me before the letter, and then I also conferred with Mr. Williams to make sure I, you know, would cover the necessary bases to try to gauge where this is going. But it wouldn't be necessarily where I would - would ever call any member of the Governing Body, unless I was - you know individually on something like this - unless I went through the administration or - or ask that it would be appropriate protocol.

Mayor Dempsey: And there are many, many communications that you make as our tax attorney that do not involve - many communications that you create and go back and forth that do not involve the Governing Body, in fact, the majority of them, correct?

Tax Lawyer: Yes, except when we have any settlements and resolutions when we ask you to take formal action, yes. But yes, we prepare usually a memo and explain it. **But otherwise, day-to-day matters, you know, we effectuate the will of the Governing Body by making sure you have your legal options.**

Mayor Dempsey: Thank you, Mr. [Tax Lawyer.] Council Member Strickland has one more question for you. Thank you for staying on.

Council Member Strickland: One more question, sir. So -

Tax Lawyer: Yes.

Council Member Strickland: You had got - you, you had reserved the spot on June 20th as you, as you -

Tax Lawyer: Yes.

Council Member Strickland: - had said, on May 8th and on May 13th we, we the, the Governing Body, passed a resolution to release an RFP to go off a bid for a rolling reassessment. The rolling reassessment bid process would have not been completed by June 20th. Can you walk us through what would have happened had we -you come to June, June 17th or June 20th and we would not got - we had not gone through the RFP – we had not finished with the RFP process and the Council had not voted on whether or not to do rolling reassessment?

Tax Lawyer: Sure. What would have happened is we would have asked the Board to start the process and, much like the revaluation process, even though we don't have the contractor in place, we would represent to the Board that steps have been taken to solicit, you know, through proposals for that contract. If so, I feel I could have stood before the Board on that date, notwithstanding the RFP wasn't back, to say, "It's in the works and the Governing Body still has to select someone."

Council Member Strickland: So it's fair to say that the Tax Board would not have ordered us to do a rolling reassessment on June 20th, because you would have said it's still in process, correct?

Tax Lawyer: No, they, they could have, they could have started the process that day and, and sent us to the state, just with the fact that we - if I had the direction of the Governing Body and they would have taken note that we are in the process of getting a vendor. I think that would have been OK. I don't want to speak for them, but, in my experience, I think it's, it's much like the revalue, you know, when we as a, as a Borough agreed to have a revaluation we didn't necessarily have the reval company in place right away. We said we were gonna go out for proposals. I, I think it's kinda similar that way. I - we would have been OK.

Council Member Strickland: So you're saying that you would have gone before the Board on the 20th and said "They're in the process of soliciting bids, so let's start the process of ordering a re – a rolling assessment" –

Tax Lawyer: Yes.

Council Member Strickland: -correct?

Tax Lawyer: Right, if, if I had the direction from the Governing Body to start that process, that would have been sufficient, with the backdrop that we were coming off a revaluation, that would have been sufficient.

Mayor Dempsey: If you had the direction from the Governing Body.

Tax Lawyer: Right. Correct. Yes.

Mayor Dempsey: Alright did you have a question?

Council President Mathiasen: So I just I just want to clarify. I think the biggest issue of concern is actually funny 'cause it's kind of going in both directions: Was it locked in that we would do the rolling reval? Or was it locked in that we wouldn't do the rolling reval? So sort of, you know, a great locked room mystery. But the - I think the concern that, that you're hearing is that if, if - the Council had agreed to do an RFP, but they weren't 100% sure they wanted to do a rolling reval. And that was what was communicated at the time - this was an RFP but it doesn't lock us in. We, we wouldn't have wanted to be locked in at that at that meeting with the County because we, we may have agreed to an RFP, but we weren't 100% sure because we hadn't gone through that thoughtful process. So that I think that that's the crux of Council Member Strickland's concern if, if, if that's accurate. On the other side, all I can say is that we have plenty of - If you think that it's a sham vote, if you're pretty sure with the outcome of the vote is gonna be, I would say almost everything on our agenda would be a sham vote, because we, you know, we've printed out resolutions but we haven't voted on them yet, etcetera. This one, I will tell you everybody was really, really still thinkin' about this, until the very last minute. So - and that's, you know, every - You have, you have whips to whip votes later you know what your vote is gonna be, you know, when I - except in very rare cases. But in this case, I can say personally as a Council Member I didn't know what direction the Council would go in. There were other Council members who were not sure. So I actually - This is one of the rare occasions where we don't have a sham vote - didn't have sham vote. But anyway, that's, that's just my take and, and, and that's "sham vote" in quotes, because what we are - when Congress votes on something - everything - you pretty much are pretty sure what the count, what the vote count is going to be.

Council Member Strickland: And Jocelyn I'd like to piggyback on that. My concern also is the fact that I knew nothing of the July 17th memo or the, or the June 20th meeting. I knew nothing about the May 8th meeting. So this idea that it wouldn't proceed without the Council, the Council didn't know about these things, so how would we would have weighed in on whether or not it was moving forward or not when we didn't know? And that's my biggest concern is we did not know and I, I hear what, what I'm hearing from the attorney is that because they would have had a 5 to one passing of an RFP on May the 13th, that that would have been taken as the Council wants to proceed with a rolling reassessment and it would have been presented that way on June 20th, but we did not even know there was a June 20th meeting. And that's my concern.

Mayor Dempsey: Mr. [Tax Lawyer], are you still there?

Tax Lawyer: Yes, they, yeah yeah, I, you know, **I just wanted to keep all the legal options open for the Borough**, and so to me the one thing I would have needed is a motion of resolution to proceed that way, and, you know, with the rolling assessment. That's the best I can say. The RFP, or request for proposals I've seen there[?], my recollection that that's not as necessary as the commitment that you want to start the process. There's a lot that has to be done once you start the process and you wanna give as much time for the taxpayers and residents so that there's an understanding if you build out that program. So that was to me what was essential and I – **My only role there was to make sure to keep options available. No matter how you would have voted thereafter, I'm confident that I could have responded and effectuated what you wanted, by keeping your legal options open, even, even after sending that letter.** I would have explained any inaccuracies and (undecipherable) you know, to move it along. But it was protected (undecipherable) policy decision and (undecipherable) I think it's such a good discussion that you had and a good consideration that doesn't always happen and honestly I'm glad it did from that standpoint. So whenever your decision was, and it was not to proceed, I'm just really glad to have that through discussion, because so many times - I can think of one or two towns they got into a rolling assessment and then they wanted out - or vice versa - and it was too late. And that's not what happened here. Overall, you were timely, and you did it, and it, it, it (undecipherable) in a good exercise in government.

Mayor Dempsey: Thank you Mr. [Tax Lawyer] So bottom line, you were just preparing the Borough in the event that we voted yes, or we voted no. And once you realized there that we were not going to be making a decision as of the Board meeting on June 20th that's why you requested to be removed from the agenda, correct?

Tax Lawyer: Yes.

Mayor Dempsey: Yes, OK, great. Is there anyone else on the Council posing any questions? There, very good. Mr. Jacoby, is there anything you'd like to add?

Jacoby: No, I'm fine.

Mayor Dempsey: OK. Thank you Mr. [Tax Lawyer] I know you're on a train in Montana. Oh, if we forgot add something. I apologize

Tax Lawyer: No, but thank you. I apologize for not being there. But thank you. Thank you, Mayor.

Mayor Dempsey: Thank you for making the effort to be here and for your explanations. It wasn't a sham vote. This was part of the process to prepare us in the in the eventuality that we did vote for it, which you know the vote was not going to be taken until after June 20th, so [the Tax Lawyer] requested from the County that we be pulled from the agenda on the 20th because we had not made a decision at that point. Mr. [Tax Lawyer] explained just now that perhaps his wording could have been different to add more clarity, however Mr. [Tax Lawyer] was writing to the County Tax Board. The, the, the Governing Body was not involved in this, and the language used was understood by the Tax Board and so yeah, I I think this closes this issue. There was no sham vote. We were being prepared for the eventuality if we did vote for it or if we did not and Mr. [Tax Lawyer] as our professional, acted appropriately by pulling us from the agenda when we had not yet voted. We had not yet voted and he hadn't received any direction from the Governing Body and I think that's it.