

ORDINANCE# 28-2015

**ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MOUNT OLIVE
AUTHORIZING THE TOWNSHIP TO ACCEPT THE TRANSFER OF THE WATER SUPPLY
SYSTEM WITHIN MORRIS CHASE AND MORRIS HUNT AND TO COMMENCE
OWNERSHIP AND OPERATION OF THE POTABLE WATER SUPPLY SYSTEM FOR THESE
DEVELOPMENTS AS PART OF THE TOWNSHIP'S WATER SYSTEM**

WHEREAS, the Planning Board of the Township of Mount Olive, on February 3, 2002, adopted a resolution granting Final Subdivision Approval and amended preliminary major Final Site Plan Approval to Toll Bros., Inc., to construct a development of single family detached dwellings and townhouse units within Block 4400, Lot 79 on the Tax Map of the Township of Mount Olive, which development is commonly referred to as "Morris Chase"; and

WHEREAS, Toll Bros., Inc., had previously secured subdivision approvals to construct detached single-family subdivision within Block 4400, Lots 86 and 108 as shown on the Tax Map of the Township of Mount Olive (prior to filing final maps therefore), which development is commonly referred to as "Morris Hunt"; and

WHEREAS, the Resolution of the Mount Olive Township Council dated July 9, 2002 authorized execution of a Developer's Agreement embodying certain obligations to be discharged by Toll Bros., Inc., including provision for construction and installation of water and sewerage utilities, and requiring the developer to provide said utilities and to secure all necessary government approvals for the construction of said utility systems; and

WHEREAS, Toll Bros., Inc., and the Township of Mount Olive entered into a Developer's Agreement dated March 18, 2004, which authorized the Township to consent to a revocable franchise for the water system (the "Franchise") so that Toll Bros., Inc.'s assignee, Applied Wastewater Management, Inc., ("AWWM"), may develop and operate the water system under a tariff approved by the New Jersey Board of Public Utilities ("BPU") until such time as the Township shall determine the System should be owned and operated by the Township and become part of the Township's water system; and

WHEREAS, the Toll Bros./AWWM Public Community Water System was the subject of the NJDEP permit PWSID No. NJ1427018 and Permit Application No. WCP03003 ("System") which served the Morris Chase and Morris Hunt developments; and

WHEREAS, the BPU, under Docket No. WE09030185, on September 21, 2009, approved the Township's Ordinance No 42-2008 granting municipal consent to AWWM, with the provision included that the Township had the right to acquire the system upon serving written notice of such intent to AWWM; and

WHEREAS, on April 16, 2010, under BPU Docket No. WM09110890, the Board approved the merger of AWWM with and into New Jersey American Water Company, Inc. ("NJAWC"), with the System being a transferred asset as part of the merger; and

WHEREAS, the Township served formal written notice upon NJAWC on April 13, 2015 requesting transfer of the System to the Township pursuant to Ordinance No. 42-2008 and the BPU's Municipal Consent Order; and

WHEREAS, NJAWC, pursuant to state statutes, filed a petition with the BPU requesting permission to discontinue water service to Morris Chase and Morris Hunt, which petition was assigned BPU Docket No. WD15050634; and

WHEREAS, the BPU issued an order, effective August 29, 2015, approving the transfer subject to several conditions; and

WHEREAS, the Township deems the System to be a valuable asset as an addition to the Township's water supply facilities; and

WHEREAS, the Township and NJAWC have worked collaboratively to ensure that the transfer of the System is completed in an efficient manner to ensure that the residents of Morris Chase and Morris Hunt continue to be provided with safe, adequate and proper service; and

WHEREAS, the Township of Mount Olive owns and operates existing public water supply systems presently serving approximately 2,500 customers within the Township; and

WHEREAS, the Township Council of the Township of Mount Olive has determined that it is in the Township's best interests to effectuate the transfer of the System to be incorporated into the Township's water system.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mount Olive as follows:

SECTION 1. Effective December 8, 2015 the transfer of the potable water supply system shall be transferred to the care, custody and responsibility of the Township of Mount Olive to become part of the existing water system for the provision of potable water to Morris Chase and Morris Hunt. The Township and NJAWC have worked collaboratively and the Township will continue to work collaboratively to ensure that the transfer of the System is completed in an efficient manner so that the residents of Morris Chase and Morris Hunt continue to be provided with safe, adequate and proper service.

SECTION 2. All ordinances of the Township of Mount Olive which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

SECTION 4. This ordinance may be renumbered for purposes of codification.

TOWNSHIP OF MOUNT OLIVE

Joe Nicastro, Council President

ATTEST:

Michelle Masser, Township Clerk