

**TOWNSHIP OF BYRAM
COUNCIL MEETING AGENDA
TUESDAY, MARCH 1, 2011
7:00 P.M. READ ACROSS AMERICA PROGRAM AT BYRAM LAKES SCHOOL
7:30 P.M. REGULAR MEETING**

1. CALL MEETING TO ORDER

2. OPEN PUBLIC MEETING STATEMENT

Adequate notice of this meeting has been made in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 by forwarding the annual notice to the New Jersey Herald, the Township Journal, posting the agenda on the bulletin board located in the Council Meeting Room and the Township website and by filing same with the Township Clerk.

3. ROLL CALL

4. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENT REFLECTION

5. APPROVAL OF AGENDA

6. REPORTS

- Township Manager
- Mayor and Council Members

7. PUBLIC PARTICIPATION I – Meeting open to the public for comments on matters not on the agenda or items on the agenda for which no public discussion is provided.

8. APPROVAL OF MINUTES

- February 15, 2011 Regular Meeting Minutes
- February 15, 2011 Executive Session Minutes
- January 18, 2011 Regular Meeting Minutes
- January 18, 2011 Executive Session Minutes

9. CONSENT AGENDA: These items are considered to be routine by the Members of the Township Council and will be enacted on by one motion. There will be no separate discussion of these items unless a citizen or Council member so requests in which event the item may be removed from the general order of business and considered in its normal sequence on the agenda.

- A. Resolution No. 30-2011 – Authorizing PSA with Harold Pellow & Associates to prepare and attend a pre-application meeting with the NJDEP regarding the Jones Lane Parcel
- B. Resolution No. 31-2011 – Authorization the Appointment and Agreement for a Hearing Officer for a PBA disciplinary action
- C. Resolution No. 32-2011 – 2010 Appropriation Reserve Budget Transfer
- D. Resolution No. 33-2011 – Authorizing the Township of Byram to enter into a Cooperative Pricing Agreement with the Middlesex Regional Educational Services Commission
- E. Proclamation – “Read Across America Day” – March 2, 2011

10. APPROVAL OF MARCH 1, 2011 BILL LIST

11. ORDINANCE NO. 2-2011 – Second Reading and Public Hearing

Ordinance to Exceed the Municipal Budget Appropriation Limits and to Establish a Cap Bank

12. ORDINANCE INTRODUCTION

- Ordinance Directing that the Clerk of the County of Sussex Submit a Binding Referendum to the Voters of the Township of Byram at the Next Election
- Ordinance to Amend Chapter 240 of the Township of Byram, Particularly Article IV-General Provisions- Adding A New Section Designated as Section 240-29.5 and Entitled ‘Right to Farm’

13. ITEMS FOR DISCUSSION

- Governor’s Budget/State Aid
- Route 206 Jurisdictional Agreement

14. PUBLIC PARTICIPATION II

15. ANY OTHER BUSINESS THE COUNCIL DEEMS NECESSARY

16. RESOLUTION FOR EXECUTIVE SESSION

- Pending/Ongoing Litigation – Fire Department
- Contract Negotiations – Shared Services – Technology/BOE/Court & Pound
- Attorney Client Privilege Communication - Sewer

17. RETURN TO OPEN SESSION

18. ADJOURNMENT

**TOWNSHIP OF BYRAM
RESOLUTION NO. 30 – 2011**

**RESOLUTION AUTHORIZING HAROLD PELLOW &
ASSOCIATES TO PREPARE FOR AND ATTEND A PRE-
APPLICATION MEETING WITH THE NJDEP REGARDING THE
JONES LANE PARCEL**

WHEREAS, has determined that there is a need to enter into a professional services agreement with Harold Pellow & Associates to provide engineering services for preparing for and attending a pre-application meeting with the NJDEP to determine the feasibility of constructing recreation fields on the Jones Lane parcel; and

WHEREAS, funds are available through the Open Space Trust for this purpose; and

WHEREAS, the Local Public Contracts Law (NJSA 40A:11-5 et seq) requires that the resolution authorizing the award for Professional Services without competitive bid and the contract itself must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council, County of Sussex, State of New Jersey that:

1. The Township of Byram hereby authorizes the execution of a professional services agreement with Harold Pellow & Associates, not to exceed \$2,000.00 as per proposal dated February 14, 2011.
2. A notice of this contract shall be printed once in the official newspaper of the Township of Byram.

BYRAM TOWNSHIP COUNCIL

COUNCIL MEMBER	Councilman Olson	Councilwoman Rafferty	Councilman Rafferty	Councilman Thompson	Mayor Oscovitch
Motion					
2nd					
Yes					
No					
Abstain					
Absent					

ATTEST:

I certify that the Byram Township Council at a meeting held on March 1, 2011 adopted the foregoing resolution.

Doris J. Flynn, Township Clerk

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY**

RESOLUTION NO. 31-2011

WHEREAS, a personnel matter has arisen within the Police Department of the Township of Byram and a Preliminary Notice of Disciplinary Action has been issued; and

WHEREAS, the Township Manager has determined it would be in the best interest of the Township of Byram to retain a Hearing Officer for the handling of the aforesaid personnel matter; and

WHEREAS, the compensation for professional services to be rendered may exceed the maximum permissible amounts specified in the Public Contracts Law, but said services constituting "professional services" are exempt from public bidding pursuant to N.J.S.A. 40A:11-5(10)(a) of the Public Contracts Law because said services are rendered or performed by a person authorized by law to practice a recognized profession, rendered or performed by a person whose practice is regulated by law, and the performance thereof requires knowledge of an advanced type in the field of learning required by a prolonged formal course of specialized instruction and study as distinguished from general academic training, instruction or apprenticeship; and

WHEREAS, the Council of the Township of Byram is desirous of appointing Hearing Officer; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Byram that C. William Bowkley, Esq., 711 Route 10, Suite 201, Randolph, New Jersey 07869, is hereby appointed as Hearing Officer to hear evidence as to the disciplinary charges brought against the employee and, thereafter, make a written report and recommendation to the Township Manager and Council for final action on the pending charges in the matter;

BE IT FURTHER RESOLVED, that the Hearing Officer will be compensated at the rate of \$150 per hour, together with out-of-pocket costs;

BE IT FURTHER RESOLVED, that in the event it is anticipated that the fees and out-of-pocket costs will exceed \$2,500, a written report on anticipated fees and costs shall be submitted to the Township Attorney and the Township Council together with an estimate of the remaining fees and costs to be associated with the services of the Hearing Officer; and

BE IT FURTHER RESOLVED, that the Township Clerk be and hereby is authorized and directed to forward certified copies of the within Resolution to the Hearing Officer appointed by the Township Council upon final approval of such Hearing Officer; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to sign an Employment Agreement for Professional Services of Hearing Officer on behalf of the Township.

A Notice in accordance with the Local Public Contracts Law shall be published in the New Jersey Herald as required by law.

A copy of this Resolution as well as the contract shall be placed on file with the Clerk of the Township.

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Township Council of the Township of Byram at a meeting thereof duly called and held on March 1, 2011.

Dated: March 1, 2011

Doris Flynn, Township Clerk

**TOWNSHIP OF BYRAM
RESOLUTION NO. 32 – 2011**

**RESOLUTION OF THE TOWNSHIP OF BYRAM, COUNTY OF SUSSEX,
STATE OF NEW JERSEY, AUTHORIZING APPROPRIATION RESERVE
BUDGET TRANSFERS FOR 2010.**

WHEREAS, the following 2010 budget appropriation transfers are necessary:

<u>TRANSFER FROM</u>		<u>TRANSFER TO</u>	
Group Insurance	\$20,000.00	Police SW	\$20,000.00
Fleet Maintenance	\$20,000.00	Police SW	\$20,000.00
Electricity	\$ 5,000.00	DPW SW	\$ 5,000.00
Heating Oil	\$25,000.00	DPW SW	\$25,000.00

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council, Township of Byram, County of Sussex, New Jersey, that the Finance Officer is hereby authorized and directed to make the above 2010 Appropriation Reserve Budget Transfers.

COUNCIL MEMBER	Councilman Olson	Councilwoman Raftery	Councilman Raftery	Councilman Thompson	Mayor Oscovitch
Motion					
2nd					
Yes					
No					
Abstain					
Absent					

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on March 1, 2011.

Doris Flynn, RMC
Township Clerk

**RESOLUTION FOR MEMBER PARTICIPATION
IN A COOPERATIVE PRICING SYSTEM**

**A RESOLUTION AUTHORIZING THE TOWNSHIP OF BYRAM
TO ENTER INTO A COOPERATIVE PRICING AGREEMENT**

RESOLUTION NO. 33 - 2011

WHEREAS, N.J.S.A. 40A:11-11(5) authorizes contracting units to establish a Cooperative Pricing System and to enter into Cooperative Pricing Agreements for its administration; and

WHEREAS, the Middlesex Regional Educational Services Commission, hereinafter referred to as the "Lead Agency " has offered voluntary participation in a Cooperative Pricing System for the purchase of goods and services;

WHEREAS, on March 1, 2011 the governing body of the Township of Byram, County of Sussex, State of New Jersey duly considered participation in a Cooperative Pricing System for the provision and performance of goods and services;

NOW, THEREFORE BE IT RESOLVED as follows:

TITLE

This RESOLUTION shall be known and may be cited as the Cooperative Pricing Resolution of the Township of Byram

AUTHORITY

Pursuant to the provisions of *N.J.S.A. 40A:11-11(5)*, the Township Manager is hereby authorized to enter into a Cooperative Pricing Agreement with the Lead Agency.

CONTRACTING UNIT

The Lead Agency shall be responsible for complying with the provisions of the *Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.)* and all other provisions of the revised statutes of the State of New Jersey.

EFFECTIVE DATE

This resolution shall take effect immediately upon passage.

CERTIFICATION

I Hereby, certify that the above resolution was adopted by the Mayor and Council of the Township of Byram at a meeting of said governing body held on March 1, 2011.

BY:

James Oscovitch, Mayor

ATTEST BY:

Doris J. Flynn, Municipal Clerk

TOWNSHIP OF BYRAM SUSSEX COUNTY, NEW JERSEY PROCLAMATION

WHEREAS, the citizens of Byram Township stand firmly committed to promoting reading as the catalyst for our students' future academic success, their preparation for America's jobs of the future, and their ability to compete in a global economy; and

WHEREAS, the Byram Township Mayor and Council have provided significant leadership in the area of community involvement in the education of our youth, grounded in the principle that educational investment is key to the community's well-being and long-term quality of life; and

WHEREAS, **NEA's Read Across America**, a national celebration of reading, will be conducted on March 2, 2011, which would have been the 107th birthday of Theodor Seuss Geisel, better known as Dr. Seuss; and

WHEREAS, **Read Across America-NJ** is being conducted statewide by the New Jersey Education Association, in partnership with the New Jersey State League of Municipalities, the New Jersey Library Association, Saturn-UAW, and their local affiliates across the State to promote reading and adult involvement in the education of our community's students.

NOW, THEREFORE, BE IT RESOLVED that the Byram Township Mayor and Council calls on the citizens of Byram Township to assure that every child is in a safe place reading together with a caring adult on March 2, 2011; and

BE IT FURTHER RESOLVED that this body enthusiastically endorses **NEA's Read Across America** and **Read Across America-NJ**, and recommits our community to engage in programs and activities to make America's children the best readers in the world.

James Oscovitch
Mayor of the Township of Byram
March 1, 2011

**TOWNSHIP OF BYRAM,
SUSSEX COUNTY, NEW JERSEY
ORDINANCE NO. 2 - 2011**

**CALENDAR YEAR 2011
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Mayor and Council of the Township of Byram in the County of Sussex finds it advisable and necessary to increase its CY 2011 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township of Byram hereby determines that a 3.5 % increase in the budget for said year, amounting to \$283,717.00 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Mayor and Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Township of Byram, in the County of Sussex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2011 budget year, the final appropriations of the Township of Byram shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$283,717.00, and that the CY 2011 municipal budget for the Township of Byram be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Attest:

BYRAM TOWNSHIP COUNCIL

Doris J. Flynn, Township Clerk

Introduced: 2/15/2011

Adopted: 3/1/2011

COUNCIL MEMBER	Motion						
	2nd						
	Yes						
	No						
	Abstain						
	Absent						
		Councilman Olson	Councilwoman Rafferty	Councilman Rafferty	Councilman Thompson	Mayor Oscovitch	

NOTICE is hereby given that the above-entitled Ordinance was introduced and passed first reading at the meeting of the Byram Township Council held at the Byram Township Municipal Building, 10 Mansfield Drive on the 15th day of February, 2011. The said ordinance was further considered for final adoption at a meeting of the Byram Township Council, held at the Byram Municipal Building, 10 Mansfield Drive, Byram Township on the 1st day of March, 2011 at 7:30 p.m. at which time all persons were given the opportunity to be heard. It was finally passed and adopted and will be in full force in the Township according to law.

**TOWNSHIP OF BYRAM
ORDINANCE NO. - 2011**

**AN ORDINANCE DIRECTING THAT THE
CLERK OF THE COUNTY OF SUSSEX SUBMIT
THE FOLLOWING BINDING REFERENDUM TO
THE VOTERS OF THE TOWNSHIP OF BYRAM
AT THE NEXT ELECTION**

WHEREAS, the Byram Township Council desires to propose to the voters the question of abandoning the current procedure for run off elections pursuant to N.J.S.A. 40:45-18 and 19. By abandoning run off elections, the candidate(s) which receive the greatest number of votes cast shall be elected to the office in accordance with N.J.S.A. 40:45-17.

NOW, THEREFORE, BE IT ORDAINED by the Byram Township Council as follows:

1. The following referendum be forwarded to the Sussex County Clerk for inclusion on the next Election Ballot:

Shall the Township of Byram abandon the holding of run off elections as permitted by the Uniform Non-Partisan Elections Law?

[] Yes
[] No

INTERPRETIVE STATEMENT

This referendum will eliminate the current procedure whereby one candidate has to receive 50% of the total votes cast plus one (1) vote in order to be elected to office, otherwise a run off election is required. For example, if 1,000 votes are cast and there are three (3) candidates for one seat, if Candidate A receives 450 votes, Candidate B receives 300 votes, and Candidate C receives 250 votes, since no one candidate received more than 501 votes, there would have to be a run off election pursuant to N.J.S.A. 40:45-18 and 19.

If the run off election requirement is abandoned, the winning candidate(s) are determined under N.J.S.A. 40:45-17 which essentially provides that the candidate(s) receiving the greatest number of votes cast will be elected to office. For example, if there are 1,000 votes cast and there are four (4) candidates for two open seats, and of the 1,000 votes cast Candidate A receives 450 votes, Candidate B receives 300 votes, Candidate C receives 150 and Candidate D receives 100 votes, Candidates A and B would be elected and take office.

Eliminating run off elections not only saves the added expense of a run off election, but also reflects the sentiment of the voters at the election by putting into office the candidate(s) who receive the greatest number of votes.

A Yes vote on this referendum question will mean that the voters desire that the candidate(s) with the greatest number of votes at the election would be elected to office.

2. The Sussex County Clerk is hereby requested to print the Referendum and Interpretive Statement on the Official Ballot for the next Election.

3. Severability. If any provision of this ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this ordinance shall not be affected and shall remain in full force and effect.

4. Repealer. All ordinances or parts of ordinances or resolutions inconsistent or in opposition to the provisions of this ordinance are hereby repealed in their entirety.
5. Effective date. This ordinance shall take effect after its final passage and publication as required by law.

NOTICE

TAKE NOTICE that the above entitled ordinance was introduced at a regular meeting of the Township Council of the Township of Byram on March 1, 2011, and will be considered for final passage after public hearing at a regular meeting of the Township Council of the Township of Byram to be held on March 15, 2011, at 7:30 p.m. in the Municipal Building, 10 Mansfield Drive, Byram Township, NJ 07874.

BY ORDER OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BYRAM

DORIS J. FLYNN, RMC
MUNICIPAL CLERK

ORDINANCE

TOWNSHIP OF BYRAM, COUNTY OF SUSSEX, STATE OF NJ

**AN ORDINANCE TO AMEND CHAPTER 240-ZONING REGULATIONS
OF THE TOWNSHIP OF BYRAM, PARTICULARLY ARTICLE IV -
GENERAL PROVISIONS – BY ADDING A
NEW SECTION DESIGNATED AS SECTION 240-29.5 AND ENTITLED ‘RIGHT TO
FARM’**

BE IT ORDAINED, by the Township Council of the Township of Byram that, that Article IV – General Provisions of Chapter 240 - Land Use Regulations of the Township of Byram, be amended and that the following new provision shall be added thereto, to be designated as Section 240-29.5 and reading particularly as follows:

Right to Farm.

The Township Council of the Township of Byram finds that farming has existed and been carried on in the Township of Byram for hundreds of years last past and long prior to the residential development that has since become prevalent within the Township. As a result of residential construction which has occurred in close proximity to existing working farms which engage in conventional agricultural practices such as spraying, the spreading of animal waste, fertilization and irrigation as well as other activities which are normally associated with active agricultural operations, those residences have been or may be subjected to the effects or impacts, which some residents may deem to be nuisances, from such agricultural activities. It has been further determined that the farmer must be secure in the ability to continue operation of the farm, earn a livelihood therefrom and engage in customary agricultural practices and techniques, free from the threat of nuisance complaints or litigation resulting from such impacts to other residents. The Township Council has determined that whatever impact to residential and other property owners which result from such farming activities are more than offset by the benefits to the Township of Byram, the County of Sussex and the State of New Jersey of such agricultural operations which include the preservation of open space, the preservation of a desirable agricultural visual environment and the provision of agricultural products and farm output. Consequently, the purpose of this Ordinance is to assure the continuation and expansion of commercial and home-based agricultural pursuits by encouraging a positive agricultural business climate and protecting the farmer against unnecessary municipal regulation and private nuisance suits while approved agricultural practices are utilized and agricultural production is engaged in consistent with relative Federal and State law, thereby establishing a proper balance among the varied and sometimes conflicting interests of the farm owners/operators and the residents of Byram Township.

- a. Statement of Intent. This section shall not be construed as, in any manner, superseding any Zoning Ordinance provision with respect to principally permitted, accessory or conditional uses permitted or prohibited in any particular zone district. Rather, it is the sole intent of this section to prohibit farming and agricultural operations, when conducted in accordance with accepted agricultural

management and farming practices, from constituting or being found to constitute, a public or private nuisance.

b. Activities permitted and protected under this Section include all uses and structures ordinarily and customarily incidental to agricultural uses permitted by the Zoning Ordinance, including, but not limited to, the following uses:

1. The storage, processing and sale of farm products subject, however, to all other conditions and limitations applicable thereto as set forth in the Zoning Ordinance.
2. The use of irrigation pumps and equipment.
3. The application of chemical fertilizers, insecticides, herbicides, pesticides and liquid/liquefied manure and/or fertilizer. Liquid/liquefied manure and/or fertilizer shall only be applied to ground which is not frozen and shall be tilled into the soil within 24 hours after its application.
4. On-site distribution of organic agricultural wastes.
5. Use of the land for the grazing of animals, subject to all applicable restrictions for intensive fowl or livestock farms.
6. The use of farm laborers employed by the farm owner and/or operator.
7. The use of public roadways for the transportation of tractors and other large slow-moving vehicles and equipment.
8. The construction of fences for retention of animals and livestock.
9. The use of customary farm machinery and equipment.
10. The creation of noise, dust, odors and fumes conventionally associated with such agricultural activities.
11. The engaging in farm practices at any and all times deemed reasonably necessary, including, but not limited to, Sundays, holidays and in the evenings.
12. The raising and keeping of farm animals, including, but not limited to: dairy cattle, beef cattle, sheep, goats, swine, fowl, horses, ponies and mules provided, however, that proper sanitation measures, minimum recommended acreage limitations and appropriate setbacks between fencing and enclosures for such farm animals and adjoining properties are established and maintained.
13. Installation of physical facilities for soil and water conservation and the harvesting of timber.

14. Provisions for the wholesale and retail marketing of the agricultural output of the farm, which include the building of temporary and permanent structures and parking areas for said purpose, providing same conform to all applicable provisions of the Byram Township Zoning Ordinance and the Byram Township Site Plan Review Ordinance.

c. For the purpose of giving due notice of nearby uses to present and future residents, the Planning Board of the Township of Byram shall require an applicant for a major or minor subdivision, as a condition of approval thereof, to include the following notice, both on the subdivision plat itself and in an instrument in recordable form, to provide constructive record notice to buyers of the existence of any proximate agricultural uses, such instrument to be approved by the Planning Board of Byram prior to the filing of the final subdivision plat or recording of any deed(s), as the case may be. Such notice shall read as follows: Grantee is hereby notified that there is, or may in the future be, farm use near the described premises from which may emanate noise, odors, dust and fumes associated with the agricultural practices permitted under Section 240-29.5, Right to Farm, of the Byram Township Zoning Ordinance. A copy of this Ordinance is herewith attached to this deed(s).

Except as specifically repealed by the foregoing Section 240-29.5, said Zoning Regulations shall remain in full force and effect.

ATTEST

TOWNSHIP OF BYRAM

Doris Flynn, RMC
Township Clerk

James Oscovitch, Mayor

COUNCIL MEMBER	Motion							
	2nd							
	Yes							
	No							
	Abstain							
	Absent							
		Councilman Olson	Councilwoman Rafferty	Councilman Rafferty	Councilman Raftery	Councilman Thompson	Mayor Oscovitch	

ATTEST:

I certify that the foregoing resolution was adopted by the Byram Township Council at a meeting held on March 1, 2011.

Doris Flynn, RMC
Township Clerk